

# A Potential Model for Community Empowerment – the Silver Standard

## Community empowerment and green finance – Workshop 1

NatureScot, Battleby Centre, 22<sup>nd</sup> August 2023

Alastair McIntosh

***My Brief from Brendan Turvey of NatureScot: “To summarise the Tayvallich model and your proposed ‘Silver Standard’ and lead the discussion on that.”***

This paper is a private opinion of the author who is acting independently. It is not confidential, but should not be shared beyond the parties to the private NatureScot workshop until after the event. A human ecologist, Alastair is the author of books including *Soil and Soul* (on land and community) and *Riders on the Storm* (on climate change). He is an honorary professor in the College of Social Sciences at the University of Glasgow.

1.	<a href="#">Background – Land and Culture in Scotland</a>	1
2.	<a href="#">The Silver Standard of land tenure</a>	3
3.	<a href="#">Recognition and Accreditation of the Silver Standard</a>	5
4.	<a href="#">Giving Teeth to the Silver Standard</a>	6
5.	<a href="#">Business Values, Inequality and the Vision of the WBCSD</a>	7
6.	<a href="#">Case Study: The Tayvallich MoU with Highlands Rewilding</a>	8
7.	<a href="#">Caveats to the Tayvallich MoU Approach</a>	9
8.	<a href="#">The TCP and Discussion Questions for NatureScot</a>	12

### 1. [Background – Land and Culture in Scotland](#)

This matters to understand why the Silver Standard and Tayvallich’s achievement matters. Land reform was “flagship” legislation for the new Scottish Parliament that commenced in 1999. It gave a focus to politicians and was energised from many sectors of civic society. Within about 3 years it resulted in the abolition of feudal tenure, the legal affirmation of Scotland’s ancient right to roam, the pre-emptive Community Right to Buy (CRtB) at economic valuation when land or assets go on the market, and a Crofting Community Right to Buy (CCRtB) irrespective of whether the landlord is willing or not. Subsequent legislation has seen some extension of this legislation, the establishment of the Scottish Land Commission, and a strong political signal towards community *empowerment* – that is, the capacity to get things done by agency from within rather than relying on external agency.

What drove it? Scotland’s land reform is not to be confused with agrarian reform. It is multifaceted, about people and place. As the folk singer Karine Polwart writes: “To understand and appreciate this

landscape that I live in and love *is to look beyond what can be seen*" (my emphasis). Or the musician, Dougie MacLean: "You can't own the land / the land owns you." Or Norman McCaig in his iconic poem, [Man of Assynt](#): "Who owns this landscape? / Has owning anything to do with love? / ... / Who possesses this landscape? / The man who bought it or / I who am possessed by it?"

This **bond between land and a sense of belonging** traces right back to early Celtic nature writing and to its foliated knotwork and totemic flora and fauna carved in stone. It follows through in the work of such as Robert Burns, Walter Scott, James Hogg, and into modern times most magnificently with Nan Shepherd of *The Living Mountain* and the kind of artists just quoted. It carries with it a notable emphasis on the twin sacred duties of hospitality for the short term, and fostership for permanence. Here is a treasure not just for "ourselves", **but as "One Scotland. Many Cultures"**. That quality runs vastly deeper than "ownership" - especially land speculation or thinking just to buy a bit of the view.

Neither is such sentiment confined to rural or affluent Scots. When a group of us formed the [GalGael Trust](#) in the hard-pressed shipbuilding district of Govan in 1997, our very first grant was £2,000 from Scottish Natural Heritage. This, to portray *The Nature of the River* – the Clyde's wildlife, carved in trunks of hardwood. Its late co-founder, Colin Macleod, had Hebridean family roots and grew up in a Glasgow housing scheme. He wrote: "Listen to the Earth and ancient bard / Soar on currents no eye can see / Set out on the task of healing / A dying, dying island home / ... / Freedom is here at last." If this seems curiously metaphysical, note that mainline Scottish churches also expressed a legitimising [political theology](#) at the turn of the millennium, to add impetus to the emerging land reform agenda.

The land in Scotland therefore carries a sense of nature, of ongoing peoplehood, of a living history and of an urgent upwards call to restore connections to place and places that history has left hanging and which thereby sustains injustice. **The Gaelic concept of [dùthchas](#) infers a heritage by which human nature is a part of natural nature.** Ecological restoration must walk hand-in-hand with community regeneration and sustainable lifeways. Language such as "rewilding" must counterpoint with "repeopling", otherwise it can strike a misanthropic tone. As another poet puts it: "Tread gently, child, upon this ground / great opening of our people's way / for native, poor and also refugee."

However, alongside such philosophical "Highlands" of land reform in Polwart's sense of a love that looks "beyond what can be seen", the complementary but down-to-earth "Lowlands" of it all offer communities highly visible pragmatism. **It gives agency to communities of place**, which is to say, the power to determine and manage their future; and in six key ways of relevance to us here. It enables:

- 1) Shared decisions on long-term land use of the type that impacts on local and surrounding communities, e.g., long term commercial forestry;
- 2) The capacity to assign land and assets for affordable long-term housing;
- 3) Pathways to establish or to share revenues from renewable energy, this for local benefit and to reduce carbon footprints;
- 4) The capacity to restore nature and cultural heritage, so as to tend to the *beauty* of a community of place and to share it far afield through the arts and outdoors enjoyment;
- 5) Entrepreneurial endeavour - such as providing commercial space for small businesses to develop and grow, skills, training and peer-to-peer learning, and economic infrastructure such as piers and harbours, internet links, local food production and tree nurseries; and,
- 6) The sheer can-do of *empowerment* that comes **from being able to be responsible** for where you live. For at the deepest levels, this is all about becoming more fully human.

Each of the above is imperative to build a nation of people who have the capacity, the control of assets, and the resilience to face and tackle both climate change and social issues. If NatureScot can harness its work to these, it will multiply its relevance and enhance its political and public support. For sure, the debate around “natural capital” and the PFIP is heated. Let us not underestimate how vexing it must be for NatureScot staff, associated politicians and conservation organisations with a passion for nature restoration. But equally, this is for and about “all people who on Earth do dwell”.

That linkage is precisely why we are here to discuss “community empowerment”, with or without the “green finance”. This is an opportunity to take stock, to evaluate strategic direction and **to dig out channels into which the subsequent streams of political process might flow**. Such is of the cultural “carrying stream” out from which, as Hamish Henderson put it, “poetry becomes people”. Such are the deepest politics rooted in the geopoetics of “natural heritage” from out the very source of what gives life. Ours must be to weave to the warp of natural ecology the weft of human ecology. To braid the environmental to the social. For this is about Scotland’s nature *and* her people. **“And I am concerned with the blossom,”** said the bard MacDiarmid, in [Reflections in a Slum](#).

## 2. [The Silver Standard of Land Tenure](#)

The cultural framework I have outlined – both in its “Highlands” and in its “Lowlands” characterisations - might go some way towards understanding why, when the biodiversity minister Lorna Slater announced NatureScot’s £2 billion Private Finance Investment Pilot (PFIP), the public response was underwhelming. The PFIP gave the appearance of being tone deaf to key principles of Scotland’s land reform agenda. Without very great care, this risks separating environmentalism from community development, thus cutting across the key principle of “sustainable development”.

That, of course, would not be the intention of any of the stakeholders. But whereas conservationists might know best what’s best for nature, communities know best what’s best for people: and neither party profits if the two are pulled asunder. In January, I wrote an article on Jeremy Legget’s “Highlands Rewilding” company [in Bella Caledonia](#). It followed from some disagreement with him after having emphasised the community imperative in a Zoom meeting two years earlier, and after the NatureScot PFIP [announcement](#) on 1<sup>st</sup> March the piece resulted in my being asked to speak at a conference on “[community carbon offsetting](#)” organised by Professor Matt Hannon of Strathclyde University. That in turn led to being commissioned by Community Land Scotland (CLS) to write the discussion paper: [The Cheviot, the Stag and the Black, Black Carbon](#). Such is roughly the sequence that led to my being asked to present this briefing at the meeting of key stakeholders in Battleby.

This CLS paper noted that the “green finance” approach of the PFIP, as originally expressed, a) endorses market mechanisms that financialise nature, b) pitches towards what are most likely to be private landowners, c) might further add to upwards pressure on the value of marginal land, and d) it sanctions a model of nature-based carbon capture that, as is argued by some leading climate change scientists, fuels greenwash. The funding mechanism that the PFIP capitalises on is the sale of credits on the carbon markets, these justified to leverage biodiversity uplift. But the challenge that this poses to communities of place is that **it would doubly impose permanent changes in land use, without their sanction**. Doubly so, because across the UK there is a [presumption](#) that land converted

to forestry or woodland will remain as such; but in addition, the Woodland Carbon Code (WCC) necessarily imposes a requirement of [permanence beyond](#) just the project duration (or the carbon captured might be lost). This loads future generations with a *legal* burden (according to the lawyer Malcolm Coombe). And communities are subject to this burden even if they are not party to it.

As such, to enable a £2 billion flow of capital - which is to say, a flow of power - begs the question: **“Who decides?”** Is it to be a private landowner: perhaps parachuted in, perhaps whose sole qualification is wealth, perhaps here today and sold on tomorrow? Scottish land is a relatively safe investment in a troubled world, and “rewilding” might provide a convenient foil for simply sitting on it without having to do much. Is that where power should lie? Or should such decisions rightly rest with the residents of local communities whose historical roots, evolving culture and future hopes paint their meaning there? **After all, what is “community”?** Community is not just another name for “society”. Community is the nexus of **soil, soul and society**: our relationships with the natural environment, with the inner life that gives meaning, and with one another. Such is the fulness of a “community of place”, being psychogeographically defined unlike most “communities of interest”.

However, the counterpoint to my argument about capital and power is that it’s not as black and white as that. We live in a pluralistic society where both public and private interests are acknowledged. Most of us have and use “capital” in its various forms, albeit not equitably. Some, though they hold a disproportionate share of financial capital, want to make it work for the greater good. We may be critical of such as CSR – corporate social responsibility – but would we really rather have a world without it? And without the constraints of “socially responsible investment” and its aspirations towards ESG – environmental, social and governance standards?

Enter such as the solar energy entrepreneur Jeremy Leggett and the natural capital investment group that he has founded, Highlands Rewilding (HR). Is there a public appetite in Scotland to turn our backs on such as these, and to opt for, say, wholesale land nationalisation (even if the Scottish Parliament had the power)? The answer is probably evident in voting patterns. Most Scots at present opt for **an evolutionary rather than a revolutionary approach to land reform**. That means working with compromise. How, then, might such a pitch be laid? Can and should it be set out in a way that enables communities as the local faces of democracy to be partners with the inflow of capital, and to be so in ways that leave them better off than they might otherwise have been? And that “benefit” as measured in a deep and broad sense? One that goes beyond narrow monetary measures and which widens the capacity for self-reliance and growing self-determination?

It was here that the interactions with both Jeremy and with residents from two of his estates - Bunloit on Loch Ness and Tayvallich in Argyll - began to shed light. My paper outlines a framework:

- The *Gold Standard* of land tenure, consistent with Part 2 of the Land Reform (Scotland) Act 2003, being full community ownership, democratically governed and locally accountable;
- The *Bronze Standard* of conventional private ownership, where any voice that communities have beyond their legal rights is merely at the grace and favour of the landlord;
- A proposed *Silver Standard*, being a halfway house. Here a private landlord might agree a Memorandum of Understanding (MoU) with a community. This would give it a voice in governance and tangible rights that significantly exceed the *Bronze Standard*. Gradually, both parties willing, over time it might pave the way towards *Gold*.

The CLS paper ([section 9](#), pp. 37 - 42) accordingly suggests that a **robust *Silver Standard* would grant a conservation-minded private landowner a social “license to operate”**. This would be its selling point from an owner’s point of view. Such recognition might ease the flows of funding and planning consents, as well as generating community goodwill. It could do so in a win-win spirit of mutuality of interests. In return, a community might reasonably expect such assurances as:

- Continuation of existing leases and employments;
- Rights of pre-emptive purchase at cost or economic valuation of keystone plots of land and buildings of value to the community’s future;
- The application of Scottish Rural Housing Burdens to prevent their being sold on for second homes or holiday lets;
- Governance positions, democratically appointed and accountable to the community, on a local management board or some similar such steering group or advisory group.

### **3. Recognition and Accreditation of the Silver Standard**

Two questions arise.

- How would a Silver Standard MoU achieve public and direct stakeholder recognition, and therefore, legitimacy?
- What would be its teeth, and therefore, power?

Every MoU is going to vary according to the local circumstances and stakeholders. A one-size-fits-all standardisation is unlikely to be helpful. Instead, broad brush principles, like those just listed, could be set out by a reputable organisation or organisations such as the Scottish Land Commission, CLS and/or NatureScot. Perhaps it can all be kept uncomplicated by the two prime movers: the landowner on the one hand, and the appropriate community representative body or bodies on the other. Attainment could be signalled very simply **by their *mutual agreement that “this is Silver Standard”***. Such self-certification could be continued indefinitely or for a given period of time pending review, or revoked should either party fall into default that defeated remediation.

In commenting on a draft of this briefing paper, David Cameron of the North Harris Trust and formerly a chair of CLS pointed out that “in days of old” when salmon farmers operated on a local scale, they set up a *Scottish Salmon Quality* scheme. This operated jointly with an organisation called something like *Food from Britain* that functioned as the accrediting authority. He suggests that **such could confer a “kitemark”** recognising that the two prime movers had agreed a Silver Standard charter or protocol. As will be discussed in Section 5 below, this might be called a ***Thriving Community Partnership (TCP) endorsement***.

One weakness of such a light touch way of handling things, is that it could be open to abuse were a community to feel put under pressure. That is where discretion in granting a kitemark would need to rest with the accrediting body. It would ensure standards to its satisfaction. But the strength of such an approach is the mutuality of near enough self-accreditation within an overseeing framework. It would require little administrative apparatus, and it would allow the autonomy of communities and landowners themselves by agreement being the main judges as to what, in their circumstances,

represents a material improvement over the default Bronze Standard. Furthermore, a light touch might paradoxically strengthen the agreement's teeth, consistent with the workings of soft power.

#### 4. Giving Teeth to the Silver Standard

A Silver Standard is a compromise between Bronze and Gold. On the one hand, communities carry the power of moral authority and with it, in the whole context of modern Scottish land reform and its claims of right. On the other hand, landowners will expect to be able to enjoy and express a qualified freedom over how they use their acquisition. In particular, they will be mindful that the primary concern of lenders and non-hobby shareholders must be to protect the value of their investment. **Silver can only flow if it serves mutual interests.** But how might such a liquid notion find teeth, and not just be another form of either "community washing" or "greenwashing"?

Either, an MoU would need to be sanctioned by the *hard power* of codification in law. Indeed, some elements that start out simply as agreements in principle such as land sales, tenancy agreements or rural housing burdens would automatically develop a separate legal standing as soon as enacted. Or, an MoU could be more flexibly sanctioned by the *soft power* of **agreement without legal sanction**, and perhaps developing softly over time as trust and shared value is more and more built up.

However, to avoid the risk of this being seen as going soft on landlordism, it is important to show how the soft power approach of a "gentleman's agreement" – **or perhaps "handshake agreement"** as a better term for today - would have real teeth. In discussions around this especially with community stakeholders it has become apparent that teeth could be cut:

- By virtue of the landowner's word of honour: their reputation would be at stake.
- By sanction of market spoiling. As we saw with Eigg in the 1990s, when the self-styled "Professor Maruma" defaulted on not both his payments and his word, it created a crisis for his creditors. The publicity that it allowed a savvy community to generate spooked potential private buyers. It helped to set up the right conditions for the eventual sale to the community at below original market expectations.
- By the withdrawal of community consent, sending out a signal to potential funders, councillors on local planning committees, local non-statutory service providers and contractors, etc..
- By adversely affecting the market's ESG rating of both owners (if corporate) and their institutional lenders. Lenders that pitch themselves as "green finance" may be particularly sensitive to this, and therefore, to **benefiting also from the competitive advantage** of ensuring that sound community relations are set in place from the outset.

If an MoU is honoured, reputations will be enhanced, land value might appreciate, funders, planners and contractors will feel at ease, and ESG rating agencies will have a tangible portfolio of successful case studies to profile. In an image and ethos conscious investment world, these differences can very much make a difference.

The bottom line of a *Silver Standard* is that it creates an opening of the way by which the interests of both private owners and local communities might, in principle, be brought into a mutually beneficial

*relationship*. Such a framework sits well with the [Land Right and Responsibilities Protocols](#) of the Scottish Land Commission, including such protocols within it as [Negotiating Transfer of Land to Communities](#). Indeed, by being specific about measures like housing burdens, tenancies, and options to purchase land or buildings outside of speculative market vagaries, a *Silver Standard* MoU could go beyond many of these principles. It creates **a different type of environment based on fair dealing and honouring what in business law are described as “fiduciary duties”**.

## 5. [Business Values, Inequality and the Vision of the WBCSD](#)

I know of no current examples of such an MoU between a landowner and a community apart from Tayvallich, as is about to be outlined. However, lest investors be set on edge, let it be remembered that for years landowners have made agreements with conservation organisations. For example, Eigg was long in a fertile conservation agreement with the Scottish Wildlife Trust under the erstwhile laird Keith Schellenberg. When it came to the buyout, the SWT’s sister organisations in England went far towards accounting for the fact that 70% of the 10,000 small donations, these coming to £600,000, came from outside of Scotland, and mostly from our neighbour south of the border! Similarly, the North Harris community land trust operates very fruitfully in partnership with the John Muir Trust.

These and a growing number of other examples are democratically accountable groups serving the public interest usually as registered in charity law. But what if instead “land” becomes a business? What when it becomes an “investment” from which capitalists expect a return? Commenting last month in [Scottish Housing News](#) on Professor Mike Danson’s report [Evaluating Post-Monopoly Rural Land Ownership](#), the land analyst Dr Josh Doble remarked that he was “left with the overarching conclusion that while monopoly landowners are focussed on profit and monetary value of land, community landowners value, and contribute to ... not only economic life but social and cultural life.”

**It is not for communities to serve the interests of capital: it is for capital to serve communities.** If capital whether through a PFIP or otherwise cannot do this, political rather than market approaches will become more than justified. This, for example, by land value taxation with the proceeds allocated to finance further community buyouts. In such a way landlordism would serve to resolve the very problem that it creates. As Dr Calum MacLeod said, also last month, in his discussion paper for the Reid Foundation, [Land Reform and the Common Good](#): “The role of taxation has thus far received negligible policy attention.”

That could sharply change with the political mood. If, however, “green finance” can show itself to be serious about being part of the solution to the world’s problems and not just to “environment” as viewed through a singular lens, **a Silver Standard would offer capital the opportunity to demonstrate its probity**. Not everyone might be holding their breath. The industry might feel set on edge, but pointers in precisely such a direction are given by none other than the World Business Council for Sustainable Development (WBCSD). In its [Vision 2050](#) statement, this consortium of some 200 corporate CEOs states three priorities: **“the climate emergency, nature loss and mounting inequality”**. Note especially the latter. And the driver? Their [Redefining Value](#) programme sets out the opportunity for companies to **“gain competitive advantage and seize new opportunities”** by living up to ESG principles. From an investor’s point of view, such could be a considerable incentive to accept and advance a normalisation of the Silver Standard.

## 6. [Case Study: the Tayvallich MoU with Highlands Rewilding](#)

The above reflection did not form in a vacuum. Some background will help to understand how it evolved and what its strengths and weaknesses are.

As already indicated, in August 2020 through the intermediation of the green investment advisor Ian Callaghan I spent an hour on Zoom with Jeremy Legget. At the time he said that he was reading *Soil and Soul*, my book on land reform and community, and he sent me an early draft of the “master plan” for his not-long-since acquired estate at Bunloit on Loch Ness. Suffice to say that my emphasis in the conversation with him fell on **the imperative of not imposing matters on, but of working with the surrounding community**.

This engagement was augmented in December 2022 when I was separately contacted by residents from or close by both Bunloit and Tayvallich Estate, that HR was at the time negotiating to purchase in Argyll. My relationship with Jeremy later became frosty after I made known a publicly-available letter that the Scottish Land Commission had written to him. This expressed concern at HR’s intended scale of concentrated land ownership – hoping to acquire eventually some twenty estates - and its seemingly risky financial model with a highly geared ratio of debt to equity.

This concern was supported when it emerged shortly afterwards, in June this year, that the purchase of Tayvallich had only been made possible by a £12 million one-year loan from the [UK Infrastructure Bank](#) – a sum that exceeds the estate’s £10.465 million asking price, and at a punitive [interest rate](#) of 5% above the Sterling Overnight Index Average for the first six months rising to +8% thereafter.

However, and leaving aside the financials to which there may be more than meets the eye: as this was falling into place, so was an MoU agreement between HR and Tayvallich Initiative (TI) as the relevant community body. The initial proposal, pitched by TI to HR, reflected the suggestions, desires and concerns of local residents as expressed in early community questionnaires, surveys and meetings following the announcement of the sale of Tayvallich Estate by its previous owners. From this knowledge base and standpoint of legitimacy, TI listed objectives based on what outcomes the community would like to see, furthered by an options appraisal study and report (i.e. a vision of how the land might be used and developed). On the one hand, HR were faced with a community stepping into its own power. On the other hand, it could well be argued and is so far being proven that HR were **fortunate to arrive at a location where there was already a community voice**.

In March, Jeremy had shown me a draft of the fledgling MoU for comment. I have to say that I commend the manner in which he and HR have listened to various voices. I consider, as does TI, that it meets the Silver Standard. Whatever else we might argue about HR’s business model, **it provides Scotland with a pattern and example of the Silver Standard**. That is to say, a pattern for what an MoU can look like, and an example of a real-world case study. A case study where the community has succeeded in embedding considerably more rights and capacity for agency than they would otherwise have had under conventional Bronze Standard ownership.

A statement about the MoU is given at the foot of [TI’s website](#). The [link there](#) was initially by request authorisation only, but unless it’s coming from my cache it appears now to be available to anybody.



Frankly, I find the Tayvallich-HR MoU hard to fault, albeit with some necessary caveats to which I will come. But what it most strikingly recognises, is the need to honour a social remit hand-in-hand with the environmental one. It makes this absolutely explicit. It states HR's objective as being:

... **to help rewild and re-people the Scottish Highlands** by increasing carbon sequestration, growing biodiversity, creating green new jobs and generating sustainable profit for the purpose ... [thereby helping to tackle] ... the **existential and related** crises of climate meltdown, biodiversity collapse, and social inequality, whilst helping to rebuild local economies.

The main agreement is very short, only one page, but it is followed by a schedule of 24 "elements" or objectives, set out and signed by Jeremy for HR and Martin Mellor as a director of TI. These elements incorporate the four points suggested in section 2 (above) and considerably more. To summarise the key objectives, they include:

- Continuing security of employment (1);
- Housing tenancies (2);
- "A no- eviction policy for any form of tenant (unless tenants are in substantial breach of contract" (4);
- Sale of agreed areas to TI (5);
- A local management board "the majority of whom will be community members" with local representation as defined by postcodes and a schedule for how members would be appointed (6);
- Strategy and business plan to be agreed and acted upon "to the fullest extent possible" with the local management board (7);
- Tenanted buildings to be sold at independently assessed valuation to tenants (if wished) and rural housing burdens imposed (to keep within the community) (8);
- Tenant rights of pre-emptive purchase in the event of sale (10);
- Mutual positivity between TI and HR in accessing nature-based grants (12);
- "An assumption of goodwill" as the working basis, with recourse to independent arbitration if needed (14);
- A right of pre-emption for TI over any part of or whole of the estate in the event of it going on the market, in accord with CRtB legislation (18);
- A "Community baseline" monitored and reported on every five years (23).

## **7. Caveats to the Tayvallich MoU Approach**

From the community's point of view, what about the potential down sides? Most obvious, are:

- **The constraint of external financier approval:** The major but understandably necessary caveat is around the financiers' interests. Where necessary, "the provisions of the external financing arrangements will prevail" and "it could be that UKIB's shareholding (*sic*) interests continue to restrict some objectives, unless prior approval is negotiated and confirmed with UKIB." As such, but only should it choose so to do, HR may be able to hide behind the bank. And for all parties while loans are in place, the bank ultimately calls the shots.

However, I am given to understand that not only did TI not object to these caveats: it actually suggested them. In this way, its list of objectives could be kept intact without any of them being struck through from the outset by the lender, as all parties were able to unite around agreement of the MoU's caveated framing. If NatureScot's PFIP approach is to proceed, it will be important for them to consider how to navigate this interplay between landowners, lenders and communities. Will they leave control all in the hands of the three finance houses that they are working with, or will they play a mediating role, perhaps lubricated by a Silver Standard MoU through what CLS is calling a Thriving Community Partnership?

- **The honour basis of the agreement:** There is no legal basis to make the agreement stick. It is no more than "an agreement", a handshake underwritten by mutual honour. This reflects in the document's emphasis on "good faith" (6), mutual positivity (12) and its "assumption of goodwill when working with the other party" (14).

In the small part that I played in background advising, I emphasised the importance of proceeding on a basis of honour. I suggested that such would probably speak to the ethos of a man like Jeremy Leggett. To have tried to tie such an agreement down legally might have been like nailing jelly to a wall. It would have become time-consuming, complex, expensive and would have become a contract rather than a "memorandum". As it is, while not legally binding the MoU provides a framework that sets a mutually agreed scene ahead of enacting some objectives legally and enacting others by honourable action.

- **It remains an agenda of "permanence":** As I prepared this briefing paper, I was called by a journalist working on a story about a "rewilding" landlord who wants to move the cattle off his Highlands and Islands coastal estate and plant woodland. The local community are upset. The culture of cattle has for generations been tied in with the culture of the community and, being low intensity grazing, it shapes the environment's convivial ecosystem. I pointed the reporter [to p. 58](#) of my CLS paper. This unpacks a set of figures that demonstrate that selling carbon credits would, at conservative current carbon prices and potentially for a full project duration of 100 years, generate more than double the average Scottish rental receipts for Less Favoured Area land. No wonder that the laird is wanting to "rewild"!

That noted, to its credit HR's Beldorney estate in Aberdeenshire is currently encouraging "regenerative agriculture" based on an "extensive" cattle grazing system. On all three of HR's estates, sensitive navigation will be needed as to whether and how grazing might sit with "rewilding", and how future land use develops given the double principle of permanence mentioned in Section 2 above.

- **It remains control by landed power:** If HR, was able to borrow £12 million from UKIB, presumably with a business plan that the bank found acceptable, why couldn't the community have done the same? Most obviously, they would probably not have been able to muster the collateral. A [Highlands Rewilding Shareholder Update](#) issued in June and associated documentation with Companies House points to a complex web of how HR has

secured assets against each other, in order to achieve adequate security for the principal creditor. The downside, could potentially be that it could all fall over as a row of dominos.

That said, exactly the same would be true of many a conventional Bronze Standard landowner with speculative intent. For neither HR nor the community at Tayvallich, it was not as if either had a better option. Indeed, the alternative prospect of a potentially much worse options is why they have embraced HR and Jeremy Leggett's vision with enthusiasm.

Understandably, the MoU is explicit that the serving of creditor and shareholder demands must take precedence. Nevertheless, if it can be made to work, it is a great deal better than the Bronze Standard. My understanding is that the community hopes that it could be a win-win jointly for ecological restoration and social development.

- **Incoming versus sitting landowners:** An incoming landowner has a clear incentive to agree to a community MoU. They might see it as a means of smoothing their acceptance locally in a win-win, and with all the advantages that such would confer. However, the NatureScot PFIP appears to be orientated mainly towards lending to sitting landowners. For these, more muscular persuasion might be needed to encourage a transition to the Silver Standard. That requirement could be built into the criteria for granting finance.

It might, of course, be countered that commercial forestry as a major land use change has never had to seek community consent, so why should "rewilding" with the sale of carbon credits? One answer, is that the WCC's legal obligation of *permanence* when carbon units are sold sterilises (or at least, constrains much more heavily than with conventional forestry) a community's future options. It does so in perpetuity, which will be long after a "green laird" has been and gone. That, to say the least, invites a community's endorsement.

- **Investor risk of a neoliberal approach to carbon offsetting:** This is not a criticism of the Silver Standard as such, but of the wider framing within which it necessarily stands. My CLS paper echoed the serious concerns of leading climate scientists around the offsetting approach to net zero and its financialisation of nature. In response to my paper as I finalised this current missive, Duncan McLaren (a former director of Friends of the Earth Scotland) sent me [his paper](#) (with Louise Carver) published last month in *Frontiers in Science* (p. 8).

Under neoliberalism, measurability is an essential precursor to commodification and exchange. But the demand for measurability also creates pressures for simplification or abstraction, measuring only certain dimensions of the resource (such as the land area of habitat involved). This reframes nature as disaggregated and distinct units that can be exchanged across time and space to balance between ecological losses and gains, stripping away any value that cannot be so quantified, and abstracting nature "from location, ignoring broader dimensions of place and deepening a nature-culture divide" (Apostolopoulou and Adams, 2017, p. 23).

What is striking about this critique is how it ties the financial in with the cultural, and thereby highlights the social risk of embracing neoliberalism in the service of carbon offsetting. Finance houses might want to consider whether, given the political fluidity of contemporary

Scotland, this is an investment risk of which they might have a fiduciary duty to alert their clients in accordance with Financial Conduct Authority rules. Equally, on the other hand, to normalise a robust Silver Standard could be a powerful tool in offsetting that risk.

All this taken in the round is why, notwithstanding these caveats and having been in close discussion with some Tayvallich residents, their achievement of a Silver Standard MoU with HR has my recognition, and my endorsement.

## **8. The TCP and Discussion Questions for NatureScot**

Community Land Scotland are in the course of preparing a discussion paper, *Beyond community benefit – a new deal for thriving communities*. This explores **the potential for a Silver Standard MoU as a Thriving Community Partnership (TCP) agreement**. The NatureScot workshop might both critique and strengthen what CLS will build into this, as it raises many of the points discussed here.

In the short time that we will have at Battleby - but important time given the stakeholders who will be represented - I suggest that, given this briefing, I minimise my introduction. Our focus should be:

- 1. Are “we” agreed in principle – as land reform advocates, as natural environment interests, and as financiers - that a Silver Standard MoU (or TCP agreement) should be established as a norm to grant “green finance” a license to operate?**
- 2. In establishing such an agreement, through what structures might it best can it be granted the legitimacy of accredited recognition, and teeth of implementation? By legally binding measures, on a goodwill basis of mutual sanction, or both? And around what core principles?**
- 3. If NatureScot’s partnership with Hampden, Lombard, Palladium is to proceed and set a pioneering standard of acceptability for “green finance”, is there an all-round willingness to implement and test the Silver Standard approach through their pilot projects?**

None of the above discussion is intended to presume that “green finance” is the way that Scotland should be leading on matters of nature and community restoration. Rather, the question being addressed is that, if this is happening, how best might contribute towards both objectives.

V. 16 August 2023

[mail@AlastairMcIntosh.com](mailto:mail@AlastairMcIntosh.com)

[www.AlastairMcIntosh.com](http://www.AlastairMcIntosh.com)

[Return to Index](#)