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LEFT FIELD



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Drysdale Graham is a top-rated projects lawyer in our energy & infrastructure team who has advised sponsors and funders on UK economic and social infrastructure for over 20 years. Here, he looks at upcoming planned Scottish projects.

With the Queensferry Crossing now open, the Aberdeen Western Peripheral Route on schedule for a winter 2017/2018 completion and the Aberdeen Harbour Expansion Project at Nigg Bay now in construction, what major projects will keep the industry busy in Scotland in future?

Announcements on the revised pipeline and the preferred methods of funding are expected by the time the Scottish Budget is revealed mid-December. Top of the list is expected to be the A9 from Perth to Inverness and the A96 from Inverness to Aberdeen dualling projects, each with a mooted cost of £3 billion.

Next up likely to be the development of an education infrastructure plan, driven by the Scottish Government's Programme for Government, covering the full spectrum from early years to college. Funding of up to £1.5 billion is anticipated to be provided over several years via the HUB revenue-financed social accommodation programme.

Other upcoming projects should include the new campus for Fife College in Dunfermline and the replacement of Monklands Hospital (the funding route for both still to be determined); the Glasgow Airport Access Project led by Renfrew Council and to be financed via Glasgow's City Region Deal; and the extension of Edinburgh's tram line from York Place to Newhaven.

The Scottish Government's proposed Scottish National Investment Bank (SNIB), aimed at stimulating economic growth, may help to plug any project funding gap arising either through capital constraints or limits on availability of revenue funding to support capital spend. However, with private finance readily available there remains the opportunity to create a strong pipeline of projects.

[Click here](#) to read the consultation paper issued for the SNIB proposal – the Scottish Government will report further in Spring 2018.



PLATFORM

The market has faced some significant developments over the last quarter with the Bank of England increasing interest rates for the first time in a decade, a budget dripping with Top Gear and Formula 1 references, and the UK Government looking for the EU27 to acknowledge that sufficient progress has been made in the divorce negotiations ahead of this month's EU summit to allow discussions around a new trade deal to move into the next phase.

Some interesting commentary was published in the MPC November inflation report around capital market conditions, indicating these remain more favourable than 2016, supported by improvements in the global growth outlook and greater investor risk appetite. The quarter also provided good news for exporters, with the trend of the weak Sterling continuing and indicators showing an increase in global demand.

Chancellor Philip Hammond's budget had a significant focus on the housebuilding industry and the use of tax 'incentives' to increase housing stock. Additional support for new build is promised, but an unwelcome penalty tax on undeveloped land was also trailed. We are working with clients on the implications and opportunities in the housebuilding sector and are delighted that Chris Dun joined the firm earlier this year bolstering our existing practice in this area.

Brexit negotiations continue. In financial services it has never been more important to highlight the needs of market participants around access rights to the European market and of EU firms looking to access the UK. The International Regulatory Strategy Group produced its third report at the end of September, setting out a road map for a new basis for access to EU/UK financial services post-Brexit.

This provides some developed thoughts around what is needed to deliver the Government's aim 'for the freest possible trade in financial services between the UK and EU Member States' in a post-Brexit world. We continue to work hard at raising awareness of industry concerns directly with the UK and Scottish Governments and through industry bodies.



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HADRIAN'S WALL

Green Finance is already playing a major part in the Scottish economy, and is set to increase. In the month that renewable energy again produced more than half of Scotland's energy needs, the UK Government launched a task force with the aim of increasing the sources of finance available to support the climate change agenda.

In that same month, the Green Investment Bank – newly acquired and re-named by Macquarie Capital – held a stakeholder review meeting in Edinburgh, underscoring its commitment to Scotland. Michael Stoneham, our Head of Energy and Infrastructure Finance, joined a panel which discussed what messages to send back to the task force in London.

The key point was a request for the minimisation of political risk, which has been evident through a succession of UK Energy Ministers and resulting policy changes, along with an uncertain position on subsidy support for old and new technologies. Another key message was that the increasing divergence between Scottish and UK energy sector requirements (in Scotland, onshore wind is still important while wave and tidal stream power offer enormous potential) needs to be recognised in the setting of UK policy.

The Scottish Government has announced the proposed creation of a new public sector energy company. While the details of the proposal are being worked out, it does seem that the new entity may, in addition to supplying power, be tasked with investing at a mezzanine level in capital projects.

[Click here](#) to read the UKG press release about the Green Finance Task Force.

KILTING CORNER

Landmark Prescription Ruling

In November, the Supreme Court issued a landmark ruling in *Gordon & Others v Campbell Riddell Breeze Paterson LLP*, clarifying the rules on prescription of claims in Scotland (known as limitation in England).

The judgement confirms that the prescriptive period applicable to Scottish claims runs from the date that a claimant became aware, or could with reasonable diligence have become aware, of having sustained a loss.

[Read more here](#)

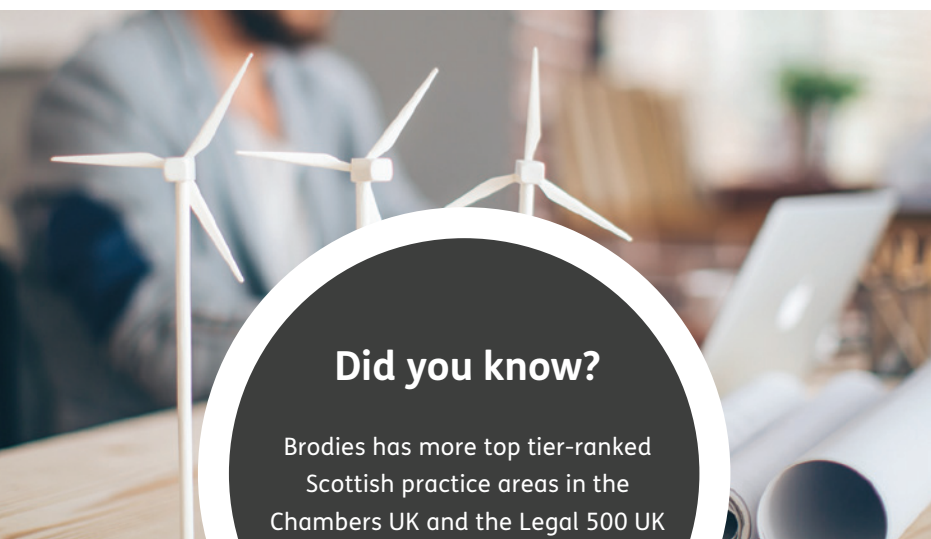
Enlivened to Fund the Circular Economy

4 December 2017 was the application deadline for energy businesses to access up to £1 million in funding to assist the Scottish Government in providing a circular economy. The Circular Economy Investment Fund, administered by Zero Waste Scotland and backed by the Scottish Government and the European Regional Development Fund, has £18 million on offer for Scottish energy projects that will demonstrate innovative and cost-competitive circular approaches to infrastructure design, operation and decommissioning.

Scotland has been recognised as a world-leader when it comes to developing a more circular economy, with the Scottish Government winning the Circular Economy Public Sector Award at the Circularity Awards this year, presented to the city, region, education establishment, NGO, local or national government body or program, or public procurement initiative which best enables an environment for the circular economy to develop and flourish.

Administration Orders and Jurisdiction

The recent case of *Bank Leumi (UK) Plc v Screw Conveyor Limited* has confirmed that the Court of Session does not have jurisdiction to make an administration order in respect of an English registered company, notwithstanding that the English company's centre of main interests (COMI) was in Scotland. The Court confirmed that European Insolvency regulations were relevant only for establishing jurisdiction as between Member States, with domestic law determining jurisdiction within a member state itself.



Did you know?

Brodies has more top tier-ranked Scottish practice areas in the Chambers UK and the Legal 500 UK directories than any other firm.



Credo is the Latin root of credit and trust which emphasises the underlying credibility of the borrower's promise to repay; the foundation stone of our financial system.

MARKET REPORTS

Legal Directories – Top Ranked Banking & Finance

September saw the publication of The Legal 500 UK 2017, and our Banking & Finance team maintain their tier one ranking. Legal 500 commented that **“Brodiess LLP ‘particularly excels in matters that are not straightforward or plain vanilla’.”**

In November the Chambers UK 2018 legal directory results were announced, and again the team were recognised as band one, a fantastic achievement. Chambers commented that our team was “commended for its full-service banking and finance practice, including experience in real estate, infrastructure, receivables and acquisition finance.”

These top-ranked positions in both independent legal directories are a reflection of the high level and volume of deals that we have had the delight and privilege to be involved in. Our broad expertise extends across a variety of sectors, including healthcare, infrastructure, food & drink, renewables and real estate, while depth is demonstrated through four of our partners being individually ranked in Chambers UK 2018 and Legal 500 UK 2017.

Our Banking & Finance team is growing

Over the past year, we have invested significantly in our team and supporting our local markets. Our department now consists of seven partners and a further 21 full-time specialist banking lawyers who work exclusively on banking & finance transactions across our three offices. To this we can add a large number of Real Estate and Corporate colleagues who support our transactions.

Led by recognised banking specialists, we have a reputation for innovative financing deals and for promoting thought leadership in the sector. To find out more about our team please visit:

[Brodiess LLP Banking & Finance](#)

Our Banking & Finance knowledge sharing commitment

We have recently launched the first in our series of handy guides for the banking and financial services sector. Written by team members, each guide will provide interesting insights and knowledge on key topics in the sector.

To read our first guide please visit:

[Key differences between Scots law and English law](#)

LIFE BEYOND



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Peter is a Senior Solicitor in our Banking & Finance team in Edinburgh. He joined the firm in July 2017 and has a broad range of banking experience, acting for both lender and borrower clients on deals with Scottish, English and international elements.

What keeps you busy outside work?

I'm a keen hill walker, so when I'm not in the office I'm either out in the Scottish Highlands with friends battling the elements and bagging Munros or at home in front of a map planning the next trip. Each excursion requires us to travel a little further and the last few outings have required some wild camping to maximise our time on location. I'm looking forward to trying out some new crampons this winter.

What skill would you like to master?

It's hard to pick one thing, but probably photography. It goes well with the hill walking and I've been dabbling in a bit of landscape photography recently. I have a lot to learn and my skills are little more than pointing and clicking at the moment. I'd love to have a more in-depth knowledge of the equipment to help me showcase our trips.

If you weren't a lawyer, what would you be?

I was almost a zoologist. I chose the graduate conversion route into law instead of following my undergrad with a PhD in zoology. If I'd followed that path, who knows where I'd be now. I like to think I would be working as an adviser on a wildlife documentary somewhere exotic.



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