

Response to the Scottish Government's Land Reform Review Group



Contents

1. Executive Summary	18
2. Who we are	24
3. What we do	28
4. General comments on the Land Reform Review	37
- Barriers to development	42
- Community involvement and working in collaboration	43
- Other general comments	44
5. Call for evidence and specific topic sections	54
5.1 Community planning	56
5.2 Local decision making	64
5.3 Community engagement	66
5.4 Planning system	70
5.5 Transfer of ownership or management of assets to communities	78
5.6 Land reform and forestry	81
5.7 Connecting people with the land	86
- Education	86
- Employment and skills development	87
- Recreation	102
- Community growing	103
5.8 Agricultural holdings and new entrants	107
5.9 Land value taxation	115
5.10 Succession	116
5.11 Affordable housing	119
5.12 Empty properties	130
5.13 Community benefits from renewables	132
5.14 Investing in our future	136
6. 2003 Act	138
6.1 2003 Act – part 1 – access	138
6.2 2003 Act – part 2 – community right to buy	142
6.3 2003 Act – part 3 – crofting community right to buy	145
7. Summary of recommendations	147
8. Appendices	154
- Appendix One – Speak Up for Rural Scotland	155
- Appendix Two – Rural Homes for Rent	159
- Appendix Three – Response to CERB consultation	162
- Appendix Four – Response to Local Finance (Unoccupied Premises etc) consultation	187
- Appendix Five – Local Government and Regeneration Committee	188
- Appendix Six – George Street Research	192
- Appendix Seven – Member Survey	234

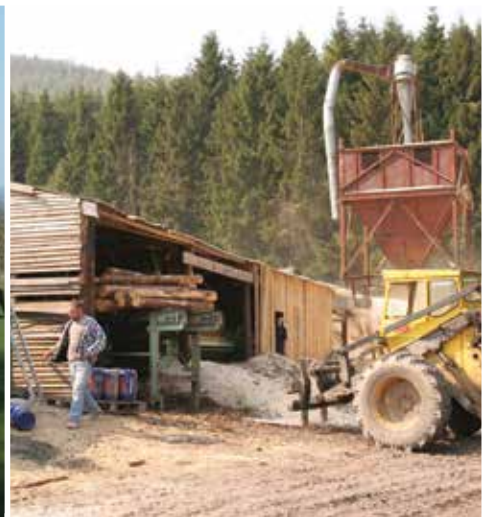




We are landowners

We are Scottish Land & Estates





About this submission

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Scottish Land & Estates has formed a dedicated Land Reform Working Group (LRWG) to work on behalf of the organisation and its members on issues relating to the Land Reform Review process.

The LRWG comprises the following key members of the Scottish Land & Estates senior team and Directors in addition to professional and landowning members with specialist knowledge and expertise to assist the process.

A number of the LRWG have also provided material for this submission.

Scottish Land & Estates Land Reform Working Group (LRWG)



John Goffin – Director of Scottish Land & Estates

John is a Board member of Scottish Land & Estates and is chairing Scottish Land & Estates internal Land Reform Working Group, working closely with our Chief Executive and senior staff on this and other special projects. He also currently sits on our South East Committee.

John lives at Arniston Home Farm, where they are developing a sheep and deer farming business as estate tenants and new entrants. John is also on the Scottish Council of the Historic Houses Association.

Born and raised in New Zealand he started his career working for Merrill Lynch and Westpac Banking Corporation in London before returning to New Zealand to work for Contact Energy, the second largest electricity generator and largest electricity retailer in the country, and was heavily involved with the deregulation of the New Zealand electricity market.

Subsequently recruited by Accenture. John returned to the UK in 2001 and spent four years working for Shell in Oman and Nigeria and then two years working for BP before joining BP directly as the Programme Manager for Group Financial Infrastructure.

John has a Bachelor of Commerce from Otago University, Dunedin.



Donna Skelly – Partner with Grigor & Young Solicitors, Elgin

Donna is a Solicitor and an Associate with Grigor & Young, No 1 North Street, Elgin, IV30 1UA. She has worked as a Solicitor in the North of Scotland for the past 15 years. Originally working in the Isle of Skye, Donna is now based in Elgin. The work that she covers on a day to day basis all relates to rural aspects of land. She is on the Highland Committee for Scottish Land & Estates, and is the Secretary of the Moray and Banff Valuers' Association.



Robert Balfour FRICS

- Chairman – Fife Coast and Countryside Trust
- Director – Paths for All
- Board Member – Living Lomonds Landscape Partnership steering group
- Chairman – Lomond Hills Regional Park Partnership
- Elder – Markinch Parish Church
- Trustee – Church of Scotland
- Deputy Lieutenant – county of Fife
- Managing Partner – Balbirnie Home Farms
- National Access Forum (representing ADMG)
- Member – Moorland Forum (representing ADMG)
- Member – Tenant Farming Forum (TFF), (representing Scottish Land & Estates)



Andrew Bradford – BSc Aberdeen University

Andrew has farmed since 1976 and managed Kincardine Estate since 1979. The estate provides 56 affordable homes in an around Kincardine O'Neil.

Numerous related posts held, including:

- Housing and Communities Group, Scottish Land & Estates (and predecessor bodies) since 1989 – Chairman
- Aberdeenshire Council Housing Strategy Forum – Member
- Aberdeenshire Council Affordable Housing Forum – Member
- Aberdeenshire Council Private Sector Housing Strategic Outcome Group – Member
- Kincardine O'Neil Village Hall – Trustee
- Kincardine O'Neil Sports Club – Trustee
- Kincardine O'Neil, Scottish Episcopal Church, Christ Church – Eucharistic Minister,



John Mackenzie – Highland Estate owner

John manages a varied Highland estate comprising arable and livestock farming, as well as woodlands, renewables and crofting. Chairman of Ross and Cromarty Local Access Forum 2005 – (Dec) 2012, Chairman of Wester Ross Fisheries Trust, 2008 onwards.



Edward Baxter – Landowner and Farmer

- Involved in LEAF (Linking Environment and Farming) as a Demonstration Farmer
- Former Scottish Chairman of LEAF.
- Member of Scottish Rural University Council (SRUC)
- Founder member of Fife Countryside Initiative of RHET (Royal Highland Educational Trust)



John Glen – Chief Executive, The Buccleuch Group

With a long and varied career in finance spanning several continents, John returned to Scotland in 2008 to take up the role of Chief Executive at The Buccleuch Group. John has had a long and varied career; including 19 years with Unilever, 8 years as CFO of Air Liquide and Vice Chairman of the European Financial Reporting Group, John has introduced a new focus to Buccleuch ensuring its success in the future.

Alongside his work at the Buccleuch Group, John is also a non-executive director for BIC and Chairman of the Board at Alba Trees, a subsidiary company of the Buccleuch Group. John is also a member of the Board for Project Scotland, a national charity helping young people realise their potential through volunteering, by creating partnerships between businesses, the voluntary sector and government.

John is also a Director on the Board of Scottish Land & Estates.



Sandy Lewis – Chief Executive of Seafield & Strathspey Estates

A Chartered Accountant with a Bachelor of Arts in Business Administration from Strathclyde University, Sandy joined Seafield Estate in 1977 as Estate Accountant and since 1996 has been Chief Executive. He is involved in a number of committees within Scottish Land & Estates and attends the Tenant Farming Forum (TFF), as required.



Andrew Bruce Wootton

Educated in Canada with twenty one years of professional experience in estate management at Lothian Estates, Buccleuch Estates and now at Atholl Estates.

Currently general manager of Atholl Estates in Highland Perthshire, providing management leadership to a large diversified rural enterprise employing over 120 members of staff, trading in let properties, tourism, field sports, renewable energy, events, hospitality, farming and forestry. Also responsible for collaboration with working partners the most significant being community councils, Perth and Kinross Council, Scottish Enterprise, Cairngorms National Park, Highland Perthshire DMO and VisitScotland.



Stuart Young – Chief Executive, Dunecht Estates

Educated at Dunecht Primary School, Alford Academy and Aberdeen University (Bachelor of Land Economy). Qualified as a Chartered Surveyor (MRICS) in 1991. Married with 3 daughters. Lives in Dunecht.

- Chairman of Dunecht Village Hall Committee
- Committee Member Dunecht House Golf Club
- Committee Member Echt, Skene and Midmar Agricultural Association
- Committee Member Scottish Land & Estates Large Estates Group and Agricultural Holdings Group
- Part time Scottish Land & Estates representative on the Tenant Farming Forum (TFF)
- Committee Member Scottish Land & Estates North East Regional Committee
- Committee Member Game and Wildlife Conservation Trust (GWCT) – Grampian Region



Paul Nicoll – Director Bell Ingram

Paul has lived in Argyll since 1992 and before the merger of DM Mackinnon Estates and Bell Ingram in 2008 was managing director of DM Mackinnon Estates. He is now a main Board Director of Bell Ingram.

Paul specialises in estate management and providing strategic advice to estates and landowners, as well as being heavily involved in master planning, implementing and promoting new developments throughout the area.



Connie Lovell – CEO, Mount Stuart Trust, Isle of Bute

The Trust is actively involved in various industry sectors on Bute, which fall within the remit of CEO MST – including: Rural/Agricultural, Tourism and Visitor Attraction, Property portfolio/asset management and the Arts.

Other posts:

- Director, Argyll & the Isles Tourism Cooperative Ltd;
Member of Argyll and Isles Tourism Partnership
- Involvement in local/regional steering groups/forums

Previous experience - senior roles in blue chip PLC's; MD of overseas national Tourist Board; international tourism consultancy; international Meat Marketing; Abattoir Operations; UK FMCG national marketing and distribution operations.

Senior members of the Scottish Land & Estates team involved in the LRWG:



Luke Borwick – Chairman

Luke Borwick has been Chairman since 2008 and in 2010 became Vice President of the European Landowners' Organisation (ELO) as well as being appointed a Board Director of the Scottish Agricultural College, now the SRUC. He also serves on the Country Landowners Association Policy Committee, which gives him a special perspective on many different land management issues and negotiations with the UK Government. His home is in Ayrshire.

On leaving the army, in 1976 Luke worked for two major printing businesses, gaining extensive sales and senior management experience in Africa, the Middle East, South America, the Far East and Europe. From 1993 until 2004 he carried out specific senior management tasks with a number of companies in the north of England. His present interests include Chairmanship of the North Ayrshire Access Forum, music and the arts.



Douglas McAdam – Chief Executive

Douglas has been CEO since 2006, when he joined following a career in the commercial sector overseas and in the UK, latterly with Thames Water. As well as undertaking the role of CEO and Board member, he represents Scottish Land & Estates on a number of external governmental and industry groups and Boards. These include:

- Scotland's Moorland Forum
- National Species Reintroduction Forum
- Board Member Scottish Country Sports Tourism Group
- Board Member Executive Board of Partnership for Action Against Wildlife Crime
- Chair of Police Poaching & Coursing Crime Priority Group
- Police Raptor Crime Priority Group
- Deer Management Round Table
- Executive Committee of the Association of Deer Management Groups, SRUC Council Member
- Upland Coordination Group Member
- Board Member Wildlife Estates Scotland.

He spent over a decade in the Far East in various appointments with the Swire Group, mostly in Cathay Pacific Airways. Douglas returned to Scotland in the late 1990s. He then played a major role in building Thames Water's business in Scotland, working both with Scottish Water and the Ministry of Defence. Douglas lives with his family in Highland Perthshire, near Tullimet.



**Sarah-Jane Laing – Director of Policy
& Parliamentary Affairs**

Sarah-Jane joined the organisation in 2004 as Housing Strategy Officer, after 10 years in both local authority and housing association environments. During these 10 years she carried out a number of housing related roles, latterly specialising in housing research and strategic policy development. Her role as Housing Strategy Officer involved raising awareness of the role of the rural private rented sector, increasing and maintaining standards within the sector, and identifying opportunities for further development of the private sector role in meeting the housing needs of rural Scotland. Sarah-Jane played a lead role in the development of the Rural Homes for Rent Grant Scheme.

She became Head of Policy in 2009 and was made Director of Policy & Parliamentary Affairs in January 2013. Her current role involves overseeing the policy team and leading on lobbying and representational work. A large part of her role involves direct advice to members on a wide range of issues and she also sits on a large number of national and local stakeholder groups, covering various subjects of relevance to our members. She retains specific policy responsibility for housing, planning, communities and rural services.

Sarah-Jane is a Board member of the Rural Housing Service, lives on her family's farm in the Scottish Borders and is a Parent Council member at her local village school.



**Paul Wakefield – Director of Operations
& Communications**

Paul has been with Scottish Land & Estates since September 2011 having joined from Bell Ingram Chartered Surveyors where he was an Associate and UK Marketing Manager for seven years. Paul has extensive experience in marketing communications, PR and business development having previously worked in Corporate Event Management and in Conflict Management.

Paul originally hails from Surrey and spent nine years as a Police Officer with the Metropolitan Police.

We must also thank the following people who have provided content in various sections of this document:

[Dr Andrew Midgley of Scottish Land & Estates](#)

[Richard Blake of Scottish Land & Estates](#)

[Jason Rust of Scottish Land & Estates](#)

[Anne Gray of Scottish Land & Estates](#)

[Jackie McCreery of Yester Consulting](#)

[Jamie Younger of Saffery Champness](#)

[Dr Jean Balfour](#)

Foreword



Ever since the formation of our founding organisation in 1906, Scottish Land & Estates has always taken a pragmatic and long term view. This view reflects the ethos and values of our members who, by the very nature of their businesses, are similarly long sighted in how they manage the land, the assets and the historic built heritage of which they are custodians. This foresight has stood the test of time as today we enjoy outstanding landscapes, iconic wildlife and an impressive built heritage right across Scotland. Many of our beautiful landscapes, habitats and buildings are of national and international significance, often officially designated as such, and they continue to underpin our highly important Tourism sector and form an iconic part of Brand Scotland – a world class destination.

Our members are in a unique juxtaposition as they try to marry the best of the traditional past with ever changing modern demands in an increasingly uncertain future. As this pace of change quickens, new generations continue to take over the responsibility for these rural businesses and these new owners and new types of owner require support and encouragement in order to flourish. They are driving new forms of business from these assets, displaying world class entrepreneurial flair, which benefits the whole of Scotland and its people.

Land, estate, farm and rural business owners in today's Scotland operate in a very different world to the estates of the early 1900's. They are dealing in fast moving consumer markets, they are part of international trade, they need to take business decisions and assess investment risks for what can often be highly complex projects and businesses, across a wide range of sectors; from agriculture and renewable energy to property and retail.

This dexterity and wide ranging experience provides rural communities with exceptional levels of knowledge and sure-footedness and has enabled successive Governments to deliver on key objectives in areas such as housing, employment and energy. This progressiveness should be recognised and harnessed and the crucial links between these businesses and their communities strengthened. A new arrangement needs to be formulated to recognise the strength of collaborative working in delivering shared outcomes and to maximise what can be leveraged from existing mechanisms, resources, funding and expertise. We should all go forward with a firm focus on the future.

Scottish Land & Estates welcomes the opportunity to review the effectiveness of existing legislation to assess the need for any necessary improvements. However, it is unfortunate to note that this review is starting from a view that a problem exists with the pattern of landownership in Scotland. In this response our position on this is made very clear. Change is continually with us and is not something that our members resist; indeed quite the reverse is the case. Change of any kind requires to be justified by sound evidence of the need for change and a clear articulation of what that change is seeking to achieve.

This review process has enabled us to take stock, to look objectively at ourselves and to identify potential areas of improvement. Our submission sets out our vision for rural Scotland. We welcome the opportunity to continually engage with the Land Reform Review Group's (LRRG) process throughout its various stages, feeding in further information as required and will do everything we possibly can to assist.

A handwritten signature in black ink, appearing to read 'Luke Borwick'.

Luke Borwick
Chairman

1 Executive Summary

Introduction

Scottish Land & Estates is a membership organisation that represents the interests of rural landowning businesses across Scotland. Our membership of over 2,500 is heavily involved in a wide variety of business sectors, all of which are vitally important to rural prosperity and sustainability.

Today landowners' business interests are very diverse and for the majority of our members their landholdings are relatively modest: over half of our members own less than 450 hectares of land. Whilst diverse in size and makeup our landowners are united in their passion for the land and its variety of uses. They take the responsibility of land stewardship extremely seriously and are significant contributors to the health and vitality as well as future economic sustainability of the rural sector.

Our Submission and Vision

In our submission to the Scottish Government's Land Reform Review Group, we have put forward compelling evidence of the pivotal role that our members fulfil in rural Scotland and our positive vision for the future; a future that will benefit communities, individuals and businesses alike in some of the most rural and often fragile areas of the country.

Underpinning our vision and the contribution of landowners is the fundamental belief in, and commitment to, property rights, which seem to be continually under attack without regard to consequence. Attracting investment requires stability, confidence and certainty, which are undermined by constant reviews of property rights. We contend that the legitimate ownership of land and property needs to be protected and that this remains a key principle of all western democracies and forms the bedrock of our wider society today.

Our organisation enthusiastically supports a range of land ownership and management types based on the fundamental principles of legitimate ownership and the best use of land; indeed we have a range of ownership types within our membership. We refute the principle that there is any need for a more diverse landownership pattern and we see no evidence of any democratic mandate to drive this.

Our Businesses

As mentioned, our members are actively involved in a wide range of business, environmental and social activities and are at the forefront of rural economic development, enterprise and entrepreneurship. We continue to strive for rural economic prosperity and are substantial employers within an integrated land management model that balances growth with social and environmental well-being. As an example, in many cases our members deliver more affordable housing in very rural communities than local authorities and housing associations put together.

Importantly estates and landowners play an active and vital role in the health and well-being of the rural communities of which they are a part.

As with any organisation or industry there are examples of both good and bad practice, but it is important to recognise that the vast majority of landowners are motivated and working hard to manage our resources responsibly. As an organisation our charge is to ensure best practice amongst all of our members and as a result we deliver best practice guidance on specific issues in collaboration and partnership with a range of interested parties as well as our membership.

Review of Land Reform

Our members welcome a technical review of the 2003 Act and believe that this is an appropriate point in time. However, we also believe it is premature to conduct the wide ranging review that is predicated on the comments made in the Call for Evidence. It is also apparent that there is a definite predisposition to the view that existing land ownership patterns, irrespective of their legitimacy, are somehow flawed. This view does not reflect the modern composition of landownership and the real contribution of landowners we have demonstrated throughout our submission.

With its expanded brief we contend that the Land Reform Review requires to be focussed on how community interest in land use can be aligned with regional strategic objectives and private ownership objectives to produce sustainable, integrated development plans.

Community landownership clearly has a place in the modern pattern of landownership we now see and experience in Scotland. However, there remains an essential requirement to independently quantify and monitor previous community buyouts, if these are to be promoted as the vehicle to achieve socio-political objectives. It is a fundamental duty of any government, to report to the public the disposition and effectiveness of its expenditure. Given that local community buyouts tend to be funded by the wider public purse it is vital that there is definitive and independent proof of value for money and the economic sustainability of that investment given that it is focussed on a only a small proportion of the population.

Public Perception

Such is our members' openness and willingness to do the right thing by all parties, that we commissioned external independent research into the 'Public's Perception of Scottish Estates' by George Street Research, who published a frank report in 2010 (see appendices). This research drew its findings from a wide and robust sample of the public from across urban and rural communities. The resulting evidence made a number of very interesting assertions: namely that the overall perception of Scottish estates was very positive; that issues surrounding the rural environment were not front of mind to most of Scotland's population, and that little was known about what went on, on estates and in rural businesses. However, a great sense of proprietorial pride existed amongst the public, who felt a strong association with Scotland's land and natural heritage. The research concluded that landowners have a very good story to tell, a story of community engagement, custodianship and of production and delivery but that no-one was ensuring that this story was heard. This brought about a new wave of communication from landowners, via Scottish Land & Estates, in order to educate and inform the public, the media and politicians, and this long journey continues today.

Conclusion

To summarise; we contend that private landowners are a conduit to sustainable, healthy and empowered rural communities. Our members provide housing and employment in a sustainable and economically viable way. They are, and should be seen as, enablers of social policy and deliverers of public goods. We believe much could be achieved utilising current structures and stimulating partnerships, prioritising public funding on the basis of best value rather than to overtly social engineer land ownership based on a minority held, ideological opinion that struggles to stand up against mainstream cross examination.

We have set out the substantial social, economic and environmental contribution which landowners and estates make to rural Scotland and we have illustrated how this contribution could be increased.

We believe that further legislation or substantive change in legislation is not required but that existing legislation requires to be reviewed technically to be made more effective, and current mechanisms to foster partnership working and collaboration need to be properly identified and leveraged to deliver maximum public benefit.

We would advise that as landowners are already motivated to do the right thing and act responsibly within the regulatory framework, change and improvement can be best achieved through the dissemination of good ideas and good practice, not more legislation. Case studies, as an example, provide a more positive and constructive stimulus and encourage buy-in whilst more legislation tends to act negatively and encourages polarisation.

Finally, landowners and private estates require to be recognised as valued partners and instrumental to the delivery of key national and local government objectives for the benefit of the entire rural economy and the communities in which they are an integral part.

As requested in the call for evidence we have identified, throughout our submission, where the real barriers to improved rural development, sustainable cohesive communities, and an enhanced relationship between people and the land, rest. We have also proposed solutions and made positive recommendations as to how those barriers can be overcome.

In its Call for Evidence the remit of the LRRG states that the Group will identify how land reform will:

- 1. Enable more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, which will lead to a greater diversity of ownership types in Scotland;**

Scottish Land & Estates believes...

- There is already significant diversity of ownership types in Scotland and so there is no requirement for action to be taken to facilitate greater diversity of land ownership or a change in ownership types.
- Existing mechanisms are already in place, which enable ownership to be transferred by a willing seller.
- Through the existing legislative structures, such as the planning regime, there are opportunities for everyone to have a say in how land utilisation changes.

- 2. Assist with the acquisition and management of land (and also land assets) by communities, to make stronger, more resilient and independent communities which have an even greater stake in their development;**

As above, Scottish Land & Estates believes that the existing mechanisms for land acquisition by and for communities are adequate, based on the principle of the willing seller.

Scottish Land & Estates believes...

- There are a range of existing options around access to land resources which require to be promoted to communities.
- Ways to enable communities to become more involved in planning policy and the planned system rather than reactively commenting on individual applications, need to be developed and increased.
- Local decision-making processes and engagement need to be improved not just through the Community Empowerment and Renewal Bill, but by the utilisation of some of the non-legislative solutions available.

3. Generate, support, promote and deliver new relationships between land, people, economy and environment in Scotland.

Scottish Land & Estates believes...

- Many landowners and estates already engage effectively within their communities and this successful approach can be built upon and delivered more widely.
- Funding requires to be provided to deliver a project promoting the “working together for sustainable estate communities toolkit” to support effective community engagement.
- A model for a network of Community Engagement Officers needs to be developed to support the implementation of the toolkit.
- There needs to be recognition that connecting people with the land takes a number of forms and that recreation plays a key role in generating, supporting, promoting and delivering relationships between land, people, economy and environment in Scotland.
- Further integration between the Land Use Strategy and Scottish Planning Policy is an essential requirement.
- Local Authorities need to increase their dialogue with all sectors of the community during the Main Issues Report phase of the Local Development Plan process.
- The work of Planning Aid Scotland requires to be highlighted and supported.
- There is a need for promotion of the Landowners’ and Landusers’ guide to community growing (partly prepared by Scottish Land & Estates in association with the Federation of Community Farms and Gardens and due to be launched by the Scottish Government Minister this year) in order to assist in increasing the availability of land for community growing and allotments projects where appropriate.

The LRRG in its Call for Evidence, promoted the following examples of how the principle objective may be achieved:

- **Improve the supply and lower the price of land for affordable and other housing in both town and country;**

Scottish Land & Estates’ recommendations are...

- The Rural Housing Service could be commissioned to pull together a guide detailing all the possible delivery models of affordable housing to ensure that all options for meeting the housing needs of communities are considered.
- The Scottish Government should press hard and continuously for HMRC to change tax provisions to give:
 - Conditional exemption from IHT in return for contracted delivery of affordable rented housing.
 - Provision for roll-over relief of CGT to allow property disposals to fund the upgrading of other properties in portfolios that are subject to conditional exemption (above).
- The Scottish Government is required to use taxpayers’ funds to gain the best value for money. The Scottish Government needs to cease its obstruction and antipathy toward the private rented sector (PRS), and instead allow and encourage private landlords access to grant funding where they can deliver affordable housing at lower cost to the taxpayer than other organisations such as Registered Social Landlords (RSLs). The Government’s attitude towards the PRS needs to be to nurture and encourage its activity.
- There needs to be recognition of the requirement to rejuvenate housing stock by designing and building more environmentally appropriate homes.
- The Scottish Government could encourage the refurbishment of empty homes by reducing the penalty of VAT on building works. It can do this either by achieving a reduction in the rate of VAT on such works (which probably requires UK wide action) or by arranging to refund the VAT element of the costs through a grant. Conditions could be applied to such a grant to ensure such housing delivered affordable housing.
- Further funding should be made available to deliver affordable rented housing through the Rural Homes for Rent model.

-
- **Help create new pathways, for younger people especially, into farming and crofting;**

Scottish Land & Estates' recommendation is that it is essential that the LRRG supports the work of the New Entrant Panel.

There needs to be recognition that crofting, whilst an admirable socio-political objective in the right areas, comes with its challenges, and is not relevant or applicable across the majority of the country where economically sustainable agricultural and farming for food production occurs.

- **Enhance the position of tenant farmers by giving them a right (similar to the right enjoyed by crofting tenants since 1976) to buy their farms;**

Scottish Land & Estates recommendations are that...

- The LRRG acknowledges that absolute Right to Buy (RTB) would destroy the tenanted sector, and therefore rejects this proposal without reservation.
- The LRRG allows the Tenant Farming Forum (TFF) to develop proposals in relation to all Agricultural Holdings issues.

- **Replace Council Tax and Business Rates with a tax on land values;**

Scottish Land & Estates does not consider that a land value taxation system would assist in delivering the aims of the land reform review.

- **Change the way in which fresh water resources are owned and managed in order to secure wider community benefit from these resources;**

Scottish Land & Estates' recommendations are to recognise...

- That salmon fisheries are businesses that require long-term investment.
- That salmon fisheries in Scotland have an international reputation and bring significant economic and employment benefits to local communities.
- That local communities and associations already have an interest, through ownership and/or tenancy, in salmon fisheries and are able to bid for fisheries which are placed on the market for sale or lease.
- The participation by Fisheries Boards and Fisheries Trusts in extensive collaborative work for local area management
- That wider access to rivers must be balanced and exercised carefully and responsibly.
- That ownership fishing rights and adjacent land are often separate.

We also encourage the LRRG to recognise that this may have a negative impact on certain business interests that are large volume users of freshwater e.g. our Whisky industry whose ownership of or rights to their private water sources must be protected

- **Change the law of succession as it affects ownership of land.**

Scottish Land & Estates' recommendations are...

- That it is not possible to consider changes to Succession Law in Scotland in the context only of Land Reform Review.
- That concerns be raised to be considered by the Scottish Law Commission that an extension to the protection from disinheritance to include heritable property would adversely affect the long term viability of family farms.

Scottish Land & Estates has also included a number of other recommendations which we consider will also contribute to achieve the aims of the Land Reform Review:

Scottish Land & Estates' recommendations are...

- Greater alignment is required between different Scottish Government policy portfolios.
- A Land Based Business Group could be established in HIE areas to replicate Scottish Enterprise model.
- The LRRG is advised to encourage the Scottish Government and its agencies to view estates and land based businesses as delivery partners.

In relation to the Land Reform (Scotland) Act 2003,

Scottish Land & Estates' recommendations are...

2003 Act Part 1

- That there is no need for a fundamental review of Part 1.

2003 Act Part 2

- Promotion of alternatives to using legislation to facilitate community use of land assets where appropriate.
- Research needs to be commissioned to ascertain landowners' experience of the legislative process with a view to informing changes which ensure fairness and transparency in the process.
- Reduce delays caused by the legislative process by tightening timescales at each stage.
- Requirement for transparency in the exercise of discretion by Ministers and in explaining compensation awards.

2003 Act Part 3

- Details of all transfers of crofting land should be collated, to ensure that those taking place without recourse to the 2003 Act are quantified.
- Any suggested changes to Part 3 of the Act must take into consideration crofting legislation and policy in its totality.
- The role of the Crofting Commission requires to be considered as part of any review of crofting undertaken as part of the Land Reform Review.

Scottish Land & Estates and the members we represent, remain at the service of the LRRG and the Scottish Government to answer any questions or queries and we would welcome the opportunity to enter into further dialogue on a constructive basis. We remain passionate for, and committed to the land, the rural economy and the communities of which we are a part. We believe we are well placed to facilitate growth and improvement within the existing frameworks and passionately believe this should be the route forward.

A full summary of recommendations is available at the back of this document, starting on page 147.

2 Who we are

In the early 1900s, estates in Scotland enjoyed a significant amount of influence over their local communities; providing, in many cases, almost the only employment opportunities and housing in what were remote rural areas with very limited infrastructure. In many ways they fulfilled the role of deliverer of local community services, a role which today is one that should be the preserve of government development agencies and local authorities. However, particularly in the more remote rural areas which are further from the arms and support of local government and agency service provision, estates, in some cases almost by default, still play a significant role and this should be recognised.

In the vast majority of examples this relationship was, and still is, viewed as a positive relationship by the parties directly involved. However, there is no question that this past feudalistic arrangement led to a greater level of dependency in some places. Since then of course the world has changed significantly, indeed society, legislation and regulation have all moved on and modernised. Landowners have adapted to meet these ever-changing external factors; be they economic, social, political or environmental and this change has always taken place in conjunction with the local communities in which our members live and work. There are, however, still some cases where some functions of estates and rural businesses, especially in remoter areas, are still regarded in a quasi-local authority context. This can give rise to a range of opinions and expectations within communities of what estates should do and what they should provide, regardless of the views or management priorities of the owner.

By their very nature, land, farm and rural business owners are very long term thinkers - to consider what impact decisions made today will have on their local environment in 50 or 100 years' time is common practice. Relatively simple projects such as tree planting or infrastructure planning must take into consideration decade's worth of possible future impacts. The foundations for an organisation to represent Scotland's landowners were laid in 1906 with the creation of the Scottish Property Federation. Since then the organisation has evolved and in June 2011, following a major restructure and refocus, it became known as Scottish Land & Estates. Since 2011 Scottish Land & Estates' specific remit has been to promote the contribution of progressive private landownership to the people of rural Scotland and to promote and enhance best practice within our sector.

Scottish Land & Estates' 2,500 members range significantly in size, ownership type and in the way that they operate their business affairs. 90% of these members are landowning members i.e. it is the landholding that is the member. The other 10% comprise professional and trade businesses and organisations that work with and draw their business from our membership in the rural sector. Our landowning membership, in people terms, extends well beyond this number with most often family members, trustees, business partners etc being involved in the ownership and management of a landholding. It would hence be inaccurate to base any assessment of ownership, and numbers involved in such, purely by the number of estates and landholdings that exist in Scotland. This applies from the family farm with father together with sons and daughters involved though to the largest of estates with family members, trustees and business partners often involved in what are quite complex business structures. It is a much wider and more complex picture than some would like to make out. Our members vary in age too: from late 20s to early 90s and so it is very difficult to picture a 'typical landowner' in a modern day Scotland.



Source: 2012 Scottish Land & Estates survey of members

* 24% of members responded to a recent survey

*The combined annual turnover of members responding to a recent survey is £330m**

As will be shown later when we look at the pattern of landownership in Scotland, in today's world people, organisations and businesses all own land for a variety of reasons and hence have their own management and business objectives to deliver. They also vary in scale, from the smallest of family farming units to the largest of integrated estate business – and every shade in between. Indeed, it is interesting to note that over half of our membership own landholdings of less than 450 hectares. This has resulted in an interesting mosaic of landownership across Scotland which continues to develop – it is one that is diverse and healthy. The big difference today, as compared to the past, is that this must be done within a highly regulated and legislated environment that has been designed and put in place to protect the public interest. People cannot now just manage the land in any fashion that they choose, indeed they must operate today within a highly regulated and monitored environment involving government agencies such as Scottish Environmental Protection Agency (SEPA), Scottish Natural Heritage (SHN), Health & Safety Executive (HSE), Scottish Government Rural Payments & Inspections Directorate (SGRPID) not to mention the raft of Local Authority regulation and Planning.

As an organisation we understand landownership and management and we work to support our membership. As such we fully agree with the thrust of the Scottish Government's Land Use Strategy. This emphasised that to deliver for the future for Scotland, we should be focused on working together to determine how best we sustainably optimise the use of our land resource in Scotland, not focus on who owns it. Scottish Land & Estates' and our members' aim remains to create a sustainable, secure and happy future, in which people can live, work and enjoy Scotland's rural natural heritage.

Members who responded to a recent survey are planning to directly invest £240 million over the next two years and over £790 million over the next 10 years

Source: 2012 Scottish Land & Estates survey of members

The “Land” that our members own is not viewed by them as just an asset. Indeed our members have strong emotional connections with the land and place that their families may have helped shape over many years and generations. It is important to recognise this real and genuine stake that people have in the land they own, manage and are proud of. By developing land based businesses and landscapes that welcome visitors, our members can share that love of Scotland’s natural beauty with its residents and visiting tourists. The landowner of today is heavily involved in a great many sectors which are important in terms of rural prosperity and sustainability. They include:

- Tourism
- Leisure
- Employment
- Energy Provision
- Housing
- Education
- Agriculture
- Forestry
- Community/public benefit
- Wildlife conservation
- Natural and built environment
- Business Development

Through their activities within these sectors our members are making significant investment in Scotland’s future, made possible only by the assurance of a secure political and economic environment.

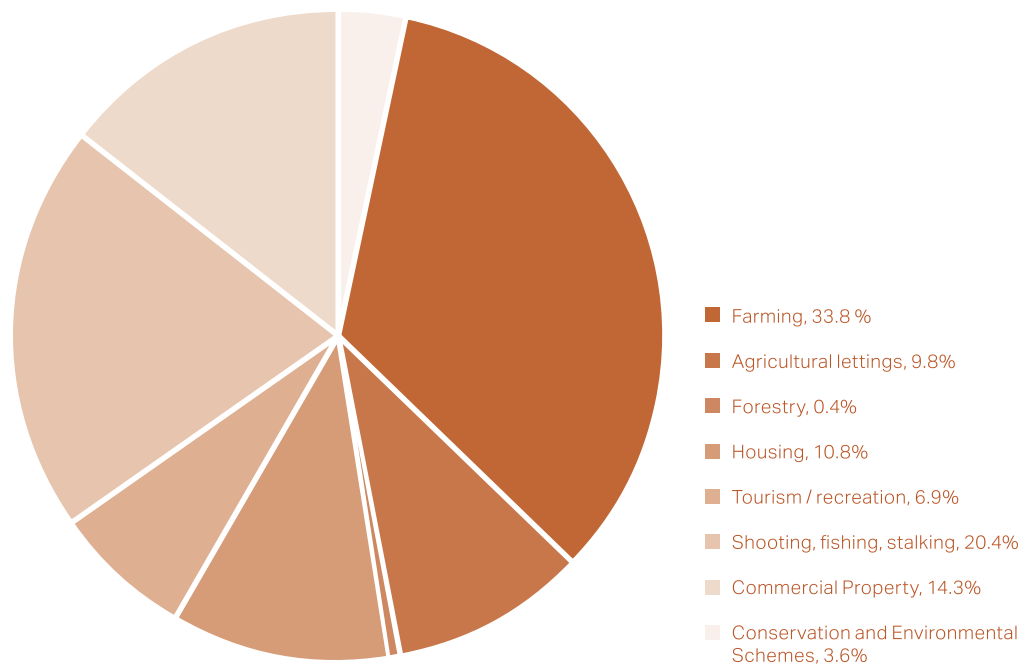
In a recent survey, members who responded stated that they planned to invest, collectively, over £240M in rural development projects within the next 2 years and £800M in the next 10 years.

Respondents also stated that they are already responsible for the livelihoods of an average of 13 FTE employees per business. 54% of respondents have hosted educational visits by school and youth groups, 59% have provided work experience and 26% have assisted with work experience, thus showing a clear and real desire to continue investing in Scotland’s future generations.

On average, employ 13 FTE employees

Source: 2012 Scottish Land & Estates survey of members

The organisation and its members have a great deal of experience in working with a range of parties driving proactive initiatives in order to create a healthy, prosperous rural environment for all and as such we feel that our response to the Land Reform Review Group (LRRG) is one that comes with a great deal of experience, knowledge and background that will assist the Group in making the right decisions for Scotland.



This pie chart is a real example of the range of activities undertaken by one of our members. It highlights the integrated nature of many estate and landowner businesses. It should be noted, however, that no two landholdings and estate businesses are the same. There are other activities not included in this example, such as renewable energy, that are very important to others and the mix of these interests will vary widely between different landowners.

3 What we do

The voice of Landowners in Scotland since 1906

Scottish Land & Estates is the membership organisation for landowners in Scotland. Our 2,500 strong membership comprises mainly private landowners and estates with a wide range of landholdings. Organisations, general rural businesses and professional firms with rural interests are trade and professional members.

The organisation provides technical policy support to members on issues ranging from land use and tourism to wildlife conservation and renewables. This we do by way of regular general updates, conferences and events in addition to responding to more specific member queries. We produce an annual Operating Plan approved by our Board which lays down clear priorities to which all members of the team operate.

Beyond this, we work closely with Government agencies, civil servants and other stakeholders to develop policy that both delivers benefit and is fit for purpose. We operate with an evidence based approach to our work and use hard facts and data as the backbone of our policy development.

We also have a strong business focus and encourage members, by way of events and information, to diversify their businesses to develop new revenue streams in order to maintain healthy rural economies.

Scottish Land & Estates believes that its *raison d'être* is in working with our members, stakeholders and the Government to create long lasting, proactive solutions that benefit the rural sector as a whole. This is something which we have striven to deliver since our formation and that now forms a major part of our engagement work. We believe we need to continually challenge the status quo in the pursuit of more effective mechanisms and practices that generate lasting benefit for communities across Scotland. Although today our members operate in a highly regulated and monitored business environment, we believe that it is vital to collaborate with relevant stakeholders, Government agencies and other partners to seek improvements beyond this. As such, the development and promotion of good practice is a key role for Scottish Land & Estates and our members.

We have successfully implemented a large number of projects across a broad range of topic areas. This section of our submission provides details of our more recent initiatives, information on which can also be found at www.scottishlandandestates.co.uk.

In addition to complying with the existing regulatory framework such as that set down by the Water Framework Directive, Cross Compliance and Forestry Standards, our members very often already exceed the regulatory and legal minimum and deliver a wide range of public goods from private land. Our members develop long-term plans for their land holding with the aim of ensuring long-term custodianship and sustainability. It is this stability that has delivered the natural and built heritage that is valued by so many.

Long term planning and custodianship are the pillars of our members' approach to management and are the main reasons that we can all enjoy Scotland's natural and built heritage today. It has been preserved and cared for over many generations, thus making Scotland the special place that it is today – this doesn't just happen; it takes careful planning and commitment and an eye fixed firmly on the landscape for many future generations to enjoy.

Scottish Land & Estates has a Members' Code of Practice which all members sign up to when they begin and renew their membership with the organisation. The Code of Practice provides a benchmark standard of land management practices to which all members should comply covering the countryside, their business and the community.

As a result of the Land Reform Review process we have recognised the need to update and improve our existing code of practice to make it more meaningful and robust and one that delivers greater value for the inhabitants of, and visitors to, Scotland's countryside. It will stand for high quality in everything we do. We continually prove our ability to self-regulate, to improve our promotion of good and best practice and to deliver on key areas above and beyond the standards already set and this is another example of our open commitment to that process. We aim to launch the revised code in Spring 2013.

Scottish Land & Estates has carried out extensive work to develop, deliver and promote good practice across a wide range of areas. The following provides a sample of some of the work which has been, or is being, undertaken:

Wildlife Estates Scotland Initiative

Irrespective of any developments in land ownership patterns, maintaining the Scottish environment, and its species and habitats will continue as a permanent requirement. In parts of rural Scotland, particularly upland and highland areas, game and wildlife management can be the primary economic activity. Scottish Land & Estates recognises that whether for sporting management or wildlife conservation, it is vital that activities are carried out in accordance with best practice, legislation and general biodiversity aims. For these reasons, Scottish Land & Estates has championed the development of the Wildlife Estates Scotland (WES) initiative.

WES is an accreditation scheme that seeks to raise best practice and conservation standards in game and wildlife management, with reference to the three pillars of sustainability (environment, economy and socio-cultural benefits). The project was piloted during 2011/12 to trial and refine application, assessment and administration processes and this process has been overseen by a steering group comprising representatives from RSPB, Scottish Natural Heritage (SNH), the Cairngorms National Park Authority (CNPA), the Game & Wildlife Conservation Trust (GWCT) and Scottish Land & Estates. WES aims to launch formal accreditation in late February 2013.

Scottish Land & Estates set up the concept in 2010, generating sufficient funds to get the initiative off the ground and building support amongst stakeholder organisations. This enabled the project to work on application form development, to build interest from potential accreditation candidates and to undertake pilot assessments. WES now has 250 signed-up members, from small and medium-sized farms, up to large estates and reserves. The Scottish Government is currently evaluating WES alongside other organisations that can deliver benefits in relation to national Land Use Strategy.

The principal management objectives of WES are:

- To build and maintain a highly respected game and wildlife management accreditation system linked to recognised biodiversity indicators.
- To make WES accreditation open to the widest possible range of landowners and holdings in Scotland, ranging from a small farm to a large sporting estate or reserve.
- To develop incentives linked to conservation for those applicants achieving accreditation
- To maintain impartial and consistent standards of assessment.
- To engage stakeholders across the Scottish rural sector in active support of WES to raise and maintain best practice game and wildlife management.
- To pass species and habitats information obtained from applications into the National Biodiversity Network (NBN) or other agreed facility.

The success of WES will be measured by the number of accredited members, the maintenance of key species and habitats, growth in conservation projects and appropriate integration with social, economic and cultural benefits. These are ambitious aims, closely aligned to Scottish Government aspirations.

Landlord Accreditation Scotland (LAS)

Landlord Accreditation Scotland (LAS) was established in 2008 with support from the Scottish Government and is jointly owned by the Scottish Association of Landlords and Scottish Land & Estates. LAS is a voluntary scheme by which landlords and letting agents can assure tenants that their tenancy arrangements adhere to the high standards outlined in the Scottish Core Standards for Accredited Landlords. Becoming an accredited landlord or letting agent with LAS is a way of demonstrating to landlords and tenants that your management practices are above the minimum legal requirements. The standards that have to be met prior to being awarded accredited status are reasonable and realistic; landlords who already carry out good management practices are well on their way to achieving them. LAS aims to improve standards in the Scottish Private Rented Sector by:

- Promoting best practice by informing landlords of the benefits of becoming an accredited landlord or letting agent.
- Ensuring that Accredited Landlords comply with the Scottish Core Standards for Accredited Landlords.
- Providing access to support, information and landlord training in all aspects of managing residential property in Scotland.

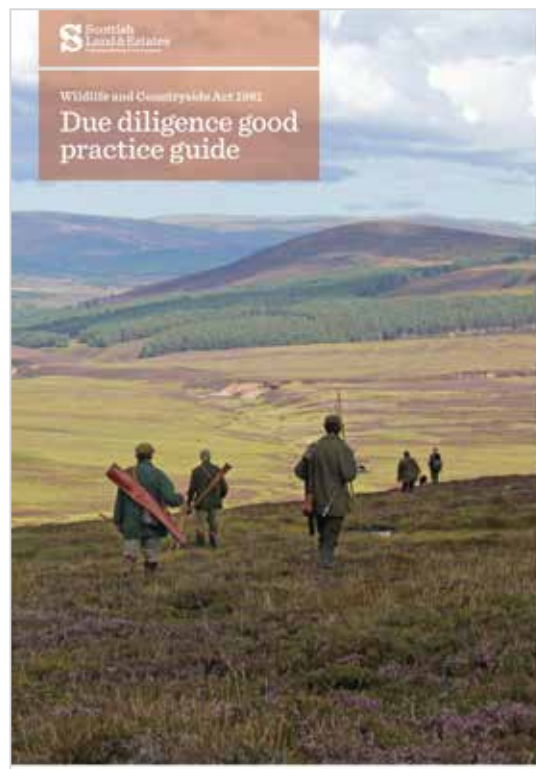
Partnership For Action Against Wildlife Crime in Scotland (PAWS)

Good practice and its promotion take many forms, as this section of our response highlights. But good practice is also about standing up and working actively against bad and illegal practice. Our membership take this very seriously, no more so than in the area of Wildlife Crime in Scotland. Wildlife Crime comes in many forms, from hare coursing and deer poaching to illegal killing of birds of prey and ranging to the theft of, and damage to, freshwater pearl mussels. No matter the underlying causes of such crimes, all are unacceptable. Scottish Land & Estates and our membership devote a significant amount of time and resources to working with the Police, Scottish Government and other key stakeholder partners to eradicate these forms of crime.

As well as sitting on the Executive Board of the Partnership for Action Against Wildlife Crime in Scotland (PAWS), which is chaired by the Minister of Environment and Climate Change Paul Wheelhouse MSP, Scottish Land & Estates is represented on and also chairs a variety of local PAW groups and specialist crime Priority Delivery Groups. These groups seek to combat wildlife crime by working in partnership in a three pronged approach focusing on Prevention, Enforcement and Intelligence. Concerted activity in all three of these areas is important and we work together with our law enforcement colleagues to produce actions plans in each area. This partnership approach is working and bearing fruit. As an example the Raptor Persecution Priority Delivery Group, on which Scottish Land & Estates plays a very full role, is delivering real results. Following concerted joint efforts in education, awareness raising, promotion of good practice and enforcement over a number of years, we are now witnessing a substantial drop in the number of persecution cases, specifically poisoning, of birds of prey. This success is evidenced by the official Scottish Government maps that are produced each year in a partnership between Scottish Land & Estates, RSPB Scotland and the Scottish Government.

However, sitting alongside this very crime focused work has to also be a process of highlighting good and best practice. Regrettably, although no excuse, ignorance can sometimes be the cause of crime and so we have a responsibility to actively and widely promote best practice in land and wildlife management and to make our membership and related communities fully aware and conversant with the appropriate legislation.

A recent specific example of this was the introduction of vicarious liability for certain wildlife crime offences through the Wildlife and Natural Environment Act (Scotland) 2011. Although Scottish Land & Estates opposed this measure being introduced through the parliamentary process, once it had become law we had a responsibility to provide appropriate guidance on good practice around these new provisions to our membership. This we did in the form of a Due Diligence Good Practice Guide to advise our members on how best to ensure good practice in this area on the land they were responsible for. This Guide formed the template for guidance across the sector and was welcomed by Scottish Government, with a Foreword written by the then Minister of Environment and Climate Change Stewart Stevenson. The Guide was also endorsed by PAWS.



Due Diligence Guide

The introduction of criminal vicarious liability in the Wildlife and Natural Environment (Scotland) Act meant that for the first time managers could be liable for wildlife crimes carried out by employees, contractors or agents. This has the potential to affect all landowners and managers even if they have never engaged in or condoned illegal activity. The Act requires all those involved in managing shooting activities to be able to demonstrate "due diligence" to the satisfaction of a court which involved proving that they have done everything reasonable to prevent any employee, contractor or agent committing an offence. Many Scottish Land & Estates members were unsure about what was required of them as a result of the legislation so, in the absence of government guidance, Scottish Land & Estates commissioned the compilation of a comprehensive guide to good practice. This publication aimed to provide advice and guidance to members to enable them to embrace the challenge of vicarious liability and to promote good practice across the industry. Case studies within the guide also helped members to apply the guiding principles to practical situations. The Guide was followed by a series of events for members bringing leading legal experts in the sector together to provide more detailed advice on how good practice can be implemented.

The Due Diligence Good Practice Guide was fully funded by Scottish Land & Estates with support from Gillespie Macandrew and Levy McRae Solicitors, but was endorsed by the Executive Board of the Partnership for Action Against Wildlife Crime Scotland (PAWS) and was positively received by the Scottish Government and other public agencies.

Tenant Farming Forum

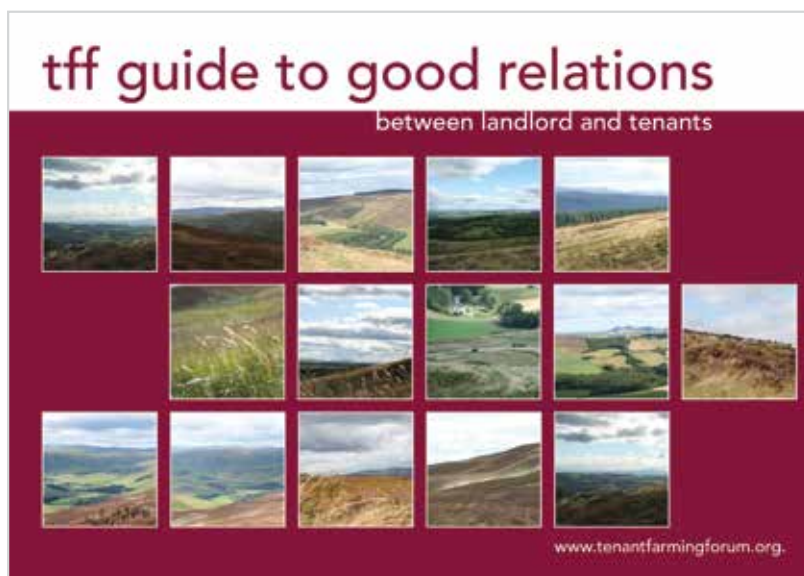
Scottish Land & Estates sits on the Tenant Farming Forum (TFF), the industry body whose primary purpose is to help to promote a healthy tenanted sector in Scotland. This provides a discussion forum which contributes to the understanding of the significance, and the practical implications of implementing current agricultural holdings legislation, which is highly complex and technical.

Scottish Land & Estates contributed to the TFF guidance on various aspects of the legislation, which are available at www.tenantfarmingforum.org.uk/tff/pubs.aspx.

Examples include:

- TFF Guide to Good Relations between Landlord and Tenants.
- TFF Guide to the Agricultural Holdings (Scotland) Act 2003.
- Suggested Best Practice for Rent Reviews.

Following a request by the Cabinet Secretary in 2012 that the TFF gives detailed consideration to certain aspects of the legislation which have been perceived in certain quarters as “pinch points” in relations between landlords and tenants, TFF has made substantial progress. In areas, including Barriers to Diversification for agricultural tenants and Repairs and Renewals on agricultural holdings, TFF concluded that, while no amendments are required to the legislation, it would be of considerable benefit to produce clear guidance and advice on best practice in these areas. Scottish Land & Estates will participate in the drafting of such advice and will ensure both that its members are fully aware of their existence also that its members are strongly encouraged to follow such guidance.



Demonstration Days

Scottish Land & Estates' Rural Enterprise Demonstration Days are aimed at showcasing new income opportunities to rural businesses, providing practical, innovative solutions that add value and increase revenue. They are part of a 3 year project funded by the Scottish Government's SRDP Skills Development Scheme. The Demonstration Days provide a comprehensive training programme throughout Scotland for land managers, farmers and rural business owners covering a wide range of rural enterprise and diversification opportunities. These events are not restricted to Scottish Land & Estates members, but are open to all with a relevant interest in the rural sector.

Access

Since the introduction of Part 1 of the Land Reform (Scotland) Act 2003, Scottish Land & Estates has developed or collaborated to develop the following guidance materials aimed at facilitating the smooth implementation of Scotland's access legislation.

- Managing Access: Guidance for owners and managers of land. First published 2004 and updated 2010.
- Managing Informal Camping: guidance for land and recreation managers. Published 2008 by the National Access Forum.
- Using Inland Water Responsibly: guidance for all water users. A collaboration with the Scottish Canoe Association, Scottish Natural Heritage and Paths for All, with support from a range of other organisations noted on the inside front cover. Published 2009.
- Guidance for Access Authorities on Disease in Livestock transmitted by dogs. A collaboration with Scottish Natural Heritage, the Scottish Kennel Club, the Scottish Canine Consultative Council and the National Farmers Union Scotland. Published 2010.
- Equestrian Access in Scotland. A collaboration with the British Horse Society Scotland and Scottish Natural Heritage. Published 2011.
- Guidance for hosting/leading outdoor access activities for visits to farms and estates. Published 2011.
- The Business Case for developing outdoor access infrastructure. Published 2012.
- A range of 24 member information sheets on various aspects of outdoor access.

Scottish Land & Estates has also worked with Scottish Natural Heritage (SNH, the Mountaineering Council of Scotland (MCS) and the Association of Deer Management Groups (ADMG) to develop the Heading for the Scottish Hills stalking and hillwalking communications webservice. Scottish Land & Estates has developed an Executive Summary of SNH's "Constructed Tracks in the Uplands" good practice guidance. SNH's guidance is recognised by us as an important and valuable resource and, to raise awareness and encourage use, Scottish Land & Estates produced the Executive Summary (in consultation with SNH) to provide a more accessible route into it. We also held a hill tracks event in 2010 in conjunction with CNPA. Scottish Land & Estates held a "managing access with dogs" event in partnership with CNPA in November 2010. This event was aimed at sharing good practice with landowners and managers in relation to the successful and positive management of dog walking access on farm and estate land within the National Park.



Evidence based approach

Scottish Land & Estates is keen to ensure that the debate about land reform is underpinned by as much robust data as possible. There is a danger that the debate could become simplified into a polarisation of community ownership (good) vs. private ownership (bad), which we believe would be detrimental to useful policy debate and to the identification of useful policy mechanisms to enable all interested parties to work together more effectively. Such polarisation is unhelpful because it potentially overlooks the benefits of private ownership and the ways that private landowners can, and are helping to deliver community benefits.

Consequently, we have sought to collect data from our membership on their activities in order to provide more information about private landowners in an attempt to enhance the debate by drawing attention to what private ownership does deliver. We received responses from 24% of our membership, and the information provided in this paper simply provides an insight into the data gathered from those respondents; it is not extrapolated to the entire membership. We will continue to collect more data and provide updated figures to the LRRG. We also hope to extrapolate figures to provide a detailed picture of the activity and contribution of our members – of all sizes and in all areas of Scotland.

Scottish Land & Estates is also currently working closely with researchers in SRUC who are undertaking an investigation into the links between private (family) landlords' estate governance and management practices and rural community resilience. Scottish Land & Estates will commission a study into the economic contribution of estates in Scotland in early 2013. We will also be identifying other pieces of work which could be taken forward as part of our research programme, such as an update to research carried out in 1998 on the current and potential future role of landowners in delivering housing.

Delivering Public Goods

Landowners, through Scottish Land & Estates and the European Landowners Organisation, have long been advocating policy change to improve the delivery of public goods. This can be illustrated with reference to agricultural policy. Where the farm lobby has adopted a defensive posture and sought to maintain the status quo, landowning interests have argued proactively for change in agricultural policy. The driving idea behind our position is

¹ See www.birdlife.org/eu/pdfs/Proposal_for_the_future_cap_FINAL_21_01_2010.pdf

² See [www.risefoundation.eu/images/pdf/report_public_goods_uk_\(full_report\).pdf](http://www.risefoundation.eu/images/pdf/report_public_goods_uk_(full_report).pdf)

a recognition of the need to ensure food and environmental security. While it is common for different interest groups to push food security or environmental interests to the foreground in justification of particular policy positions, we see the two as interconnected: environmental security is a prerequisite for food security. For a long time this emphasis on the need to put greater efforts into ensuring environmental security was reflected in our call for funds to be transferred to the second pillar of the CAP (although this is now politically unrealistic and we support the greening of the first pillar) and through initiatives such as our joint paper with Birdlife International setting out proposals for a future CAP¹. This paper specifically called for the evolution of the Common Agricultural Policy (CAP) to ensure alignment between CAP support and public benefits. With regard to the current reform proposals, Scottish Land & Estates is in favour of greening direct support and sees it as an important element in the ongoing reform of the CAP that is needed to ensure that it delivers clear and demonstrable benefits to the European taxpayer.

Scottish Land & Estates is also especially keen to do what it can to further work in the area of ecosystem services. Landowners have played an important role in advocating the development of new approaches to enhancing the delivery of public goods and have argued for much more sophisticated mechanisms for valuing ecosystem services: some environmental 'bads' come about because of market failures (i.e. environmental outcomes are not recognised in prices/markets) and so it will be important to find ways of valuing the delivery of public goods. This sort of argument has been set out in the Rise Foundation's report: Public Goods from Private Land² and Scottish Land & Estates is keen to help with any work that moves in this direction. Scottish Land & Estates is, for example, part of the Moorland Forum's Peatland Working Group that is moving towards the development of a Peatland Carbon Code (which could underpin carbon markets and support the delivery of a wider set of public goods). Scottish Land & Estates is also involved in various projects such as the Carse of Stirling Ecosystem Approach Demonstration project, which is seeking to find ways of bringing people together to discuss land use and enhance the delivery of benefits from land.

The key point is that contrary to the popular caricature of landowners (that portrays them as extracting private benefit to the exclusion of others) landowners have been specifically seeking out ways of enhancing the delivery of public goods and advocating policy change to achieve that end.

It is also critical to point out that land which is viewed by some to be unproductive (as it is not being used for food production or timber) is being actively managed to deliver a wide range of public goods and often to meet site condition standards for officially designated sites such as Sites of Special Scientific Interest (SSSI) and Special Protection Areas (SPA).

Recommendation: Getting the right policy framework and financial mechanisms in place so as to facilitate our ability to maximise the delivery of public goods is vital for Scotland. We encourage the LRRG highlight the importance of developing environmental markets and valuing ecosystem services so that market failures are avoided and so that land managers can help deliver against the Land Use Strategy.

Recommendation: Recognition needs to be given to the ability of a large scale integrated landowner to deliver multiple public benefits. At the same time the risk to such delivery posed by land fragmentation requires to be acknowledged.

4 General comments on the land reform review and the premise upon which it is based

Scottish Land & Estates contends that a modern land reform debate should focus on the best use of land and what the desired outcomes of land management should be and, then, how best those outcomes can be delivered to provide a range of primary and secondary outcomes, rather than simply on who owns the land.

The Scottish Revolution?
Evaluating the impacts of post
devolution land reform.
Warren & McKee, 2011

‘Land reform is about finding a mix of rights and responsibilities which will facilitate the development of a healthy society and a healthy environment. Expressed in these terms it sounds unexceptionable; the controversies arise over its detailed, practical implications, over the rebalancing of rights, powers and privileges which it inevitably involves, and over the principles and values which should inform that rebalancing.’ (Warren & McKee, 2011)

Whilst Scottish Land & Estates welcomes the technical review of the 2003 Act, believing that post legislative scrutiny is beneficial to all, we believe that not only is the far reaching remit of this land reform review being conducted too soon after the introduction of the 2003 Act but also that it appears from the published Call for Evidence to be predicated on a negative view of existing land ownership patterns and structures.

Scottish Land & Estates believes that the start point of such a review should be economic sustainability and the delivery of the underlying infrastructure required to achieve and support this. Broadband, efficient road network, education and a fit for purpose planning system are all central to delivering both a vibrant rural economy and social vitality in communities. We believe that focusing from the outset on land ownership is misplaced. This will be demonstrated through our response. Starting from a position which accepts a need for change will have a very damaging effect; it will destabilise confidence and jeopardise vital investment in the rural sector.

Significant steps have been taken by way of collaborative working, particularly in recent times, and private landowners are generally an integral part of the communities in which they live and work. Far from hindering these communities, very often such landowners, particularly in more remote areas, provide significant employment as well as business premises, economic development and housing in these areas. Engagement, understanding mutual objectives and effective collaboration are all key to a vibrant rural community and there are many good examples of how such approaches are delivering benefits across Scotland. Building on this existing cooperation and collaboration surely provides an effective route forward and will enable the leveraging of much more value out of what will continue to be dwindling public funding in the years ahead. Scottish Land & Estates is determined to drive this approach. In the main, private landowners are willing and effective partners who deliver real benefits day in and day out to rural Scotland, working alongside local businesses, farmers and community groups.

This more accurate picture of what is really happening within rural Scotland was recognised by First Minister Alex Salmond MSP in his speech at the Scottish Land & Estates AGM last year, in which he said:

"The underlying point is a recognition of the huge importance of this organisation and its membership, in terms, not just in the development of rural Scotland, but as an integral part of Scottish life."

As an organisation, we are concerned that further land reform in the context being suggested, as invited in the LRRG's Call for Evidence, serves only to polarise viewpoints and divide communities rather than promoting co-operation and delivery of a shared vision. Scottish Land & Estates also believes that it is important that everyone engaged in these discussions recognises that, currently, Scotland's land is being used to deliver both commercial land use and also what may be termed social land use. The former is driven by economic policies and the competitive marketplace and the latter is about delivering social policies and objectives of Government and society. Both are recipients of public subsidy, the first to address and improve an imperfect market and the second to assist the delivery of social goods. It is important that this is fully recognised and that the underlying reasons and justifications understood.

Scottish Land & Estates contends that recommending new legislation should be considered only as a last resort, progressed only when it has been established that the outcome sought cannot be achieved within existing structures. A great deal of work has already been done to consider how the existing land reform framework might work better (see "Overview of Evidence on Land Reform in Scotland", published in 2011, for example) and also how leveraging greater economic activity in rural Scotland could be delivered. A good example of this is "Speak Up for Rural Scotland", the published report and recommendations of the Rural Development Council, which, following a concerted amount of collaborative work and discussion across the sector, outlined to Government a series of key step changes that were required to realise this vision. Further details of these recommendations are provided later in this section.

Scottish Land & Estates' view is that the primary focus of this Review should be to make the existing legislation more effective and to review and capture the range of mechanisms and forms of collaboration that are currently delivering, before proceeding to consider some of the potential reforms mentioned in the LRRG Call for Evidence. In that regard, while research has already been carried out, some referred to above, there has not been a comprehensive review and assessment of those extra-legislative arrangements which have been agreed between communities and those who own, manage or control land or assets – whether in the public, quasi-public, or private sector. We are aware of many examples of community influence, management and ownership which happen without recourse to the 2003 Act and recommend that a mapping exercise of these should be carried out. Highlighting the various arrangements that have worked for communities would help many others clarify for themselves what might work for them and how it might be achieved.

26% of members who responded to our recent survey have formally delivered projects in partnership with community groups in the last 5 years.

Source: 2012 Scottish Land & Estates survey of members

As there are many instances of good collaborative arrangements between communities and those who own, manage or control land so there are significant opportunities for improving those relationships. Scottish Land & Estates believes that much broader

3 Andy Wightman, *The poor had no lawyers, Who owns Scotland (and how they got it)*, Birlinn Ltd., 2010

collaborative arrangements are required to support communities involving not just the public sector agencies and usual players but third sector, private sector and other organisations with specialist expertise. It is, however, important to recognise that businesses have to operate efficiently and effectively, working as they do within a competitive marketplace. As such, any collaborative approaches that seek greater involvement with local communities in discussing how the land is managed and used must be undertaken carefully so as not to inhibit owners' and managers' ability to manage land and property effectively. Getting this wrong could have serious impacts on business operations and viability.

Therefore, Scottish Land & Estates suggests that a much greater focus on, and enhancement of, current structures is required, before embarking on 'radical' change. We believe that this approach would deliver the "mix of rights and responsibilities which will facilitate the development of a healthy society and a healthy environment".

Recommendation: We'd like to see work carried out to quantify and detail the many examples of community influence, management and ownership which exist across Scotland.

We would like to make a few general comments in relation to the current pattern of land ownership and barriers to sustainable communities and also in relation to the perceived lack of community engagement and collaborative working by private landowners.

The Pattern of Land Ownership

It is clear that the Land Reform Review process, as set out by the LRRG, is based upon the premise that the current pattern of land ownership is unjust and therefore acts as a barrier to development and community sustainability. Scottish Land & Estate strongly refutes this claim as it is clear that significant diversity of ownership already exists across Scotland. The most recent study³ on the pattern of land ownership states that the private sector owns 83.1% of Scotland's total rural acreage, with the public sector owning 12.15%, the heritage sector 2.5% and the community sector 2.2%. The most significant change in land ownership in the last 20 years is the marked increase in the extent of land owned by community organisations and, to a lesser extent, conservation organisations. These increases have occurred largely due to the transfer of land from the private sector – much of it on a voluntary basis without recourse to the land reform legislation.

The 2010 study states that 9.4 million acres are owned "by a mere 969 landowners". It is important that this is not construed as 969 individuals; rather they are legal entities which may involve a large number of joint owners, trustees (including professional advisers) and community members. Landowning in Scotland has changed significantly over time and is already a wide church of landowning types. Within this diverse and healthy mix of ownership types we have a range of owners of all shapes, sizes and with, in many cases, differing motivations for owning and managing land in Scotland. This is reflected in the diverse nature of the range of owners that exist within Scottish Land & Estates. Within the membership there are:

- traditional landowning estates;
- owner occupier farmers, from small family farms to large highly commercial farming businesses and including members who are tenants as well as owners;
- conservation NGOs;
- community owned estates ;
- institutional owners ;
- those who have diversified away from traditional, primary industries and now run very diverse, land based, rural businesses focused on the business services provision and tourism sectors;



4 Community land ownership in Scotland: Progress towards sustainable development of rural communities?
Pillar, 2005

- large industrial companies who own land as part of their business operations;
- owners who live on their properties full time and others who don't;
- owners who manage their landholdings hands on and others who employ professional management, and;
- owners whose families have owned their properties and been part of their communities for hundreds of years and others who just bought their property last week.

However, what all these owners do share is a desire to own, manage and invest their own money in land and property in Scotland. Therefore private land ownership is already itself a diverse sector, involving many thousands of people in governing and managing the land in a wide variety of ways and for many varied uses. We will look at governance in more detail later in this submission.

Warren & McKee also make reference to the changing pattern of landownership, stating that *'the formerly dualistic pattern of land ownership in Scotland, divided between private and state, has begun to fracture into a myriad of pluralistic models of ownership. In addition to private and public ownership, land is now owned by a diverse range of conservation charities, community groups and environmental NGOs, often entering into multi-stakeholder partnership arrangements. This trend pre-dates the 2003 Act, but the legislation has undoubtedly accelerated it, even if formal legal procedures have been used relatively little'*. (Warren & McKee, 2011)

Warren & McKee stated that 'the timescale over which the success of this [change in ownership] new trend should be judged is decades or even centuries. Only over that timeframe will it become clear which models of landownership are best able to deliver the social, environmental and economic goods. Pillai (2005)⁴, for example, expressed doubts whether the high level of technical and financial assistance that is required by many community ownership initiatives can be sustained in the long term.

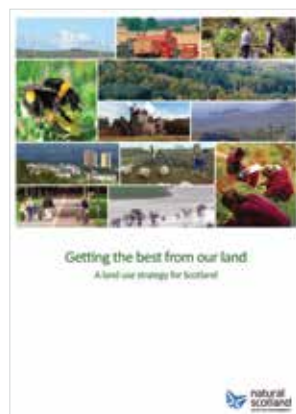
The reference by the LRRG Call for Evidence to a "greater diversity of ... ownership types" is confusing as there already exists a wide range – is it being suggested that new ownership types are introduced?

Furthermore, we would like to challenge the LRRG to clarify what was meant by statements at the launch of the Review that the pattern of landownership is 'unjust'. Is it being claimed that it is unjust for one person to own more than another? Would 'just' distribution be the whole population owning a few acres, thus rendering farming and other land based businesses unviable? Is it only 'unjust' when referring to private ownership or is it also 'unjust' that some communities now own tens of thousands of acres whilst others do not? Does the LRRG have in mind a panacea of 'just' landownership – is there a goal in terms of the percentage of land to be owned by communities? If so, is such a top-down approach of artificial manipulation really conducive to community empowerment? Surely, if tools are put in place it is the communities' decision whether or not to use them? Ownership may be the wrong option in some cases and may impact negatively on communities. Surely the focus should be on what outcomes are sought, which may differ from place to place, rather than to focus on only one positive option for achieving these outcomes?

The Scottish Government itself stated in its 2011 Land Use Strategy that 'Scotland has a diverse mix of landowners from the private, public and third sectors.'

We therefore disagree with the claim that there is a need to increase the diversity of landownership in Scotland. Clearly, that diversity, which has evolved over many years, already exists and this is very healthy for the sector. The contribution of large landholdings must also be acknowledged and there must be recognition that the diverse range of public benefits they are able to deliver is dependent upon their size. Any fragmentation of estates will lead to a decrease in their ability to invest in and deliver a wide range of public benefits from ecosystems services to affordable housing to natural flood management. This was exemplified at the recent SNH Species Action Framework conference in 2012, where case study after case study highlighted that one of the biggest threats to species conservation was the fragmentation of landholdings and the consequential break-up of coherent and unified land management. While the whole land use discussion in Scotland is striving to achieve a way forward that delivers landscape scale coherent and joined up management, it seems counterintuitive to progress a policy that would result in fragmenting such management.

We believe that dividing land into multiple ownerships would diminish consolidated efforts to manage that land for the benefit of the wider community.



Scottish Land & Estates contends that the focus should not be on ownership but what is done with the land - this is surely what really matters to everyone. It is imperative that a proper distinction is made between ownership of land and property and control over land and property use – not only are many land use decisions made by tenants (agricultural, farming, sporting etc) but also all land based businesses must operate within a regulatory and statutory framework. This is an ever increasingly complex area of regulations and legislation all of which require significant compliance by those who manage the land. This complex framework exists and includes national areas such as access, planning, environment, taxation, employment and agricultural holdings legislation but also very activity-specific regulations and standards covering issues such as forestry, farming, housing, tourism, food production and sporting operations. It should also be recognised that estates are accountable to a significant number of statutory and governing bodies, not only in cases where public money is provided but across all areas of activity. The perception that landowners have absolute control over ‘the land and their vassals’ is completely unjustified and incorrect in today’s world, although it appears to be a myth that some like to perpetuate. Landowning businesses, like any other businesses in Scotland, are fully accountable.

Barriers to development and sustainable communities

Scottish Land & Estates firmly believes, and the evidence backs this up, that private landownership is a conduit to sustainable, healthy and empowered rural communities. Private landowners are significant enablers of rural development and play an important role in maintaining rural community cohesion.

A myriad of research into barriers to rural development has been carried out over the years which indicate that numerous barriers exist.

In 2008, research for Scottish Enterprise on barriers to rural development in Scotland identified planning regulations, other regulations, broadband, housing and transport, all of which we will examine later within our submission.

The Rural Development Council (RDC), mentioned previously and established by the Cabinet Secretary for Rural Affairs and the Environment, detailed 37 Step Changes. RDC’s “Speak Up for Rural Scotland” was published in 2010. These Step Changes are listed in full in Appendix One. These covered areas such as broadband, public procurement, training and skills development, empowering communities, affordable housing and social enterprises. Land ownership was not raised as a barrier. All of the step changes were designed to deliver a vision of:

- Active and confident communities.
- The best connected place.
- Competitive enterprises creating employment opportunities.
- World rated natural and built environments.

The Scottish Government subsequently produced a response to this entitled ‘Our Rural Future’ which stressed the need to work together for the future of rural Scotland, and underlining the Scottish Government’s commitment to working with rural businesses and communities to make rural Scotland even more successful. This report included the commitment to actively monitor and promote the provisions within the 2003 Act, and also to keep under consideration the wide range of tools that are available to communities to achieve ownership. Whilst this is happening through the Land Reform Review, it would appear that many of the other areas were either lacking in clear actions from the Scottish Government or progress has been limited. Our Rural Future valued ‘the fresh ideas and energy that our increasingly diverse rural population and businesses can bring.’ Scottish

Land & Estates believes that equal weight should be given to the fresh ideas across all the step changes proposed by the RDC.

Scottish Land & Estates believes that this was a very worthwhile and inclusive process and the output from the RDC, together with the Scottish Government's response should form the basis of any recommendations going forward. The LRRG should revisit all of these Step Changes and task the Scottish Government with providing an update on progress in these areas prior to the development of any new recommendations. We would contend that the majority of these recommendations remain valid and that only limited progress has been made in taking them forward.

For example, there remains an urgent need for driving the provision of significantly better rural broadband in areas that will not be covered by existing plans within the next couple of years.

Recommendation: We would like the output from the Rural Development Council to be revisited, and Scottish Government tasked with providing an update on progress on all the recommendations.

Community Involvement and working in collaboration

As Warren and McKee stated in their 2011 paper *'Land reform is about finding a mix of rights and responsibilities which will facilitate the development of a healthy society and a healthy environment.'*

The Scottish Government's Land Use Strategy states that *'Everyone has an opportunity to influence how land is used and managed in Scotland. We can contribute to planning processes, choose elected representatives and join interest groups or community projects; we can also positively influence land use through our consumption and lifestyle choices. Where we source our food, water and energy and how we live, work and spend our leisure time all have a considerable influence on Scottish land use. It is true that landowners and managers make most direct decisions about land use, but public influence strongly affects their decisions. This may be expressed through the market, the policies of elected representatives or wider community opinion.'*

Undoubtedly, while some of these mechanisms for involvement are working well, others are not working as effectively as they should. Hence Scottish Land & Estates would support a review of these processes and our submission will look at some of the areas for improvement within our vision. Landowners of all types have vital roles to play in the facilitation of a healthy society, environment and economy but a cultural change is required within other agencies and by other stakeholders to allow this role to be maximised and the huge potential contribution of estates and landowners across the rural sector to be fully realised. It is imperative that we move from a view that landowners are a barrier to sustainable communities and rural development to one which recognises that, in the majority of cases, landowners are part of the solution and a key delivery partner.

The full implications of change and even discussions of possible change must also be recognised. The rural sector is a complex place and what appear to be minor adjustments can have major and detrimental impacts due to consequences that were unforeseen at the planning stage. We have seen this before in the rural sector and are acutely aware of the damaging unintended consequences that can result. Scottish Land & Estates views its membership as key delivery partners for the Land Use Strategy and in the rural economy and has had to work hard to encourage the Scottish Government to see the private sector in this role rather than as mere consultative stakeholders. In the case of the Land Use Strategy this was in spite of the fact that it is to be a shared vision for rural land use. Wildlife



Estates Scotland, a Scottish Land & Estates initiative, is now one of the delivery vehicles being monitored in the delivery of the Land Use Strategy.

We also have many examples of excellent engagement between the landowner and the wider community, of which they are a part, as well as suggestions as how to improve community engagement across rural Scotland. These are referred to in detail later in the submission. Collaborative working becomes even more important as public funds decrease, and we must strive to ensure that resources and expertise are levered in from all members of the community.

Scottish Land & Estates believes that effective engagement is key to the economic vitality of our communities and businesses.

Other General Comments

Scottish Land & Estates wishes to make the following general comments in relation to the areas covered in the remit of the Land Reform Review:

- Landowners are members of the community. This point cannot be made strongly enough.
- It is imperative that we do not develop a nationwide policy based solely on the experiences, views and desires of one particular area. There are specific issues which are more pertinent to the Highlands & Islands, and whilst these should be examined, they should not drive a pan Scotland policy.
- Scottish Land & Estates is aware that “absentee” landowners have been singled out for criticism by some. Whilst non resident landowners may not live full time on their estates, the majority have a strong emotional connection to the land in their area and place great importance on stewardship of the land and buildings. We are not aware of any evidence which links non residency with a diminution of good land management and so such criticism based on residency or nationality of the owner must be highly questionable in a

modern and dynamic country, especially in one which has stated Government policy and a dedicated government agency seeking to encourage and develop inward investment to Scotland from overseas as well as the rest of the UK. It has been the experience of Scottish Land & Estates that, in the main, employees and wider estate communities have a positive view of non resident landowners. In the majority of cases non resident landowners will have either resident management, with employees who reside on the estate full time, or they may contract in appropriate professional management services. Hence, whilst the landowners may not be in full time residence, they will be in regular contact and have a major say in significant management decisions and, as such, they are far from 'absent'.

Owners who do not live on their landholdings full time also are not one stereotype. They are all different and their reasons for not being able to reside full time vary enormously. For example, for some it is purely a practical matter with their businesses and careers dictating they have to be absent from their home for extended periods of time, for others it is a financial imperative and money is earned elsewhere to invest into their landholdings and businesses in Scotland, for others land and property is their business and they will own land and property elsewhere outside Scotland and will have to attend also to those interests, and for others they are actually resident in overseas countries, being foreign nationals. Hence motivations and constraints are very varied and each owner is subject to their own individual situation. In this context generalisations are dangerous, particularly where the assertion is that "absentee" owners equates to bad management – most often, quite the reverse is the case. However, we do recognise that non residency may cause issues regarding engagement with the community or even simply the provision of a point of contact. We will strive to address this by taking forward the practices contained within the Sustainable Estates Toolkit, which are referred to in greater detail later in this submission.

- The erosion of private property rights should not be considered lightly. In measuring the strength of modern economies and the security of investment into such economies, the Rule of Law is key and protection of Property Rights is a key measure of this. Scottish Land & Estates believe that any forced change in ownership patterns in Scotland would constitute a significant erosion of individuals' rights as enshrined within national and international case law and Conventions. This would also reflect negatively on Scotland as a place to invest in and would put significant current and future capital investment at risk. It would also undermine capital value of land and property across Scotland, an important pillar to underpin Scotland's current and future sustainable economic growth.
- Scots Law of Property has evolved over many centuries and any consideration of changes in that law must be referred to the Scottish Law Commission for detailed consideration as to the implications of any changes.
- Private Ownership and Community Ownership should not be seen as polar opposites. They are simply two options within the spectrum of ownership types dealing with the same land management issues. It cannot be assumed that community owners will always take a different approach or pursue a different outcome to a private owner. Roseanna Cunningham MSP in her role as Minister for the Environment stated in a letter to this organisation that she acknowledged that 'landowners, whether they are private sector or community led, face many similar challenges.' This was in response to an offer made by Scottish Land & Estates membership to create a new membership section within our organisation to provide a structure of enhanced support and advice to assist community landowners and share our wealth of experience of land and property management. Scottish Land & Estates already had some community owned estates within our membership and the organisation saw a real opportunity for a new partnership and relationship in the belief we could deliver experience and value to the newly emerging community owned sector and consign the baggage of the past to history. The day to day challenges of land and property management are the

same for all, regardless of what type of owner you are and they are challenging enough. Unfortunately this offer by Scottish Land & Estates was rebuffed by those in the community owned sector controlling this process; this was yet another example of our organisation being proactive and progressive for the good of the whole sector, all of which fell on deaf ears. In praising the delivery of public policy objectives by community owners, Professor Jim Hunter acknowledges that this is not to say that "other varieties of landowners – government agencies, lairds of the traditional sort, organisations like the National Trust for Scotland (NTS) or the RSPB – are incapable of contributing to Highlands and Islands betterment"⁵. We would contend that not only are these owners capable but are already delivering a wide range of public policy objectives in an exemplary fashion, and wish to do more. First Minister Alex Salmond ended his speech at the Scottish Land & Estates AGM in May last year stating: "I believe by working constructively together, we can deliver real improvements in areas from skills to use of renewables. We can create jobs and ensure that Scotland's land is used sustainably. And by doing so, we can deliver lasting benefits to this generation and the generations to come."

⁵ *From the Low Tide of the Sea to the Highest Mountain Top.*
James Hunter, 2012.

- Scottish Land & Estates is a member of the Community Empowerment and Renewal Bill (CERB) Stakeholder reference group. It is vital that there is synergy between the work of the LRRG and the development of proposals to be taking forward through the CERB.
- There must be a distinction between improving the law relating to land and reforming land law to achieve policy objectives and any work in this area should involve the appropriate bodies and expertise.
- It is contended by some that Scotland needs a coherent policy on land ownership, occupation and governance. Scottish Land & Estates believes that what is actually required is a coherent policy and long term vision on land use. Whilst the Land Use Strategy has gone some way to addressing this, more work is required to ensure that a clear vision for Scotland is developed, and that national and local policies all contribute to achieving this.
- There is still a lack of alignment between different Scottish Government policy portfolios and indeed, between the Scottish Government and its agencies. This gives very confusing signals to those managing the land in Scotland. For example, land managers are openly criticised by parts of the Scottish Government for 'destocking' the hills, but this destocking has arisen directly as a result of land managers being encouraged and driven to deliver SNH stipulated environmental objectives, quite often around designated sites. In another sphere rural development to deliver sustainable economic growth is often prevented by lack of support, or indeed even engagement, from SEPA and Scottish Water.
- All our views on community right to buy are underpinned by the important principle of a willing seller. We would not support any pre-emptive right for the community nor would we support an absolute right to buy for individual tenants or a community body.
- Ownership is only one option for a community. There are many other ways of providing community services or developing community assets thus enabling communities far greater involvement – through long leases or through more formal partnerships and joint ventures with the land/asset owner. It is imperative that all vehicles for achieving the desired outcome, including delivery by the private sector, are considered and supported. Empowerment depends upon a knowledge of all options available and the benefits and risks associated with them.
- In some instances, community ownership will be the appropriate vehicle for achieving prosperity or just sustainability for a community, and there can be no doubt that

community ownership is helping to deliver a wide range of benefits. However, community ownership must be viewed as a vehicle to achieving an outcome, rather than as an outcome in itself. The end result of successful land reform should be sustainable communities and enterprises, and not just simply increased community ownership. Ownership undoubtedly can bring opportunities but research has shown that, "given the choice, some local people would prefer to have a good, generous private landlord – even an absentee one – than to take on the responsibilities, risks and challenges of ownership." (Mackenzie et al 2004)⁶. It should not be assumed that the lack of communities exercising their right to buy across Scotland is indicative of faults in the legislation. Those communities might have no interest in taking on ownership.

- Whilst there have been studies carried out on community ownership, these have tended to be qualitative and measured well-being and feeling of resilience rather than being a critical economic evaluation of their successes, failures and their cost effectiveness in achieving their business plan objectives. Scottish Land & Estates suggests that further work in this area is required. That is not to say that any negative findings would invalidate the concept that community ownership can be beneficial to an area. It would, however, provide evidence to question the view which seems to be prevalent that community ownership delivers more than other forms of ownership and should be pursued in all cases at all costs.
- As referred to earlier, there is a need to quantify the level of community ownership/ community leasing/community management and control which has taken place outside the 2003 Act. The extent and nature of this must be fully understood if we are to support it or address any issues which are being faced in certain locales/circumstances. Success should not be measured on how many purchases have taken place under the Act but rather what has been facilitated outwith the legislation. Legislation is a blunt tool no matter how well drafted and should always be viewed as a last resort.
- It is disappointing that a lack of dialogue persists between Community Land Scotland (CLS) and Scottish Land & Estates. Despite requests for meetings and offers of joint working opportunities, CLS has advised that it is unable to do so due to the views held by some of its members regarding Scottish Land & Estates. However, Scottish Land & Estates would like to point out that we do have a small number of community landowners who are active members of both organisations. This lack of joint working only serves to perpetuate the polarisation of the debate. Scottish Enterprise, Scottish Land & Estates and the National Farmers Union Scotland (NFUS) work together under the auspices of the Land Based Business Group. We believe that a similar forum involving HIE, Scottish Land & Estates, NFUS, the Scottish Crofters Federation and Community Land Scotland should be established and work together for the common good of the rural economy.
- Requests from Scottish Land & Estates for meetings to discuss issues with certain land reform campaigners have also been turned down. We believe that there is a desire amongst some to perpetuate the stereotypical view of a landowner and exaggerate the notion of conflict between landowner and community. This desire is coupled with an unwillingness to acknowledge good practice or develop shared solutions and as such is not conducive to anyone achieving a successful Scotland.

Recommendation: Greater alignment is required between different Scottish Government policy portfolios.

Recommendation: It is imperative that all vehicles for achieving the desired outcome, including delivery by the private sector, are considered and supported.

Recommendation: A critical economic evaluation of community buy outs to be carried out, looking at their successes, failures and their cost effectiveness in achieving their business plan objectives.

Recommendation: There is a need to quantify the level of community ownership/ community leasing/community management and control which has taken place outside the 2003 Act.

Recommendation: A Land Based Business Group established in HIE areas to replicate Scottish Enterprise model.

Recommendations on partnership and collaborative working

Recommendation: The LRRG could highlight good practice in collaborative working and explore ways in which these can be replicated across Scotland.

Recommendation: The LRRG could encourage the Scottish Government and its agencies to view estates and land based businesses as delivery partners.

Benefits of collaborative working – Case Studies



Southern Uplands Partnership (SUP)



Scottish Land & Estates values the ongoing partnership agreements that exist with other stakeholder organisations. Not only do we work with Scottish Government and its key agencies, but also with individual rural organisations whose aims and objectives shadow those of our organisation and members.

One partnership arrangement which continues to work well in progressing development is that with Southern Uplands Partnership (SUP) whose charitable aims and objectives include the following:

- To promote and advance education of the public about working and living in the Southern Uplands of Scotland, either independently and/or in association with Local Authorities, voluntary organisations and local residents;
- To guide and encourage the integration of environmental, social and economic land use policies, the sustainable use and management of land and water and other relevant activities in the Southern Uplands of Scotland so that they are compatible with considerations of the environment and local communities, and
- To promote, protect and conserve the biodiversity of the Southern Uplands of Scotland for the benefit of society.

The partnership between Scottish Land & Estates and SUP offers considerable joint benefits with links to other organisations such as:

- Scottish Natural Heritage (SNH);
- Scottish Borders Council and Dumfries & Galloway Council;
- Community Councils;
- Local rural businesses, and
- Scotland's Environmental and Rural (Delivery) Services (SEARS).

A few of the projects and groups to which both Scottish Land & Estates and SUP have provided valuable input and resources, are:

- A Working Countryside – forum led by Scottish Borders Council;
- Galloway & South Ayrshire UNESCO Biosphere;
- Red Squirrels in South Scotland, and
- Communities on the Edge.

Benefits of collaborative working – Case Studies



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Carse of Stirling project



Finding ways of bringing people together

If, as we contend, a key issue relates to the relationships that exist between the different individuals and groups with an interest in land management and community development, then we need to identify and roll out mechanisms that improve those relationships and move all parties towards constructive dialogues about land use.

One such project that might point to a useful way forward is currently being undertaken by SNH and SEPA in the Carse of Stirling. The Stirling Ecosystems Approach Demonstration Project aims to pilot a method for using an Ecosystems Approach to involve people in land use decision making and to prioritise and deliver benefits from ecosystems. The key policy driver for the Project is the Land Use Strategy Proposal 8 which seeks to 'Demonstrate how the ecosystems approach could be taken into account in relevant decisions made by public bodies to deliver wider benefits, and provide practical guidance'. Through a Stakeholder Panel and Local Project Advisory Group, the Project involves those who manage, enjoy and otherwise benefit from the land in the study area, to identify the benefits ('ecosystem services') derived from the land and to develop options for improving their delivery. It will consider the strategic policy objectives for land use and the efficacy of existing mechanisms for delivery.

If done sensitively, the project could bring different interests together and provide a forum where land use and the different factors influencing land use are discussed in a constructive way that enhances understanding between the different parties and gradually builds trust and dialogue.

5 Call for evidence and specific topic sections

The Call for Evidence invites us to think about how the potentially far-reaching objectives listed below can best be accomplished:

1. Enable more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, which will lead to a greater diversity of land ownership, and ownership types, in Scotland;
2. Assist with the acquisition and management of land (and also land assets) by communities, to make stronger, more resilient and independent communities which have an even greater stake in their development;
3. Generate, support, promote and deliver new relationships between land, people, economy and environment in Scotland.

As well as the general comments made in Section 4 we would like to address each of these in turn.

- 1. Enable more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, which will lead to a greater diversity of land ownership, and ownership types, in Scotland;**

Changing the ownership of land in itself will not deliver “stronger, more resilient and independent communities” and is more likely to reduce the range of benefits being delivered once the impacts of any unintended consequences are considered. Estates carry out significant activity at an integrated landscape-scale in conjunction with and to the benefit of our local communities, including water catchment management, natural flood management and habitat and biodiversity improvements.

The Review seeks to promote a “greater diversity of land ownership, and ownership types, in Scotland” but it is essential that the purpose for doing this is clearly stated and understood. If there are genuine and defined economic or social benefits then these need to be outlined so that they can be robustly examined by all interested parties. If the motive is more political then this equally needs to be publically aired so that the communities and people referred to by the Review can form their own view on what is best for them.

- 2. Assist with the acquisition and management of land (and also land assets) by communities, to make stronger, more resilient and independent communities which have an even greater stake in their development;**

We would suggest that even greater emphasis could be given to the proven need for properly structured inward investment; whether that investment comes from a single individual, or from a corporate body, or from many individuals through a community vehicle. There are benefits and risks for each approach, and these should all be considered before any transfer of asset or transfer of management of an asset, or indeed a service, take place.

The point was made in the Scottish Government’s analysis of CERB consultation responses that some felt asset transfer may lead to competition between communities, resulting in disharmony rather than cohesion. Again many respondents from across the groups also highlighted the danger of exacerbating inequalities.

The Scottish Community Empowerment Action Plan, published by the Scottish Government and COSLA in 2009, states that a key message was that we ‘shouldn’t invent new community empowerment schemes, structures or processes. Many community activists said they felt empowered through their involvement in existing community groups.’

The action plan also gave a clear call that Government 'should get better at highlighting and celebrating existing examples of community engagement. The purpose of this is to build enthusiasm for community empowerment and to show what can be achieved by empowered communities. The impact of highlighting these models will be to give more communities, and the people who support them, the confidence and ambition to achieve more themselves'.

Scottish Land & Estates agrees strongly with this viewpoint. It is imperative that current structures and policies are used to their fullest extent.

The action plan also states that whilst owning assets can bring benefits for a community, taking on the ownership of assets is a complicated business, and underlines that there are many pitfalls that can get in the way of community asset ownership working. The plan goes on to say that 'indeed there may be occasions when a community seeking to own an asset may be the wrong way to develop the community.'

The SQW Growing Community Assets Evaluation Year 4 report (May 2012) states 'The Scottish Government defines community empowerment as, "the process where people work together to make changes happen in their communities by having more power and influence over what matters to them.' Although community ownership of asset is linked to community empowerment, the one does not always lead to the other."

"Ownership of an asset – whether it is a large tract of land or a small village hall – can be a liability if comes to be a drain on resources rather than a generator of income. The ability to generate a sustainable income is crucial not only to the success of a project, but also to the extent of community empowerment that follows."

As outlined in our General Comments Section, Scottish Land & Estates believes that communities should be encouraged to consider all the options available to them, which could include ownership, long term leasing, joint venture with private sector or other innovative models of collaborative working. The focus must be on the best way of achieving the desired outcome, and any public expenditure requirement must be taken into consideration as part of this decision making process.

3. Generate, support, promote and deliver new relationships between land, people, economy and environment in Scotland.

This statement suggests that "new relationships" are required but does not provide detail on why this is felt to be the case. The presumption in the statement appears to be that the current relationships are failing to deliver something(s) that can be realised through new relationships but doesn't say what these might be. Scottish Land & Estates would draw attention to activity across Scotland being undertaken to connect people with the land through both formal and informal means – ownership, management, education, employment, volunteering, access and recreation. Our submission will provide further details on these areas.

Specific Topics

The LRRG Call for Evidence also referred to a number of specific areas which could be discussed as part of the review, covering subjects such as land value taxation and agricultural holdings. Scottish Land & Estates would like to make reference to a number of these issues, as well as identifying other areas which we feel are key to the land reform debate.

In addressing these areas, we hope that we illustrate how each relates to one or more of the 3 key aims of the LRRG.

5.1 Community Planning

Effective community planning arrangements will be at the core of public service reform. They will drive the pace of service integration, increase the focus on prevention and secure continuous improvement in public service delivery, in order to achieve better outcomes for communities. Community Planning and Single Outcome Agreements (SOAs) will provide the foundation for effective partnership working within which wider reform initiatives will happen. (Scottish Government/COSLA Statement of Ambition, 15 March 2012).

As referred to earlier in our submission, and within our response to the Community Empowerment and Renewal Bill (CERB), we believe that effective community planning is central to delivering the key aims of enabling more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, and of generating, supporting, promoting and delivering new relationships between land, people, economy and environment.

An initial review of Community Planning by Audit Scotland in 2006, stated that 'The lack of integration and prioritisation of the large number of national policy initiatives, and the fragmented nature of funding arrangements to support these, make it difficult for Community Planning Partnerships (CPPs) to achieve their potential in meeting local needs and create a further administrative burden.'

Scottish Land & Estates contends that although improvements have been made to align national policy objectives, more work needs to be undertaken – a fact recognised by the Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney MSP in a speech to the Rural Housing Service Conference in 2012.

We also agree with the view in the Audit Scotland review that the fragmented nature of funding arrangements to support the delivery of national policy objectives is problematic. Constant short term challenge funds with prohibitive deadlines are not conducive to sustainable development.

Recommendation: We would urge further work must be carried out to align national policy initiatives, and the fragmented nature of funding arrangements to support these.

The Scottish Government has recently published guidance to community planning partnerships on Single Outcome Agreements (SOAs) (December 2012). Scottish Land & Estates was involved in the development of some of the previous SOAs and is pleased that the lessons learned during the development and delivery of the SOAs has been taken on board and will be used to improve the process going forward. The next SOAs will be developed during early 2013, and Scottish Land & Estates suggests that an evaluation of the process is carried out after this to inform any possible recommendations regarding community planning and local decision making.

This evaluation should look at both the delivery of the current SOAs and also the process of developing the new SOAs.

Recommendation: An evaluation of the delivery of the current SOAs and also the process of developing the new SOAs is carried out.

Discussions in relation to the draft Community Empowerment and Renewal Bill included the definition of community and consideration of how this should be defined. We feel that this is relevant not just to community ownership but also to Community Planning. There have been great strides to ensure that communities of interest as well as communities of



place are involved in the Community Planning process, and the Third Sector has played an exceptional role in this along with business sector organisations. However, a common problem with the involvement of non public sector involvement in community planning involves resources. This is particularly relevant in relation to timing and length of community planning meetings – attendance at which often involves taking time away from paid employment or time away from running businesses.

Recommendation: Local authorities to ensure that the Community Planning and SOA processes are designed to maximise involvement from all partners.

Community Needs Assessments and Community Action Plans are vital components of an effective community planning process. The toolkit developed by the Cairngorms National Park is a model which could be replicated in other areas of Scotland, and the Park Authority must be commended for work it has carried out to improve community planning – including the Ballater One Voice Our Future Project.

Scottish Land & Estates suggests that an initiative should be developed along the lines of Prince of Wales' Trusts Seeing is Believing programme to supplement the peer network provided through the Scottish National Rural Network (SNRN). This would allow community members and community planning partners to witness first-hand what has been achieved and what could be possible in their own areas. If such a programme already exists, then it should be promoted to all sectors of the community, including businesses.

Recommendation: A Community Planning 'Seeing Is Believing' Programme be developed.

Scottish Land & Estates is represented by staff and members on numerous local and regional groups / forums to provide necessary expertise and knowledge, in addition to the other partners therein. One example of this is Scottish Borders Council – A Working Countryside group.

Through A Working Countryside, Scottish Land & Estates can feed into policy formation, collaboration and co-ordinated activity within the Scottish Borders. This Operational Group also feeds in to the Competitive Borders Theme Team and allows for links to other New Ways groups as appropriate, with strategic guidance coming from both these Boards. Our involvement in this group is an example of how Scottish Land & Estates effectively communicates the needs and opinions of our members whilst highlighting the activities they currently undertake that assist in meeting with the aims and objectives of local SOAs.

This form of engagement allows for greater communication at a Local Authority level, enhancing partnership working and collaborative project involvement.

The key focus elements of this Operational Group are:

- To make best use of natural resources;
- To achieve integrated rural delivery;
- To promote rural development, and
- To promote environmental protection and enhancement.

Through membership of A Working Countryside, Scottish Land & Estates also enjoys the benefits of networking and increased communication with key regional stakeholders who also sit on the group including:

- Southern Uplands Partnership;
- Scottish Borders Council ;
- Tweed Forum;
- Forestry Commission Scotland;
- Scottish Government, Rural Payments and Inspections Directorate (SGRPID);
- Scottish Natural Heritage, and
- Scottish Enterprise.

It should be recognised that A Working Countryside acts as an overarching group, whose membership includes 'key players' within the region, whose valuable knowledge and expertise allows for greater 'joined up' thinking, providing crucial detail to take forward and formulate local policy. This structure could be used to greater advantage through Scotland, to allow for key regional agencies to discuss and action local policy elements.

Recommendation: Consideration to be given to replicating the SBC A Working Countryside model in other Community Planning Partnerships.

LEADER is part of the Scotland Rural Development Programme (SRDP) and is a bottom-up method of delivering support for rural development. The aim of LEADER is to increase the capacity of local rural community and business networks to build knowledge and skills, and encourage innovation and co-operation in order to tackle local development objectives. The "LEADER way" and the potential of a more mature role for LEADER as we move into an era of integrated EU social, agricultural, fisheries and rural funds should not be underestimated. While there is a range of experience in LEADER implementation, at the best practice end, it is an effective bottom-up mechanism for actions in communities.

It is arguably the case, however, that too many LEADER Local Action Groups are dominated by local authority and agency staff, which can become an important issue when it comes to voting. Local Authority and agency expertise should be used in an advisory capacity whilst the community members who have local knowledge should hold more power than the token 51%, in the decision making process.

Recommendation: LEADER to continue being supported, and replication of the LEADER approach to be considered.

Call for evidence and specific topic sections – Case Studies



Mount Stuart Trust



In November 2011, the Trustees of the Bute Conservation Trust (BCT) contacted Mount Stuart Trust with a proposal for a Heritage Centre / Bunkhouse project to aid the continuation of its legacy of the Discover Bute Landscape Partnership Scheme (DBLPS).

Mount Stuart Trust is an official partner of DBLPS and continues to engage and have a close association with BCT.

Mount Stuart Trust is supportive of the progression of a feasibility study of the Proposal submitted and an un-working farm site was accepted as the preferred location. The farm, previously identified for development met the requirements of BCT including being in a rural location, having suitable buildings, being an expandable site, its proximity to roads/transport and being close to paths, trails and heritage nodes.

The BCT submitted a grant application for funding to the Heritage Lottery Fund toward a feasibility of the project and we are hopeful that they are successful. If successful our full support of this community-based venture highlights the Trust's community involvement aspirations.

Extract from local report for the project: Published on Thursday 22 March 2012

PLANS for a major new facility on Bute combining heritage and science have been given the blessing of the island's major landowner.

The Mount Stuart Trust has given the green light for the Bute Conservation Trust (BCT) and Bute Astronomical Club to explore a joint project, along with Mount Stuart, which could see a science centre and observatory sit alongside a heritage centre, a bunkhouse, education facilities and a range of outdoor and rural activities at Meikle Kilmory farm on the west side of the island.

Talks have already taken place between the Conservation Trust and the Heritage Lottery Fund (HLF) with a view to an application for 'stage one' funding of up to £100,000 to cover the cost of feasibility studies, planning applications and other set-up costs for the project.

BCT project officer Sylvia Jardine told The Buteman: "Mount Stuart expressed an interest in the project some time ago – they said it was a great business idea that would provide more activities on Bute for visitors and residents, and just had to consider what property they could let us look at.

"They've now come back and confirmed that they are happy for BCT to pursue a feasibility study for the Meikle Kilmory site, which is what we wanted."

Call for evidence and specific topic sections – Case Studies



Torwoodlee



On the north-west edge of Galashiels lies Torwoodlee, a traditional 3,000-acre mixed-use estate, home for the past 500 years to the Pringle family.

As resident landowner on a relatively small estate, James Pringle, the current head of the family, likes to be very hands-on and sees the day-to-day requests and concerns of tenants and locals as a pleasurable part of his job. "Being a resident landowner is quite handy in that I'm always there should somebody want something or need to talk to me. As it's essentially just me, I'm hopefully able to make decisions reasonably quickly. I enjoy talking to folk and hopefully solving problems. Being involved at that level is also very helpful to me. I find out what their aspirations are for the surroundings and, if it fits with my own plans and priorities, we can help each other."

James feels that people have less of a connection with the countryside. Nonetheless, he argues the fate of the estate is bound to those of the people who live around it, and is keenly aware that the land continues to provide benefits to modern Galashiels.

"We're trying to get children out into the countryside, simply showing them what's going on, so they can hopefully learn a bit about how the countryside provides some of the benefits they receive essentially for nothing – fresh air, the bugs and beasts that clean the water for them and so on," explains James. "If they can make that connection, then hopefully they'll go through life mindful of those ecosystems, with a better understanding for what farmers and landowners do."

While Torwoodlee embodies many of the tensions traditional estates may face in the modern world, it also shows us that community engagement, good neighbourliness and a certain "paternalistic" desire to see the area prosper offer a constructive way forward.

Torwoodlee's activities comprise:

- Two agricultural farms – one tenanted and one in-hand;
- Golf;
- Shooting for a local syndicate, and
- Fishing on the Tweed (at a reduced rate for locals).

5.2 Local Decision Making

Local decision making processes should be clear and transparent, with identifiable outcomes, involving all stakeholders to ensure accountable and democratic decision-making. The engagement in such a process should not be tokenistic. As Education Scotland said in their response to the Scottish Government's CERB consultation, "Effective engagement is much more than a one off exercise to determine community views; it requires communities to be able to identify and articulate their needs and influence public and other services to improve how these needs are met".

We believe that local decision making becomes more effective and influential when not seen in isolation, but as part of an overall process with clear and tangible outcomes. Community members are more likely to become involved in community councils and other local decision making vehicles when clarity is provided in terms of who is involved, on what issues, when they are to be involved and how they are to be involved; and where the impact of their involvement is clear. Any effective local decision making process should set out the type of engagement and both the underlying purposes and principles and should be part of ongoing process of developing permanent relationships by informing, consulting and involving all stakeholders through communication and interaction.

It is likely that many issues regarding local decision making will be taken forward through the Community Empowerment and Renewal Bill, and the LRRG is again referred to our response to the consultation in Appendix Three.

Barriers

We believe that there are a number of barriers to effective local decision making:

- Variation across Scotland in terms of where communities are with decision making and participation in engagement and difficulty of assessing influence and impact.
- Differing interests within communities – not homogenous or united entities.
- Capacity issues in terms of skills and knowledge; lack of required confidence, expertise or professional background.
- Lack of clear lines of development or support for local decision making process.
- Structural and institutional limitations - governance and accountability issues within community bodies.
- Time pressures and voluntary nature of positions limits involvement from all sectors of the community.
- There can be a large number of community bodies in one area e.g. Community Council, Tenants and Neighbourhood Organisations, Development Trusts etc and it can be difficult to establish how representative they are.
- It can be difficult to get different groups with their own agendas to collaborate or work together.
- Differentiating widespread issues from individual grievance is required.
- A culture persists in community planning which looks only to public sector agencies rather than looking for private sector or third sector solutions.

Solutions

We would suggest that a number of solutions should be developed and implemented to improve the current process and ensure that the overall vision of effective local decision making is achieved:

- Avoid further burdensome or onerous legislation and compulsion and make use of existing powers before introducing additional ones.
- A greater focus on the outcome and showing that engagement is not simply a formality thereby incentivising communities to become more involved .
- Strengthen duties on the public sector to engage as part of the public sector reform programme.
- Strengthen the duty on all partners to engage through the community planning process through an engagement framework.
- Best practice should be looked at in each sector and encouragement given to share, simplify and streamline the participatory process.
- A duty to be placed on the public sector to publish an easily updated community engagement plan.
- Use of websites, twitter and other social media to connect and engage with all sectors of the community should be encouraged.
- Clear and straightforward documentation which is easily understood and not in jargon or "government speak".
- Ensure that community participation is valued alongside other areas, including stakeholder engagement and governance/accountability.
- Provide a clear primary point of contact in local authorities and other public sector agencies while ensuring that skills or experience are not lost in different departments or sectors.

Recommendation: The local decision making process to be improved not just through the Community Empowerment and Renewal Bill, but by utilising some of the non legislative solutions outlined above.

5.3 Community Engagement

The Land Use Strategy (Scottish Government 2011) states that there should be opportunities for communities to find out how land is used, to understand related issues, to have a voice in debates, and if appropriate to get involved in managing the land themselves. The strategy places emphasis on the need for all communities (urban and rural) to be better connected to the land, with more people enjoying the land and positively influencing land use. The Strategy notes that estates engage with communities to varying degrees and welcomes the progressive approaches increasingly adopted by many estates across the country.

Scottish Land & Estates accepts that there is a need to improve engagement between communities and landowners – not just private landowners but also conservation charities, NGOs, state and community owners. One of the streams of the Sustainable Estates for the 21st Century project, 2007-2012 explored the potential of collaborative initiatives between privately-owned estates, communities and other partners. The research identified that 'becoming more visible within the community often helped to challenge outdated stereotypes and promote mutual understandings of the inspirations of both estates and communities. In particular, an 'open approach' to developing long-term plans and/or new revenue streams provided community members with opportunities to influence estate management and understand how the estate functions as a rural business. (Working Together for Sustainable Estate Communities, 2012)

The research identifies a number of benefits of engagement and collaboration:

1. Reducing a perceived disconnect between private estates, communities and other partners.
2. Developing new business and asset opportunities
3. Accessing wider knowledge, skills and resources.
4. (Re-) connecting people with the land
5. Releasing volunteer energy
6. Making robust and accepted decisions

If estates and communities and agencies and government come together, then I think that is where the big things will happen...and no matter who owns, the land, or who is going to benefit from it...let's just work together and improve things, where we will all benefit in some way."
Community development worker.

Analysis of responses to
Community Empowerment and
Renewal Bill

A booklet to assist with community engagement was produced as part of the research and includes solutions and tools which are designed to 'encourage mutual support, engagement and trust among estate representatives, local communities and other partners.

A spectrum of approach is detailed from simply taking a more 'open' approach to estate management (an open door policy) to the development of joint businesses between the estate and the community.

The approaches in this wide spectrum are already prevalent across Scotland, but we accept that more needs to be done and Scottish Land & Estates has actively promoted the booklet to raise awareness amongst its members on steps that can be taken to increase community engagement. We have also actively encouraged members to include a community and stakeholder engagement policy within their overall long term estate plan. The recent member survey found that as well as the wealth of formal and informal engagement taking place, 13% of those responding already have a formal community engagement plan in place.

Scottish Land & Estates is currently revising its member's code of practice and will ensure that effective community engagement is contained within this.

However, we would suggest that more needs to be done to promote the key messages from the Sustainable Estates Project and support estates in taking action to increase collaboration with communities and other partners.

The Sustainable Estates booklet also includes points which should be taken into account by all parties:

All partners should take a proactive approach

Relationship building should focus on the development of mutual trust and respect for the differing roles and interests of the different groups/individuals, as well as the development of open and transparent engagement processes. The success of collaborative working is dependent upon all those involved actively pursuing solutions. Too often, private landowners are viewed by public agencies and communities as the problem rather than as part of the solution. There is a need to move away from entrenched stereotypical views which are not conducive to effective partnership working. As the booklet states, genuine collaboration may require communities to overcome prejudices and embrace involvement with the estate. In addition, the onus for collaboration does not lie solely with the estate – the booklet identifies the need for public agencies and other stakeholders to 'consider how to engage more effectively with private estates and estate communities, defining their role with the partners involved and committing to joint projects.

Methods and timings of interactions are critical

Communication needs to be two-way (rather than top down) and consultation should be early, meaningful and transparent. In terms of rural development, we have encouraged members not to simply rely on the formal consultation requirements associated with planning applications but to communicate estate development plans at an early stage and ensure that communities are aware of the vision of the estate and can where applicable, contribute to estate planning.

Estate representatives need to be visible and approachable

The research found that good visibility of the estate's representatives along with an open door policy are crucial for developing a positive relationship between the estate and the community. This lack of visibility is a criticism often levied at those who are not resident full time on the estates – whether private landlords or organisations such as the John Muir Trust. It is simple good land management practice to ensure that people in the local area have an identifiable point of contact for the estate.



Developing positive relationships may benefit from the involvement of an honest broker

As the research states, where contrasts in opinions and perspectives may occur between the estate and the community, a suitable 'honest broker' can act as an impartial mediator. Mechanisms such as liaison groups and forums can be used to find mutual solutions, where agencies and other partners can provide support and play additional roles in partnership working. For example, Scottish Land & Estates has strongly advocated the benefits of the Rural Housing Enabler Approach to identify and deliver housing solutions at a local level, and would like to see this approach replicated for community engagement.

Scottish Land & Estates suggests that the organisation appoints a Community Engagement Officer, partly funded by the Scottish Government or one of its agencies. The role would involve working with landowners and estates to enhance their engagement with community. Part of this could simply be about better communications so that communities understand more easily what happens on an estate and the drivers behind decision making, but it could also go much further to comprehensive community planning that is oriented to identifying goals and direction of travel and then options for getting there. This work could be done in partnership with Community Land Scotland to ensure that its members also receive support in this area.

Explore suitable models for rural leadership

The research illustrated that partnerships can increase the capacity of communities and estates in local decision making and develop increased confidence. A formal model of rural leadership is currently delivered by Scottish Enterprise, and Scottish Land & Estates has supported this from its inception. The Rural Leadership Programme addresses the specific economic, social and political challenges of operating a successful rural business, and those who have participated have gone on to make significant contributions not only to their businesses but also to the communities in which they operate. We would suggest that consideration could be given to extending this programme to community members

who may be looking to play a more active part in local businesses or developing community development trusts. An inclusive programme which is open to all rural stakeholders would increase the value of the programme and build capacity within rural communities.

Recommendation: Funding is provided to deliver a project promoting the Working Together for Sustainable Estate Communities Toolkit, and to support estates in progressing effective community engagement. We suggest that dedicated Community Engagement Officers are employed as detailed below.

Recommendation: A model for a network of Community Engagement Officers is developed to support the implementation of the Toolkit.

Recommendation: The National Standards for Community Engagement could include more advice of relevance to the private sector and not focus solely on public sector agencies.

Recommendation: Extend the Scottish Enterprise Rural Leadership Programme to include community representatives.

5.4 Planning System

The Scottish planning system has gone through major reform in the last few years and the Scottish Government continues to take forward proposals aimed at further streamlining of the planning system. As a key stakeholder, Scottish Land & Estates continues to support modernisation of the planning system to ensure that it is fit for purpose and is in regular contact with the Scottish Government on issues of concern to the rural sector. The Scottish Government must be commended for the work it has carried out to promote place based decision making and to deliver a truly plan led system.

However, we do believe that much more needs to be done, particularly at a local authority level.

National Planning Framework and Scottish Planning Policy

Most recently the Scottish Government has embarked on a review of the top tier in Scottish planning, the National Planning Framework (NPF) and the Scottish Planning Policy (SPP), which together inform the long term vision for development in Scotland.

The NPF sets the context for development planning and provides a framework for the spatial development of Scotland as a whole for the next 20-30 years. A call for candidate national developments concluded in December 2012 and we eagerly await the next phase of consultation in Spring 2013. Developments within the NPF are to be of national importance and should significantly contribute towards the Scottish Government's main aim of achieving sustainable economic growth and other Government objectives. It is expected that the National Planning Framework 3 will be published by June 2014.

SPP is the statement of Scottish Government's policy on nationally important land use planning matters and is used to guide local authorities when preparing strategic development plans and local development plans for their area. At a local level, the development plan sets out how places should change and what they could be like in the future. It says what type of development should take place where, which areas should not be developed and encourages appropriate proposals to be brought forward by applicants.

In 2010, SPP consolidated a series of topic specific policy statements into a single, more concise statement. The SPP currently contains an overview of the key components and overall aims and principles of the planning system as well as setting desired outcomes via separate planning policies on issues such as economic development, housing, rural development and renewables, etc. Scottish Land & Estates believes that SPP is of vital importance in directing land use planning in Scotland and believes that SPP should enable development rather than restrict development potential. It is anticipated that the revised SPP will be finalised by the end of 2013.

While recognising that there are areas of SPP that have bedded down well, as part of our response to the review of SPP we have sought a number of updates and amendments to the current SPP to ensure that it is robust and fit for purpose.

Scottish Land & Estates supports the view that SPP merits equal statutory weighting to that of the NPF and Development Plans (DPs). We feel this to be particularly important considering the increasing volume of Supplementary Guidance accompanying DPs which is not always subject to the same level of consultation and independent scrutiny as the DP. There is also concern that some planning authorities do not instil the policies contained within SPP in their DPs. Therefore we would welcome an amendment to the Planning (Scotland) Act 2006 to allow a genuinely plan-led system which is supported by clear national policy to be achieved.

Recommendation: Increased status should be afforded to Scottish Planning Policy to allow a genuinely plan-led system.

We now have a Land Use Strategy (LUS) for Scotland under the Climate Change (Scotland) Act 2009 which contains a long term vision for land use in Scotland and is supported by objectives relating to economic prosperity, environmental quality and communities. It was expected that the LUS would be used to influence land use decisions and although in March 2011, Chief Planner at the time, Jim Mackinnon, wrote stating that planning authorities should have regard to the LUS in preparing DPs and that the LUS could also be a material consideration in determining planning applications, Scottish Land & Estates would welcome further integration of the LUS into SPP.

Recommendation: Further integration between the Land Use Strategy and Scottish Planning Policy.

Scottish Land & Estates feels it appropriate to highlight concerns regarding the varying levels of interpretation of SPP across planning authorities. Scottish Land & Estates would like to stress the importance of ensuring that policies are clear to avoid ambiguity as well as the need for better monitoring to make sure that national policies are reflected at local levels and that all authorities are working towards a common goal of achieving sustainable economic growth.

Linked to the comment above, we believe that there is a need for policies contained within the revised SPP to be written in a way that looks to support appropriate development. We believe that forward thinking policies tied with proactive planning authorities and developers can help achieve Government policy objectives. We strongly agree that the planning system should support development and that planning authorities should take a positive approach to development.

It is vitally important that the Scottish Government demonstrates the importance of SPP to other public agencies e.g. SNH, Historic Scotland, FCS and SEPA to ensure that organisations are working together to achieve policy objectives, for example, when dealing with renewable developments.

Scottish Land & Estates agrees that effective community engagement leads to better DPs and subsequently a smoother planning process when applications come forward. Although many authorities have tried to engage with their community we have a concern that there are still significant issues in getting the public to actively engage with the DP process and this is causing problems when developments get to planning. It is imperative that communities in their totality move towards a more strategic approach to land use, and focus more on a vision for their communities rather than only being involved in supporting or objecting to individual planning applications.

The other issue with engagement in the planning process is that too often it does not appear to be effective or result in change. The comments made in our section on community planning and local decision making regarding effective engagement and involvement are especially relevant when it comes to the planning system.

Organisations, such as Planning Aid Scotland, have done much to promote involvement in the planning system beyond the formal statutory engagement on certain applications and should be supported to allow them to continue and if possible increase this work.

Recommendation: Look at ways to encourage the public to become more involved in planning policy and the plan led system rather than focusing on individual applications should be developed or increased.

Recommendation: Local Authorities can increase their dialogue with all sectors of the community during the Main Issues Report phase of the Local Development Plan process.

Recommendation: The work of Planning Aid Scotland to be highlighted and supported.

As discussed in our response to the draft SPP in 2009, there was a concern that by condensing policy documents into smaller planning statements then there would be a loss of clarity and context which would inevitably lead to conflict. Scottish Land & Estates has many members who feel these concerns have been realised and that by losing the detail SPP is less robust. Therefore as part of the review we would ask the Scottish Government to carefully consider those policies of a technical nature or which are subject to controversy and assess the need to ensure these policies are clear, can be fully understood and are achieving policy objectives.

Scottish Land & Estates continues to support streamlining of the Scottish planning system however there still appears to be a vast volume of policy at national and local level to consider to determine whether a policy issue is supportive of a development proposal. In some areas there also appears to be a conflict between policies at a national and local level therefore causing uncertainty for many developers.

It has become clear that many planning authorities are behind in publishing their DPs which in turn leads to delays in progressing potential developments. We feel that some authorities are struggling to adhere to the statutory requirement to keep DPs up to date. It is important that the various reasons for these delays are addressed to maintain the drive towards achieving sustainable economic growth.

There is apparent inconsistency when dealing with the policy on affordable housing, and we believe that this has become one of the main issues regarding problems in affordable housing supply. The wording of the SPP must give developers absolute certainty that applications based on an innovative and flexible approach will be approved.

Ministerial messages and Local Housing Strategies support innovative models of delivering affordable housing, and over the last few years the subject has been discussed at length. Numerous pieces of evidence are available which point to barriers to delivering affordable housing and also suggest solutions to address them. Innovation is taking place across Scotland, as detailed in the Ardtornish case study, and various delivery models are being used, albeit at a small scale.

We have suggested previously that increased use should be made of the exceptions site policy which allows for small scale development on the edge of villages for 100% affordable housing, delivered through planning conditions on the site. This would be coupled with the imposition of a rural housing burden or occupancy restrictions where applicable to ensure that the land value of the site remains affordable.

We also lobbied to have the '20 year rule' removed to allow rural housing sites to be leased to communities or housing organisations so that any funding could be used to cover the cost of development rather than the purchase of the land.

We have also advocated the use of a shared equity model for individual self build affordable housing and a number of members have either made land available or are willing to do so.

Unfortunately, the willingness to consider new or less traditional methods of affordable housing have not been embraced by planners in all local authority areas.

We work closely with organisations such as the Rural Housing Service, Highland Small Communities Housing Trust and also local authorities to try to increase the supply of affordable housing.

Scottish Land & Estates contends that this is not a land reform issue per se – the barriers to delivery are not about ownership to the land. Further information on the current and potential housing role of our members is contained within Section 5.11.

Recommendation: The Rural Housing Service could be commissioned to pull together a guide detailing all the possible delivery models of affordable housing to ensure that all options for meeting the housing needs of communities are considered.

Scottish Land & Estates believes national planning policy for renewables requires updating and a significant review should take place to ensure the policy is fit for purpose. SPP needs to make it clear that renewable energy generation is critical to the Scottish Government's sustainability objective and the benefits of renewables needs to be clearly stated.

We would encourage further promotion of examples of good practice and the use of case studies, many of which are already available on the planning pages of the Scottish Government website. Training should be provided to all stakeholders, including planning authorities, Councillors, developers and planning professionals, to ensure the key themes and priorities within the revised SPP are understood and promoted through DPs. It is important that consistency is reached to improve the quality of the planning system overall.

Recommendation: Continue to make available examples of good practice and case studies, and provide more training to all stakeholders to improve the value of engagement in the planning process.

In conclusion, planning has the potential to deliver sustainable growth, vibrant communities and effective community involvement. Improvements in the interpretation of legislation and policy, engagement and a change culture in some planning authorities are all required to ensure a fit for purpose system.



Derek Forbes



Callendar Estate south of Falkirk is a modern estate with traditional values which aims to make a positive contribution to the local environment and economy.

Estate Chief Executive, Mr Forbes, wants it to be managed as a modern rural enterprise which balances the needs of farm tenants, the public, timber production and conservation. Callendar Estate has...

- 20 mixed use farms let to farming families
- 1500 acres of actively managed forestry producing regular tonnages of timber as well as providing the landscape setting for much of the Falkirk area.
- Set up a biomass supply business to respond to the growing demand for renewable energy.
- Created a 67 km network of paths for cycling, horse riding and walking.
- Encouraged the development of recreational businesses including a countryside activity centre based around off road cycling
- Worked in partnership with Falkirk Council in a number of strategic areas, including economic development, access and biodiversity.
- Engaged with local communities to address issues of concern such anti-social behaviour and access to well managed greenspaces.

Mr Forbes says: "We are keen to encourage farm tenants to look at leisure or tourism based enterprises like on-farm livery facilities which use the extensive network of paths and tracks. What is good for our tenants is good for the sustainability of the Estate."

In 2008 the Estate established a biomass business converting low grade timber into wood chip for heat production. The business currently supplies Carstairs State Hospital with their wood fuel requirements. About 2000 tonnes of woodchip are produced annually, generating 2300 MW/h of heat.

Callendar Estate has been a member of Scottish Land & Estates and its predecessors for over 20 years. The estate values Scottish Land & Estates' efforts to promote the relevance of modern day rural, land-based businesses. They feel it is important that the Government and the wider public are aware of the positive contribution those who manage Scotland's countryside are making to the development of a sustainable future.

Call for evidence and specific topic sections – Case Studies



Drummuir



Sustainability is an important ethos at the 4,000 hectare Drummuir Estate in Morayshire – not just for its commitment to developing renewable resources, but also in its “sense of place” in the community.

This principle is personified by the energy of Priscilla Gordon-Duff, who runs the estate with her husband Alex and son Torquil. Priscilla also volunteers her valuable time and experience in forestry and land management on local and regional development committees – a commitment that has been recognised by the Scottish Government, which has asked her to join its newly formed Land Reform Review Group as one of its advisers.

Priscilla feels that community engagement is an important aspect of her work, through her involvement in the LEADER programme since it was set up in 2007, and helps to link the activities of the estate to potential benefits for the local community.

Examples of this include selling the 100-year-old village hall to the local community group, who were able to obtain a SRDP grant to not only renovate it, but also install an environmentally friendly ground source pump heating system, turning it into a great community facility.

The wind farm on the estate also brings local benefit, as the developer sets aside some of its revenue for a community fund. Torquil, the next generation of Gordon-Duffs to run the estate, is also keen on preserving the long-term sustainability of the business, particularly by encouraging the new generation of farmers in the area. He said: “We try to be a good landowner and neighbour, and we do take into consideration what impact we have on the local community, whereas most commercial businesses would do things for business reasons only. Although we are a family business, we are also part of the community.”

Priscilla agreed: “I think our sustainability approach underlines the importance of our ‘sense of place’. Although we are running a business, it’s not always the bottom line that guides us – it’s also how we directly or indirectly impact on the environment and on the local community.”

5.5 Transfer of ownership or management of assets to communities

Scottish Land & Estates believes that community ownership or management of assets can be an effective way of delivering agreed outcomes for communities and increasing community empowerment. However, community ownership should be viewed as a vehicle for delivery and not as an end in itself. We would therefore contend that the aim should not simply be to increase community ownership or management, it should be about developing a clear vision for local communities and then choosing the appropriate vehicles to deliver these – of which community ownership may be one.

Land ownership, governance, management and use

The word ownership is complex and full of nuances. The definition of land is not straightforward either. It is therefore difficult to determine what a stake in either can be without further explanation. Scots law permits a wide range of types of ownership already and it is not clear whether it is intended that new forms of ownership are envisaged and if so, what? Governance and management are also substantive topics which need to be fully understood in the context of land before the simplistic assumption that giving more people a stake in these activities is desirable or beneficial for Scotland. These terms need to be understood from a legal point of view (as opposed to a policy standpoint) before they can set a formal question which can be answered accurately. Any parcel of “land” may have a number of different interests which can be owned. The more extreme voices within the land reform movement would portray one of the underlying objectives of land reform to be “breaking up of the big estates” and this is perhaps what this first strand of LRRG’s remit is attempting to tackle. However, this in itself is too simplistic. Often, properties which are perceived as “estates” are, in reality, made up of a number of different ownerships and interests which are managed in an integrated way for optimal benefit of individuals, community and society.

Even if all these interests and ownerships can be identified and mapped, the costs and administration involved in transferring stakes in the ownership, of land, may be prohibitive and may outweigh the perceived benefit. A possible solution for simplifying the process of identifying land and ownerships might be for the Scottish Government to consider allowing owners to consolidate old titles by providing technical expertise, grants for legal expenses and surveying costs and a waiver of Fees for recording dues to allow owners to register their subjects voluntarily in the Land Register at no cost.

The term “ownership” is complex. Any interest in land may be owned by a single individual person. Title may be taken equally between a number of individuals, a community interest company, an industrial and provident society, partners and trustees for a firm, a limited liability partnership, a private company limited by shares or guarantee, a private unlimited company, a public limited company, a public trust, a private trust or some other type of trust, or some combination of the foregoing entities. Land may be owned by the Scottish Ministers or an individual public body, including non-departmental public bodies, agencies and other associated bodies. Many proprietors will have a legal relationship with their contiguous neighbours through the cobwebs of mutual servitudes, real burdens and conditions contained within the titles. Neighbouring or discontinuous proprietors may have a relationship with one another or with separate legal entities through lease arrangements. “Land Trust A”, for instance, may let out the sporting rights on a moor to “Sporting LLP”. Land Trust A may let the same hill to Mr C under the Agricultural Holdings (Scotland) Acts, the Crofting Acts, the Statutory Smallholdings created under the various Small Landholders Acts 1886 -1931 or even the Statutory Small Landholdings created under the Small Landholders (Scotland) Act 1911.

Various legal entities may own different vertical slices all over Scotland. Proprietors of land geographically distant from other areas of land owned by them may have a legal relationship too. There may be a common trust purpose e.g. since their incorporation in 1921, the Church of Scotland General Trustees hold title to heritable property on behalf of the various committees, trusts, etc within the Church for educational and / or religious purposes. There are endless permutations with varying degrees of complexity. The land has to be managed. The LRRG remit is to find ways to enable more rural and urban people to have a stake in the governance, management and use of land. The Scottish Government therefore assumes that enabling more people to have a stake in each of these three activities is desirable. It is not clear what evidence this assumption has been based upon.

"Governance" can be seen as the policy and "management" the day to day implementation of that policy. The policy and management decisions will dictate land use. It is difficult to separate these three activities when it comes to land. In many cases governance, management and use of rural land will be undertaken by the same individual or body. Experience has shown that simply including more people does not automatically result in better governance, management or use. Economics, if nothing else, dictate that fewer people are becoming directly engaged in more traditional forms of land use such as for primary production (farming and forestry). Some communities have bought local Estates or parts thereof and as an organisation representing landowners, we gladly include these in our membership. In some situations involving more people may well be beneficial but it cannot be assumed in all places and in all circumstances throughout Scotland this will be the case.

Community ownership can certainly achieve an increase in the number of people involved in decision making but not always in a positive manner. There are examples of where communities have acquired land and the actual proprietor is a company limited by guarantee, and a registered Scottish charity. It is not uncommon for such a company to have many members. Each of these members may be able to appoint a director or directors to the board of the company. The members might be local authorities, other trusts, other companies, associations, partnerships or individuals. The members could, in fact be any legal entity, as previously mentioned. The parent company might have subsidiary companies. Each of the subsidiary companies may have a board of directors appointed from those in the community with a particular interest. The subsidiary companies may have members who are various legal entities. And so on ad infinitum. This complexity can in itself lead to difficulties with governance.

The logistics of complying with the basic "framework" within which all companies must operate in terms of the Companies Acts including resolutions, minutes, and appointments (not to mention the additional burden which might come from Charitable status) can be difficult and onerous. Valid decisions depend on the agreement of the correct number of individuals or legal entities. If the organisation is complex, it might be difficult to get an agreement which will form the basis of a legal decision. These relatively new structures may find that consensus for good governance may be difficult. Discord increases proportionally with the number of individuals involved. This can be contrasted with the simpler and more traditional methods of Estate governance. Input by complex management structures on a single area of land can lead to negative impacts, economically, socially and environmentally. The more disparate the various management ideologies, the greater the risk that the land may not be managed correctly. Many traditional Estates may have numerous proprietors but have a common long term vision and estate plan. They often bridge governance, management and land use by having a resident Factor who is authorised to make decisions on behalf of the proprietor(s). The ability to make speedy decisions, especially on environmental, forestry and agricultural matters is essential for good governance.

Many traditional estates have had continuity of management and ownership for generations and this brings benefits in terms of good governance. They will understand the optimal functionality of the land in terms of land use for example the grazing regimes, the interaction of deer and stock, grouse and tick, heather habitat and moor regeneration, woodlands, vermin control and the myriad of other complex activities which are required for good governance. That is not to say that a new ownership structure which encompasses a diverse range of people will not, given time, be able to achieve the same objective, but it cannot be sound policy to assume that the traditional ownership and management is “bad” and wider community ownership is “good”.

Experience has demonstrated that good governance is best implemented through an integrated management regime with sufficient land to support the activities and businesses in question. Profitable enterprises can support those which are non-profitable but which may be highly valuable in terms of environmental or community benefit. Land reform policies which result in sub-division of land parcels and disparate ownership can result in a pattern of ownership and land use which is unsustainable from an economic, social and environmental point of view. This has been evidenced in other European countries which undertook land reform programmes in the 19th and 20th centuries, such as Germany, where consolidation of land is now actively promoted by government to reverse the earlier policies.

Recommendation: The range of options, including ownership, could be promoted to communities, and guidance should be developed to support communities in choosing the appropriate approach.

Recommendation: A guide to be produced on managing assets to complement the DTAS guide on owning assets.

⁷ www.forestryscotland.com/media/101263/rffg%20lower%20res%20web%20version%202.pdf

5.6 Land reform and forestry

In this section we focus on forestry because the structure of forest ownership has come under scrutiny recently and we want to argue that the preoccupation with ownership is misplaced and potentially highly damaging.

Forestry is an important commercial sector in the Scottish economy and Scottish Land & Estates believes that policy should support this sector rather than undermine it. The recent 'Roots for Future Growth' report, which sets out a strategy for Scotland's Forest and Timber Industries, provides the latest available data on the importance of forestry and highlights that the direct economic impact of the forest industries has grown considerably over the past decade⁷. In particular, the Gross Value Added (GVA) of the forestry and timber industries in Scotland has risen by an average of 4% per cent annually to stand at £1bn, or 1.1 per cent of the Scottish economy. While this proportion may appear low compared to some other sectors, forestry makes a highly significant contribution to the economy in many rural areas. Employment now stands at around 19,000. In terms of the indirect impact (upon suppliers, downstream industry and expenditure by those employed within the industry itself) there has been a similar annual growth. The total economic impact of the forest industries upon the Scottish economy represents GVA of £1.67 bn and accounts for around 38,500 jobs.

In addition to the commercial importance of forestry, in recent decades the wider social and environmental benefits of woodland have been much more explicitly recognised, and as a consequence, forestry has undergone something of a transformation. There is now a much greater awareness of the full suite of benefits that woodlands can deliver, such as climate change mitigation; contributing positively to soil, water and air quality; contributing to landscape quality; protecting and promoting the historic environment; protecting and enhancing biodiversity; and improving the health and well-being of people and their communities. Indeed this suite of benefits is now fully recognised in the UK Forestry Standard (UKFS), which is the fundamental tenet of forestry policy in the UK and which sets out the requirements of sustainable forest management. The standard states that sustainable forest management involves ensuring that the production of all forest and woodland benefits is maintained over the long term and that this is achieved when the environmental, economic and social functions of forests and woodlands are interacting in support of each other. The standard therefore includes a wide range of requirements including many relating to forestry and people. Additionally, 58% of Scottish woodlands are also certified under the UK Woodland Assurance Standard (UKWAS), which sets out standards for management planning, woodland design, environmental impact assessment, operations, conservation of biodiversity and engaging the community and supporting rural economies.

Scottish Land & Estates therefore believes that our forestry sector is a real asset to Scotland. It is a commercial sector that also delivers a wide range of public good benefits to society. Our members have significant interests in woodland and forestry – in our recent membership survey 88% of respondents had woodland interests – ranging from those whose land holding is comprised entirely of forestry, through integrated estates where forestry is one part of a suite of complementary enterprises, to sporting estates where woodland is an essential part of the operation, and to farms that have woodlands on them. Accompanying this range of woodland owners are a range of motivations and management styles. Many members operate highly efficient commercial forestry operations, but many also manage highly valued woodland habitats that are managed with their biodiversity interest in mind and others have important areas of amenity woodlands.

Nevertheless, despite this variety of types of private owner and motivation, and despite very

positive moves within forestry in recent years, some have questioned whether more could be done to enhance the delivery of the full suite of benefits from forestry. In particular, the Forest Policy Group (a group with a specific interest in the environmental and social aspects of forestry and in enhancing the diversity of approaches in the forestry sector) has sought to explore the degree to which a change in the ownership structure of Scottish forestry would facilitate a better delivery of public goods. The group commissioned a review of forest ownership⁸ to scope out the degree to which ownership matters in the delivery of the full suite of public goods that forestry can deliver. The report highlighted the distribution of forest ownership in Scotland based on a sample of selected areas, with 91% of the non-state owned forests (Scottish Ministers own approximately 30% of the Scottish forest resource) being owned either by estates or by investment owners. The report concluded that “a more diverse ownership pattern would probably be more likely to deliver far greater diversity in approaches and models of management leading to greater innovation, investment and commitment to local economies, in addition to greater resilience to external change”.

⁸ www.forestpolicygroup.org/

Scottish Land & Estates maintains that while it is clearly the case that forest ownership is focused in specific sectors and that for a variety of historical reasons we do not have a culture of small-scale forest ownership, focusing on ownership and a desire to see a change in ownership structure is misplaced and potentially highly damaging. Forestry is first and foremost a commercial enterprise, but importantly, it is a commercial enterprise that delivers a wide range of public goods and Scottish Land & Estates believes that it is vital – if we want to see the continuation of those public goods – that the commercial sector is allowed to function. The forestry sector needs stability and a degree of certainty to underpin investment, investment that has been critical in making forestry an efficient industry that operates with relatively small amounts of public subsidy. Setting out to change the structure of ownership will potentially undermine the current forestry industry and at the same time will not necessarily enhance the delivery of the full suite of public benefits. If we want to deliver an enhanced suite of public benefits, we can do that and we should focus on ensuring positive management that delivers for all; it is management that matters, not ownership.

This is not to say, however, that there is no room for change. Initiatives such as the National Forest Land Scheme (NFLS) demonstrate that there is a desire from some to acquire and lease woodlands and new owners have emerged through this route and this is welcome. The NFLS was established to increase community involvement in forest management and ownership and between 2005 and 2011, 22 projects purchased land from Forestry Commission Scotland (which is broken down into land bought for communities, surplus land bought by NGOs and land bought by housing bodies with the intention of building affordable homes). While ownership is not necessary, nor in some cases desirable, for community woodlands (because existing landowners can support this sort of initiative by leasing land at very low or no cost), ownership can be seen, in some circumstances, as vital for some projects and the NFLS has been useful. Scottish Land & Estates would stress, however, that community ownership should not be seen as the target outcome in itself, it is but one route to achieve other desired outcomes and each situation is unique and different.

Outside the National Forest Estate, Scottish Land & Estates believes that the focus should be on developing sound commercial forest businesses, whilst at the same time seeking to enhance the delivery of public goods and engagement with communities, rather than seeking to change ownership per se. What a single-minded focus on ownership fails to acknowledge is that forestry has actually undergone significant change in recent years and that the direction of travel for the sector is one where the delivery of public goods and community engagement and involvement are growing in importance. We should continue to work in this direction ensuring that we find the appropriate balance between commercial operations, community interests and public goods.



To focus on community involvement and engagement, Scottish Land & Estates recognises, through our involvement in the Woodland Expansion Advisory Group process, that in some rural areas it can easily be the case that communities feel that forestry is something that happens around them and which is done to them, in the sense that they have to live with the changes in landscape and the traffic associated with forestry operations, yet the community may feel they have little say in how things are done and that they derive no benefit from it. It should be noted, however, that while some may feel they have no say in forestry management, it is actually the case that forest managers are routinely expected to engage with communities. For example, at the most basic level, all applications for felling licences and all forest plans have to be placed on a public register for 28 days so that members of the public have the opportunity to comment. The UKFS includes the expectation that local people and interested parties are involved. Then UKWAS, which is voluntary but effectively becoming the norm (especially with regard to the larger woodlands), requires that local people and relevant organisations and interest groups should be identified and made aware that: new or revised management planning documentation is being produced; a new or revised FC scheme application and associated documents are available for inspection; and that high impact operations are planned. The owner/manager is also required to respond to issues raised or requests for ongoing dialogue and engagement and has to demonstrate how the results of the consultation including community and social impacts have been incorporated into management planning and operations. With regard to the requirements relating to the rural economy, owners/managers are required to promote the integration of woodlands into the local economy and guidance suggests that this may be achieved by allowing local or specialist markets opportunities to purchase small scale or specialist parcels or by promoting and encouraging enterprises which will strengthen and diversify the woodland economy and the local economy.

There are, then, already significant processes in place to enhance the relationships between forest owners and managers and communities. But this is not to say that everything is perfect. Scottish Land & Estates recognises the importance of the central issue of managing and improving relationships between all the different parties with an interest in forestry and forestry operations and is keen to highlight the importance of the issue to forest owners. Indeed Scottish Land & Estates is committed under Recommendation 23 from the Woodland Expansion Advisory Group to work with Confor and the Forestry Commission to promote the Public Engagement in Forestry Toolbox. There has already been an initial meeting to discuss how to take this forward and we expect to make progress during 2013.

In addition to the processes of engagement that owners/managers employ in relation to their forestry operations, there could well be opportunities that exist whereby private woodland owners and communities can work more closely to mutual advantage. It may be that communities would like enhanced access close to settlements for health and amenity reasons, or that a small area of woodland next to the village hall would enhance the community facilities. There is potentially a huge array of site-specific community needs that could be met, and are continually being met today, by landowners and communities working together. The key to this is, however, sufficiently robust community planning. Communities need to be able to work out what they want before identifying the need for owning woodland. Once clear objectives have been set it should be possible to work out how best to achieve the goals and get into constructive dialogue with forest owners about their aspirations and how they can be achieved.

Finally, we are aware that there is a call from some for what is effectively a new form of tenure with regard to forestry. The Scottish Woodlot Association (SWA), for example, wants to enable people to manage woodland for timber production and environmental benefits in forest lots similar to tenant farming (but outwith the tenant farming legislation) by leasing forests from landowners and then sub-dividing them into smaller woodlots for renting to individual Woodlot Licence holders. Scottish Land & Estates takes the view that while, in an ideal world, such ideas could represent an interesting way forward, in today's reality this sort of innovation is, regrettably, unlikely to be attractive to many existing forest owners. Primarily we say this because of landowners' experiences in relation to agricultural tenancies, where ongoing political interference serves to undermine confidence in the sector. For such ideas to work in forestry there would have to be confidence that this way forward was secure and free from ongoing political interference and confidence that owners were not exposing themselves to a future risk of a 'right to buy'. Unfortunately, we believe that this confidence does not exist at present and that woodlots will remain unattractive for many as a result. Woodlots do work in other countries and there is no fundamental reason why they could not here, but there is a long way to go to establish high profile working examples based on commercial freedom of contract relationships, to establish relationships between the different parties and to build the confidence required to make the idea work.

Our key message in relation to forestry is that setting out to change the structure of forest ownership is not the most important issue in forestry. A different structure of forest ownership does not guarantee an improvement in the delivery of the desired suite of benefits identified in the Scottish Forestry Strategy; those benefits can be delivered if we continue to work in the direction of travel that is already established for forestry. We can enhance community engagement and involvement through a variety of means (NFLS and better engagement practices in the private sector, along with better community planning processes) but we must do so without undermining what is an important commercial sector for Scotland.

Recommendation: Scottish Land & Estates suggests that the LRRG supports the recommendations of the Woodland Expansion Advisory Group and asks the Scottish Government to commission some research into the potential of woodlots in Scotland.

Recommendation: We urge the LRRG to focus away from changing patterns of forest ownership, which would be detrimental to the sector.

Recommendation: The LRRG to support the work being carried out by FCS and supported by Scottish Land & Estates in relation to delivering social outcomes from woodland management.

Recommendation: The LRRG to explore and recommend ways in which to deliver social outcomes through partnership vehicles.

5.7 Connecting people with the land

With regard to the third part of the land reform remit, we believe that there are a number of ways of generating, supporting, promoting and delivering new relationships between land, people, economy and environment in Scotland through education, employment, recreation and community growing. Scottish Land & Estates has undertaken a great deal of work in these areas, looking where possible to connect people with the land. We have based the majority of our work around the aims of the Land Use Strategy, which stated that re-connecting young people to the land should be the first place to focus.

Overview

Scottish Land & Estates has recently undertaken a substantial piece of work in conjunction with SNH entitled “Re-connecting with the Land: a project to increase peoples’ understanding of the way land is managed and to encourage outdoor recreation”. This project aimed to provide information, advice and tools which would assist all land managers to engage with their local communities and with groups from further afield.

The project had a number of strands including:

1. The development of a Guide and a series of events which promoted diversification into Outdoor Recreation business opportunities.
2. The trialling of initiatives aimed at connecting children with nature and land-based activity.
3. The production of an outdoor access learning resource to support educational farm and estate visits.
4. The production of resources for land managers to enable them to offer volunteering opportunities to the public.

The project therefore provided a range of routes by which land managers could encourage people into the outdoors for their enjoyment, to increase their understanding of land-based activity and to understand how they could engage with that activity.

In terms of our volunteering resources for land managers, these include:

- an information/guidance sheet on the routes available to engage volunteers and the management and insurance issues to be considered;
- a database of organisations that are looking for land-based volunteering opportunities, and
- case studies on Callendar, Cambo and Craufurdland Estates – all of which offer volunteering opportunities. Callendar and Craufurdland Estates’ opportunities are through their Community Interest Companies.

Education

A key strand of work during 2012 has been progressing elements of our learning ladder – this project aims to provide learning opportunities on rural land use and land management issues as part of the Curriculum for Excellence.

Scottish Land & Estates’ members are also involved with the Royal Highland Education Trust (RHET) and the Scottish Countryside Alliance Education Trust (SCAET). These organisations work to raise awareness amongst urban schoolchildren and adult groups about the issues surrounding food production, farming and countryside management. This is achieved through farm and estate visits, classroom and other talks, events, activities and projects. Farmers and estate managers give freely of their time for all of these activities.

Visits are time-consuming to organise but tend to be very rewarding for all involved. The outdoor environment is conducive to learning, not least because the experience is visual and hands-on. There is a distinct willingness amongst those that work in the countryside to increase this type of activity but sadly, particularly with schools, there are constraints around time within the curriculum and funds for organisations such as RHET and SCAET.

As an extension of our educational opportunities work, Scottish Land & Estates is currently working with the Wilderness Foundation on a project entitled Imbewu Scotland. Imbewu Scotland aims to connect youth with Scotland's Natural Heritage. The programme takes 15-17 year olds from deprived urban areas of Scotland who have demonstrated leadership potential and an interest in nature, and offers them five-day trails. The trails include journeys to experience the most remote and beautiful parts of rural Scotland, and the opportunity to share the knowledge of those who live and work there, such as ghillies, stalkers, hill shepherds and other experienced countrymen and women. With rural skills declining in Scotland, and a drive for a multi-skilled workforce, there is a recognised need to rekindle an interest in good craftsmanship and husbandry. The programme in Scotland is based on a successful model run in South Africa, which takes young, black South Africans from the cities and gives them the opportunity to regrow a connection to their wild places and rural landscapes which was all but lost during apartheid. Once they have completed an initial five-day trail, participants are supported and encouraged to grow their skills and interest through the programme to ensure a lasting change is put in place.

Recommendation: Government and public agencies recognise the many and varied benefits of providing opportunities for people to connect with the land and the willingness of Scotland's farmers and estate managers to provide these opportunities – and that they support the mechanisms which will enable such connections to grow and develop.

Employment and skills development

Many rural economies are facing a 'perfect storm' of employment difficulties which are likely to exacerbate an existing aging and depopulation trend in some areas.

Land-based activities all depend, to varying degrees, on tax payer funding, which in these austere times is likely to be constrained, whether we are talking about agricultural and forestry subsidies or incentives. Young people have often chosen or had to migrate to urban areas to pursue education or employment opportunities.

Source: 2012 Scottish Land & Estates survey of members

Members responding to our recent survey reported that their total number of employees was over 4,600.

The challenge for landed Estates within the communities in which they operate is to develop new activities which offer a wider range of portable skills which would provide young people with opportunities to develop career potential without moving away or being dependant on traditional land-based opportunities. A major strategic thrust should be to bring activity and employment to these communities, and work with the education system to ensure that young people are aware of these opportunities and their rewards. These activities could be in energy, medium energy intensive manufacturing, web-based services, hospitality and tourism, and specialist food and beverage.

Call for evidence and specific topic sections – Case Studies



Alvie Deer Feeding



Alvie & Dalraddy are traditional Highland Sporting Estates, situated 4 miles south of Aviemore and comprising 13,350 acres which extends into the Monadhliath hills. Like many Highland Estates the hill ground is of low productivity, but high environmental value. The current owner, Jamie Williamson, does not have any other source of income than that which is generated by the Estates' business. The Estates therefore need to operate profitably and this has led to the development of a very diverse mix of activities on the Estates, including:

- timber production (primarily for the bio-fuels market);
- Alvie branded, beef, lamb and soft fruit production;
- holiday accommodation ranging from caravans/chalets to holiday cottages and fully catered accommodation in Alvie House;
- proposed energy production from wind and water powered generators are also being planned, and
- outdoor activities such as horse-riding, quad-biking, estate tours, fishing, clay-pigeon shooting, archery, grouse and rough shooting and deer stalking.

The Feed the Deer Initiative

A recently introduced and very successful rural tourism initiative, is the Estates' "Feed the Deer Initiative", which operates over the winter months, thus extending the Estates' tourism season. The Estates' offer:

- members of the public the opportunity to go out to the hill with the stalker and learning about the Estates' approach to deer management;
- stop at the Estates' Victorian bothy, which provides a good viewing platform as well as a warm fire and refreshment, and
- see wild red deer stags close at hand.

Alvie & Dalraddy Estates are a pilot 'Wildlife Estate'

The Estates' took part in the recent 'Sustainable Estates' research carried out by the Centre for Mountain Studies, Perth College UHI.

It's important to the success of the initiative was Alvie and Dalraddy's understanding that paying guests want "an authentic experience" with a charismatic guide.

Call for evidence and specific topic sections – Case Studies



Atholl Estates



Atholl Estates, in partnership with the Cairngorms National Park Authority, operates a ranger service to promote access, knowledge and enjoyment of the countryside we manage.

The service employs two rangers who maintain our 50 miles of way marked trails, operate the Atholl Hillphones network, produce wildlife and nature interpretation, work with local schools and provide an interface between estate land management operations (such as forestry) and public access.

Increasingly the service is also developing and operating protection schemes for endangered species such as red squirrel and water vole.

All of these services are enhanced by collaboration with neighbouring ranger services, to the south with The National Trust's ranger service and to the north with the various ranger teams operating within the national park. Access, education, interpretation and species protection is made significantly more effective when delivered through a network of operators over a large area.

Atholl Estates Ranger Service organises a schools open day every other year on the estate, aimed at primary age classes, normally attracting in the region of 1,000 children. The event includes a wide range of activities aimed at providing the children with a fun, memorable and informative experience on rural work and the natural environment.

Call for evidence and specific topic sections – Case Studies



Queensberry Initiative



The Queensberry Initiative (QI) is an exciting partnership project which was begun in September 2008 to address concerns about getting children and young people out of the classroom to build their connection to their community and to economic life in Dumfries and Galloway, while improving their health and well-being. The Initiative also aims to develop skills for work and an enterprising, entrepreneurial approach in children and young people. In addition, it establishes the link between academic studies and their practical application.

Aims:

1. Supporting the educationalists of Mid-Nithsdale to use the vast outdoor classroom on their doorstep, the Queensberry Estate, to provide experiential, hands-on learning experiences for the children and young people of Mid-Nithsdale;
2. Supporting the development and delivery of vocational courses;
3. Working with businesses to improve the employability of our children and young people;
4. Increasing the development of enterprise in all aspects of education, and
- 5 Working with children/young people to improve their ability to meet the employment challenges of the 21st century, using the outdoor classroom as an environment for such focused work.

The Initiative has Rural Skills, both agriculture and forestry, and Construction skills courses running along with other courses undertaken with the support of Queensberry Estate. We are running an innovative Activity Tourism Course which showcases local outdoor enterprises. Other areas in this Initiative include updating work experience, improving transition support for identified pupils in P7 through to S4, building enterprise activities more fully into the core curriculum and expanding our links with the local community.

QI has been successful in involving a large number of placement providers in our community to help to expand our work-related learning initiatives. We have a business mentor programme with over 30 pupils currently matched with 15 business mentors – and a waiting list of new business mentor volunteer to train as well as students wanting a mentor.

The Initiative has attracted attention from Mike Russell MSP, the Cabinet Secretary for Education, who has paid several visits to the Initiative. In this year's keynote speech from Mike Russell at the Scottish Learning Festival, he named the Queensberry Initiative as an outstanding example of what community partnerships could do to enrich and enhance outdoor learning.

QI believes that what we are working on here is both ground-breaking and important to the children and young people in this area. We hope to find a way to sustain it into September 2013 and beyond.

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Call for evidence and specific topic sections – Case Studies

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Cambo Estate



Cambo Estate is situated on the Fife coast about 10 miles south of St Andrews on the edge of the village of Kingsbarns. It is currently owned and managed by Sir Peter and Lady Catherine Erskine. Cambo has in recent years become famous for its snowdrop festival held in February each year.

The woods at Cambo are a wonderful place to visit at any time of year and particularly spectacular at snowdrop time. Cambo have though in recent years done various things to "add value" to this experience and this has enabled them to turn a walk in the woods into an attraction that the public are willing to pay for. This includes:

- Packaging the experience as a "snowdrop festival";
- Developing a National Collection of snowdrops, including rare varieties;
- Selling plants and bulbs;
- Developing a snowdrop gift shop and tea-room;
- Letting the public feed the piglets – the pigs are beneficial to the snowdrops, helping spread the bulbs, and
- Lighting the garden and woodlands at night to create the "Snowdrops by Starlight" experience.

In addition to the snowdrop festival, Cambo

- run good quality bed and breakfast and holiday accommodation;
- offer conference facilities in the main house;
- have introducing other garden festivals, including tulip and rose festivals;
- run events and courses throughout the year, and
- offer volunteer and student placements.

The overall impression Cambo creates is of a busy, welcoming, working estate. It has created a product from natural and built rural heritage that the public value and are keen to support.

Call for evidence and specific topic sections – Case Studies



Seafield and Strathspey Estates



Estate businesses vary in size, scope and structure, with geography and location often being significant determining factors in what they do and the products and services that they provide. A common thread running through all estate businesses, however, is integrated land use. They seek to run a number of different business activities on a sustainable basis giving full regard to the social, conservation and other requirements in their area, and the impacts of what they do on their neighbours.

The social structure of the countryside has changed considerably over the last 100 years and more, and there is a danger that each generation becomes increasingly disconnected with land matters. It is not recognized that estates play a vital role in providing food, energy, building materials, and housing for example whilst conserving a vulnerable, natural habitat and preserving some of Scotland's rarest species of birds and mammals.

Estates are therefore well placed to provide communities, and particularly youngsters, with the opportunity to visit a large outdoor 'classroom' where farming, forestry, land management and preservation of heritage, both natural and built, can be seen and explained at first hand.

Seafield and Strathspey Estates have held open days both at Grantown on Spey and at Cullen with displays and demonstrations about all aspects of our business. We have also run guided walks and estate tours either independently or in conjunction with Open Farm Sunday or the local walking festival.

We feel, however, that our work with schools and school visits to the estates is most valuable, and provides the most rewarding experience.

In 2012 for example, we hosted an event organised through the Royal Northern Countryside Initiative (RNCI) involving a visit by around 200 children from 6 schools. This provided an excellent opportunity to provide more information about our farming and forestry businesses and for the children to see our high tech agricultural and timber harvesting machinery in operation.

With our staff, local volunteers, estate tenants and the organisation of RNCI the event was a huge success, the children returning to their schools with a better knowledge of how some important parts of an estate business operate. They learned about timber production, local farming practices and techniques and the equipment used, knowledge of cereal types and other crops, GPS soil analysis and, in addition, where some of the venison on our supermarket shelves and in our butcher's shops originates from.

Many estates across Scotland are involved in educational initiatives with the Royal Highland Education Trust (RHET), RNCI etc. to bring the classroom into the countryside, literally.

Even within traditional educational activities, we need to play a role in creating a dynamic farming sector with new entrants as well as supporting forestry apprenticeships. What must be revisited is a pressure to encourage more people to base their livelihood on heavily subsidised small-scale agriculture by fragmenting land ownership.

Scottish Land & Estates would like to stress that the creation of new jobs and their development requires the creation of critical mass in areas which struggle to do so therefore fragmenting this by pushing community or distributed resource ownership can have a significant impact. For evidence of this one need only look at the difficulties start up and small businesses are encountering in this climate. Estates offer a unique joining of critical mass of natural resource, professional Management and a long term view on returns on capital together with a sense of stewardship responsibility.

There has recently been a major drive through Community Jobs Scotland, a partnership between the Scottish Government and SCVO to support young people into sustainable employment through providing meaningful paid work experience in the third sector. This has the dual purpose of increasing the capacity of third sector organisations at a time of increasing demand for support services.

This support partnership creates work opportunities for unemployed individuals aged between 16 – 19, within a wide range of third sector organisations across Scotland and has found employment for around 2,500 young Scots who are not already accessing alternative support. Community Jobs Scotland opportunities are limited to those referred by a Jobcentre Plus or Skills Development Scotland Advisor who will determine eligibility.

There is scope for the Community Jobs Scotland model to be replicated with private sector organisations, such as Estates and Land based businesses. The Scottish Parliament's Finance Committee has previously called for private businesses to do more to prove they contribute to sustainable employment and Scottish Land & Estates members would welcome the opportunity to participate as part of their individual corporate social responsibility policies.

The type of high quality package of support offered through the Community Jobs Scotland model to the individual, including provision of an induction, on-the job training, support and supervision, job search support, and an ongoing focus on assisting the individual into lasting employment are all factors Estates and land based businesses could, with appropriate support take forward.

Extending opportunities to other young people to participate in such a model of private sector land based businesses, with the same condition that each job created must be 'additional' and generate demonstrable community benefit, would greatly assist in strengthening rural communities and help with the retention of younger people in areas of population loss.

Recommendation: Replicate the Community Jobs Scotland model for private rural businesses.

As part of our learning ladder work referred to earlier in this submission, Scottish Land & Estates has been working with the Scottish Government, Skills Development Scotland and LANTRA to raise awareness amongst both employers and potential employees of the range of land based Modern Apprenticeships available. We have also been working with the agencies to address issues such as travel costs for rural students; capacity amongst employers through the development of a multi employer/single apprentice model; development of a general estate worker training qualification to mirror the move from skill

specific jobs to ones which require a range of expertise. We have also recently met with Forestry Commission Scotland to discuss how we increase apprenticeship opportunities and are committed to further progressing work in this area in 2013 and beyond. We feel that increasing employment opportunities plays a central role in delivering one of the stated aims of land reform, namely generating, supporting, promoting and delivering new relationships between land, people, economy and environment in Scotland.

Source: 2012 Scottish Land & Estates survey of members

60% of members that responded to our recent survey have provided work experience for young people.

We are also involved in other projects looking to address the worrying trend of low provision and uptake of rural skills training. Buccleuch Estate delivered the Queensbury Initiative – an excellent example of how an estate and local authority can work together for the benefit of the community.

Elsewhere in Scotland, Aberdeenshire Council is currently funding a multi-employer rural sector skills training pilot. The Aberdeenshire Alliance initiative, managed by Ringlink (an East of Scotland Farmers co-operative which organises shared use of members' machinery and labour) will promote career opportunities and skill levels in the land-based sector and will include mentoring and support from senior staff on Aberdeenshire farms and within Ringlink.

Aimed primarily at 16-23 year olds (including school leavers) the purpose of the project is to provide young people with a combination of a broad based, and vocationally relevant, qualifications and industry experience.

An initial phase of training will be delivered through a multi-employer placement in order to ensure a diversity and depth of industry experience that would not be available through a single employer placement. Skills acquired in the first instance would be those required to enhance a young person's ability to gain employment and carry it out safely and competently in the land-based sector.

A second phase is also proposed to train entrants to Scottish Vocational Qualification level 2 standards in association with a suitable partner such as SRUC (Scotland's Rural College).

This rural skills pilot scheme will be supplemented by the production of primary sector careers information materials for schools and careers fairs, designed in partnership with industry and further education providers to inform young people of the career opportunities within agriculture, forestry and fisheries industries.

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Call for evidence and specific topic sections – Case Studies

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Ballogie Estate



Ballogie Estate Enterprises is a family run business, covering an area of Aberdeenshire from the south bank of the River Dee at Potarch southwards into the hills of the Mounth, with a focus on long term responsible management of the landscape.

We work continually on good communications, training and personal development within the business to encourage the teamwork and multi-tasking which is so important in our diverse but integrated enterprises.

Key enterprises:

- Livestock farming and cropping;
- Forestry;
- Field sports, which include prime salmon fishing;
- Let property, residential, agricultural and commercial, and
- Holiday Cottages including Ballogie House.

People are our key asset and a focus on training and development is a vital part of our business:

- Investor in People accredited status since 2000;
- Founder member of the Land Based Training Group which is now run by the Cairngorms National Park Authority;
- Scottish Quality Wild Venison (SQWV) scheme member number one;
- Quality Meat Scotland (QMS) member for both sheep and cattle, and
- Forest Certification.

Gavin Slessor, who joined us in 2011, says that he has never before been employed by a business that places so much emphasis on good quality training. Peter Littlejohn, who has worked here for more than 25 years, commented that the estate's positive attitude to training meant that achieving SQWV accreditation was very easy because the required training had already been undertaken.

In addition to the emphasis on training and development for our employees we also try to offer experience of life on a rural estate to others.

26% of members that responded to our recent survey have provided opportunities for apprenticeships.

Source: 2012 Scottish Land & Estates survey of members

The Scottish Government has set ambitious targets for food, drink and forestry sectors and ensuring that the brightest and best of our young people are aware of employment opportunities and have ready access to relevant training and education will be vital for the primary sectors to fulfil their potential.

Recommendation: If deemed successful, roll out the Aberdeenshire Alliance model to other rural local authority areas.

We believe that more work is required to raise awareness amongst secondary school pupils and as well as further developing the work experience opportunities our members currently deliver, we intend to work with partners such as the NFUS, LANTRA, RICS and others to produce resources which illustrate the wide range of land based employment opportunities available – at all levels and in a very wide range of areas. We strongly believe that estates are blue chip employers and are central to the future economic sustainability of Scotland.

Recommendation: Scottish Government provides funding for resources, such as Youtube videos, outlining the wide range of employment opportunities that land based businesses can offer.

Recreation

As well as the work undertaken to increase outdoor recreation opportunities detailed above, during 2013 Scottish Land & Estates plans to use the opportunity that VisitScotland's promotion "Year of Natural Scotland" (YNS) affords as a more informal way of connecting people with the land.

YNS is a national tourism marketing campaign. It is the last of four focus years leading up to the second Year of Homecoming in 2014. It is an opportunity for those that market their tourism business by highlighting Scotland's great outdoors and wildlife assets to take advantage of a year of heightened national-level promotion. It is also an excellent opportunity to showcase the countryside management activities carried out by Scotland's farms and estates, and which have such a bearing on Scotland's iconic landscapes.

Scottish Land & Estates will be assisting VisitScotland with various promotions including identifying naturally wild people, such as ghillies, stalkers and gamekeepers and promoting Scotland's natural larder. We will also run our own promotion of a "Delightful Dozen", experiences on Scotland's land and estates. There will be one activity per month, such as "walk amongst the bluebells" in May, see "Heather in full bloom" in August and "spot the reds" (squirrels and deer) in November. We will promote the places on members' properties where these activities can be found and provide background information on how species fit within the landscape and how they are utilised, managed or conserved.

In addition, we have plans to develop a "Year in the life of natural Scotland" project whereby we show chosen landscapes over time as the seasons change, and to develop "Secret Land and Estates" lists which promote little known beauty spots or other places that are favourites of our members.

Recommendation: That the LRRG recognises that connecting people with the land takes a number of forms and that recreation plays a key role in generating, supporting, promoting and delivering new relationships between land, people, economy and environment in Scotland

Community Growing

We would like to see public, private and community landowners to make more land available for allotment sites and community growing spaces, and for awareness of the range of advantages which allotments and community growing hold to be increased. These advantages include:

- Contribution to national planning and policy outcomes;
- Provision of resource for education and skills development;
- Developing community cohesion/socialising and improving links between landowner and landuser;
- Providing open space for local communities;
- Allowing access to nature/wildlife, supporting biodiversity, and
- Promoting activity which is beneficial to mental and physical health as part of Care Farming.

Our members already make land available for allotments and community growing spaces and the organisation has been involved in the Grow Your Own Working Group.

The Grow Your Own Working Group (GYOWG) was convened by the Scottish Government and met for the first time on December 10, 2009. The terms of reference of the GYOWG were to take forward that part of the Scottish Government's Food and Drink Policy relating to growing your own food. Growing of vegetables and fruit in allotments, community gardens and orchards on public, private, school, community and other types of land are all included in 'Grow your Own'. Several meetings took place during 2010 under the aegis of the Scottish Government's Food and Drink Industry Division. In May 2010, the then Minister for the Environment, Roseanna Cunningham MSP chaired a Grow Your Own summit, and the Group subsequently produced a report in 2011, recommendation 19 of which was the production of a landowners' and land users' guide. Scottish Land & Estates played a full role in the production of this guidance.

However, a number of barriers and constraints have been identified by our members and other groups involved in the Grow Your own Working Group:

- Land availability – major constraint and matching site to user;
- Legal concerns regarding lease documentation – negotiation costs and insurance, in particular regarding duty of care and protection of owners' rights;
- Financial viability of community group and reliability of payments;
- Obtaining funding - budgetary constraints in the current economic climate mean that funding for allotments and other community growing spaces is limited;
- Concern over long-term commitment of community group and succession questions;
- Site contamination – especially in relation to farmland and brownfield sites;
- Evidencing demand locally – sometimes it is simply anecdotal;
- Landowner concerns about ability to get community growing land back – especially where let for short-term on future development land and also concerns around threat of community right to buy;
- Limited support or practical guidance regarding community growing – lack of knowledge and limited skills/experience;
- Taxation, subsidies available and personal position of Landowner;
- Planning – change of use may be difficult;
- Concerns regarding biosecurity issues in respect of livestock and management practices;

Call for evidence and specific topic sections – Case Studies



Dormont Estate, Lockerbie



Estate owner Jamie Carruthers wanted to make land available for allotments. The allotments are located in a walled garden at Dormont Home Farm on Dormont Estate at Lockerbie, Dumfriesshire, no more than 200 metres from a new affordable rented housing development built by Dormont Estate.

The Association

Dormont Gardeners was established and formally constituted in January 2012 by a number of tenants who moved into the new affordable rented housing development.

Membership of the association is open in the first instance to tenants on the Estate and then to the wider local community. The association has various objectives in its constitution, including:

- Fostering a collaborative approach to growing and promoting healthy living for all members;
- Sharing skills and linking with other groups;
- Promoting new allotment gardens and educating allotment holders;
- Representing and promoting the interests of ploholders, and
- Protecting and promoting biodiversity.

The Management

The landowner views letting to an association was more straightforward than dealing with individual allotment holders, dealing with one organisation makes matters simpler.

Rent

The rent is to be reviewed twice during the term of the lease, firstly after two years and then after a further four years to set amounts so the lessee is aware at the outset. The two key drivers in terms of the setting of the rent as far as the Estate was concerned, were

1. Affordability (to make sure the tenants "stay the course") and
2. Certainty (so that the tenants can plan future expenditure without any surprises).

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- Difference in resources between parties - whereas the landowner may have an estate factor or agent, together with solicitor or other legal advice, a community group may in certain situations have limited background knowledge or access to legal advice;
 - Statutory requirements on public bodies to obtain best value, and
 - Perception of community growing or allotment sites – public/third party objections.

Solutions

- Production of a Landowners' and Landusers' Guide to Community Growing Spaces due to be launched in March 2013 by the Minister, Paul Wheelhouse MSP, which should raise awareness, answer some questions and stimulate interest from both parties in community growing;
- While leasing of allotment sites may offer much potential to a landlord, it is important in the absence of specific legislation and guidance for private landlords that the lease agreement therefore provides adequate additional detail for the landlord in order that all parties to the lease are clear about their obligations and rights;
- Existing legislation pertaining to allotments requires to be updated and ideally consolidated reflecting more contemporary type of allotments and recognise the private sector as landowner/landlord as opposed to simply local authorities and to update definitions and measurements;
- Self-construction and re-use of materials can assist with reducing costs, although an injection of capital is obviously required at the outset;
- Local authorities could be placed under a duty to map further green spaces suitable for short-term growing spaces beyond the existing work by the larger city authorities, and
- Develop data to establish suitable locations for community growing spaces, including growing matters such as soil type, slope and aspect; user matters such as access, transport and services; and managing matters such as contamination, planning, biodiversity and vermin etc.

Recommendation: Support the promotion of the Landowners' and Landusers' Guide to community growing partly prepared by Scottish Land & Estates in association with the Federation of Community Farms and Gardens and due to be launched by the Scottish Government Minister this year, in order to assist in increasing the availability of land for community growing and allotments projects where appropriate.

5.8 Agricultural Holdings

The call for evidence states that the LRRG's attention has been drawn to a variety of potential reforms. These include:

- Help create new pathways, for younger people especially into farming and crofting;
- Enhance the position of tenant farmers by giving them a right (similar to the right enjoyed by crofting tenants since 1976) to buy their farms.

We have covered these together because they are inextricably linked.

LRRG has indicated that it will consider potential reforms that include granting tenant farmers a right to buy their farms similar to the rights enjoyed by crofting tenants since 1976. This part of the review is of fundamental importance to the vast majority of our members.

The Call for Evidence does not differentiate between types of agricultural tenancy i.e. between 1991 Act and 2003 Act tenancies. The latter introduced fixed term tenancies (Limited Duration and Short Limited Duration) whereas the former are known as secure tenancies. The existing pre-emptive right to buy applies only to 1991 Act tenancies. This response has been prepared on the basis that has been suggested to the LRRG that secure tenants are given what is known as an absolute right to buy i.e. a right to buy regardless of whether the owner has decided to sell. We are unaware of any calls for an absolute right to buy to be given to 2003 Act tenants.

An absolute right to buy will have a fatal effect on the tenanted sector. Already the mention of the issue has severely eroded confidence to let land and if enacted there would be no more letting for fear of the right being extended at a future point.

A vibrant tenanted sector is of great importance to agriculture. It provides opportunity for new entrants and for existing farmers whether tenants or owner occupiers to develop and expand their businesses. The landlord/tenant system works well with the vast majority of landlords and tenants enjoying healthy relationships conducted in a spirit of partnership. This can be evidenced by the very small number of disputes referred to the Land Court.

All political parties have expressed their opposition to the absolute right to buy. In recent times the current Cabinet Secretary has publicly pronounced that there is no Government intention to introduce such a right and that it would not be in the public interest to do so.

An early and clear rejection of this issue by the LRRG is required to preserve the future of the tenanted sector.

Commercial and political confusion

By way of background, an agricultural tenancy is simply a contract to rent. It is not dissimilar to any other rental contract whether a commercial building, residential property or item of plant and machinery where leasing extends to trains, boats etc. Every contract sets the terms of the arrangement and places responsibilities on both parties.

In the case of renting land, however, there are many other connected issues but none of them change the basic principle of a contract of occupation entered into for an agreed period with full expectation of vacant possession by the owner at the end of that period.

Advantages of the system

Essentially the lease contract is like a partnership between two individuals in any business arrangement. They both bring something to the table. One has land of considerable financial value; the other brings working capital, equipment and farming expertise. They should mutually respect each other and it is almost always the case that whatever would benefit one will benefit the other.

Every property sector has a rental section and it is an essential component. In the case of agricultural land:

- It gives access to land without requiring capital to purchase.
- It ensures the rental return to the landowner and the rent paid by the tenant is related to the general prosperity of farming and commodity prices whereas an interest rate on borrowings is related to financial markets which are not synchronised with commodity prices.
- It provides a career path that allows a new entrant to establish themselves, move to rent a larger farm and then, perhaps, to purchase a farm of their own. Many estates have examples of this.
- It is essential to the health and prosperity of the sector as it provides opportunity for young people and for existing farmers to grow their businesses.

Fragmentation

Some consider that the breakup of large landholdings would be in the public interest and that giving secure tenants the absolute right to buy is the way to achieve that goal. This idea fails to recognise that many 1991 Act tenants are not found on large estates but are tenants on small estates or landholdings where there may be only one or two tenanted units, a principal house and some woodland. The owner may have let the land in the past as at that time there was no desire to farm it direct. The loss of these units due to the right to buy would see all of the owners agricultural land sold when the owner wants to maintain the integrity of the asset, farm it at some future point or consider planting additional areas.

Fragmentation of landholdings would also lead to the loss of the benefits provided by scale of ownership:

- Successful shooting businesses operate over large areas. Shooting rights are generally reserved from 1991 Act tenancies and shooting leases are usually granted over several farms.
- Habitat/species management and habitat protection can often be delivered more successfully by larger landholdings. Flora and fauna do not follow boundaries and size allows objectives to be delivered more successfully e.g. deer management.
- Estates with scale are often large scale providers of affordable housing to rent with management arrangements in place to manage these and other lettings. If landholdings are broken up it is questionable whether the structures will remain to provide these existing levels of affordable housing. One further consequence is that the houses are sold off and in some parts the market will dictate that they are bought as second homes.

Perceived problems in the sector

In any sector, freedom to contract is the ideal in that it allows a more dynamic approach to relationships. General governance is provided by statute and this gives essential structure and disciplines to ensure that relationships are worked out equitably. It is possible to have too much governance and in the case of agricultural holdings many of the perceived problems have their source in the long term effect of security of tenure. Scottish Land & Estates are not seeking a reversal of the security of tenure granted to 1991 Act tenancies, but we do seek understanding that perceived problems are by some attributed unfairly to the behaviour of landowners. The following points are relevant:

- The lack of 'churn' in tenancies makes it very difficult to find land to let to new entrants.
- In some cases farm tenancies move to the next generation where the successor does not have the business acumen of the previous tenant and understandably will consider a reasonable rent too high.
- The lack of movement in the tenancy structure of estates able to offer alternative farms for rental often restricts the full development of good farming tenants who require additional land to secure economies of scale.
- As most 1991 Act tenancies commenced as fixed term tenancies, there are many owners of land unwilling to enter into the modern term equivalent of Short and Limited Duration Tenancies for fear that history will repeat itself. The 2003 Act introduced elements of retrospective legislation and there are real concerns (not helped by the current call for evidence) that this will be repeated.
- There is a view that giving secure tenants the absolute right to buy is the best way to address a perceived imbalance in the landlord/tenant relationship. Scottish Land & Estates does not share that thinking. The 2003 Act introduced various changes to the 1991 Act and further legislative amendments have been made recently with the government acting on recommendations made by the cross industry Tenant Farming Forum (TFF). Scottish Land & Estates strongly believe that the TFF should be encouraged to continue its work and make further recommendations as appropriate to create a vibrant tenanted sector.
- Freedom of contract for new lettings has considerable potential to deliver more land to the market with a resulting increase in opportunities for new entrants. Scottish Land & Estates' predecessor organisation along with the then Scottish Estates Business Group previously promoted the idea of introducing a 'Scottish Rural Business Tenancy'(SRBT). It was envisaged that the SRBT could be used for letting land for purposes other than farming eg forestry or energy production or for a mix of uses. We believe that the LRRG require to consider a letting vehicle more akin to freedom of contract and a style of tenancy suited to a variety of land uses.

Risk management

The risk to reward ratio is a standard feature of investment appraisal. You expect a higher return where your investment is at a higher risk. Landowners know they own a secure asset in the form of land and they will therefore rent it at a disproportionately low level in relation to the capital value if the contract is secure. With many sophisticated farming arrangements such as share farming or contract farming available to them all with particular tax advantages, they need to be encouraged to rent land. This was recognised in 1995 when 100% Inheritance Tax Relief became available to owners who enter into new agricultural tenancies.

The rationale behind the security afforded to croft tenants and that afforded to agricultural tenants in 1949 is different. Security for crofts was designed to address the issue of deprivation of rights of access to land in the Highlands and Islands at the end of the 19th century which resulted in social agitation. Security for agricultural tenants was intended to safeguard agricultural production after WWII. There is an implied suggestion that the grant of the right to buy to crofters has been a universal success. We are unaware of any recent research which supports this thinking. Whatever may be the perceived social reasons why a right to buy was granted to crofting tenants in a particularly difficult farming area of Scotland, the concern that it could be applied to 1991 Act tenancies throughout all of Scotland has, through the increased risk profile to landowners, depressed the buoyancy of the letting sector. In a strange way, it is a self-fulfilling process – the threat causes less land to be let and empowers those who argue landowners are not letting land and that damages confidence further. We call on LRRG to stand outside the box and understand the real issues and stresses that are harming the sector.

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Call for evidence and specific topic sections – Case Studies

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Mount Stuart



Bute Estate Comprises about 27,000 acres, including approximately 23,500 acres of let farmland.

The Trust does not farm in hand and all land is let to tenant farmers who occupy it under various forms of tenancy, including, traditional 1991 Act Tenancies (which give full security of tenure, Limited and Short Duration Tenancies and Grazing Lets.

The type of tenancies are divided as follows:

1991 Act tenancies	33	50%
Limited Partnership Tenancies	6	9.2%
Smallholding	1	1.5%
Limited Duration Tenancies	7	10% (all 15 year terms)
Short Limited Duration Tenancies	18	27% (all 5 year terms)
Total Tenancies	65	

There a total of 54 tenants. Some tenants also have Seasonal Grazings (excluded from the above). Although 50% of the land is held under 1991 Act tenancies it represents about 70% of the let land area.

Since 2008, 9 farms (over 3,000 acres) have become vacant due to retirement or natural expiry of lease due to death.

Of the farms coming in hand two had most recently been dairies, but the tenants had given up milk production before entering into discussions with the estate to retire.

All the farms have since been re-let. In 2009, 5 units were offered on the open market totalling about 2,000 acres, giving applicants the opportunity to apply for the land as an LDT or SLDT. Following this process the estate let 2 of the farms to young farmers (in their 20's and sons of existing tenants) under 15 year LDT's and the remaining applicants applied for 5 years SLDT's. No in-go was paid by the incoming tenants. At the end of the tenancy the landlord will pay a waygo compensation payment for any improvements and lime and residual manurial values.

The two young farmers run their holdings alongside the existing enterprises but are very much the lease holders. Additional land has been offered to the tenants if and when available. The Estate identified the need to 'blood in' young farmers despite receiving offers from well established farmers and offered modern leases on a long term to provide an increased level of security.

Why an absolute right to buy is unacceptable

The threat of a right to buy is already harming the sector and the right itself would effectively kill the letting sector off. As outlined above, secure tenancies were fixed term tenancies when security of tenure was granted. Any absolute right to buy would be an implied risk to the modern tenancy arrangements introduced by the 2003 Act.

The following are relevant:

- No capital payment was made by the tenant at the commencement of the tenancy.
- Security of tenure is just that and not a share in the capital interest or value.
- The tenant may have a genuine attachment to the holding but that is not greater than the attachment of the owner or his family who may have held it for generations before the beginning of the tenancy. It is often portrayed that many 1991 Act tenants have occupied the same unit for several generations. There will be some examples where this is the case but a great many secure tenancies are either first generation or are only now being assigned to or transferred on death to the next generation.
- Any holding purchased by a tenant is most likely removed from the tenancy sector for all time and therefore reduces prospects for new entrants. Confidence to let land under the 2003 Act is low and this is particularly so for existing owner occupier farmers with a single farm given that they have everything to lose from the absolute right to buy. There is every reason to believe that a purchasing tenant would think similarly as he would fear the application of the right to buy if he was to let the farm.
- In every case of a secure tenancy to an individual, there is an expectancy that the land will come back in-hand at some future date.
- On the purchase of a tenancy as a right, the tenant immediately makes a capital gain due to the movement from tenanted to full vacant possession value. Without the landowner having a free right to sell or not to sell such an arrangement is morally bankrupt and blatant social engineering.
- Fragmentation of ownership will undermine the benefits arising from scale of ownership e.g. sporting management, nature conservation, landscape, affordable housing provision etc.

Proposals for a more flexible business tenancy vehicle for farms have already been discussed at TFF at some length, and such ideas should be allowed to develop without the threat of an absolute right to buy overhanging discussions. We believe there is a real appetite from both tenants and landlords to be able to enter into more flexible arrangements but we recognise trust and confidence on all sides must be built before the sector as a whole will embrace such change. Importantly, it will take clear vision and strong leadership from government to take such a bold step. TFF is the right place to allow such discussions to take place and new ideas to develop.

What is required?

The recent report to TFF by the Rent Review Working Group shows that existing legislation covering rent calculations is basically fit for purpose and the recommendations it made were more procedural than fundamental. That assessment is typical of cool consideration of many alleged pinch points in the existing legislation. The system is capable of working well and we will play our part in TFF to further refine relationships for the benefit of the sector. Priority for LRRG is to give confidence to the letting sector and help improve landlord/tenant relations. Retrospective changes to legislation and established relationships based on mutual trust are extremely damaging. Political interference by legislation undermines confidence and that may be a permanent situation damaging to the sector.

Landowner confidence in the future of agricultural holdings has been affected by some of the more extreme proposals tabled at the time of the introduction of the 2003 Act. An element of confidence had been returning by reason of (i) the sector becoming comfortable

with the fixed duration tenancies introduced by the 2003 Act, (ii) the belief that the TFF (as opposed to politicians) is the best place to initiate changes to the legislation and (iii) and perhaps most importantly, two statements by the Cabinet Secretary to the effect that a tenant's right to buy his lease would not be in the public interest. The essential matter of confidence to let agricultural land is very finely balanced and the LRRG has the opportunity to stabilise the sector, refrain from political interference and put the matter of a right to buy beyond doubt by acknowledging the damage it has caused, supporting the work of the Tenant Farming Forum and allowing the industry itself to bring forward proposals that encourage the relationship

Recommendation: The LRRG acknowledges that ARTB would significantly damage the tenanted sector, and draws a line under discussions once and for all to allow the sector to move forward.

Recommendation: The LRRG allows the Tenant Farming Forum to develop proposals in relation to agricultural holdings issues.

New Entrants

The negative impact on new entrants to farming which would result from the introduction of an absolute right to buy has been referred to above but cannot be overstated. A tenancy is generally the only realistic prospect of a young person without significant capital assets to be able to enter the agricultural sector – and we are crying out for new blood and young people to get into farming.

Anyone with a genuine interest in maintaining a healthy tenanted sector in Scotland cannot advocate an absolute right to buy. This proposal is purely political in its objective and will kill the farm tenancy sector. This would be a great tragedy for Scottish farming and in particular for the opportunities that would be denied to young people to enter the sector.

Scottish agriculture is characterised by a skewed age profile with the average age being high and consequently there is a great deal of concern about the need to ensure an ongoing influx of new entrants to farming to ensure that the industry remains dynamic. This is an important issue because Scottish agriculture does need new entrants and, to date, most debate has centred on the pathways into the industry and the obstacles that new entrants face.

The most frequented pathway into farming is through the tenanted sector. Unfortunately, farming is an expensive industry to get started in and so new entrants face very significant barriers to entry, especially if buying the land. The tenanted sector is therefore vital because it provides a route in to farming without the necessity of buying land. There have been claims that there is not enough land to let, but we would point out that landowners have been letting farms and some have gone out of their way to let to new entrants. For the tenanted sector to become more buoyant thus providing more opportunities for new entrants, the owners of land need to have the confidence to let, but, as we have pointed out, that confidence is currently low, not least because of creation of the LRRG with its wide remit.

New entrants also face significant obstacles such as the rules surrounding the support regime available to other farmers. Many new entrants have to start farming without access to Single Farm Payment (SFP) and so are at a competitive disadvantage to their neighbours. If we are to facilitate the entry into the industry of new farmers it will be extremely important that they can achieve parity with their peers in terms of the support that they are able to access. Those recent new entrants that are currently without SFP are likely to be able to access support under the new CAP regime (provided that they meet the eligibility criteria – and it is important that these criteria do not exclude them for bureaucratic reasons), but

those that enter after new entitlements have been awarded are likely to face the same problems in accessing support, so it is vital that the National Reserve is sufficiently funded to support these people and that this fund is available to all new entrants and not restricted on grounds of age.

The Scottish Government has established the New Entrants Advisory Panel to provide advice to the Scottish Government on support and assistance for new entrants, including the position of new entrants under the next Scotland Rural Development Programme (SRDP), as part of the Common Agricultural Policy (CAP) reforms. Scottish Land & Estates is represented on this group and wants to work constructively with all other stakeholders to find solutions.

We should not forget, however, that the most fundamental aspect of the new entrants debate is normally the least mentioned: profitability. The report on barriers to new entrants to Scottish farming in 2008 made it very clear, it said: 'Unless the farm sector can become more profitable, the argument for condemning new entrants to poverty and disillusionment with public assistance seems weak'. The most fundamental issue relates to the profitability of Scottish farming; if we can increase that profitability and therefore make the industry more attractive to those outside the industry there will not be a new entrants problem because they will be fighting to get in.

Encouraging young people into crofts should be about local people. Part of the reason for crofting is the historical and cultural links and the understanding of difficult land in a difficult climate. Introducing people with no connection is not necessarily helpful. Since crofting is normally part time local job opportunities are an essential requirement.

Improving business infrastructure and incentivising businesses to locate in rural areas is critical to encouraging in-migration as well as preventing out migration.

Recommendation: Scottish Land & Estates suggests that the LRRG support the work of the New Entrant Panel.

5.9 Land Value Taxation

While there are aspects of Land Value Tax in its purest form (Mirrlees Review c 16 www.ifs.org.uk/mirrleesReview) which might be worthy of further detailed consideration in the context of reform of the taxation of land and property, Scottish Land & Estates has real concerns that what has been proposed as "Land Value Taxation" by certain commentators in relation to possible Land Reform in Scotland falls well short of the principles of Land Value Tax explained in some detail in the Mirrlees Review. In that Review, it is suggested that Land Value Tax would replace a number of other taxes (including taxation of rental property, Council Tax, Business Rates and Stamp Duty Land Tax).

With part only of the taxation system currently devolved (a proportion of Income Tax, Business Rates, Council Tax and, from 2015, Land and Buildings Transaction Tax and Landfill Tax), it is not possible to consider the introduction of a pure form of Land Value Tax in Scotland as, for example, taxation of rental property is not fully devolved.

As the Mirrlees Review points out, any reform of taxation of land and property would be complex and would have to be phased. With the Scottish Government committed to the introduction of Land and Buildings Transaction Tax in 2015, it appears that "Land Value Taxation" within the context of the Land Reform Review would lead to an additional taxation on land and property, which is totally contrary to the conclusion in the Mirrlees Review that Land Value Tax would not be an additional tax on land and property, but would replace current taxes (national and local) on land and property.

We understand that certain Brown field sites are being considered for this tax eg landbanked land by supermarkets which is not being used for any productive purpose. We think great care is required even to consider an introduction of this tax for such situations as there could easily be unintended consequences for weaker businesses than large supermarkets who cannot afford the tax when the land is not producing any income. It appears to us that there are some obvious issues with this tax for our members eg an application of this tax to farm land would be counterproductive as farming is in effect a subsidy dependent industry anyway and to apply it to rented land will also be counterproductive as it will disincentivise any letting and will be damaging to relations with existing tenants. These will also be important consequences to be considered in relation to the application of such a tax in urban areas. This is a highly complex and unresearched area. It is for these reasons that Scottish Land & Estates cannot agree that it is appropriate to consider "Land Value Taxation" as part of the upcoming Land Reform Review.

Recommendation: Scottish Land & Estates does not feel that a land value taxation system would assist in delivering the aims of the land reform review.

5.10 Succession

General

While the Succession (Scotland) Act 1964 ("the 1964 Act") provides the current statutory framework to the Law of Succession in Scotland, the underlying principles of certain Legal Rights available to a surviving spouse and/or surviving children have long been protected under Scots Law.

The Scottish Law Commission published a Report in 1990 (Scot Law Com no 124) but the recommendations remain largely unimplemented. A further Report was published in 2009 (Scot Law Com No 215) after Responses were obtained to a discussion paper in 2007. This subsequent Report clearly identified that there had been significant changes in Scottish society, particularly since the 1964 Act came into force. Such changes, in the view of the Scottish Law Commission, required a comprehensive review of the current legislation. The views of the Scottish Government on the need for change are not known, although Scottish Land & Estates was invited to comment on certain conclusions in that second Report in so far as they might affect landowners and farmers in Scotland.

Scottish Land & Estates agrees, in principle, that, as society has moved on since Succession Law was last substantially amended, changes to the Law are required but strongly believes that such changes cannot be looked at within the context of Land Reform Review alone. Rather they must be considered within the broader context of the Scottish Law Commission's recent Report.

Protection from Disinheritance

At present, in the case of testate succession, a surviving spouse and/or surviving children are entitled to protection from disinheritance only in respect of moveable property owned at date of death by the deceased. Thus, heritable property is excluded from any claim. This allows the testator to direct to whom the heritable property should pass. While it is accepted that, in most testate estates, the value of the house may be the single largest asset and that it may be appropriate to, in most cases, include heritable property (or a proportion thereof) in any possible claim by a surviving spouse or surviving children, in the case of land-based businesses (and, indeed, other businesses) this could have a significantly detrimental impact.

In land based businesses, there is a much larger dislocation between the capital value of the asset and its income generating capability than in other businesses. The particular concern surrounds family farms which are unlikely to be able to sustain the level of payment required to meet a legal rights claim while still remaining viable as a business. In these cases, substantial additional borrowing may be required to meet a claim and, even if such borrowing is obtainable, this may well prejudice future necessary investment in the farming business in addition to imposing an additional, and potentially unsustainable, financial burden.

It is understood that the value of a deceased tenant's interest in an agricultural lease will be treated as heritable property and would not fall to be excluded from a widening of the protection from disinheritance, thus leaving the viability of a tenanted farm at risk in the event of Legal Rights claims being made by others in the family who do not stand to succeed to the tenancy.

Ownership of farms and estates

Ownership of farms and estates can be complex:

- While there may be ownership through a trust, particularly in the case of some of the bigger estates, in these cases the land owned will not fall within any claim for Legal Rights even if heritable property is included in the future.
- While there may be ownership through a company, in these cases the value of the shares held by the deceased will currently fall within the claim for Legal Rights as moveable property.
- While it is not possible to estimate numbers, it is the view of Scottish Land & Estates that the majority of owner-occupied farms will be owned by an individual or individuals, although there may well be a trading vehicle or vehicles (perhaps a company or partnership) for taxation reasons and to assist in introducing other family members into the business or parts of the business. At present, unless the land is entered on the partnership balance sheet in which case it is moveable property for computation of Legal Rights, land owned by an individual is heritable property and therefore excluded from a claim for Legal Rights.
- Most tenants of agricultural leases will be individuals. They will not have the option of placing the lease in another ownership vehicle.
- It should be noted that the protection from disinheritance is only available where the deceased died domiciled in Scotland. Accordingly, ownership of company shares by an individual domiciled outwith Scotland and land owned by an individual domiciled outwith Scotland are not subject to that protection. Any change to the Law of Succession to include heritable property in that protection may encourage a change of domicile.

The impact of Legal Rights under the current law can be considerable and can lead to the break up or sale of a farm. Scottish Land & Estates's predecessor organisation (SRPBA), Scottish Estates Business Group and NFU Scotland submitted detailed evidence to the Scottish Law Commission in 2006 which included worked examples of an owner-occupied farm, a tenanted farm, a small estate and a non-land based family business. It was clear that, in the event of changes to Succession Law which introduced an extension of Legal Rights to heritable assets, the smaller family farm would be most adversely affected. It is considered that tenanted farms would also be at considerable risk from any change.

The risk of fragmentation of farms may have significant effects on profitability and viability as well as potential changes to the rural landscape and economy.

Taxation

It is submitted that United Kingdom taxation law must be considered in any review of Succession Law in Scotland. Capital Taxation law, including Agricultural Property Relief and Business Property Relief, is of significant importance in planning for succession to ownership of land in Scotland.

Agricultural holdings legislation

The comments in this section of our Response are limited to potential changes to Succession Law in Scotland. No comments are being made in relation to the particular issues surrounding succession to agricultural tenancies in Scotland which are governed by agricultural holdings legislation. This is a highly complex and technical issue which is presently under consideration by the Tenant Farming Forum and should not be considered elsewhere.

Recommendation: Scottish Land & Estates submits that it is not possible to consider changes to Succession Law in Scotland in the context only of Land Reform Review. The Scottish Law Commission has published recommendations for a comprehensive review of Succession Law to reflect general changes in society. It is inappropriate and dangerous that it should be considered in isolation and without due consideration

being given to other areas of Scots Law or United Kingdom Law which may be relevant. If the Land Reform Review Group considers that there are other aspects of Succession Law which should be reviewed, it is submitted that the Scottish Law Commission is the appropriate forum for detailed consideration thereof.

Recommendation: Scottish Land & Estates (previously Scottish Rural Property and Business Association), along with other industry bodies, previously expressed concerns to the Scottish Law Commission that an extension to the protection from disinheritance to include heritable property would adversely affect the smaller family farm. This remains our concern. There is also a risk to tenanted farms.

Recommendation: The views of the Tenant Farming Forum should be requested in so far as any possible changes to Succession Law in Scotland may affect tenanted farms. Consideration of any changes to the rules of succession to agricultural tenancies must remain within the Tenant Farming Forum only.

5.11 Affordable Rented Housing

Landowners providing rented housing have an extremely important role in local communities.

Satsangi et al, 2000⁸

⁸ Satsangi, M., Storey, C., Bramley, G., Dunmore, K., Selling and Developing Land and Buildings for Renting and Low Cost Home Ownership - The Views of Landowners; A Report to Scottish Homes and the Scottish Landowners' Federation; The School of Planning and Housing, Heriot Watt University and Three Dragons Consultancy; June 2000

Helping provide vital housing for communities.

Provision of good quality housing across a range of prices and tenures is absolutely vital if any of the goals of the Scottish Government are to be achieved in the long-term.

Owner occupation, which is at a very high rate in the UK compared with many Western countries, is higher in rural areas of Scotland than it is in towns and cities. Owner occupation also results in a less mobile population as the costs of moving (selling, buying, arranging loans) are high and the process can take a long time. It is therefore critically important for a dynamic economy that there is also a healthy rented sector.

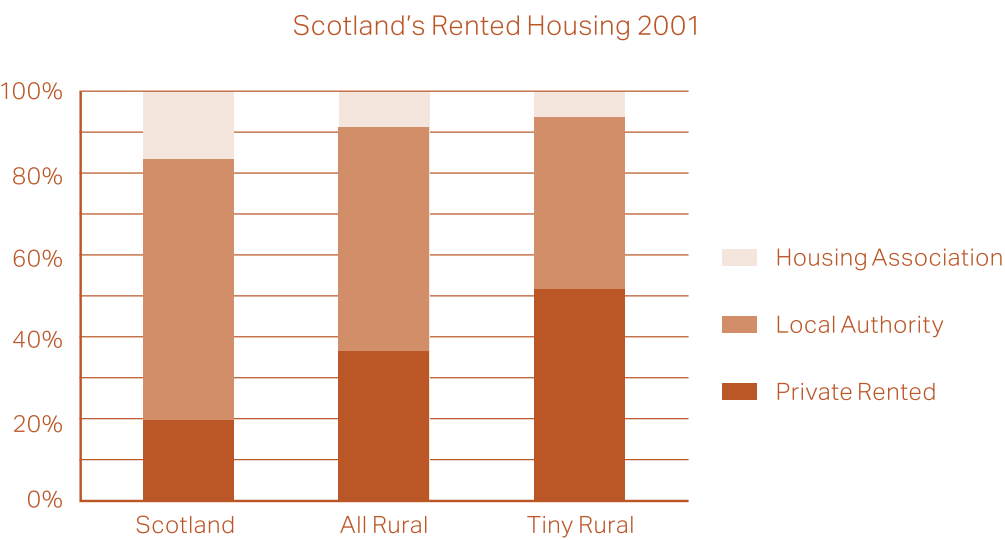
Rented housing is provided in Scotland by the Private Rented Sector (PRS), a variety of charitable bodies and trusts as well as by social housing providers.

Of the social housing providers, the local authorities have in the past two decades sold off many of their rented houses at a large discount. This is especially the case in rural areas where in some localities all the council housing stock has been sold. Registered Social Landlords (RSL) (Housing Associations) have tended to concentrate their activities where they can gain from economies of scale. They are insignificant in much of rural Scotland.

Source: 2012 Scottish Land & Estates survey of members

Members responding to our recent survey let in excess of 9,000 houses.

As the graph demonstrates, Social Housing providers tend to diminish in importance with increasing rurality. The balance of rented housing provision is taken up by the Private Rented Sector so that, for communities below 1,000 strong, it is the PRS that is the dominant source of rented housing.



The members of Scottish Land & Estates are important providers of a significant quantity of rented housing, much of which is let at affordable rents. Respondents to our recent survey let in excess of 9,000 houses, and within the whole membership we expect the total housing provision comfortably to exceed 15,000 homes.

As for mobility, within the rented sector, it is the PRS that provides the greatest ease of moving from one location to another.

The popular stereotype of the landowner, as an absentee unconcerned with the community in and around his/her estate, is far from accurate ... This is perhaps most strongly exemplified in quite clear preferences amongst owners to let housing to local people, and very commonly, set lower rent levels for local people than charged to the 'wider market'.

Satsangi et al, 2000⁹

9 Satsangi, et al, ibid

10 Defined as rents which are 80% or below the Local Authority's Housing Allowance for that Post Code area.

11 Arneil Johnston: Dumfries and Galloway; Rural Private Rented Housing & Fuel Poverty – Final Report; February 2004

12 Arneil Johnston ibid

13 Satsangi, et al, ibid



Contrast between rural and urban landlords

Many landed estates provide vital rural affordable rented¹⁰ housing. A study of private landowners in 1999 reported. It should be noted that there is a radical difference between the urban and rural pattern of private rented housing supply. In general the urban picture is of landlords who seek to maximise their rental income and tenants' occupation of properties tend to be short, averaging about 18 months, in a dynamic housing market.

The situation in rural Scotland is of far greater stability with tenancy duration lasting much longer and rents being set to meet a number of objectives including – meeting local housing need, keeping the school going and meeting various social objectives set by the private landlord.

More recent work¹¹ reported that, in rural Scotland,

"private renting is a major contributor to the local economy through (among other factors) providing affordable rented homes in areas where there is little other rented housing".*

*Of the private landlords within this study's area the great majority were rural landowner landlords.

Additionally the study¹² found that *"households in (rural) private rented accommodation tend to be very stable with almost 30% being resident for more than 15 years"*. In an urban setting it is generally assumed that the average length of a private tenancy is 18 months.

The PRS in rural Scotland therefore provides an invaluable mix of affordable rented housing that gives long term housing for those who want it while offering dynamic mobile individuals within the population the opportunity to follow work and set up home in new locations.

As for security of tenure the 2000 report, in which tenants were interviewed, only 7% expressed feelings of insecurity¹³.

Where does government policy fit in?

The fact that rural landlords provide so much vital affordable rented housing is surprising given that governments have, since they introduced rent controls in 1915, tended to favour measures which discourage rather than assist the private rented sector. Thus today's rented housing provision by the PRS tends to be despite government measures rather than because of government encouragement.

Examples of current government impediments to the PRS include:

- UK fiscal measures, notably Inheritance Tax (IHT) and Capital Gains Tax (CGT), are geared towards helping trading businesses transfer from one generation to the next. In contrast IHT and CGT are applied to rented housing businesses in such a way as to penalise such transfers and force landlords to sell properties to pay for the tax. This will have a dramatic effect on the provision by the PRS especially of affordable rented housing, forcing more of the burden of meeting that housing need on the state which, as it is, cannot cope with the current demand. See the recommendations specific to this section on pages 150 and 151.
- The PRS in Scotland has proved that it can use taxpayers' funds more effectively than Housing Associations in providing affordable rural rented housing. Despite this the Scottish Government has chosen to direct taxpayers' money on funding the more-expensive option, thus delivering fewer houses than they could have done if they'd involved the PRS.

The Rural Homes for Rent grant scheme was an innovative and radical way of leveraging private investment into the delivery of new affordable homes in parts of rural Scotland where social landlords were either unable or unwilling to invest. It had been recognised for some time that small numbers of homes in fragile rural communities could greatly improve the long term sustainability of those communities and the Scheme was designed with that objective specifically in mind. Introduction of the Scheme revealed a very large latent demand and, as a result, the Scheme was hugely over-subscribed. To capitalise on interest in the Scheme, plans were being drawn up by Scottish Government for a second round of funding when the credit crunch hit and they were abandoned. The success of the Scheme has never been evaluated but information held by Scottish Government reveals that £3,473,594 spent on the Scheme has delivered 53 new homes from as far afield as North Roe, on Shetland, to Dormont Park in Dumfriesshire. The number of units per development ranged from 2 to 12. See the recommendations specific to this section on pages 150 and 151.

- Where the Scottish Government has introduced grant schemes open to the private sector (e.g. The Empty Homes Loan Fund) it restricts such applications to companies and corporations despite being well aware that the overwhelming majority of private landlords operate as private businesses. In other words it opens the door but doesn't allow anyone through. See the recommendations specific to this section on pages 150 and 151.
- In contrast to new house building, which is zero-rated, repairs and refurbishments of existing properties attract VAT at the standard rate of 20%. Refurbishment to old traditional buildings is often already prohibitively expensive when compared to new construction and the burden of VAT, which cannot be recovered by the landlord, often makes projects unviable. See the recommendations specific to this section on pages 150 and 151.

The value of integrated estates and businesses.

The ability of a rural landlord to continue to provide affordable rented housing depends essentially on the viability of the landlord's business.

In many cases housing is part of a mixture of enterprises which may include farming, forestry and other land-use businesses. By running this combined estate in an integrated fashion the landlord is able to deliver housing in locations and at rents which others, operating more remotely, could not.

It follows that measures which reduce the viability of the landlords' business will have a negative impact on his ability to continue to provide affordable rented housing.

It is clear that the rural PRS in Scotland has some significant differences from its urban counterpart and that within the rural PRS the landowner landlord often exhibits behaviour that is distinctly sympathetic towards meeting and supporting the needs of rural communities. In that in rural Scotland so great a proportion of affordable rented housing is provided by the PRS any reduction of this socially supportive activity would have major negative consequences for many rural Scottish communities.

Clearly, for any community to thrive, there must be a supply of good affordable housing. In rural Scotland much of this is provided by the rural PRS. Land Reforms which undermine the viability of land businesses will threaten this vital housing provision. See the recommendations specific to this section on pages 150 and 151.



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Call for evidence and specific topic sections – Case Studies

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Ardtornish



In 1841, Achabeag in Morvern, Lochaber, had a population of sixty seven. Just over twenty years later, it was zero. All had been cleared. An effort to begin reversing that process underlies the development of a new partnership between a landed estate and a charitable housing facilitator. Ardtornish Estate and Highland Small Communities Housing Trust (HSCHT) are building two affordable homes for rent at Achabeag, in phase one of the twenty house development.

The amount of affordable housing in a development that size would normally be five – according to the Highland Council's planning guidelines. At Achabeag, Ardtornish committed to provide six sites. Through this partnership, it's hoped this can be extended to seven.

HSCHT and Ardtornish have joined with Morvern-based Roderick James Architects LLP (RJA) and Lochaber builder Angus MacDonald to provide two two-bed detached houses, on excellent sites, for a guaranteed construction cost of around £80,000 per unit irrespective of the actual cost of materials. It's an exceptionally low budget in a very remote area, where building costs are normally at least 30% higher than elsewhere.

It's possible because the houses are being seen as prototypes, using innovative building techniques, for replication across Scotland and the UK– with timber provided pro bono by BSW as their contribution to a long term relationship with RJA for both affordable and individual housing. Professional fees will be minimised by RJA by working within a design-and-build contract to reduce VAT. Legal fees have been kept down by the involvement of Scottish Land & Estates, with member firms Turcan Connell representing HSCHT, and Gillespie Macandrew representing Ardtornish, both on greatly reduced rates.

"The arrangement," says Hugh Raven, who manages Ardtornish on behalf of his family, "is funded through £50,000 from the Scottish Government's Housing Innovation Fund, £70,000 of finance from HSCHT against the midmarket rental income, and £100,000 invested by Ardtornish. Short-term finance, on a loan basis, is being provided by Highland Council. For twenty one years, the houses will be leased from Ardtornish for £1,000 a year per house – after which, occupation reverts to Ardtornish."

Ronnie MacRae, CEO at HSCHT, said "We're delighted that HSCHT are able to provide an innovative solution to the Estate's request to work together on the sites to benefit the community. Added benefit to the local economy, and socially, through employment opportunities, is being provided by working with a forward thinking Estate and inventive design and build team at RJA, who have a strong network. All of this required strong liaison with, and flexibility on the part of, the local Community, Highland Council and the Scottish Government."

Call for evidence and specific topic sections – Case Studies



Dormont Estate



Although Jamie Carruthers can trace his family's roots back to 1552 on the Dormont Estate, near Lockerbie, his focus today is on developing a new generation of affordable rented property that will set the environmental standards for the future. Having already installed ground source heat pumps in two of the estate cottages, taking energy efficiency to the highest possible level was the logical next step.

His pioneering new approach includes eight new properties built with support from the Scottish Government's Rural Homes for Rent pilot grant scheme. The two- and three bedroom houses:

- are triple glazed, super-insulated and air-tight to German PassivHaus standards – well in excess of current and future UK construction requirements;
- have state of the art heat recovery systems to ensure all the heat produced by solar gain and by normal domestic activity is used to keep the occupants warm, even in winter, which means that they effectively have no heating bills, and
- have hot water generated by renewable energy from solar panels which is supplemented by a small log burning stove that uses wood from the estate.

Clearly these homes are built to a high standard, more often associated with a higher end market. However, Jamie believes building the best he can for the affordable market makes sense in terms of sustaining tenancies and thus keeps Dormont's relet costs down. For example:

- developing energy-efficient homes keeps his tenants' outgoings down and contributes significantly to tackling fuel poverty;
- providing good quality housing from the outset encourages better care to be taken of the properties, and
- offering long leases (the short assured tenancies are for 20 years with a further 10 year extension) ensures that tenants too have a long term stake in their property.

Jamie comments that Scottish Land & Estates have been vital in terms of lobbying the Government for "Rural Homes for Rent" funding and in promoting higher standards in the private rented sector through Landlord Accreditation Scotland Ltd on which he represents Scottish Land & Estates as a Director. Jamie has been an extremely proactive member of Scottish Land & Estates in this regard, but points out it would have been impossible to be effective as a single, interested landowner.

Conclusion

Many potential outcomes of the Land Reform Review threaten the viability of those existing rural businesses which already provide affordable rented housing. This is particularly the case in rural Scotland where the private rented sector plays such a vital role. The potential damage that Land Reform could do to current affordable rural housing provision cannot be understated.

The LRRG has asked for evidence as to 'how things could be different'. We have highlighted how government policy has hindered, rather than nurtured, rural rented housing over many decades. It would make a great deal of difference if government sought, instead, to nurture the activity of the PRS.

The following recommendations would assist existing providers to deliver affordable rented housing across Scotland. The fact that none of the recommendations require Land Reform does not diminish their relevance since surely the main aim of the exercise is to deliver a thriving Scotland. If the interests of the LRRG are genuinely towards the betterment of Scotland's economy and society then it should support these recommendations. If Land Reform alone is the goal then it has the great potential to do more harm than good to Scotland's rural rented housing and thousands of households will be forced to face a very much more uncertain future.

Recommendations

- The Scottish Government to press hard and continuously for HMRC to change tax provisions to give:
 - Conditional exemption from IHT in return for contracted delivery of affordable rented housing.
 - Provision for roll-over relief of CGT to allow property disposals to fund the upgrading of other properties in portfolios that are subject to conditional exemption (above)
 - The above change would produce the following wins for Scotland's housing:
 - It would tie much of the existing affordable rented housing into long-term provision.
 - It would encourage landlords to lower rents to affordable levels.
 - It would encourage the return of self-catering accommodation back into letting for full-time residence.
 - It would encourage private sector investment into the provision of affordable rented housing.

More information on this recommendation can be obtained from Scottish Land & Estates.

- The Scottish Government can use taxpayers' funds to gain the best value for money. The Scottish Government should cease its obstruction and antipathy toward the PRS and instead allow and encourage private landlords access to grant funding where they can deliver affordable housing at lower cost to the taxpayer than other organisations such as RSLs. The government's attitude towards the PRS should be to nurture and encourage its activity.
- The Scottish Government to encourage the refurbishment of empty homes by reducing the penalty of VAT on building works. It can do this either by achieving a reduction in the rate of VAT on such works (which probably requires UK wide action) or by arranging to refund the VAT element of the costs through a grant. Conditions could be applied to such a grant to ensure such housing delivered affordable housing.
- Further funding to be made available to deliver affordable rented housing delivered through the Rural Homes for Rent model.

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- Should Land Reforms be carried out they should only be done where it can be shown they do not affect the viability of existing rural landlords' enterprises or until tried and trusted publicly-funded measures have been put in place to provide alternative affordable rented housing and once systems to manage and maintain those properties in the long term, i.e. over centuries, have been established.



Canmore Place, Kincardine O'Neil.

This development provides 14 affordable rented homes for rent. All are barrier-free*. It was part of a grant-aided research project by Scottish Homes. If that grant had, instead, been given to a RSL in the form of HAG, they would have provided just eight houses. In this example, the private estate delivered 75% more housing for affordable rent than if the public funds had been granted to a RSL. 75% of the properties are offered to the council for nominations (RSLs normally offer only 50%). Requests to repeat this project here and elsewhere in Scotland were rejected by government. *Aberdeenshire Council now approach the private landlord to provide barrier-free housing as, after council house sales, they have insufficient suitable accommodation themselves.

5.12 Empty Properties

The issue of empty properties is often raised in relation to affordable housing and land reform. Scottish Land & Estates would like to refer the LRRG to the work being carried out by the Scottish Empty Homes Partnership (of which we are a member) to bring properties back into use. The work carried out by SEHP includes exploration of the extent of the issue, the reasons why properties are empty and the measures which can be taken to address this. The issue has also recently been considered as part of the Local Government Finance (Unoccupied Premises etc) Scotland Act 2012 and our written evidence is attached as Appendix Five. The provisions within this Act come into force in April 2013, and should be taken into consideration along with other work which is being undertaken by SEHP and individual Local Authorities prior to any recommendations being made regarding the delivery of affordable housing.

A specific issue which has been raised is in connection with empty housing is empty properties on tenanted farms.

This is an issue which is also of concern to Scottish Land & Estates but the causes and solutions are more complex than may first appear.

Houses on let farms are usually treated as part of the fixed equipment of that farm (along with fences, sheds, roads etc). The respective repairing and renewal responsibilities of landlords and tenants are set out in legislation and depend on the type of tenancy involved. In addition, for many 1991 Act "secure" tenancies there are post lease agreements ("PLAs") which reversed the statutory position. In those situations the obligation for renewing, replacing and maintaining houses falls to the farm tenant who usually pays a reduced rent in exchange. Where there is no PLA then the landlord must generally renew and replace due to natural decay, fair wear and tear and the tenant must carry out all other repairs and maintenance.

Houses on let farms were traditionally intended to support the farm business (i.e. as tied houses for farm workers). Many farm leases therefore prohibit sub-letting by the tenant (unless it is ancillary to some diversified business activity). In addition, landlords cannot usually resume houses for their own purposes unless, and to the extent, it is permitted in the lease.

There are numerous reasons why houses are left empty or allowed to fall into dereliction on tenanted farms, including the following:

- No longer required for farm workers due to reduction in workforce required to operate modern farming businesses;
- No longer required for farmer's family due to lack of successor;
- Reluctance to actively enforce repairing and renewal obligations by both landlord and tenant (whether due to fear of upsetting relations or simply "soft" management), results in properties falling into disrepair. The costs of refurbishment to bring up to standard are progressively more prohibitive as time passes;
- Statutory prohibitions on sub-letting (preventing agricultural tenant re-letting) or on resumption (preventing landlord taking out of lease to re-use);
- Agricultural tenant no longer requires but reluctant to give up due to loss of control or uncertainty over who will occupy particularly if located in a sensitive location on his farm, and
- Remote or inaccessible locations affecting rental potential/demand.

Experience of our members indicates there are various barriers to houses being brought back into use once they have been allowed to fall empty, including the following:

- Difficulties in agreeing the extent of tenant/landlord responsibilities. It is often difficult to differentiate between repair and renewal and if respective obligations have not been enforced for years, parties may reach stalemate which means nothing is done;
- Landlord's reluctance to allow agricultural tenant to sub-let because if tenant fails to meet repairing standard obligations it may reflect badly on the estate and there is very little recourse through the farm lease to ensure the farm tenant complies with his housing legislation duties;
- Landlord prevented from resuming property if lease does not specifically allow it – then becomes part of a wider negotiation with tenant, e.g. on rent review, and may be costly;
- Where a property has not been maintained properly by the agricultural tenant, the landlord is unlikely to achieve a dilapidations payment from tenant in practice and investment required to bring back up to standard may outweigh the return;
- Agricultural tenant's lack of funds and/or reluctance to expend funds to bring up to standard if property has fallen into serious disrepair and where renewal/replacement is tenant's responsibility (i.e. if there is a PLA);
- Reluctance by agricultural tenant to invest especially where there is no successor;
- Reluctance by agricultural tenant to give up house in case it is needed in future for farm worker or family, and
- Reluctance by agricultural tenant to give up house due to informal/unauthorised sub-letting which is hidden from landlord but provides income stream for tenant. In these cases agricultural tenant also reluctant to report repairs required by landlord in case sub-letting is discovered.

The potential solutions to this issue are not straightforward, as is the case with many issues arising from agricultural holdings legislation. As well as the economics stacking up favourably for the parties involved, many cases will require trust and co-operation between parties. Achieving this is a much bigger issue which depends on political stability as much as anything else. Our suggestions for progress include the following:

- Active enforcement of repairing obligations on the part of both landlord and agricultural tenant is likely to result in fewer empty properties. This is proven by experience of estates who actively manage repairs, serve enforcement notices etc. However it may be difficult to adopt this approach where historically there has been a "softer" stance taken by the estate. A more proactive approach may be unpopular and is likely to be resisted by tenants;
- Increasing understanding between landlords and tenants of their respective positions and concerns may assist in improving relations where historically there have been problems, and encourage proactive approaches by both;
- Landlords need to be able to overcome their fears about agricultural tenants sub-letting and maintaining standards in order to be encouraged to allow sub-letting. Information and education of agricultural tenants about the responsibilities and legalities of letting houses may improve standards in sub-let houses. Increased awareness of the regulation surrounding letting houses may in some cases encourage agricultural tenants to allow the estate to resume the house and take on the burden and responsibility, and
- Both parties need to have a fair return from sub-letting. An agreed estate policy for sub-letting and a formula for splitting rental/repairs maybe helpful. A policy on how to deal with rental arrears/non-payment should also be agreed to avoid scope for dispute.

Recommendation: Work to be undertaken to ascertain the scale of the issue and guidance note to be produced by the Tenant Farming Forum for landlords and tenants.

5.13 Community benefits from renewables

The Scottish Government has a target for the equivalent of 100% of Scotland's own electricity demand to be produced by renewable sources by 2020 as well as the objective of having 500 MW of community and locally owned renewable energy by the same time. In order to achieve these targets it has attempted to put a policy framework in place to encourage fulfilment of these targets, which has led to a significant recent increase in wind turbine applications (in Aberdeenshire, for example, Aberdeenshire Council received 777 applications for wind turbines between 2004 – 2011, 508 of which were submitted in 2011). This increase has, however, raised issues about who benefits from such energy developments with some feeling that it is communities that have to live with the impact of a development whilst the developer reaps the profit.

The Scottish Government believes that, in addition to the developers, the people of Scotland are also entitled to benefit directly from this renewable revolution, as it draws on collective resources and impacts on communities. Consequently there has been a strong move to seek to enhance the benefits that communities derive from these developments through the establishment of the Community Benefits Register. The Government has avoided creating a template for how community benefits should be delivered because it acknowledges that every particular renewable development is context specific and because each community will have different capacities to engage in the process and different needs in terms of community development, so the Register aims to provide communities with as much information and guidance as possible. It is important to acknowledge, however, that different local authorities have also developed their own guidance on community benefit, and in some cases entered into strategic arrangements with developers, in order to achieve the maximum benefit on behalf of communities (some of which may not have the capacity to engage in the process of renewable development to the extent that would enable them to derive appropriate benefit).

61% of members responding to a recent survey are currently planning, building or operating a renewable energy project.

Source: 2012 Scottish Land & Estates survey of members

Scottish Land & Estates is supportive of the government's moves with the Community Benefits Register because any attempt to improve information and the ability of different actors to engage is helpful. But Scottish Land & Estates does also believe that we, as a society, should avoid falling into a default position that assumes that developers and landowners are simply attempting to exploit natural resources at the expense of rural communities and that the job of administrative intervention (such as through community benefit arrangements) is to attempt to rest as much financial 'compensation' as possible. Rather renewable energy developments that are acceptable under the planning regime should be viewed as an opportunity from which everyone can benefit. We need to develop a culture of mutual benefit that allows all interested parties to achieve positive outcomes.

Scottish Land & Estates believes that ideally community involvement in renewable energy developments should simply be open to negotiation. There are a wide range of potential ways that communities can derive benefit from a development, ranging from accepting an annual per MW payment from a developer through to owning turbines and it should be down to interested parties to come to an arrangement. This arrangement will have to enable the developer to profit from the project and the rewards to the different parties must also reflect

the risk that they are each taking, but there should be scope to come to an arrangement that suits the different parties.

In order to avoid the situation where it appears that communities are simply seeking to derive as much compensation as possible because of perceived adverse impact, there is perhaps a need for much more coherent and comprehensive processes of rural development planning in advance of and independent of any consideration of community benefits from renewable. This process could identify the sorts of issues that different communities face and the sorts of activities that members of the community think are desirable in order to take a community or area forward. It would set the direction for the community and identify in advance the sorts of activities that financial community benefits from renewables might help deliver.

Clearly land ownership is an important dimension of the debate surrounding community benefits from renewables. The landowner can either benefit directly by leasing land to a developer, or, if they are able to raise the finance themselves, pursue a development on their own and where a community owns land the community organisation will be able to derive these benefits more easily. As such, the issue of community benefits from renewable energy developments could be used as an argument for further land reform in order to facilitate communities benefiting more substantially from renewable. Scottish Land & Estates takes the view, however, that this would be to simply focus on the potential income from renewables and to ignore the investment and risks associated with renewable development and the wider responsibilities of land ownership. Scottish Land & Estates takes the view that we should focus on developing mechanisms through which all interested parties can work together to maximise positive outcomes for all rather than focus on ownership of land per se.

We return, therefore, to the issue of relationships between interested parties and to the need for cultural change towards a much more collaborative approach. We need to move away from the current approach to development where a developer puts forward a proposal which then gets shot down by objectors, towards an approach that is more consensual and developed through dialogue. To be sure, it is almost a given that any developer of a renewable project, especially a wind farm, will engage with the community, but we have in mind something more comprehensive. It cannot be left to developers to be responsible for building capacity, trust and dialogue in communities. Rather, if we want to see more constructive relationships between different members of the community, including landowners, we need more comprehensive forms of rural development planning. Without such processes it is very easy for debate to polarise and for certain parties to become vilified, but if all interested parties have to sit down together to discuss their community's needs and their respective positions on relevant issues it is possible for mutual understanding and dialogue to develop. Such processes would require a commitment from all involved, take time to develop and require skilled facilitation, but the outcome could be worth it.

Recommendation: The Scottish Government continues to support the Community Benefits Register but underpins this with better support for community planning and capacity building in order to build constructive relationships between all members of the community and identify challenges and opportunities for rural communities.

Call for evidence and specific topic sections – Case Studies



Atholl Hydro



In April 2012 Atholl Hydro Ltd (AHL) completed two hydro electric run of river schemes in Perthshire from a catchment area of about 28 square kilometres. There are two large lochs (Loch Broom and Loch Ordie) in the catchment which receives an average rainfall of 981 mm. The water is carried from the burn intakes to the power stations in 450 mm diameter polyethylene pipes which are buried 900 mm below the ground. The length of the buried pipework (penstocks) is 1,700m on each scheme.

The power stations are steel framed buildings, clad in larch, with a double block work skin which is rendered on the gable ends. Care was taken with the acoustic performance of the buildings to contain an operating internal noise level of 86 decibels. The turbines and all the mechanical electrical equipment was supplied by Gilkes Energy – under a partnering agreement with AHL. Grid connections were not problematic being adjacent to the two powerhouses sited close to the A9. The two schemes have twin jet peltons turbines – operating at 750 rpm and producing 436 kw and 464 kw respectively. They are expected to have a capacity factor of about 53% and 33% generating an overall return of 8.61% at a cost of £3,500 per kw, which is typical for schemes of this size. The project was conceived in late 2008, planning permission was obtained in the spring of 2010. Construction started in March 2011 and was completed in March 2012.

As AHL were building two hydro schemes at the same time, with all the added management time and expertise needed, the project was procured using a quantity surveyor for cost control, (unusual in civil engineering) a project manager and a full civil engineering service. Tenders were sought using a bill of quantities and full construction drawings from contractors who had the capacity to build two schemes at the same time. The resulting tender prices matched the consultants' estimates.

5.14 Investing in our future

Landowners have historically been active and passionate investors in Scotland. In the 18th Century large scale improvements in agriculture were developed by landowners and The Society of Improvers was founded in 1723, including in its 300 members dukes, earls, lairds and landlords.

In the 19th Century, thanks to its many entrepreneurs and engineers, and its large stock of easily mined coal, Scotland became a world center for engineering, shipbuilding, and locomotive construction, with steel replacing iron after 1870. A large proportion of the entrepreneurs and investment came from landowners.

Landowners in the 21st century continue to be entrepreneurs developing new business opportunities and continuing to adapt their existing business models to changing market environments. As a reflection of their connection to the land and their ties to local rural communities and local rural business, landowners remain committed to local investment.

The type of investment landowners provide is unique in the private sector. Landowners can have a much longer term vision than any other investor and as a result will invest over decades and in cases, centuries often at returns much lower than institutional investors would tolerate. Additionally even in time of economic hardship our landowning members continue to invest and plan investment at scales that others can't match. Every type of landowner invests from small owner occupied landholdings to the larger integrated Estates. The large estates continue to invest at a wholesale level and due to their size have the ability to raise funds and make the types of investment that smaller less integrated landowners simply cannot do.

It needs to be recognised that non-resident landowners also invest vast amounts to make their landholdings viable, sustainable and generally improved. This investment comes from outside of the landholding and the nation and represents a direct injection of funds into rural areas that are often economically stressed and economically unsustainable.

Today a sample of 350 of our landowning members shows that their land businesses turnover in excess of £327 million pounds and employ over 4,600 people in the Scotland's rural communities.

This highlights how important landowners are to creating viable and sustainable rural communities. This means that 4600 families have a place of work and a way of life that is being sustained privately and contributing to (without burden) the public sector.

It is clear that landowners are playing a key role in supporting the rural economy today but this pales when you consider the level of private investment that landowners are preparing to make into the rural economy over the next 10 years.

The approximate level of investment planned in the next 2 years by members who responded to our recent survey is in excess of £240 million.

Source: 2012 Scottish Land & Estates survey of members



Source: 2012 Scottish Land & Estates survey of members

In the next 10 years the level of investment planned by members who responded to our recent survey is in excess of £790 million.

This is funding directly from the private purse with all the financial risk bourn directly by the landowner.

The investment is being put directly into;

- Agriculture;
- Housing;
- Small Business Development;
- Renewable Energy;
- Tourism;
- Forestry and Woodland, and
- Heritage buildings and landscapes.

The associated benefit is local rural employment, rural communities and a sustainable rural way of life that continues to change and adapt to market conditions. It is worth noting that a number of private landowners are amongst the small number of projects being taken forward as part of the Scottish Sustainable Communities Initiative (SSCI). SSCI is concerned with encouraging the creation of places which go beyond standard solutions. It aims to drive up the aspiration to achieve quality placemaking, improved energy performance, and more sustainable forms of development, whilst providing homes for people. The Initiative also provides an opportunity to raise the profile of a variety of developments which will serve as exemplars, demonstrating innovation and delivery.

Landowners are only prepared to make this level of investment if they are confident that their legitimate ownership and rights of that ownership is protected now and in the future.

Recommendation: That the contribution of landowners as private and discretionary investors is recognised.

Recommendation: That discrimination against foreign investment in the landed sector should be advised against.

Recommendation: That the threat of changes to legislation that ultimately undermine and threaten investment into the rural economy by landowners are expunged.

6 2003 Act

6.1 2003 Act Part 1

The call for evidence also refers explicitly to the Land Reform (Scotland) Act 2003 and states that the LRRG 'should especially like to hear from individuals, organisations and communities who have made use, or thought about making use, of the provisions of the 2003 Act. How do you think the Act's land reform objectives could be more effectively achieved?'

It also asks respondents to consider 'how might communities outside the Highlands and Islands, where most community ownership initiatives have so far taken place, be encouraged to think about ways in which such initiatives might improve their prospects?'

Scottish Land & Estates' comments on LR(S)A Part 1

Part 1 of the Land Reform (Scotland) Act (LR(S)A) covers the public right of access to most land and inland water that exists in Scotland. This legislation was introduced in February 2005.

In many ways the legislation is still bedding in. That is:

- Some legal cases have taken place and these have tested some aspects of the legislation and have improved the understanding of those charged with implementing and upholding these aspects of its provisions. However there is not yet a substantial body of case law and many provisions remain untested.
- A key aspect of the legislation is the development of core path plans; core paths being routes where the exercise of outdoor access is particularly encouraged. Local authorities are charged with developing these plans through a public consultation process. Progress with these plans has varied across the country, but most were not in place within the 3 year timeframe outlined in the legislation. A small number are still being approved. As a result these plans are only now being implemented; a process which is being further delayed in many instances by budgetary constraints. Therefore the effect they will have on managing access along such designated routes has still to be assessed.

It is also fair to say that when the picture across Scotland as a whole is taken, the introduction of a public right of access has not caused major problems for landowners.

Recommendation: For these reasons we would suggest that Part 1 of the Act is not reviewed at the moment.

This is not to say however that land managers have no issues at all with the implementation of this legislation, particularly for those landowners who operate in places that are "honeypots" for outdoor recreation and activities or that are on the urban fringe. We have indicated below some areas of concern:

1. Intensive Use/Cumulative

A number of Scottish Land & Estates members have land in areas which for various reasons attract large numbers of people wishing to exercise their access rights. For example:-

- Land which has Munros or Corbetts and which is easily accessible from the centres of population in the central belt, attracts a constant flow of hill walkers from Spring through to Autumn. These walkers in the main, at an individual level, behave responsibly, but the weight of numbers can impact negatively on deer and other wildlife management operations, particularly during the earlier part of the stalking season (late August and through September). Members also report concerns about disturbance to wildlife during the earlier part of the year when deer are calving and ground-nesting birds are breeding. A solution that recreational interest bodies often quote is that landowners should capitalise

on this influx of visitors by providing facilities for them. However, not all landowners wish to develop a tourism strand to their business. For some their interest lies in agriculture, sporting or wildlife management activity and they wish to manage their property for these purposes. This is not to say they wish to exclude access, but they do encounter difficulties in achieving a balance that allows them to continue with their chosen activities.

- Land which is on the urban fringe and is particularly popular for dog-walking and other "close to home" recreation. The type of issues reported in these areas include:
 - instances of pasture fields becoming so contaminated with dog faeces that farmers experience abnormally high levels of disease in livestock which graze these fields (neosporosis in cattle and sarcocystosis in sheep);
 - concern over the increased risk of the spread of zoonotic diseases;
 - issues associated with control of dogs, especially near livestock;
 - excessive equestrian use, often due to a prevalence of livery stables in the countryside close of centres of population, causing damage to routes, to the repair of which no contribution from users is forthcoming, and
 - overspill from supported access hotspots, such as country parks.

Antisocial and criminal behaviour can also often be associated with the urban fringe, for example teenage drinking, vandalism, firestarting, flytipping and so on. While this type of behaviour is not a result of introducing access rights, it can be difficult to take preventative action against this type of activity while at the same time not preventing or deterring legitimate access takers; more so than was the case prior to the introduction of the Act.

- Conflicts over use of rivers by different recreational interests, typically angling and paddlesports. This issue is not dissimilar to the Munro and Corbett bagging above, whereby individual paddlers and groups of rafters on the whole behave in a way which would be responsible if numbers were lower, but the significant volume of paddlers/rafters is on many stretches excessively disruptive to fishing interests. Parts of the Tay, Spey and Findhorn experience problems in this regard. On small rivers the problem is exacerbated because of lack of space for the two activities to co-exist.
- Areas popular with informal campers. This again occurs in places which are easily accessible from the central belt and often beside water. This activity is prevalent over the summer period and numbers are particularly high on bank holiday weekends. This type of activity can be accompanied by irresponsible or antisocial behaviour and as such is not always carried out within the terms of the Act. Once again difficulty exists for landowners in terms of taking action which prevents irresponsible or antisocial camping, without also impacting on those who would exercise their access rights responsibly in the area. The recently enacted East Loch Lomond byelaw was passed to deal with this problem.

Part 1 of the LR(S)A already has provisions within it aimed at resolving this type of intensive use/cumulative impact issue. These include:

- s.12 Byelaws in relation to land over which access rights are exercisable
- s.25 Local Access Forums (duties include giving advice on dispute resolution)
- s.28 Judicial determination of existence and extent of access rights and rights of way.

In practice, in most instances the advice of the local access forum will be sought but if that does not produce a suitable compromise, recourse must be had to the other two options. Seeking a s.28 determination from the Sheriff Court can be costly and there has been a notable reluctance amongst local authorities to use byelaw powers in relation to outdoor access. Loch Lomond and the Trossachs National Park have been the exception in this regard. They have used byelaws to manage excessive levels of informal camping on the east-side of Loch Lomond and appear to have done so with considerable success.

2. Commercial Access

The LR(S)A allows some commercial activity to be carried out utilising access rights. That is, access rights may be exercised for the purpose of carrying on, commercially or for profit, an activity which the person exercising the right could carry on otherwise than commercially or for profit. At the time of the passage of the Bill through Parliament, it was generally understood that this provision was included to cover for example individual mountain-guides, pony-trek leaders, canoe instructors and so on.

In many instances commercial access causes no substantial problems. However, in some instances outdoor activity businesses, which rely on their customers exercising access rights for access to land, can impose costs on the landowner that they would not otherwise have. That is where maintenance of routes or other infrastructure needs to be carried out more frequently than would otherwise be the case, as a result of regular, high volume use by the customers of a commercial operator. Typically this occurs where the activity is one that is a heavy user of ground e.g. horse-riding or mountain-biking, but commercial dog walking can also become an issue if dog faeces are not picked up. The cost to the landowner in this instance might be clearing up the mess or it might be in terms of animal health issues as highlighted earlier in this paper.

The Scottish Outdoor Access Code advises commercial users to consider assisting with care of the resource used by the business. Some businesses are willing to do so, but this is often not the case and the use of land by the business or its customers is taken as a resource at zero-cost to the business. If challenged through the courts, it may well be found that commercial access which imposes this type of burden on a landowner is not "responsible" and therefore access rights do not apply.

3. Lack of understanding of land management practice

A central premise of Part 1 of the LR(S)A is that access rights only apply if the person exercising them behaves responsibly, i.e. so as not to interfere unreasonably with any other rights including rights associated with land ownership and privacy. In order to be confident of achieving this condition, the access-taker needs to have a considerable knowledge of land management practice. Further, in carrying out its statutory duties in relation to access rights, a local authority also needs to have a considerable knowledge of land management practice in order to make a balanced judgement about whether access rights can reasonably be exercised across particular pieces of ground.

Some landowners and managers feel frustrated that insufficient knowledge exists about the practices they employ. For example:

- Fields sown for crops may simply look bare for the first few weeks until shoots come through and for some considerable time beyond that they can simply look like grass fields. If the ground is wet or the user is heavy (e.g. a horse), mistaking a sown field for one where access can be taken can cause considerable damage to the crop.
- Minimum tillage systems also cause confusion. A field which has had a crop sown using this method can continue to look like a stubble field for some time afterwards.
- Many areas of ground including woods, moorland, grassland, field margins and so forth are places where ground-nesting birds breed. However many dog walkers appear to be unaware that dogs running loose in these areas cause disturbance to breeding sites. Indeed, that some birds nest on the ground appears not to be well known at all.
- Some access-takers do not seem to realise that parking their vehicle on private land is outwith access rights. They think they have the right to do so if using their vehicle as part of a trip to walk, cycle or horseride.

14. Scottish Recreation Survey 2011 available at www.snh.gov.uk/publications-data-and-research/publications/search-the-catalogue/publication-detail/?id=1947



Scottish Natural Heritage is tasked with developing and, along with local authorities, promoting the Scottish Outdoor Access Code which provides guidance to the public about what might and might not be considered to be responsible. The Code covers a great deal of information in a relatively small publication and in the main does this well, although there are some updates which are now required to it (in particular the tests of privacy in the Code are not consistent with those in the Act, and the Code must be changed to reflect the Act). However, awareness of the Code amongst the general public is diminishing (Scottish Recreation Survey, 2011¹⁴) and we suspect the number of people who are not only aware of the Code but have a good understanding of it is considerably smaller. As public sector budgets have been cut, so the resource available to promote the Code and associated educational activity has diminished. If Scotland's access legislation is to succeed on the basis of the mutual respect and understanding upon which it is founded, then much more needs to be done to promote its principles and ethos to the public as a whole. This will require an increased budget or more inventive, low-cost ways of communicating Code messages.

Recommendation: Increased budget or more inventive, low cost ways of communicating Code message required.

Recommendation: More needs to be done to promote the principles and ethos of the access code to the wider public.

There is also frustration that police forces don't sufficiently understand the implications of the right of access. Although the access legislation is civil, rather than criminal legislation, it is necessary to have an understanding of its provisions when dealing with issues of rural crime and anti-social behaviour.

It is also worth noting that land managers often have to juggle the requirements of various regulatory or policy requirements, something that is not often well understood or viewed very sympathetically by recreational interest. A recent example is that under the Wildlife and Natural Environment Act there is likely to be increased deer management activity on the urban fringe. The interaction between this and access rights will require careful management, perhaps by use of Section 11 exclusions.

Achieving landowner "buy-in" is at the heart of the successful introduction of not only the Right of Access in Scotland, but also in terms of wider Government objectives to increase the number of visits to the outdoors the Scottish population makes and to enhance the outdoor experience for visitors. It is vital that local authorities, Government agencies and others interested in paths and outdoor access development, consult and engage properly with landowners from the outset so that any potential conflicts with land management practice can be identified and dealt with at the earliest opportunity, thus allowing good levels of landowner support for such projects to be achieved.

6.2 2003 Act Part 2:

1. 2003 Act Part 2 (Community Right to Buy):

In its September 2010 report, the Centre for Mountain Studies stated that, "There is little literature presenting landowners' views of implementation of the Act". Scottish Land & Estates endorses that view. There are undoubtedly improvements which could be made to the current practice which would be of benefit both to community bodies and landowners. The types of difficulties are perhaps best illustrated using an actual example provided by one of our members.

Example of community right to buy

In considering the Community Right to Buy provisions under Part 2 of the Land Reform (Scotland) Act 2003, the following provides details of an actual community buyout in Bute in:

- A 700 hectares forestry property was put on the market. It was widely advertised and a closing date set. Offers were received and the highest offer accepted in principle and negotiations over the missives commenced.
- A Community Right to Buy Application was then received by the Scottish Government. The Minister, after a few chasing letters from the seller's agent, allowed the registration and the Land was registered.
- The Seller was not permitted to conclude conditional missives with the offeror.
- An independent valuation was then to take place. The Valuers' office initially requested another office of the same firm used by the seller to be the "independent" valuer.
- The Landowner had accepted the top offer, more than the asking price and backed up with a full legal offer and market evidence, but the Community Body had a value lower than the asking price.
- The District Valuer opted for a value 11% less than the seller had been offered and advised that the landowner would have had much stronger evidence if missives had been concluded – an inexplicable decision as the legislation prevents this.
- There was a 6 to 8 weeks wait on the Lands Tribunal on appeal.
- The Community Body had to secure the purchase funds – it produced a business plan which suggested 35 full-time jobs in the first 5 years and 45 jobs for the subsequent 5 years. This was not realistic and public funds which were promised by the Community Body did not materialise.
- The Community Body then entered a "back to back" deal with a totally unrelated external investor so the business plan was based on job creation. Legislation allows the Community Body to be struck off the register where circumstances changed, but within 24 hours the Government Minister confirmed that the changed deal was acceptable.
- 9 months had now passed from the date of the original offer.
- A compensation claim was submitted on behalf of the landowner for additional management costs such as insurance, legal and agents fees etc, but every minute of work required to be justified apparently no trust involved. Only half the amount of compensation requested was paid, but with no justification for the calculation.
- There was a perception that the Minister was politically motivated throughout.



2. Types of issue arising

The example highlighted is indicative of the type of problems faced by landowners in terms of the practical working of the Act. It will be recognised by all parties who have involvement in Community Right to Buy that there are shortcomings in the existing legislative provisions but this particular example highlights a number of points:

- Late applications: These should not be allowed to be used as a tool simply to impede a sale. A shorter and final time limit for a decision by the Minister in these cases would not be unreasonable.
- Viability of Community Body business plan: Experience has shown that many Communities have laudable objectives which are not necessarily grounded in reality. Greater clarity on what is meant by “sustainable development” would be useful. Greater certainty should be required in terms of the community’s funding proposals.
- Delays in process: An appeal on valuation can be very protracted and consideration should be given to how this can be expedited.
- Work of District Valuers’ Office: Experience varies in terms of the role played by the DV’s office. Greater consistency in approach would be beneficial.
- Need for justification with regard to the outcome of compensation claims: Transparency is required in explaining compensation awards.
- Discretion and motivation of Minister: Only exceptional circumstances should justify the statutory time limits being dispensed with and there should be transparency in justification for each occasion discretion is exercised.

3. Re-registration

The renewal of registrations every five years is viewed by some as a barrier to the Act but if there is a continuing interest within the community then it is only right that it should be demonstrated on a relatively regular basis.

4. Promoting the right to buy

As is often the case with legislation designed to fit all sets of circumstances, the Act is cumbersome and all involved with the process have experienced difficulties. Awareness should be raised of the guidance which is available on how communities can become more involved in the management, or ownership, of assets without recourse to the Act. Development of relationships and initiatives between landowners and their local communities outlined elsewhere in this document may also avert the need for recourse to legislation and create outcomes which are mutually acceptable to both communities and landowners.

Recommendation: Promotion of alternatives to using legislation to facilitate community use of land assets where appropriate;

Recommendation: Research to be commissioned to ascertain landowners' experience of the legislative process with a view to informing changes which ensure fairness and transparency in the process;

Recommendation: Reduce delays caused by the legislative process by tightening timescales at each stage;

Recommendation: Requirement for transparency in the exercise of discretion by Ministers and in explaining compensation awards.

6.3 2003 Act Part 3

The crofting community right to buy (CCRTB) has only had very limited use to date, though there have been several voluntary community sales. The CCRTB was only envisaged as a fall back position in the event of failure to secure a negotiated sale with the landowner outwith the Act, and as with community ownership it is vital that land transfers taking place without recourse to the land are quantified. Voluntary resolution of any issue, including a desire to purchase land is always preferable.

We are aware that the post legislative scrutiny of the Act carried out in 2010 identified problems regarding definition of crofting community, mapping of the land to be purchased and balloting of the community, and identifies the use of Part 3 as a 'resource intensive and exhausting undertaking' for a Crofting Community Body.

Whilst we are in favour of improvements to legislation, any use of an expropriative right should involve procedural robustness. The other issue which the report highlights is the lack of synergy between different strands of rural policy and refers to 'an apparent failure by Government to address the issue of where crofting fits within the contemporary strategic context of rural sustainable development within the Highlands and Islands. It goes on to quote one of the interviews who stated 'It is also noticeable that different kinds of land related legislation are treated as though they don't affect each other at all. As the West Highland Free Press has noted in terms of the Croft Reform Bill – the determination of government via that Bill to encourage more individual croft buy outs is arguably bizarre when set alongside the simultaneous encouragement of the community right to buy. The biggest buyout in South Uist is all under crofting tenure and this land was all brought into community ownership with a lot of public money. Government can simultaneously – on the same piece of ground – be promoting individual ownership and community ownership!'

Scottish Land & Estates suggests that any suggested changes to Part 3 of the Act must take into consideration crofting legislation and policy in its totality. One of the difficulties facing crofting estates at present is the eviction by the Crofting Commission of crofters who live more than 32 kilometres from their crofts even though they visit and care for their crofts. This fails to understand that in many cases crofters have to seek work at a distance for periods. This means that crofters with long family connections have to leave the area. It can also be unhelpful to young crofters who need other employment. Landlords who try to protect their tenants from eviction seem to have little influence and are frustrated by the process. Crofting is normally part time and therefore local opportunities are an essential requirement.

Consideration of legislation and policy should also include a review of the role of the Crofting Commission. Present legislation lays down a procedure for a community registering an interest. These have not always been followed and Ministers have interfered to allow retrospective registration. This causes problems of uncertainty and finance. A community owner is also constrained by being a plc and by a limited time span for directors. These should be changed to create a good framework for long term management without unnecessary restrictions. If a community owner finds it necessary to sell up, this is currently restricted to voluntary bodies. This should be changed to any buyer of good repute, public or private. Voluntary bodies are already very large landowners.



At present there are a number of matters including, for example, assignation and letting which could be handled by crofting estates and crofters working together. Crofting Commission would be called on if there was a dispute. This would reduce delays and create local devolvment to those who know the circumstances.

Recommendation: Details of all transfers of crofting land to be collated, to ensure that those taking place without recourse to the 2003 Act are quantified.

Recommendation: Any suggested changes to Part 3 of the Act must take into consideration crofting legislation and policy in its totality.

Recommendation: Consideration to be given to increased local decision making on certain crofting matters.

7 Summary of recommendations

Recommendations contained within the response are as follows:

General recommendations

1. Recommendation: Getting the right policy framework and financial mechanisms in place so as to facilitate our ability to maximise the delivery of public goods is vital for Scotland. We encourage the LRRG highlight the importance of developing environmental markets and valuing ecosystem services so that market failures are avoided and so that land managers can help deliver against the Land Use Strategy.
2. Recommendation: Recognition should be given to the ability of a large scale integrated landowner to deliver multiple public benefits. At the same time the risk to such delivery posed by land fragmentation should be acknowledged.
3. Recommendation: We'd like to see work carried out to quantify and detail the many examples of community influence, management and ownership which exist across Scotland.
4. Recommendation: We would like the output from the Rural Development Council to be revisited, and Scottish Government tasked with providing an update on progress on all the recommendations.
5. Recommendation: Greater alignment is required between different Scottish Government policy portfolios.
6. Recommendation: It is imperative that all vehicles for achieving the desired outcome, including delivery by the private sector, are considered and supported
7. Recommendation: A critical economic evaluation of community buy outs to be carried out, looking at their successes, failures and their cost effectiveness in achieving their business plan objectives.
8. Recommendation: there is a need to quantify the level of community ownership/ community leasing/ community management and control which has taken place outside the 2003 Act.
9. Recommendation: A Land Based Business Group established in HIE areas to replicate Scottish Enterprise model.

Collaborative working

10. Recommendation: the LRRG could highlight good practice in collaborative working and explore ways in which these can be replicated across Scotland.
11. Recommendation: the LRRG could encourage the Scottish Government and its agencies to view estates and land based businesses as delivery partners.

Community planning

12. Recommendation: We would urge further work must be carried out to align national policy initiatives, and the fragmented nature of funding arrangements to support these.
13. Recommendation: An evaluation of the delivery of the current SOAs and also the process of developing the new SOAs is carried out.

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14. Recommendation: Local authorities to ensure that the Community Planning and SOA processes are designed to maximise involvement from all partners.
 15. Recommendation: A Community Planning 'Seeing Is Believing' Programme be developed.
 16. Recommendation: Consideration to be given to replicating the SBCA Working Countryside model in other Community Planning Partnerships.
 17. Recommendation: LEADER to continue being supported, and replication of the LEADER approach to be considered.

Local decision making

18. Recommendation: The local decision making process to be improved not just through the Community Empowerment and Renewal Bill, but by utilising some of the non legislative solutions outlined above.

Community engagement

19. Recommendation: Funding is provided to deliver a project promoting the Working Together for Sustainable Estate Communities Toolkit, and to support estates in progressing effective community engagement. We suggest that dedicated Community Engagement Officers are employed as detailed below.
20. Recommendation: A model for a network of Community Engagement Officers is developed to support the implementation of the Toolkit.
21. Recommendation: The National Standards for Community Engagement could include more advice of relevance to the private sector and not focus solely on public sector agencies.
22. Recommendation: Extend the Scottish Enterprise Rural Leadership Programme to include community representatives.

Planning

23. Recommendation: Increased status should be afforded to Scottish Planning Policy to allow a genuinely plan-led system.
24. Recommendation: There should be further integration between the Land Use Strategy and Scottish Planning Policy.
25. Recommendation: Look at ways to encourage the public to become more involved in planning policy and the plan led system rather than focusing on individual applications should be developed or increased.
26. Recommendation: Local Authorities can increase their dialogue with all sectors of the community during the Main Issues Report phase of the Local Development Plan process.
27. Recommendation: The work of Planning Aid Scotland to be highlighted and supported.
28. Recommendation: The Rural Housing Service could be commissioned to pull together a guide detailing all the possible delivery models of affordable housing to ensure that all options for meeting the housing needs of communities are considered.

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29. Recommendation: Continue to make available examples of good practice and case studies, and provide more training to all stakeholders to improve the value of engagement in the planning process.

Transfer of assets to communities

30. Recommendation: The range of options, including ownership, could be promoted to communities, and guidance should be developed to support communities in choosing the appropriate approach.
31. Recommendation: A guide to be produced on managing assets to complement the DTAS guide on owning assets.

Forestry

32. Recommendation: Scottish Land & Estates suggests that the LRRG supports the recommendations of the Woodland Expansion Advisory Group and asks the Scottish Government to commission some research into the potential of woodlots in Scotland.
33. Recommendation: We urge the LRRG to focus away from changing patterns of forest ownership, which would be detrimental to the sector.
34. Recommendation: The LRRG to support the work being carried out by FCS and supported by Scottish Land & Estates in relation to delivering social outcomes from woodland management.
35. Recommendation: The LRRG to explore and recommend ways in which to deliver social outcomes through partnership vehicles.

Education

36. Recommendation: Government and public agencies recognise the many and varied benefits of providing opportunities for people to connect with the land and the willingness of Scotland's farmers and estate managers to provide these opportunities – and that they support the mechanisms which will enable such connections to grow and develop.

Employment and skills development

37. Recommendation: replicate the Community Jobs Scotland model for private rural businesses.
38. Recommendation: If deemed successful, roll out the Aberdeenshire Alliance model to other rural local authority areas.
39. Recommendation: Scottish Government provides funding for resources, such as Youtube videos, outlining the wide range of employment opportunities that land based businesses can offer.

Recreation

40. Recommendation: That the LRRG recognises that connecting people with the land takes a number of forms and that recreation plays a key role in generating, supporting, promoting and delivering new relationships between land, people, economy and environment in Scotland

Community growing

41. Recommendation: Support the promotion of the Landowners' and Landusers' Guide to community growing partly prepared by Scottish Land & Estates in association with the Federation of Community Farms and Gardens and due to be launched by the Scottish Government Minister this year, in order to assist in increasing the availability of land for community growing and allotments projects where appropriate.

Agricultural holdings

42. Recommendation: The LRRG acknowledges that ARTB would significantly damage the tenanted sector, and draws a line under discussions once and for all to allow the sector to move forward.
43. Recommendation: The LRRG allows the Tenant Farming Forum to develop proposals in relation to agricultural holdings issues.
44. Recommendation: Scottish Land & Estates suggests that the LRRG support the work of the New Entrant Panel.

Land value taxation

45. Recommendation: Scottish Land & Estates does not feel that a land value taxation system would assist in delivering the aims of the land reform review.

Succession

46. Recommendation: Scottish Land & Estates (previously Scottish Rural Property and Business Association), along with other industry bodies, previously expressed concerns to the Scottish Law Commission that an extension to the protection from disinheritance to include heritable property would adversely affect the smaller family farm. This remains our concern. There is also a risk to tenanted farms.
47. Recommendation: The views of the Tenant Farming Forum should be requested in so far as any possible changes to Succession Law in Scotland may affect tenanted farms. Consideration of any changes to the rules of succession to agricultural tenancies must remain within the Tenant Farming Forum only.

Affordable rented housing

48. Recommendations:

- The Scottish Government to press hard and continuously for HMRC to change tax provisions to give:
 - Conditional exemption from IHT in return for contracted delivery of affordable rented housing.
 - Provision for roll-over relief of CGT to allow property disposals to fund the upgrading of other properties in portfolios that are subject to conditional exemption (above)
 - The above change would produce the following wins for Scotland's housing:
 - It would tie much of the existing affordable rented housing into long-term provision.
 - It would encourage landlords to lower rents to affordable levels.
 - It would encourage the return of self-catering accommodation back into letting for full-time residence.
 - It would encourage private sector investment into the provision of affordable rented housing.

More information on this recommendation can be obtained from Scottish Land & Estates.

- The Scottish Government can use taxpayers' funds to gain the best value for money. The Scottish Government should cease its obstruction and antipathy toward the PRS and instead allow and encourage private landlords access to grant funding where they can deliver affordable housing at lower cost to the taxpayer than other organisations such as RSLs. The government's attitude towards the PRS should be to nurture and encourage its activity.
- The Scottish Government to encourage the refurbishment of empty homes by reducing the penalty of VAT on building works. It can do this either by achieving a reduction in the rate of VAT on such works (which probably requires UK wide action) or by arranging to refund the VAT element of the costs through a grant. Conditions could be applied to such a grant to ensure such housing delivered affordable housing.
- Further funding to be made available to deliver affordable rented housing delivered through the Rural Homes for Rent model.
- Should Land Reforms be carried out they should only be done where it can be shown they do not affect the viability of existing rural landlords' enterprises or until tried and trusted publicly-funded measures have been put in place to provide alternative affordable rented housing and once systems to manage and maintain those properties in the long term, i.e. over centuries, have been established.

Empty properties

49. Recommendation: Work to be undertaken to ascertain the scale of the issue and guidance note to be produced by the Tenant Farming Forum for landlords and tenants.

Community benefits from renewables

50. Recommendation: The Scottish Government continues to support the Community Benefits Register but underpins this with better support for community planning and capacity building in order to build constructive relationships between all members of the community and identify challenges and opportunities for rural communities.

Investing in our future

51. Recommendation: That the contribution of landowners as private and discretionary investors is recognised.
52. Recommendation: That discrimination against foreign investment in the landed sector should be advised against.
53. Recommendation: That the threat of changes to legislation that ultimately undermine and threaten investment into the rural economy by landowners are expunged.

2003 Act Part 1

54. Recommendation: We would suggest that Part 1 of the Act is not reviewed at the moment.
55. Recommendation: Increased budget or more inventive, low cost ways of communicating Code message required.
56. Recommendation: More needs to be done to promote the principles and ethos of the access code to the wider public.

2003 Act Part 2

57. Recommendations:

Promotion of alternatives to using legislation to facilitate community use of land assets where appropriate;

Research to be commissioned to ascertain landowners' experience of the legislative process with a view to informing changes which ensure fairness and transparency in the process;

Reduce delays caused by the legislative process by tightening timescales at each stage;

Requirement for transparency in the exercise of discretion by Ministers and in explaining compensation awards.

2003 Act Part 3:

58. Recommendation: Details of all transfers of crofting land to be collated, to ensure that those taking place without recourse to the 2003 Act are quantified.

59. Recommendation: Any suggested changes to Part 3 of the Act must take into consideration crofting legislation and policy in its totality.

60. Recommendation: Consideration to be given to increased local decision making on certain crofting matters.

7 Appendices

Appendix One

Speak Up for Rural Scotland – Summary of Step Changes	155
---	-----

Appendix Two

Rural Homes for Rent – Frequently Asked Questions	159
---	-----

Appendix Three

Scottish Land & Estates response to CERB consultation	162
---	-----

Appendix Four

Scottish Land & Estates response to Local Finance (Unoccupied Premises etc) consultation	187
---	-----

Appendix Five

Local Government and Regeneration Committee	188
---	-----

Appendix Six

George Street Research	192
------------------------	-----

Appendix Seven

Member Survey	234
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Appendix One

Speak Up for Rural Scotland¹³ – Summary of Step Changes

Step Changes:

1. We believe that developing leadership skills and business ambition is an essential ingredient for economic success. The current Rural Leadership Schemes run by Scottish Enterprise and Highlands and Islands Enterprise have been successful. Farmers and land managers are important contributors to and beneficiaries of these schemes. We see the need to significantly build on these models and to encourage collaboration and networking between like-minded rural business owners/managers.
2. All rural businesses should be challenged to add greater value to their products and services. This could be achieved by a dynamic business developing new initiatives on its own, but at times could also involve several entrepreneurs working together or forming joint ventures to develop market-orientated solutions. There are already successful models, e.g. a Scottish Enterprise Planning to Succeed Tourism Group in Breadalbane has led to twelve rural businesses collaborating on marketing, new product development, transport and customer research.
3. There should be a requirement for public authorities to make tendering processes easily accessible and manageable for small businesses to bid for contracts. A toolkit and skills training should be devised which would assist them to respond.
4. Roles and responsibilities in relation to business advice and support should be clarified for those who use these services, especially social enterprises and small businesses.
5. We encourage more local producers to grow markets for their products and consider opportunities to develop alternative routes to new markets, building on the growth of Farmers' Markets and farm shops.
6. Destination organisations around Scotland are already making a difference in developing local tourism initiatives. We want to see effective partnerships getting local people together to reap the local benefits from national tourism initiatives. The Destination Development guide produced by Visit Scotland, Scottish Enterprise and Highlands and Islands Enterprise, is a useful toolkit to get this started.
7. Tourism organisations and businesses need to do more local joint marketing and cross-selling, adding value with joined-up offers, with providers ready to recommend related products and services. At the moment Historic Scotland is working alongside other national and local organisations to develop cultural and tourism hubs. One example of this is the Orkney World Heritage Site where Historic Scotland works alongside Orkney Islands Council, Scottish Natural Heritage and the Royal Society for the Protection of Birds to promote the archaeology, natural environment and bird life of this location.
8. Community events have developed into major attractions with 23 book festivals in Scotland and success stories like the Spring Fling in Dumfries and Galloway. Each local area should be inspired to make the most of their local natural and cultural assets – with stronger partnerships as a consequence.
9. We recognise the efforts of the performing arts community, one example being Scottish Opera, to visit rural Scotland. We would encourage major art collections, especially those with rural origins, and the performing arts to tour rural areas to create additional attraction, strengthen interest and contribute to local festivals.
10. Eligibility for financial support should depend on active use of land which generates identifiable outcomes and public benefits.
11. Land managers should be supported with appropriate training in taking the opportunities offered to integrate forestry with other land uses. This should include help in identifying the best sites and appropriate scale for forestry planting.
12. A review of the range of options to achieve the current 25% forest cover target could, in our view, help to encourage the multiple land use approach without compromising carbon reduction objectives. The emphasis should be on an integrated approach

to forest expansion with the aim of establishing more woodlands, enhancing the management of existing woodlands especially on farms, and seeking to encourage mixed land use that delivers appropriate woodlands of the right scale and species composition in the right places.

13. Rural partnerships – between farmers, foresters, conservation bodies, communities and the state – should be encouraged, working at a landscape scale to deliver wide-ranging benefits from the conservation of biodiversity, flood protection and carbon sequestration through better management of soils and peatlands. Maintaining the natural assets of Scotland's land is an expensive business and we need to look at how other countries fund this cost from contributions from visitors.
14. We want to see co-operation between local communities, land managers, planners and developers in identifying appropriate sites and opportunities. A 'countryside map' identifying potential for renewable energy development in an open and transparent way, as well as clear guidance on best practice, preferred locations and standards, should be prepared and published to enable the maximum contribution to the climate change agenda.
15. The link between communities, land managers and developers should be encouraged by national and local planners in order to reduce adverse impacts and speed the consents process. A stake-holding or other ongoing financial benefit for affected communities should be seen as best practice on large developments. This could support investment in local infrastructure and natural and cultural assets.
16. For small-scale community projects, the consents process should be simplified as far as possible and aligned with planning requirements. Fees and charges should be minimised.
17. We want local people to be encouraged to get involved, and to acquire training in the skills necessary to grow their community.
18. Well-publicised success stories and effective networking can inspire others. The Scottish National Rural Network's website has been a great success since its launch in April 2009. We want to see all rural communities in Scotland actively involved in the network; and we want to see the Network developed further to facilitate study visits to successful communities; to provide a one-stop shop for assistance (linking to other sources of advice); and to encourage the community to produce action plans.
19. Empowering communities will require a significant change in the attitudes of many, not least amongst those in the public sector. Community collaboration and action should be reflected in Single Outcome Agreements and recognised by community planning partnerships and public sector staff. In particular, local authorities need to consider how they will work efficiently and consistently with communities in planning the procurement and delivery of services; and in allocating resources against the background.
20. Every village and town should have space for affordable housing. This can be achieved through allocation of land by planning authorities, or with policies that allow for small-scale affordable housing development, e.g. rural exceptions sites policies. Planners at national and local level need to give priority to the development of affordable housing where needs are identified. Both private landowners and communities should be involved in the preparation of community housing plans, and all should work together to increase the availability of land.
21. The Rural Homes for Rent Scheme is a good example of what can be achieved and its principles should be taken further, to give greater opportunities for affordable housing to meet local housing need, including community-owned housing schemes.
22. We suggest that both local and central government consider innovative solutions to housing provision – for example, freeing up more land for housing through long leases or partnership working. Government should also support the development of the "gateway house" idea – where a number of innovative island communities are already enabling prospective island-dwellers to come and live on the island for a few months before committing to a permanent move.

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23. We think that communities, through Development Trusts, could generate more community activity and income, and make our small towns and villages even better places to stay. We believe that Development Trust activities should be guided by democratic processes and should be inclusive and transparent. A national rural Parliament could provide a focus for all these groups and a means of enlivening local democracy.
 24. Community ownership or management of local assets such as a shop or a post office is an incentive to get involved, offers a way of providing community services and often generates an income stream as well. It can assist in the development of social enterprises, open up affordable housing options and enable local people to develop capacity and skills. Accordingly, we encourage the various arms of the public sector to consider asset transfer to community bodies where circumstances are appropriate.
 25. We see access to high-speed broadband as a fundamental requirement for 21st-century rural Scotland. We encourage the Scottish Government to enable the provision of high-speed broadband to all in rural Scotland who wish to use it, and to do so significantly ahead of the UK national timeline targets.
 26. We propose that the Enterprise Agencies and Higher Education Institutes should research alternative technologies for access to high-speed broadband in rural locations, which may offer market opportunities globally. Action should be taken to always “plan rural” as new technologies come on stream to ensure adequate opportunities are provided to rural communities and businesses.
 27. Where facilities do not exist, public and private sector organisations (like schools and banks) should be encouraged to allow appropriate access to their technology infrastructure, e.g. video conferencing in remote areas.
 28. Sometimes the nature of courses is not well adapted to local needs and we think that better dialogue is required between course providers, local authorities and communities, in order to meet the needs of business, rural industries and communities.
 29. Contracts for public transport should include a condition that requires providers (of ferries, buses and trains) to coordinate the timings of all their services with those of private and community providers.
 30. Communities should talk to each other about their needs and look for joint solutions – the Community Transport Association is a good source of information.
 31. We want to see maximum use being made of available vehicles, e.g. school buses, electric vehicles, shared delivery arrangements and hospital transportation becoming available for the wider community through brokerage schemes.
 32. The Road Equivalent Tariff scheme should be rolled out to as many ferry routes as possible with priority given to the most remote routes.
 33. We want to see a growing resilience in rural communities with social enterprises and Development Trusts taking on the provision of many more rural services. This will create new employment opportunities and income streams, but will require technically competent professional support to assist with the requirements of procurement and regulatory regimes.
 34. Advice is available for communities but it is sometimes difficult to reach the right source. The agencies and organisations who offer advice need to get together to co-ordinate their contributions and make things clear for their customers. Links between the various existing sources of advice should be improved and gaps identified and filled.
 35. We see a need to protect the quality of services, particularly in the face of reduced government spending. To this end, there should be greater collaboration between public, private and the Third Sector in the delivery of services – in a way that avoids a silo mentality and encourages an innovative approach.
 36. We think there is scope for innovative social enterprises to support individuals in need of care services. For instance, one health care professional could provide benefit advice and liaise with housing authorities as well as providing clinical support.
 37. What we want to see is the best use being made of the combined resources of public

authorities and all the stakeholders in rural communities – through open discussion, innovative joint solutions will emerge. For example, a combination of locally available skills and distance learning could enhance the educational experience for children and adults. Public sector bodies should consider producing a menu of services which could be devised, delivered or managed through the community – with a view to encouraging entrepreneurial activity from local people.

Appendix Two

Rural Homes for Rent – Frequently Asked Questions

Scottish Land & Estates Information Sheet

Please Note – the Rural Homes for Rent Scheme was a pilot and is not currently open for application. This Information sheet was produced in 2009 to assist those considering applying for the pilot grant and may not reflect arrangements for future grant funding.

The Communities Minister, Stewart Maxwell, announced the launch of a new pilot scheme, Rural Homes for Rent, during a speech to the Rural Housing Service Conference in Dunkeld on 29 February 2008. The scheme, which will be supported by £5million over three years, has been developed based on proposals submitted to Communities Scotland by the SRPBA, and came after years of campaigning by the Association and its members. Applications for the pilot were invited during 2008, and are currently being considered by the Scottish Government. An announcement in relation to the allocation of funding is expected in early June 2009. Scottish Land & Estates is currently lobbying the Scottish Government to make funding available for a further round of applications.

This Information Sheet provides answers to some Frequently Asked Questions about the grant scheme and application process.

What is the grant for?

The pilot grant scheme will provide funding direct to the landowner for the development of new build affordable private rented housing in rural areas. It will open up an extra source of land for affordable housing in rural areas. The grant aims to complement the work carried out by Registered Social Landlords in rural parts of Scotland, and provide a cost effective, additional delivery mechanism.

The pilot will deliver approximately 100 houses across rural Scotland utilising £5million of public funding alongside private investment.

Who can apply for the grant?

The grant is open to all rural landowners, including community buy out groups. Grant recipients must have the necessary skills and capacity to manage the housing, either directly or through a management agent. The landowner must demonstrate a long terms stake in the area, and must register as a private landlord with their local authority under the terms of the Antisocial Behaviour etc. (Scotland) Act 2004. In addition, landowners will be required to sign up to the new national accreditation scheme.

If a landowner has no previous experience of renting properties, he is not excluded from applying for the grant but must be able to demonstrate success in other land based activities, knowledge of the housing sector (or details of management agent) and details of involvement in any other publicly funded schemes/initiatives.

Can a landowner only submit one expression of interest?

If a landowner is looking to submit a number of projects this will be welcomed and could be treated in two ways:

If the projects are in completely different local authority areas, for example one in Midlothian and one in Perth and Kinross, then they should be submitted as separate projects;

If the projects are all within the same local authority area and are in fairly close proximity to

each other, they could be submitted as one proposal. For example, if the landowner wishes to develop four separate sites within a couple of miles of each other but located in different building groups, they could submit this as one development proposal.

What will need to be included in the expression of interest?

Required information includes details of the planned development – location, number of units and relevant site details; planning details – planning permission stage if applicable, and if planning permission has not been applied for then details of any pre-application discussions or evidence that development will comply with relevant planning policy; confirmation of ownership of land; landowner's private renting track record or capacity, including proof of registration; evidence of housing need; and details of any partnership working with public sector bodies. Also required is information on experience of organising building projects and details of financial standing.

How much will the grant be?

The maximum grant level will be 55% of total development costs, up to a maximum level by property size. For example, the maximum grant for a 4 bedspace property (i.e. 2 double bedrooms) is £65,400. The value of the land is treated as a private contribution from the grant recipient to the total funding package and is included in the calculation of the total development cost.

What are the conditions of the grant?

There are a number of conditions, including the requirement that the property has to remain in the affordable rented sector for a minimum period of 30 years. Properties will be let on a model Short Assured Tenancy, which has been developed by the SRPBA in conjunction with the Scottish Government. Rents will be comparable to a Registered Social Landlord (RSL) and rent increases will be capped at RPI + 1%.

The landlord will be need to meet the requirements of the national landlord accreditation scheme (LAS) and will need to maintain the properties to the Scottish Housing Quality Standards as well as complying with repairs and maintenance performance standards.

Who will the properties be rented to? Does the landlord have a say in the allocations?

The target client groups for the projects will be those identified as being in housing need.

The properties will be allocated by the landlord in line with an allocations policy agreed by the landlord, grant funder and the local authority. This will be based upon a model allocations policy which has been developed by the SRPBA. The SRPBA will also be able to offer support to individual landlords to develop the model allocations policy to allow for the inclusion of local housing priorities.

At least 50% of initial lets and subsequent re-lets will be subject to nomination arrangements. This will be underpinned by a model nominations agreement, which the SRPBA has developed. The details of the nominations agreement will be agreed for each development by relevant grant applicant, local authority and the Scottish Government. The landlord maintains the right to make final allocations decisions without invalidating the nominations process if the nominations provided by the local authority do not comply with the criteria set out in the allocations policy or nominations agreement.

How can I find out more? What other assistance can Scottish Land & Estates offer?

Additional general advice on the scheme, including information on the financial modelling aspects of the grant can be obtained from the Head of Policy. Alternatively, potential applicants can contact the Housing Investment Division of the Scottish Government.

We are also able to offer detailed assistance to members in regard to expressions of interest and subsequent full applications for successful applicants. This support will include assistance in relation to housing need and local housing strategy; advice on detailed aspects of the application such as rental levels; property mix; repairs and maintenance standards; managements standards and other issues.

Support will also then be provided for successful grant recipients in terms of development of allocations policy and nominations agreement; liaison with community, local authority and grant funder; development of rental policy; development of performance standards and any other areas required.

A fee for this detailed support will be charged dependent upon the level of assistance required, and relevant application stage. Communities Scotland has advised that successful grant recipients will be able to include a fee to the SRPBA, for assistance provided, in their allowable development costs up to a maximum of 1% of total development costs. Support can be provided by the SRPBA in excess of the 1% allowable development costs if required but would have to be funded by the grant recipient. Members should contact Head of Policy to discuss this further.

As the body responsible for developing the proposals for the scheme, and with responsibility for developing particular aspects required to deliver grant mechanism, we are in a unique position to provide an excellent support service to its members and assist them in the development of quality applications, and ultimately, quality private rented affordable housing.

Further Details:

The Scottish Government Guidance and Application Form, along with the model allocations policy and model nominations agreement can be viewed at: <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/investment/ruralhomesforrent>

Information on the successful applications can also be found at the website

For further information on the Rural Homes for Rent Grant, please contact Head of Policy Sarah-Jane.Laing@scottishlandandestates.co.uk

Date Issued: May 2009

Appendix Three

Scottish Land & Estates response to CERB consultation Community Empowerment and Renewal Bill

Scottish Land & Estates is a member organisation that uniquely represents the interests of landowners, land managers and land-based businesses in rural Scotland. Scottish Land & Estates has over 2,500 members, many of whom are already working to deliver the aims of the draft Bill.

We welcome the opportunity to respond to this consultation and are pleased to participate in the Terms of Reference Group for the Bill. Scottish Land & Estates wishes to make the following general comments: We believe that the proposed urban community right to buy, and other elements of the proposed Bill such as changes to CPO, should be considered in tandem with the Land Reform Review. We see little merit in progressing legislation prior to the publication of the recommendations of the Land Reform Review Group, and that the most effective outcomes would be achieved by considering the Bill and the land reform review together rather than isolation.

Community empowerment should not be viewed as simply a transfer of 'power' from one group to another, but rather about the community being able to influence the decision making process, identify options and play a key part in achieving the best outcome for the community as a whole.

We believe that all discussions regarding community right to buy should be underpinned by the philosophy of willing buyer/willing seller. We also believe that this philosophy should apply to any temporary use class for community growing. We are supportive of this idea in principle but could not support any provisions which compelled the landowner to change the use class.

We are aware of many current examples of communities working with public and private owners of properties and land to progress community management or ownership. We believe that the best way to increase community empowerment is to raise awareness of possibilities, highlight positive examples of what can be achieved, and promote best practice in terms of community engagement. We have been working with the Sustainable Estates research team to promote their Community Engagement Toolkit as well as producing case studies and associated supporting information on community management and ownership of assets for our members and other interested parties. We firmly believe that more can be achieved through consensus and highlighting positive examples than through legislation which impacts upon private property rights.

The organisation and its membership are fully committed to an effective community planning process, which provides communities with a real ability to influence public sector service planning and delivery. Community planning must involve all interests within communities.

Community Empowerment and Renewal Bill
CONSULTATION QUESTIONS
PART 1: STRENGTHENING COMMUNITY PARTICIPATION
Community Planning

Q1. What would you consider to be effective community engagement in the Community Planning process? What would provide evidence of effective community engagement?

In Planning Law there are clear duties in terms of who is to be involved, on what issues, when they are to be involved and how they are to be involved. Similarly Tenant Participation laws which allow for clear lines of development and support. The outcome is the most important facet and there need to be clear tangible objectives. Not necessarily that the community viewpoint was agreed, but that the concerns or issues raised in the engagement process were satisfactorily addressed in a transparent manner. A "tokenistic" engagement is in no way effective. The effectiveness is in the openness and clarity of the process and no engagement is preferable to a sham engagement.

Q2. How effective and influential is the community engagement currently taking place within Community Planning?

Influence requires to be judged by how many communities are getting involved, as opposed to what the end result is. By its nature it is difficult to provide an overall view as this will no doubt differ vastly across areas from urban to rural and within each area and is extremely variable across Scotland as a whole. Community engagement can only be as effective as those who participate. In quasi-judicial matters such as liquor or other forms of licensing and in planning, engagement can be both effective and influential, but it is difficult to quantify the effectiveness and influence. Community engagement is at its most effective and influential when not seen in isolation, but as part of an overall process with outcome and also where different interested stakeholders are working collaboratively.

Q3. Are there any changes that could be made to the current Community Planning process to help make community engagement easier and more effective?

A greater focus on the outcome may be useful i.e. that the engagement is not simply a formality as part of the decision-making process, but leads to delivery and achieving of outcomes. This may incentivise communities to become more involved if they see the engagement as being part of something wider. There should also be problem solving with all those with an interest as there remains a culture in community planning that looks only to public sector agencies. An overarching duty to engage

Q4. Do you feel the existing duties on the public sector to engage with communities are appropriate?

Existing duties are varied, but this gives a degree of flexibility to the type of circumstance. The key is to make certain that those duties are being properly undertaken and that the public sector is complying with them. There is certainly scope to strengthen the duties on the public sector to engage as part of the public sector reform programme.

Q5. Should the various existing duties on the public sector to engage communities be replaced with an overarching duty?

No

Please give reasons for your response below.

Prima facie, if a number of existing duties are replaced and bureaucracy is lessened as a result this would be a welcome scenario. However, a general duty would not in itself be sufficient. Best practice should be looked at in each of the sectors and encouragement given to share and simplify the participatory process, but not replace it with a separate statutory process. "One size fits all" would not be appropriate here and there is a risk of diluting existing duties which are in place.

The general duty would require an independent overseeing body and set national standards of compliance. Advice and assistance on interpretation would be needed and the extent of the body's investigative powers and its remit to challenge would all require consideration. Rather than clarifying and streamlining community engagement there is the potential that it could be confused and made more difficult.

Engagement can work in a variety of ways and for instance there are planning requirements enshrined in legislation in terms of advertising and notifying. It would be an unwelcome major upheaval for those and other quasi-judicial matters to be amended to comply with a new overarching duty.

It is also questionable whether an overarching duty would tackle what is arguably the main issue, that of culture rather than legislation per se. Cultural change is harder to tackle than simply enforcing an overarching duty, which in fact may reinforce the culture of new structures with new appointments.

A more suitable option may be to strengthen the duty on all partners to engage through the community planning process by having an engagement framework in place tied to standards.

If you said 'yes' to Question 5, please answer parts a. and b. –

a. What factors should be considered when designing an overarching duty?

N/A

b. How would such a duty work with existing structures for engagement?

N/A

Community Councils

Q6. What role, if any, can community councils play in helping to ensure communities are involved in the design and delivery of public services?

Community Councils can through websites, twitter and other social media as well as through more traditional forms such as noticeboards, libraries, community centres and newsletters make the public in their area aware of any developments and can facilitate meetings and consultation with different stakeholders. Questionnaires or information gathering sessions can be useful to assess local demand. They can act as a conduit for community views. However, there needs to be cognisance that often areas will have various "community" organisations from Representative Councils to Development Trusts or Housing Associations all of whom feel they represent their community so the Community Council may require to collaborate with other bodies to ensure a joined up voice where possible.

Community councils should play a key role in determining need and designing services – but there may be an issue in terms of capacity in terms of skills and knowledge which would need to be addressed.

We do not think that the community council as an entity should be involved in the actual delivery of the service but would have a role to play in terms of monitoring continuing need and also quality of the service provision.

Q7. What role, if any, can community councils play in delivering public services?

Community Councils are statutory consultees in terms of a range of matters and should make use of their consultative capacity in this regard. However, local authorities in Scotland receive Council Tax and return of a share of Non-domestic rate receipts and employ thousands of people who have statutory duties in terms of delivering certain services, along with other professional providers. As services such as Police and Fire move to a national service structure it is difficult to see Community Councils having the ability to play a significant part in the operational delivery of public services, but they should continue to comment on aspects such as their experience of service delivery and highlighting improvements required.

There are structural and institutional type limitations as well. Lack of resources, time pressures and the voluntary nature of community councils means that their contributory role is to an extent limited and many may lack the required confidence, expertise or professional background in budgeting or financial delivery, so their involvement in design and delivery will be shaped more by their experience as public service users and more practical in nature. Capacity building is critical, as is attracting those who already have the desired skills and knowledge.

Community Councils can play a role in arriving at solutions for better service delivery, but there would be major governance, accountability and capacity issues in them delivering a public service.

Q8. What changes, if any, to existing community council legislation can be made to help enable community councils maximise their positive role in communities?

Community Councils are theoretically the only nationwide system in place for community representation and from 30th April 2012 the Directors of Association of Scottish Community Councils closed down the charity, and therefore its services to Community Councils, Community Councillors, the general public, Local Authorities and other agencies.

Consideration should be given to the establishment of a body along the lines of the Association to consider the role of Community Councils specifically (possibly short-term working group, rather than a statutory body). The final figures from the Association showed just short of 20% of all community councils are suspended due to lack of members and 90% of members of community councils which are operational are returned unopposed. The issue therefore seems to go to the heart of participation and is not necessarily one that will be solved with legislation.

There would also need to be consideration of whether community councillors would be willing to take on the risks of delivering a successful project or whether community councils should become a separate legal entity with distinct legal personality in order to maximise their role. At present there is insufficient regulation for example as to how assets are to be dealt with on the dissolution of a community council.

Generally it requires to be noted that communities are often wider than simply geographic and there also exists communities of interest such as business. We should ensure that these communities of interest are adequately represented.

We would suggest that an attitudinal rather than a legislative change would have a greater effect. However, we would suggest that community councils should have a statutory role in terms of establishing need, designing service, and monitoring the services provided.

Third Sector

Q9. How can the third sector work with Community Planning partners and communities to ensure the participation of communities in the Community Planning process?

Scottish Land & Estates recognises the significant contribution which the third sector makes and believes that it could be a key player in delivering an integrated approach. Third sector agencies could play a key role in helping build capacity and skills within a community – but the role the private sector could also play should not be ignored.

National Standards

Q10. Should there be a duty on the public sector to follow the National Standards for Community Engagement?

No

Please give reasons for your response

There must be accountability and a means of measuring adherence to this. The National Standards exist as a guide at present, but compulsion would not be a step forward. If there was to be enshrined a “minimum standard” this may be more helpful. Instead of making the National Standards compulsory, research should be undertaken as to how they are working in practice e.g. how many bodies have adopted them and are there any geographical or sector variations?

It is understood that many Community Planning Partnerships and other bodies have adopted the National Standards already, in which case imposing a duty would seem to be unnecessarily onerous. In the first place attention should be given to their practice now and further guidance as to what the minimum standard ought to be.

Specifically in relation to Planning it is clear that authorities are expected to adhere to National Standards and failure to do so will be exposed through the development plan examination process. There is therefore no need for the burden of further legislation.

Community engagement plans

Q11. Should there be a duty on the public sector to publish and communicate a community engagement plan?

Yes

Please give reasons for your response

A duty to publish a community engagement plan would be welcome. This should not be onerous on the public sector since it should simply be setting out what the bodies are already undertaking. It could be communicated through local authority websites or standard Council publications etc. It would be important that the plan was current and easily updated because a plan which was set and unchanging could be perceived as worse than not publishing a plan in the first place.

It should be a clear straightforward document which is easily understood and not in jargon or “government speak”.

If you said ‘yes’ to Question 11, please answer part a. –

a. What information would be included in a community engagement plan?

Setting out types of engagement, both the purpose of and the principles behind; particular dates e.g. public budget consultation dates and venues if appropriate; contact details for the "public facing" side of respective departments; responsibilities of partner organisations so it is "joined-up"; examples of best practice; reference to the usual internal complaints or Ombudsman role; an annex with Community Council and Residents' groups' details – kept updated; information on how feedback will be provided and an action plan.

Auditing

Q12. Should community participation be made a more significant part of the audit of best value and Community Planning?

Community participation should continue to play a part, but the difficulty is whether a more significant part in relation to that would be at the expense of other areas. For instance, stakeholder engagement is arguably as important. Also other areas may overlap. Governance and accountability is an integral part of auditing best value and if the governance is weak or if accountability is limited in an organisation then consequently that may no doubt be reflected in the quality of community participation.

Named Officer

Q13. Should public sector authority have a named accountable officer, responsible for community participation and acting as a primary point of contact for communities?

No

Please give reasons for your response

Any new legislation should definitely not be seen as chiefly being about requiring the appointment of individuals. Different departments or sectors of public sector authorities may presently oversee community contact and engagement and will have experience in their own field. That specialist knowledge or experience could well be lost by the creation of a specific officer post and indeed could also result in duplication of work. There is also an increased potential risk that the individual may not be effective in dealing with a wide-range of complex functions and issues.

There is also a potential danger by establishing a specific accountable officer, that accountability as a whole is lost or reduced by a feeling that someone else deals with this and it is seen as being removed or remote, rather than an integral part of a section or team's area of work.

Rather, there should be a clear primary point of contact in the different parts of the public sector authority ensuring that participation is not lost in some centralised role, but is an essential part of that team or section's work.

Tenants' right to manage

Q14. Can the Scottish Government do more to promote the use of the existing tenant management rights in sections 55 and 56 of the Housing (Scotland) 2001 Act?

N/A

Please give reasons for your response

Scottish Land & Estates does not hold a view on this question.

Q15. Should the current provisions be amended to make it easier for tenants and

community groups to manage housing services in their area?

Yes No

Please give reasons for your response

Scottish Land & Estates does not hold a view on this question.

Community service delivery

Q16. Can current processes be improved to give community groups better access to public service delivery contracts?

Yes

Please give reasons for your response

We are supportive of the Scottish Government's plans to review current procurement legislation. One of the main non-legislative issues which currently exists is the lack of awareness of public service delivery contract opportunities. Although the Scottish Government has launched the Public Contracts Scotland website, we believe that more needs to be done to promote opportunities to businesses. We have highlighted opportunities to our members and are happy to work with the Scottish Government to do more.

Q17. Should communities have the right to challenge service provision where they feel the service is not being run efficiently and that it does not meet their needs?

Yes

Please give reasons for your response

In situations where a "community" does not feel a service is being run efficiently and a need is not being met then a right to challenge would be welcome if appropriately enacted. Evidencing support for the challenge would be a very important first step. This should not be overly bureaucratic, but there is a need to show a genuine "widespread" concern not individual grievance. This should be a central role of a well functioning community council.

The right to challenge would permit voluntary and community bodies to play a proactive role in identifying local services where their expertise, local knowledge and capacity for innovation could enable more effective delivery.

The "community" through the community council could then work with the local authority to draw up a plan to provide better local services through the dialogue that the amending process would provide. This "innovation" could help to establish a more diverse and efficient method of service delivery.

The right to challenge should not give the "community" a right to deliver public services on behalf of the local authority. Instead, it ought to permit community and voluntary groups to work with the local authority to suggest ways in which services could be improved, and develop a plan to harness the strengths of individuals and communities to improve service delivery. When the "expression of interest" reaches the stage where it can be accepted, the local authority would need to undertake a procurement exercise for the relevant service which would be open to other bodies, as well as the one which submitted the "expression of interest". In introducing a right of challenge, EU procurement and competition laws will

require to be borne in mind and how they would interact with any new right introduced.

There would also need to be a duty on the local authority to take action, and some kind of sanction on the local authority which does not address the concerns. If there is no actual recourse then this power is meaningless.

Community directed spending – participatory budgeting

Q18. Should communities have a greater role in deciding how budgets are spent in their areas?

Yes

Please give reasons for your response

Participatory budgeting can have a role to play if it is designed and delivered locally, but it should not be seen as a panacea. Its overall impact has been limited and safeguards would need to be built in, for instance to ensure “louder” individuals who appear to speak for the “majority” in fact are doing that. Those involved in participatory budgeting also need the background information and skills to make an effective contribution. It is not solely the size of the role of communities which requires to be considered. Residents need to see their decisions being translated into real projects and services in their communities; otherwise the role would not be worthwhile or incentivise communities’ involvement.

Benefits of participatory budgeting can be difficult to judge as they are often seen as intangible (e.g. supporting the duty to involve communities and promote better community cohesion), but in principle having a greater role in budgetary spending would be worthwhile. That said, there would need to be significant consideration as to how it would work, specifically in terms of accountability and transparency.

Q19. Should communities be able to request the right to manage certain areas of spending within their local area?

Yes

Please give reasons for your response

This depends on the nature of “manage”. Communities could be given a role in helping allocate and determine aspects of local spending. However, it would be appropriate for the funds to be retained by the local authority and indeed it would be outwith the legal power of Community Councils for instance as the law currently stands for them to receive funds to actively spend in that way. There would need to be a transparent approach as there are issues with accountability and democratic approach. It should be borne in mind that the level of support required to make this workable may be considerable, especially where there is disagreement regarding priorities.

If you said ‘yes’ to Question 19, please answer parts a., b. and c. –

a. What areas of spending should a community be responsible for?

Local roads or footways budgets could possibly be devolved to neighbourhood areas – this is the type of area where local knowledge (as pedestrians, cyclists or motorists) could prove beneficial in ensuring best local return for funds spent. Similarly local parks or small-scale recreational areas.

Scottish Land & Estates view small scale regeneration environmental projects or local facility provision as the most appropriate areas for this as "ownership" of a project often means that it is delivered more cost effectively.

b. Who, or what body, within a community should be responsible for making decisions on how the budget is spent?

An example may be the local councillors in the area, one representative from each community council (or at least an equal number) or where a community council is not operational one other community representative.

All supported by council officer advice, background information and support.

The latter is essential to put the decisions into context and to assist with prioritisation and establishing neutrality or resolving potential disputes or issues.

However, Scottish Land & Estates recognises that as well as communities of place, there also exist communities of interest and the process of engagement with the latter requires to be considered.

c. How can we ensure that decisions on how the budget is spent are made in a fair way and consider the views of everyone within the community?

It is important that it is simply one, or if more, an equal number of representatives from each community to ensure equity. Tenants' organisations or other groups in a local area would therefore require to feed in to the process through the Community Council or through the local elected members. The relevant participatory meetings could also take place in the local community where the decisions will effect, rather than a central location within the authority.

Definitions for Part 1

Q20. Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 1. Please also give us examples of any definitions that you feel have worked well in practice Scottish Land & Estates considers it vital that there is a clear definition of "community". There is no consistent approach, for example through land reform and planning at present and there requires to be recognition that communities may be communities of place or communities of interest.

"Community Engagement" means an ongoing process of developing permanent relationships by informing, consulting and involving all stakeholders through identifiable communication and interaction, including, but not limited to correspondence and telephoning, public meetings, questionnaires or surveys and all social media.

"Public Services" should be defined to mean a service delivered for the public or the benefit of the public by a local authority, civil service or governmental body etc and including a private sector body undertaking a public service.

PART 2: UNLOCKING ENTERPRISING COMMUNITY DEVELOPMENT

Community right to buy

Q21. Would you support a community right to buy for urban communities?

Yes

Please give reasons for your response

Scottish Land & Estates accepts the extension of the rural right to buy to urban communities in its current form.

It requires to be clarified the extent to which an urban right to buy would be made available i.e. would this affect both private and public sector urban land sales. Also, the introduction of such a right should exempt gifts and succession, but overall a community right to buy for urban communities should be supported.

As per the existing rural guidance, bodies may wish to consider buying urban land by agreement without the use of the legislation. Also, the reality of the financial aspects should be made fully aware to the community from the outset. The ongoing sustainable management and true costs of any development plans must be understood and detailed.

Ownership of land and assets by communities in rural and urban areas is already possible without changes to the legislation. Many examples of successful community ownership, such as Gigha, took place without recourse to the Land Reform Act. A right to buy should not be imposed (a willing seller must still be the key component of the right to buy provision) or seen as the first resort, rather as an option suitable in some cases. We would reiterate our view that the extension to urban areas must include the key premise of willing seller/willing buyer.

We reiterate our view that any extension to the right to buy should not happen until the current Land reform Review has been completed.

If you said 'yes' to Question 21, please answer parts a., b. and c.:

a. Should an urban community right to buy work in the same way as the existing community right to buy (as set out in Part II of the Land Reform (Scotland) Act 2003)?

It would be sensible for the urban community right to buy to be exercised in a similar way, that is that it only be exercised if the land in question is put up for sale, and the community has previously registered its interest in a process. There should be a rigorous application procedure, including that of public interest and clear deadlines which would be set out in statute.

As with the existing right to buy "community bodies" must be companies limited by guarantee with Memorandum and Articles. This creates a legal entity and uniformity and is welcome.

The renewal of registrations every five years should also be emulated. This means the demonstration of an ongoing public interest and is not onerous on a community body.

As with rural community right to buy, there should be a requirement for viable business plans to be produced by the community. Long term sustainability as well as short term development must be covered.

If the urban right followed the pattern of the existing community right to buy in rural communities, this would mean a community body being able to register a right of pre-emption against property with the community body having first refusal for about 6 months after one decided to sell, before the property could be put on the open market. While

in theory the community body has to pay market value, the market value as fixed by the District Valuers is low, and can be difficult to appeal without the evidence from a proper marketing campaign. Therefore, the potential effect of lowering prices and reducing even further the loan to value ratio banks would be prepared to lend at is something which ought to be borne in mind given the current recessionary impact on high streets. Issues identified with the existing rural right to buy need to be addressed before any extension of the right to urban areas.

The rural community right to buy legislation for instance contains numerous references to “sustainable development”. The guidance does not define or clarify this and gives Ministers wide discretion. Without economic sustainability, it is not possible to deliver social or environmental sustainability. The definition perhaps needs to be tightened in introducing any new urban right to require specific detailed reference to long-term development and management of the property and the tangible benefit which is realistically expected i.e. a move away from simply aspiration to the practical and reference to consideration of the market price at the time.

There are examples of rural community buyouts where a business plan provided by a community body was more aspirational than realistic, and is now leading to difficulties.

Governance post purchase is also an issue which must be considered as part of the business planning process, as this is crucial to effective decision making and the ability to deliver the business plan.

Should discussions as part of the Land Reform Review Group result in changes affecting the nature of the rural community right to buy, Scottish Land & Estates reserves the right to change its view in relation to the urban right to buy.

b. How should an ‘urban community’ be defined?

Scottish Land & Estates would welcome the opportunity to discuss further how a community interest can be defined in legislation. At present the rural community is defined solely by reference to place, which carries with it an assumption that the community is homogeneous, whereas it may be far from that. Communities of interest require to be considered too.

c. How would an urban and rural community right to buy work alongside each other?

As mentioned above, it is noticeable that the existing community right to buy is subject of a Government review which has to report in due course. It is imperative that we await the outcome of that review before modelling the proposed urban right on that system. How they would work together in practice should then be considered following the outcome of the current review.

Scottish Land & Estates envisages a uniform approach to right to buy across the whole of Scotland.

Community asset transfer

Q22. The public sector owns assets on behalf of the people of Scotland. Under what circumstances would you consider it appropriate to transfer unused or underused public sector assets to individual communities?

The terms “unused” or “underused” require to be defined, specifically who is determining the application of these terms. Also, the term “asset”. It is important that long-term viability

is considered, not simply the initial transfer. A business plan should be a requirement to be provided by "individual communities", which should clearly identify need. If there is not an economically sustainable plan then the problem of the "unused" or "underused" asset could simply be replicated at a future date. It is important that this is not simply a way for a local authority to offload liabilities.

Outright community ownership may frequently not be the most appropriate or effective way of enabling an individual community to release the potential of an asset. Leasing or sharing responsibilities for managements may also be options and so individual circumstances require to be considered.

There may also be concerns that an "underused" asset is in fact provided to assist a vulnerable group which may not be lucrative for the public sector or widely popular in the community, but which serves a need. It could be that transfer of such an asset may be a divisive issue for a community. Similarly a "green space" may be relatively unused, but the value of the space is arguably that.

Transfer should presumably only be considered where there are resources and plans for viability, public support and existing capacity or process for growing and building this.

If a transfer to a community body is to be successful, then it requires to be an "asset". If a property is "underused" it may in fact be a liability and this must be taken into consideration.

In relation to an "underused" asset TUPE provisions may need to be considered if there are staff transferred with an asset.

Please also answer parts a. to d. below:

a. What information should a community body be required to provide during the asset transfer process?

There needs to be a definition of an eligible community body which requires any voluntary organisations or social enterprises that may come forward to present clear evidence of their links to the relevant community, and show clear support from the wider community. Evidence should also be provided as to the capacity of the group involved and the availability of support to allow that capacity to be built on and informed choices to be made. Any body claiming to be a "community" needs to be scrutinised at the outset to ensure they are obviously representative of and accountable to the community.

b. What information should a public sector authority be required to provide during the asset transfer process?

All standard conveyancing documentation, including, but not limited to the following:- complete title deeds, including burdens on the land; details of any rights of way or other core path or access right information; details of the relevant zoning re planning and also information on use class; all wayleave agreements known to be in existence; information regarding services and utilities e.g. gas, electricity, telephone and water; Council Tax or non-domestic rating banding; confirmation of insurance cover.

Financial information should also be provided, including costs of annual maintenance, any known repairs and estimated costs, and last 3 years accounts for management of the asset and associated service where applicable.

c. What, if any, conditions should be placed on a public sector authority when an asset is transferred from the public sector to a community?

There should be ongoing monitoring and a review after six months and then a year etc to identify progress. It would be pointless to proceed with the costs involved in a transfer if the actual situation does not change. There may be an argument for the asset to be returned to the public sector if usage or management depart from the original business plan, or management by the community becomes unviable. d. What, if any, conditions should be placed on a community group when an asset is transferred from a public sector body to a community?

The community group should report at appropriate intervals against its business plan and specifically against the declared community benefits that were to be delivered. The business plan should clearly identify these from the outset.

Q23. Should communities have a power to request the public sector transfer certain unused or underused assets?

Yes

Please give reasons for your response

Communities should be able to request, but asset transfer should be a choice and not an imposition and there should also be the right on the part of the local authority to reasonably refuse the request where it is inappropriate. It may also be that a long-term lease is the most appropriate method of transfer rather than transfer of title itself. Similarly local authorities do have statutory obligations in terms of "best value" in the disposal of all assets and if at less than market value there may be financial implications on a councils' revenue income or investment programme.

Q24. Should communities have a right to buy an asset if they have managed or leased it for a certain period of time?

Yes

Please give reasons for your response

There may in certain circumstances be a suitable opportunity for a community to acquire an asset they have managed or leased for a period of time, which should be a period of a minimum of 10 or 15 years. It is accepted that a good track record is beneficial. However, this should not be established as an all-encompassing right, it should just be an option that may be considered by the owner of the asset and the community. It is dependent on each situation and outright ownership as mentioned earlier is not necessarily always the best option for a community, nor the most sustainable .

If you said 'yes' to Question 24, please answer part a:

a. What, if any, conditions should be met before a community is allowed to buy an asset in these circumstances?

N/A

Common good

Q25. Do the current rules surrounding common good assets act as a barrier to their effective use by either local authorities or communities?

Yes

Please give reasons for your response

There is a lack of consistent understanding of what the actual term "common good" means which in turn can effect a misunderstanding as to what assets are held under it. The range and value of assets under the common good can be difficult to ascertain. Changes to staffing, restructuring of local government and reorganisation of departments as well as budgetary pressures are all obviously barriers to record-keeping of the "common good". The frequency of court actions in relation to the "common good", specifically at time of purported disposal goes to suggest that the rules are unclear in practice. Larger local authorities with whom title to the "common good" rests are also a step removed from the old smaller burgh authorities.

Q26. Should common good assets continue to be looked after by local authorities?

Yes

Please give reasons for your response

Local authorities are the statutory successors to the former burgh authorities and are best placed at present, with appropriately experienced staff etc to manage the common good. That is not to suggest that they cannot involve other stakeholders or interested parties where appropriate, but the assets should be looked after by the authority.

If you said 'yes' to Question 26, please answer parts a. and b.:

a. What should a local authority's duties towards common good assets be and should these assets continue to be accounted for separately from the rest of the local authority's estate?

In order to be accounted for the local authority requires to know that the assets exist and form part of the "common good". A register should be established to identify these assets per authority. This may be something which could actively engage communities and result in increased participation e.g. community councils or historical societies.

Sums involved in "common good" can be significant so separate accounting is more transparent. If separate accounts are not maintained this also raises questions about the local authority's stewarding of the "common good". Therefore we fully support the view that they should be separate.

b. Should communities have a right to decide, or be consulted upon, how common good assets are used or how the income from common good assets is spent?

The focus initially requires to be on local authorities building up a publicly accessible accurate and diligent register of assets in conjunction with community groups as specified above. Consultation should in the first place be about getting comprehensive registers in place and the use and income would be considered secondary to that. The register would help give a steer as to both future use and spending.

If you said 'no' to Question 25, please answer part c.:

c. Who should be responsible for common good assets and how should they be managed?

N/A

Asset management

Q27. Should all public sector authorities be required to make their asset registers available to the public?

Yes

Please give reasons for your response

There cannot be a sensible debate about what decisions councils make without full information. It would not be desirable for central government to simply tell councils to sell some property, and until the public can see a full list of the assets involved they are in the dark. These decisions should not be taken without proper scrutiny and debate and publicising the asset register allows the public to engage in decisions.

There may be a need for some exceptions to this e.g. certain operational properties which house or support vulnerable clients may need to be omitted from the register in order to ensure the wellbeing of those individuals.

If you said 'yes' to Question 27, please answer part a.:

a. What information should the asset register contain?

Scottish Land & Estates considers the following items ought to be included:

- A brief description of the asset, including location
- Which department holds responsibility for the asset
- Which departments use the asset
- The date of acquisition of the asset
- The last date the asset register was reviewed or updated
- The value of the asset
- Any gains or losses made on the disposal of an asset
- Any listing or other special designations or use class
- Any known risks to the asset
- Insurance details

Any relevant contact details for further information

Q28. Should all public sector authorities be required to make their asset management plans available to the public?

Yes

Please give reasons for your response

Effective community planning requires awareness of how public sector assets are to be managed and asset management plans should consequently be made publicly available. For the sake of accountability and transparency this should be mandatory. It will give the public a better idea as to building maintenance etc required and could act as a catalyst for economic and social regeneration. It may stimulate the involvement of local people and

communities in shaping their area and act as a stimulus for partnership working.

If you said 'yes' to Question 28, please answer part a.:

a. What information should the asset management plan contain?

There should be a cycle of say five years relating to the acquisition, disposal and maintenance of assets. It should be reviewed and updated annually within that period. The aim would be to identify the local authority's future property and asset management requirements, provide an overview of existing assets held, establish aims and objectives and set out how they will be implemented.

The plan should not be seen in isolation but linked with the local authority's corporate and service delivery needs and other resource planning. It needs to set out a strategic direction for the managing and direction of the local authority's resources.

Q29. Should each public sector authority have an officer to co-ordinate engagement and strategy on community asset transfer and management?

No

Please give reasons for your response

There requires to be co-ordination and engagement, but it is questionable whether a dedicated officer is required.

Q30. Would you recommend any other way of enabling a community to access information on public sector assets?

An approach could be made through their elected representatives – councillors, MSPs, MP or through public libraries.

The information should be made available online.

Allotments

Q31. What, if any, changes should be made to existing legislation on allotments?

The existing legislation from 1892, 1919, 1922 and 1950 requires to be updated and ideally consolidated. There is little to be gained from tinkering with the existing Acts.

A consolidated Act should reflect the more contemporary type of allotments and also recognise the private sector as landowner/landlord as manager of land let for allotments, as opposed simply local authorities. The original legislation is skewed to local authority letting to tenants, but the subsequent legislation does, at least in part, envisage private letting of allotment sites in the wording of some sections. This is particularly in relation to termination of tenancies and compensation to both lessor and tenant.

It would be useful for the definition of allotments to be clarified as there is reference to both allotments and allotment gardens; specifically measurements could be updated to metric scale.

We would like to draw attention to the guidance for landowners on the provision of land for allotments which includes a model lease.

Q32. Are there any other measures that could be included in legislation to support communities taking forward grow-your-own projects?

Scottish Land & Estates appreciates that while allotments are important and ought to be supported and extended, they are not necessarily for everyone and there are numerous other forms of community growing which may also be encouraged. These include community gardens, orchards, growing cooperatives and school-linked projects. This diversity should be recognised in order to properly reflect the scope of "grow your own" and that it is not a one-size fits all.

Local authorities could be placed under a duty to map further green spaces suitable for short-term growing spaces beyond the existing work by the larger city authorities. Generally, new legislation may assist in putting community food growing farther up the agenda of local authorities.

There is potential for "grow your own" projects to be better recognised by local authorities on drawing up section 75 planning gain agreements where evidence of local demand exists for such provision, be it allotments or other community growing spaces.

The 1892 Act in relation to allotments contains a clear set of responsibilities, duties and land tenure lease agreements, but no time frame for local authorities to fulfil these. Where representations are made by local people to the effect that the Council needs to take action in terms of the Act, the Council is obliged to take these representations into consideration.

Whether through enquiry following on such representations or through other means the Council concludes there is a demand for allotments it is obliged to acquire any suitable land which may be available- to be let as allotments to local residents. However, the lack of a time-frame is arguably used by some local authorities to effectively stop the creation of allotments and so an agreed time period set out in legislation would be useful to close what is basically a loop-hole. This could potentially be the period between community representations evidencing demand and actual construction.

We have many examples of landowners making land available for allotments, we also recognise that some landowners are reluctant to release land in and around settlements where they may have future development potential. Taxation or other incentives for landowners to release land would undoubtedly assist. Landowners are concerned that once land is made available for allotments or farms, new legislation could be introduced retrospectively which may well prevent resumption of the land, therefore an appropriate safeguards for short-term leasing of land for "grow your own" projects would address this concern and assist in making land available.

In terms of public land, where local authorities are wishing to dispose of land to reduce their asset liabilities, there could be a process to make that more straightforward, for instance rather than individual site applications, a block planning application or permitted development rights to change the land to allotments or to community groups for "grow your own" to save time and money.

Definitions for Part 2

Q33. Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 2. Please also give us examples of any definitions that you feel have worked well in practice

It needs to be clarified what is meant by "Asset" i.e. is this a resource already existing and developed or transferred and built, or a future resource to be grown and created?

The measure of the benefit to the community needs to be considered i.e. how could it be guaranteed that the whole community was advantaged from the asset and not just one community interest group? There is a risk that the wider community would be excluded with community groups not always representing the interests of the entire community.

Existing best value and procurement rules need to be reviewed to see how the proposals here fit in with those.

There also needs to be clear ruling regarding what the "legal entity" of the community body or other model is.

PART 3: RENEWING OUR COMMUNITIES

Leases and temporary uses

Q34. Should communities have a right to use or manage unused and underused public sector assets?

No

Please give reasons for your response

There should not be an automatic right, but leasing of such assets (which require definition) may be a possible option. We would like to reiterate our view that community management or ownership of an asset is one of a range of options that should be considered and not viewed as the de facto solution for every case.

There should need to be a requirement for the community to show financial viability to look after the asset longer-term.

If you said yes to Question 34, please answer parts a., b. and c.:

a. In what circumstances should a community be able to use or manage unused or underused public sector assets?

N/A

b. What, if any, conditions should be placed on a community's right to use or manage public sector assets?

N/A

c. What types of asset should be included?

N/A

Encouraging temporary use agreements

Q35. Should a temporary community use of land be made a class of permitted development?

No

Please give reasons for your response

We would only be able to support this proposal in principle if the change in use is only permissible with the landowner's agreement and that there would be no compulsion on him to change the use class of a particular piece of land.

We do have some concerns about further amendment to planning legislation, and believe that this might cause issues in terms of economic development and housing provision and could result in a decrease in land supply.

Our understanding is that temporary use of land by a community (particularly for community growing) can already happen and if proposal this is taken forward on the basis that a landowner must give his agreement for the temporary use by the community then we have no objection in principle.

In addition, safeguards must be in place to allow the reversion to the previous use class, and terms of agreement regarding the community use of the land must be agreed in advance of any change of use.

Q36. Should measures be introduced to ensure temporary community uses are not taken into account in decisions on future planning proposals?

Yes

Please give reasons for your response

Landowners and private owners generally will be more willing to permit temporary use of their land if this does not have long-lasting impact on their future plans for the land. The more risk is negated for the landowner, the more likely they will be to allow temporary usage.

Q37. Are there any other changes that could be made to make it easier for landlords and communities to enter into meanwhile or temporary use agreements?

Taxation incentives and transfer of legal liability for the proprietors.

Promotion of grant options for communities.

Dangerous and defective buildings

Q38. What changes should be made to local authorities' powers to recover costs for work they have carried out in relation to dangerous and defective buildings under the Building (Scotland) Act 2003?

There should be greater emphasis on pre-negotiations to establish if there is any reason why the owner of a defective building has not completed works before a notice is served – it may be that he cannot afford to do it in the first instance in which case there will have to be further discussions between the owner and local authority. There requires to be a degree of flexibility.

Q39. Should a process be put in place to allow communities to request a local authority exercise their existing powers in relation to dangerous and defective buildings under the Building (Scotland) Act 2003?

No

Please give reasons for your response

This is a matter for the expertise of the local authority. Individuals can through their local Councillors or Community Council feed in areas of concern, but it should remain a matter for the authority to make the appropriate decision. If communities were permitted to request, this could result in a variation of standards and potentially mean a concentration of requests in a specific area and consequently also potential neglect of statutory duties in other locales. Buildings may be derelict or eyesores, but this public perception does not necessarily equate to the building being dangerous.

The object of the Act is to ensure the safety of the public in or around buildings. It is therefore important that the action taken by a council is at all times proportionate to the state of the repair of the building.

Councils rightly consider first, the safety of the public and secondly the rights of the owner and political demands brought by community groups could well add unnecessary pressure to the process.

Compulsory purchase

Q40. Should communities have a right to request a local authority use a compulsory purchase order on their behalf?

No

Please give reasons for your response

Scottish Ministers already encourage local authorities to use compulsory purchase orders positively and proactively, in cases where an agreement cannot be reached, to promote sustainable economic growth, improve quality of life and bring real benefits to Scotland's communities.

The acquiring authority should be satisfied that the purposes for which it is making a compulsory purchase order justify interfering with the rights of the people affected. Compulsory purchase will not breach the European Convention on Human Rights (ECHR) where it is authorised by law, is proportionate and where it can be demonstrated to be in the public interest.

This reinforces the requirement that the authority should use compulsory purchase only where it is a proportionate response in the circumstances and there is a strong enough case for this in the public interest.

In deciding whether to confirm a compulsory purchase order Scottish Ministers will weigh up the public benefit in the authority's proposals against the interests of the people affected. The authority should be able to justify its proposals at any inquiry and, if necessary, in the courts.

A planning authority has compulsory purchase powers that it may use to assemble land where this is necessary to carry out the proposals in its development plan or other strategic planning documents. It can therefore be shown that the community already has an opportunity to engage in the development planning process (at local development plan stage and strategic development plan where applicable).

Another issue with allowing the community to compel local authorities to use compulsory purchase orders would be in the paying of compensation to the owner – would this come from community funds rather than the local authorities?

Would the local authority be able to charge the community a fee for their service or would it be paid out of the public purse? At a time of increasing pressure on both public and private sectors and at a time of fewer available resources within local authorities it would not be appropriate to proceed with this.

We believe that the community should not have a statutory right to request a local authority use compulsory purchase orders. There seem to be too many unanswered questions about how the process would work, particularly in relation to how a request will be considered consistently by local authorities. In practice communities are given plenty of opportunity to

engage in the development of their community and compulsory purchase orders can be a very lengthy and costly process.

We also recognise that the Scottish Government has been working very hard over recent years to improve the compulsory purchase order process and has produced new guidance for both acquiring authorities and those owners and occupiers of land and buildings subject to compulsory purchase order. Additional changes at this time would cause confusion and could impact negatively on the positive work which has been undertaken.

If you said 'yes' to Question 40, please answer part a.a. What issues (in addition to the existing legal requirements) would have to be considered when developing such a right?

N/A

Q41. Should communities have a right to request they take over property that has been compulsory purchased by the local authority?

No

Please give reasons for your response

We would suggest that in many cases the community taking over the asset will be the best option but we do not believe that there should be a right to request.

Scottish Land & Estates would wish further clarity as to how this would work in practice.

If you said 'yes' to question 41, please answer part a.:

a. What conditions, if any, should apply to such a transfer?

N/A

Power to enforce sale or lease of empty property

Q42. Should local authorities be given additional powers to sell or lease longterm empty homes where it is in the public interest to do so?

No

Please give reasons for your response

Scottish Land & Estates believes that prior to looking at additional powers, attention should be given to the powers which already exist. It is appreciated that empty properties are by and large not in the interests of a local community where they may have a negative impact on the housing market or result in some practical problems such as anti-social behaviour, fly-tipping, vandalism, arson, drugs misuse etc. There are at present various statutory mechanisms to deal with many of these issues. Therefore these require to be enforced in the first place.

Any currently proposed changes to how empty houses are dealt with as well as encouragement through local authority support and the Scottish Government's Empty Homes Loan Fund should be given time to take effect before any additional powers are mooted.

If a Council enforces the sale of an empty property, it should be sold on the open market, but the owner should not be required to accept any offers below the DV valuation (which is often below market value).

It has to be acknowledged too that mortgages are not necessarily easily found where someone wishes to rescue an empty property. The problem is that "old ruins" will not be worth much until they are renovated. Many people will want to borrow more money for the combined costs of purchase and renovation, than the property is actually worth in its wrecked state.

From a lenders point of view this is high risk, because if they default on their payments the property is not worth enough for them to recover the loan if they repossess the property. There may therefore not be a substantial market in the first place if the local authority were seeking to sell such a property.

Homes may be empty for a variety of reasons, such as a complex executry following a death, holiday lets or second homes or where the owner is away receiving care or in prison or the property is flood damaged. Since every property potentially has different reasons why it may be empty different solutions should be considered rather than unilateral additional powers for local authorities. Introducing such additional powers may also raise unrealistic expectations and there may equally be ECHR concerns.

In terms of leasing, the local authority would also have to be able to demonstrate that there is demand for the housing and would also have to ensure that adequate rental payments were made available for the use of the asset. The owner would also have to give his permission for any improvements to the property and subsequent financial liability.

We would refer you to comments we have made in relation to unoccupied premises in other consultations and recent evidence we provided to the Scottish Parliament, and would be happy to provide further comments.

If you said 'yes' to Question 42, please answer parts a., b. and c.:

a. In what circumstances should a local authority be able to enforce a sale and what minimum criteria would need to be met?

N/A

b. In what circumstances should a local authority be able to apply for the right to lease an empty home?

N/A

c. Should a local authority be required to apply to the courts for an order to sell or lease a home?

N/A

Please give reasons for your response

N/A

Q43. Should local authorities be given powers to sell or lease long-term empty and unused non-domestic property where it is in the public interest to do so?

No

Please give reasons for your response

While we can support the intentions of this proposal, we do have concerns regarding unintended consequences. For example, a property may be empty but will be a key part of a long term development plan for a business.

Hence, the forced sale or lease of an individual property may affect the long term viability of a project impacting on delivery of economic benefits to an area.

Much depends upon the nature of the “public interest”, but it is questionable whether local authorities are really able to demonstrate that they can manage property more effectively than a commercial owner and indeed the circumstances in which that would arise. At present many local authorities are struggling with their existing portfolios or seeking to rationalise these as opposed to taking on further estate.

One could also have a situation whereby a detailed or complex planning application has not been determined and it would seem invidious for a local authority to step in if a property was unused for that type of reason.

The European Convention of Human Rights (ECHR) also sets out a clear framework regarding individuals’ property rights. In terms of the sale, again the owner should not be required to accept any offers below DV valuation.

If you said ‘yes’ to Question 43, please answer parts a., b. and c.:

a. In what circumstances should a local authority be able to enforce the sale of a long-term empty and unused non-domestic property and what minimum criteria would need to be met?

N/A

b. In what circumstances could a local authority be able to apply for the right to lease and manage a long-term empty non-domestic property?

N/A

c. Should a local authority be required to apply to the courts for an order to sell or lease a long-term empty non-domestic property?

N/A

Please give reasons for your response

N/A

Q44. If a local authority enforces a sale of an empty property, should the local community have a ‘first right’ to buy or lease the property?

No

Please give reasons for your response

There is no reason why a community should be given a right of pre-emption. If a Council enforces the sale of an empty property, it should be sold on the open market, but the owner should not be required to accept any offers below the DV valuation. Any right of pre-emption reduces the valuation of a property and we would therefore not support this proposal.

If it is decided that community ownership/membership is the best option for a property then the communities should be supported in progressing this but this should not be on a pre-emptive basis.

If you said 'yes' to Question 44, please answer part a.:

a. In what circumstances should a community have the right to buy or lease the property before others?

N/A

Definitions for Part 3

Q45. Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 3. Please also give us examples of any definitions that you feel have worked well in practice Scottish Land & Estates has no comments to make at this time.

ASSESSING IMPACT

Q46. Please tell us about any potential impacts, either positive or negative, you feel any of the ideas in this consultation may have on particular group or groups of people?

Scottish Land & Estates considers that communities by their nature are diverse and while some may be well resourced and have a wide range of background expertise or knowledge others may not. It is therefore likely that any legislative changes may have a more pronounced uptake or impact in some communities than others.

We do think that the impact on owners of private property must be fully considered and the implications of ECHR must be fully understood, and as such these proposals should be subject to both ECHR scrutiny and a full economic impact assessment.

Provisions which could impact upon private property rights will have a detrimental impact upon inward investment confidence and retard economic growth in Scotland.

Q47. Please also tell us what potential there may be within these ideas to advance equality of opportunity between different groups and to foster good relations between different groups?

Scottish Land & Estates believes that this will really depend on local circumstances and the types of community involved.

Q48. Please tell us about any potential impacts, either positive or negative, you feel any of the ideas in this consultation may have on the environment? Some derelict or unused land may serve as a habitat for wildlife, both in urban and rural areas. Potentially biodiversity would suffer on bringing all such land back into use. There would of course be environmental benefits of bringing empty properties back into use for residential purposes rather than simply relying on new build to meet housing need.

Community growing spaces and allotments both have a positive impact on the environment as well as playing a role in terms of health and food security.

Q49. Please tell us about any potential economic or regulatory impacts, either positive or negative, you feel any of the proposals in this consultation may have?

The consultation paper itself does not make reference to the positive economic and social effect which businesses have on the communities in which they operate. The sense that businesses too are part of the community is not really evident in the consultation.

There is a misconception that privately owned land and buildings are unused simply as a matter of choice – this is not the case, and we have provided many examples of the varied reasons such as planning and lack of finance as to why properties are empty in our representation on the Unoccupied Premises Bill.

It is also not a foregone conclusion that ownership by community bodies would necessarily be preferable or better than ownership by private or third sector. Overall consideration of investment and the wider economy need to be given more explicit consideration in further reviewing the proposals.

In terms of local authorities the full impact on them would need to be considered. The implications of some of the proposals would impose more duties and responsibilities on them. This would no doubt entail greater costs in public administration. We therefore recognise that some of the proposals would represent an extra regulatory burden and place further financial constraints on them and consequently on the taxpayer.

The paper also does not make reference to any impact on market value that occurs from any right of pre-emption.

A full economic impact assessment on the private sector, businesses and also local authorities must therefore be carried out.

Appendix Four

Summary of farm tenancy repairing obligations

Houses on let farms are usually treated as part of the fixed equipment of that farm in terms of the legislation, along with fences, sheds, roads etc. Respective obligations for repairs and renewals are set out in legislation and depend on the type of tenancy involved.

1991 Act tenancies

In 1991 Act leases, the landlord has an obligation to put the fixed equipment into a thorough state of repair and to renew it during the lease where required due to natural decay or fair wear and tear. However, many tenants and landlords have entered into post lease agreements (PLAs) which pass the replacement/renewal obligation back to the tenant usually in exchange for a reduced rent. PLAs may also reverse the requirement for the landlord to compensate a tenant for improvements to fixed equipment.

Since 2003 PLAs can no longer be entered into as they were perceived to unfairly benefit landlords. Tenants can apply to have existing PLAs nullified before a rent review to shift the obligation back to the landlord, as long as the fixed equipment is in a reasonable state of repair at that time or at least in no worse state than then the PLA was entered into. The subsequent rent review may then take the financial impact of change in obligations into account, usually by increasing the rent to reflect the landlord's increased financial burden.

Therefore, for 1991 Act tenancies where there is still an active PLA, the obligation for renewing and maintaining houses falls to the tenant. Where there is no PLA then the Landlord must renew and replace due to natural decay, fair wear and tear. In the latter case, the tenant must carry out repairs and maintenance, fair wear and tear excepted.

Limited Duration Tenancies and Short Limited Duration Tenancies

For LDTs and SLDTs the legislation requires the landlord to provide the fixed equipment in a thorough state of repair and to renew and replace fixed equipment as required due to natural decay or by fair wear and tear.

For new leases, the extent of fixed equipment should be listed in a schedule. The tenant must maintain fixed equipment in as good a state of repair as it was in at the time of the schedule was prepared or if it has been improved, renewed or replaced then the condition it was in immediately after.

Contracting out of Landlords' obligations is no longer permitted.

Appendix Five

Local Government and Regeneration Committee

Local Government Finance (unoccupied properties etc.) (Scotland) bill

Submission from Scottish Land & Estates

General

- Scottish Land & Estates is supportive of charging a Council Tax levy on longterm empty homes only where it is part of a package of measures to bring such properties back into use.
- It is important to ensure that the motivation for such a levy is not additional income generation for local authorities.
- To penalise owners of properties that required renovation or were in the process of renovation would be nonsensical and potentially counterproductive.
- There must be flexibility of approach by local authorities, as well as advice and information for owners and incentives.
- There must be proportionate levels of enforcement.
- The general condition of the economy requires to be considered as part of the review of non-domestic rates.
- We do not have comment to pass on the abolition of the Housing Support Grant.

Response to specific issues

- Council's should be able to apply additional time-limited exemptions in certain circumstances.
- There should be a duty on homeowners to inform their local authority where a home has been empty and unoccupied for 6 months.
- There should remain a distinction between an empty home and a second home.
- Long-term furnished and unfurnished properties ought to be treated the same.
- Revenue raised should be used to provide or enable affordable housing supply through a variety of ways, including funding infrastructure costs for such provision, especially in rural areas.

Scottish Land & Estates (formerly The Scottish Rural Property and Business Association) is a membership organisation, uniquely representing the interests of landowners and land managers in Scotland. Our membership includes those who own farms, landed estates and rural businesses throughout Scotland, as well as professional firms who advise rural landowners. Accordingly, Scottish Land & Estates and its membership are key stakeholders and therefore are pleased to take this opportunity to submit written evidence on the content of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill.

General comments:

As a member of the Scottish Empty Homes Partnership, Scottish Land & Estates agrees in principle with the removal of the current Council Tax discount on long-term empty properties as part of a package of measures and that there should be the ability to charge an additional levy equivalent of up to 100% of the Council Tax on long-term empty homes, where such purposes meet clearly defined criteria. However, it is important that local authorities are able identify local solutions to local problems and are not mandated to follow a blanket approach. Scottish Land & Estates does remain in favour of a sliding scale with a gradual increase to 100% over time.

We are concerned about the possibility of some properties simply being raised to remove liability for this additional levy or for others to be made into self-catering properties. Clearly neither result would make further housing stock available and in fact may make the letting of properties a less viable attraction for some owners thereby providing less affordable rented properties. These concerns need to be addressed.

On a practical level it requires to be borne in mind that abandoned houses in remote places will be caught by this additional levy when due to their remoteness they are either not of interest to a prospective tenant or would be uneconomic to refurbish. There are significant costs involved in refurbishing certain properties and the taxation position can change dramatically dependent upon circumstances, for example a period of non-occupation for 3 years prior to re-letting reduces the applicable VAT from 20% to 5%.

It is paramount that in the desire to bring empty properties back into use, owners are not penalised where steps are already being taken in good faith to refurbish empty properties. In fact, a wider package to incorporate incentives such as grants or loans to bring properties back into use and the provision of specific advice and information for owners of empty homes requires, to be part of the overall approach to empty properties in Scotland.

Response to specific issues:

It is recognised that local authorities may charge penalties of up to £200 where the owner either does not provide required information or provides false information. This is an increase from the current £50 penalty which it is appreciated, may not be cost effective for a local authority to pursue. Scottish Land and Estates agree with the need for a proportionate penalty. It is important the sanction is appropriate.

There is provision to enable some owners to claim a time limited exemption from the tax increase i.e. they would continue to pay council tax at a discounted rate of between 10% and 50%. This would be in addition to any existing time-limited exemptions the owner is eligible for and this would apply for instance after the six months period during which all homes classed as long term empty properties would be eligible for a council tax discount between 10% and 50%. This is welcome, for instance the mandatory exemption from the tax increase for up to twelve months for owners who are proactively attempting to sell their home at a reasonable price.

It is noted that the evidence justifying the exemption would be a matter for each local authority, and basic confirmation that property is on the market and a comparison of price with Home Report Valuation should be all that is required to avoid unnecessary costs or bureaucracy. Any exemption system should be straightforward and not unnecessarily burdensome.

Where a home is unfurnished and the local authority is satisfied that it is actively being marketed for sale, the owner may be exempt from Council Tax altogether for the first six months and then able to pay Council Tax at a discount rate for up to 18 months.

Once empty for two years, the owner would become liable for any increase the local authority decided to impose.

In terms of commercial properties and non-domestic rates it is thought that the period of exemption should be extended (or the 50% relief left in place) where properties are being refurbished and those refurbishments include improved energy efficiency measures.

A member of Scottish Land & Estates has illustrated the damage that was done to their small business, a rural business centre, particularly during these recessionary economic times, by levying non-domestic rates on empty commercial property.

In rural areas there are much fewer opportunities to attract new tenants during a recession than there are in urban areas of high business activity. This is a simple numbers game. Our member leased out office units which has been 90 - 100% full most of the time, ever since the early 1990s.

They are responsible for paying the non-domestic rates on the boardroom which is rented out on an hourly basis to tenants. However, they normally qualify for small business rates discount up to 100% as they have less than £20,000 of rateable value space in Scotland (tenants pay their own rates).

In summer 2011, one tenant went into administration and was then liquidated: 1 office vacant (and considerable expense required redecorating and re-carpeting – normally outgoing tenant's responsibility). In September 2011, a large tenant who rented 4 offices at the Centre left to establish their own purpose built premises: 4 offices vacant.

So our member ended up with 5 vacant offices (one since re-let in February 2012). After the 3 month "non-domestic rate" when a property first becomes vacant, the local authority began charging our member 50% of the normal rates payable on these 5 offices. In addition, all the vacant offices become our member's responsibility for nondomestic rates and so they lost their Small Business Rates Relief.

To put things in perspective, the average quarterly rent for each of the above mentioned 5 offices is £2,500 (£500 per month x 5 offices) = Total Rental Income lost £2,500 per month. The additional non-domestic rates they are currently paying per month (50% of full rates payable) add a cost to our member's business of £1,000 per month. The business receives a net negative impact from loss of rent, loss of small business rates relief and non-domestic rates obligations of £3,500 per month.

In addition, as is standard with many rural and urban businesses, there are still considerable costs (Service Charges) to cover such as maintenance, alarm systems, external and emergency lighting, etc. The Business has to pick up the vacant units' share of these (all costs are calculated on a square meterage of floor space basis).

Clearly, they cannot increase the other tenants' costs to cover vacant units' share of service charges. When those costs are added in, that cannot be passed on when units are vacant, there is another cost per month of circa £500 to add into the equation.

Total cost to our member's business is therefore £4,000 per month (including lost rent). Excluding lost rent, the specific cost of vacant property non-domestic rates and lost Small Business Rates Relief equals £1,500 pcm.

Apart from the fact that there is less income coming in to cover the costs illustrated above, our real concern is that private, rural, estate-run businesses pay considerable charges for rubbish collection and cardboard & paper recycling collections. They often also have their own waste treatment system (septic tanks for each building) and so do not receive many services from their local authority. It is simply a local tax. They often pay Scottish Water for their water and all other utilities.

In rural areas in particular there are therefore real concerns at present time in terms of the "costs of not doing business" culminated with the loss of rent already hitting business due to vacant offices.

In fairness our member has indicated that the local valuations office acknowledges that these charges are "unfair" but they simply point out that they are following Scottish Government guidelines.

Other Issues Not Covered by the Bill:

Scottish Land & Estates wishes to make the following comments on other issues relating to unoccupied properties and Council Tax:

Where there is a planning application to convert old housing into business premises there is very often an issue of deterioration in condition of the property which, because it is designated for complete change of use, makes it unrealistic to upgrade as an existing house or houses (e.g a Stable Block that may have several houses in it).

Where the local authority is aware that planning application procedures have been instigated and an application made for the change of use involving considerable expense, it seems unrealistic and unreasonable to treat said empty housing which is empty due to deterioration of condition (in other words not fit for habitation) as a normal lettable empty property.

We suggest that in such cases that local authorities be advised to establish the condition of the housing and also confirm the planning application process in order to "zero rate" the relevant house(s) for council tax. 50% empty property relief can still be very expensive when the property is clearly not going to be inhabited due to the change of use proposed

Appendix Six



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SCOTTISH ESTATES BUSINESS GROUP

Public Attitudes towards Estates in Scotland Report of Quantitative Research Findings



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CONTENTS

	Page No
Executive Summary	1
Background and Objectives	5
Method and Sample	7
Main Findings	10
1 Qualitative Findings	10
a Views on Scotland's land, ownership and management	10
b Perceptions and understanding of Estates	17
c Reactions to messages	22
d Communication	25
2 Quantitative Findings	28
a Attitudes towards Scotland's Countryside	28
b Awareness and Use of Facilities Offered by Estates	31
c Awareness and Understanding of the Role of Estates	33
Appendix: The Topic Guide & Questionnaire	

EXECUTIVE SUMMARY

Over the course of the last two years, George Street Research has been carrying out an extended programme of research on behalf of SRPBA and SEBG. The research comprised a series of eight focus groups across Scotland – in Dingwall, Glasgow, Peebles and Perth. This was followed up a quantitative survey of 1,135 adults (16+) in Scotland.

The findings of this research suggest that land ownership per se is not a top-of-mind issue for the general public and that limited consideration is given as to what land, or how much land, is privately owned. Whilst there is widespread enjoyment of Scotland's rural land, and some pride in its natural and cultural heritage, **the occasions when ownership becomes an issue for the public appear largely limited to incidents relating to access.** For a majority these incidents are few and far between and often relate purely to high profile media stories, often linked to some form of celebrity status.

Evidence of a lack of awareness and understanding of land ownership is supported when we assess estimates amongst the general public of the actual amount of land which is privately owned. Thirteen per cent suggested 30% or less of Scotland's land mass is privately owned, with 20% suggesting between 31% and 50%. Almost half of all respondents (46%) suggested more than 50% of Scotland's land is privately owned and a fifth (21%) were unable to provide an estimate.

There appears to be widespread understanding that there *are* "rights and wrongs" of land access and behaviour, although detailed understanding of the Land Reform (Scotland) Act or what is meant by the "Right to Roam" is very limited. **A majority of qualitative research participants feel protective of the land, place a real value on their access to it and are accepting and encouraging of responsible behaviour from all land users and owners.**

There is an evident appreciation for the rural landscape amongst the Scottish general public and perceived need for ensuring some form of custodians are in place to tend to it. Ninety-four per cent agree that *Scotland's rural land and countryside is an important part of our tourism offering.* A similar proportion (93%) agrees that *Scotland's rural land and countryside is an asset for everyone who lives in Scotland.* The majority (86%) agree that *sustainable rural development is important to the social, economic and environmental prosperity of Scotland.*

6352 Report v3.doc

Importantly for SEBG, SRPBA and their members, **the research shows that actual management and maintenance of rural assets tends to be taken for granted or assumed to be largely a function of nature.** Few would think to question how Scotland's countryside would look if left untended and land owners are unlikely to receive spontaneous credit for the responsibility that they take for land management.

Once prompted to think about land owners or estates, many revert to a stereotypical image of the "Monarch of the Glen", focusing on individuals or families and a perhaps outdated and romantic vision of estate activities. This is not in the main a negative perception; indeed, the findings suggest that the public rather treasure a traditional view of estates and their owners. It is more likely to be news of absentee landlords, foreign buyers or celebrity landlords that prompt criticism or negative comment, either linked to issues of access or to perceived lack of hands-on interest and involvement.

The wide ranging activities of estates or their contribution to local communities is little known or understood, although the benefits are largely accepted as credible and worthwhile. Indeed when asked to say how much they know about the roles or activities of Scotland's estates and landowners, only 1% of Scottish adults said they knew "a great deal". **Almost two thirds (65%) said they knew "very little / virtually nothing" or "nothing at all".** Seven per cent said they knew "a reasonable amount" and 18% said they knew "a little".

The best known facilities and attractions offered by any estates in Scotland are castles/ancestral homes (67% aware), followed by more typical "rural" activities such as fishing (67%), nature trails (62%), walking (59%) and hill-walking (55%). In terms of visits or use, castles / ancestral homes are the most popular (35% claim to have visited in the last year) followed by farm shops and walking /rambling (cited by 26% each).

Research participants were often quick to comment that these are all messages that estates should communicate more proactively to the public at large. There are no signs of particular negative feeling amongst the public that need to be addressed in communication.

The messages that generate the most positive response amongst a majority of the public relate to "sharing" (access to) well cared for natural resources and

6352 Report v3.doc

to provision of tourism and leisure facilities. These messages translate to real benefits for local residents and the local community, combined with a broader national interest in terms of “tourism is everyone’s business”. Indeed, across the population, there is widespread agreement that *development of facilities such as golf courses and tourism attractions on Scottish estates helps support our tourism sector* (82% agree).

Potential ‘harder’ commercial messages about economic contributions and business activities per se lack immediate salience for many respondents, although economic considerations and benefits are recognised at a secondary level.

These findings are encapsulated in the responses of research participants to a range of straplines that might be associated with landowners and estates in Scotland. **The phrases that prompted the most positive reactions included:**

- ***Sharing Scotland’s (Rural) Heritage***
- ***Providing free access for all in the Scottish Countryside***
- ***Enjoy Scotland’s countryside***
- ***Welcoming people to Scotland’s countryside***
- ***Caring for the Scottish Countryside***

The concept of “caring” was demonstrated by the term *Custodians of Scotland’s Countryside* and this was a very positive message in terms of sentiment, although the term “custodian” per se was thought to have connotations of pretentiousness and ‘aloofness’.

Group participants were asked to consider the ways in which these messages would be best conveyed to the public at large and a range of important channels was identified. **The most important channels for communication are consistently thought to be through “education” (links with schools), local press, television and word of mouth (ambassadors).** Local residents who have personal knowledge and experience of positive contact with estates and landowners, as well as employees of estates, all have potential to be strong ambassadors. In addition, the benefits of electronic communication and links with, for example VisitScotland, are thought to be important in conveying information relating to tourism and leisure activities.

In conclusion, we believe the most positive messages to build and enhance the public's perceptions of estates and landowners relate to sharing and caring for Scotland's natural resources. These very real benefits are already understood and appreciated by a large majority on a sub-conscious level. Positive and pro-active marketing and communication, on both a generic and an individual level, should be used to gently challenge the "take-it-for-granted" attitude and raise top-of-mind awareness of the very real contribution of estates.

On the basis of these research findings, our recommendations for future marketing and communications are summarised below:

- At a local (individual) level, use personal contact, local press and ambassadors (estate staff) to foster a sense of caring and sharing of natural resources. This should include pro-active announcements of specific initiatives / contributions such as open days, support of local events etc; Anyone perceived as "representing" an estate should be mindful of all local contact, whether formal or informal, as an opportunity to convey a sense of welcome, shared benefit and shared responsibility.
- At a local level, use physical signposting wherever possible to actively script and direct the public's welcome.
- At an individual level, foster and actively promote links with schools and young people that can build awareness of the countryside, educate on the wide-ranging roles and contributions of estates and landowners and engender positive appreciation amongst future generations.
- On a national level, use positive PR opportunities to counter occasional media comment on negative issues surrounding access to land.
- On a national level, seek to develop a consistent branding / communication device such as one of the straplines tested in research that can be used in support of individual estates' brands. The collective weight created by consistently using the same phrase or message will benefit all members in the long term.

BACKGROUND AND OBJECTIVES

The Scottish Estates Business Group (SEBG) represents progressive rural estates with significant business interests and the SEBG membership comprises around 20 of the major rural estates in Scotland. The organisation promotes the vision and interests of its members to policy makers and a broad spectrum of stakeholders. Members subscribe to a Code of Good Practice and work in partnership with others to help maintain a vibrant rural economy. Overall, SEBG seeks to manage Scotland's rural assets in a way which is economically, environmentally and socially sustainable.

The Scottish Rural Property and Business Association (SRPBA) represents the role and interests of those involved with rural property and businesses connected with the land. The organisation aims to bring together those whose homes, interests and businesses are found within the Scottish countryside and rural settlements and to represent its members' interests at the highest level. It further aims to contribute to the formulation of rural policy, promote rural enterprise and rural development in Scotland and work with government and other organisations, to achieve mutual objectives. Importantly, it also seeks to demonstrate the wider benefits of its members' activities to the community and to the Scottish rural economy.

SEBG and SRPBA jointly identified a need to commission independent and objective research amongst the general public in order to gather properly researched information (hitherto unavailable) which could better inform decision-making and strategic thinking for future land use in Scotland.

As two organisations' with significant involvement in delivering best practice in future land use across much of Scotland, the organisations felt such research would be a useful contribution to their overarching strategy to promote an appropriate, modern and integrated approach to future land use and management and to achieve enhanced, sustainable, economic, social and environmental benefit for the wider Scottish rural economy

The two organisations commissioned George Street Research, an independent market research agency based in Scotland, to undertake an extended programme of exploratory research over the course of two years to fulfil the following broad objectives in order to guide the development of communications:

6352 Report v3.doc

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- ✓ To gauge awareness and understanding of the role and contribution of estates amongst a broad cross-section of the general public in Scotland;
 - ✓ To assess current perceptions of, and attitudes towards, estates in Scotland;
 - ✓ To understand key messages and drivers with potential to build and enhance the public's perceptions of estates e.g. green agenda, built heritage agenda, economic impact;
 - ✓ To identify appropriate styles, tones and channels for effective communication with the general public.

METHOD AND SAMPLE

The research was carried out through two distinct stages – the first a qualitative assessment of public perceptions and attitudes. The findings from this aspect were then fed into the development of the second stage; a quantitative survey of the population of adults (16+) in Scotland.

Stage 1: Qualitative Focus Groups

Due to the exploratory nature of the research, a phased qualitative approach was adopted. A total of 8 focus groups were conducted across the project as a whole, covering a broad demographic mix of consumers in four geographic locations. These locations were chosen to provide a broad regional spread and to encompass a balance of urban and more rural communities.

Following discussion at an inception meeting with representatives of SEBG and SRPBA, the first two locations selected for focus groups were Peebles and Dingwall. Two groups were held in each location on 15th and 17th April 2008 respectively.

In each location, one group was held with members of the public who appeared to hold largely positive attitudes towards Scotland's assets (in terms of land, sites of cultural, historic and leisure interest and so on) and one group was held amongst people who appeared more negative in their views. A copy of the recruitment questionnaire used to identify and classify these groups is appended to this report.

The make-up of the first four groups was as follows:

	Dingwall	Peebles
Under 30	-	1 group C1C2 (negative)
25 – 39	1 group C2DE (positive)	-
40 – 54	-	1 group ABC1 (positive)
50 +	1 group ABC1 (negative)	-
Total	2 groups	2 groups

On completion of these first four focus groups, informal de-brief meetings were held with representatives of SEBG and SRPBA on 22nd April and 19th May 2008. Following discussion at these meetings, it was agreed that the next two focus groups should be held in a City location (suburbs) and the Clydebank district of Glasgow was selected. Based on the findings from the earlier groups, modifications were made to

6352 Report v3.doc

the discussion guide for the Clydebank area and additional stimulus material was introduced in the form of “straplines” for testing with consumers.

The Glasgow groups were held on 28th May 2008 and were structured as follows:

Glasgow	
16 – 30	1 group C1C2 (negative)
45 – 59	1 group ABC1 (positive)
Total	2 groups

On 6th June 2008, a further meeting was held with representatives of SEBG and SRPBA to feedback on the findings from the Glasgow groups and further modify the discussion guide prior to the final two focus groups. These last two groups were held in Perth on 17th June 2008 and were structured as follows:

Perth	
25 – 44	1 group C1C2 (negative)
45 – 59	1 group ABC1 (positive)
Total	2 groups

To summarise, across the project as a whole, groups were held in Dingwall, Glasgow, Peebles and Perth and encompassed all socio-economic groups and age ranges from 16 up to 50+. Each focus group included a mix of men and women.

Stage 2: Quantitative Survey

The questions for the quantitative survey were included in the March 2010 fieldwork on George Street Research’s quarterly Scottish Nature Omnibus. A total of 1,135 interviews were completed on the Omnibus survey, including a boost of 100 extra interviews with respondents in ethnic minorities. The figures in this report are weighted on ethnicity to provide data that reflects the Scottish population as a whole and the table below details the effective sample profile.

The interview points were selected so that the sample is representative of Scotland’s population in proportion to the Scottish Government’s six-fold urban/rural classification. Interviewing was conducted between 20th February and 7th March 2010.

Sample Profile			
Base: All Respondents	(1,135) Unweighted No.	(1,135) Weighted No.	(1,135) Weighted %
Male	555	552	49
Female	580	583	51
16 – 24	199	188	17
25 – 34	167	150	13
35 – 44	199	192	17
45 – 54	187	191	17
55 – 64	174	186	16
65 +	209	227	20
AB	213	218	19
C1	343	336	30
C2	187	195	17
DE	392	368	34
White / British and Irish	988	1095	96
Minorities	147	40	4
Disabled: Yes	128	133	12
Disabled: No	1006	1001	88

MAIN FINDINGS

This main body of our report is split into two main sections – the first highlighting the issues raised during the qualitative fieldwork and the second highlighting the key findings from the quantitative survey.

1. Qualitative Findings

This section splits the qualitative findings into four subheadings – the first focuses on the public’s “top-of-mind” awareness and attitudes towards land, its ownership and the ways in which it is managed. In the second and third sections we discuss understanding of the activities and roles of estates and their impact and importance to local communities and the wider population. Finally, we examine issues relating to communication in terms of information sources and the ways in which SEBG and SRPBA can most effectively convey appropriate messages to the general public. A copy of the topic guide used for the focus groups is appended to this report.

A Spontaneous Views on Scotland’s Land, its Ownership and its Management

In our recruitment of respondents to participate in these focus groups we deliberately sought to identify members of the public who held either positive or negative views about Scotland’s assets in terms of the land, sites of cultural, historic and leisure interest and so on. It became apparent from the very earliest focus groups that for most respondents, regardless of the value they place on rural assets, the actual ownership of the land is given very little consideration and is not a “top-of-mind” issue unless prompted by specific events or information.

In the course of the discussions it did, however, become evident that those respondents who had been recruited because of the positive value they place on Scotland’s rural assets are, if anything, more likely to have criticisms or concerns about the way the land is used and managed than the “negative” groups. The “positive” respondents tended to be regular users of the land – usually for walking – and to be more aware of any changes that might impact on the land and their use of it.

"Well I'm a keen fisher and shooter and I live in the middle of nowhere, so for me it (the land) plays quite a .. It's an important part of my life"

(Dingwall)

*"I've almost been, lived basically in the country until, likewise, until we moved into the town and yes, the land is **very** important to me. I dog walk, we are five minutes from the River Tay and it is absolutely fantastic, brilliant."*

(Perth)

"I've a part-time job working with the elderly who have dementia and stroke problems. And taking them out is one of the biggest things, or most important things, I feel that I do in that it's the most appreciated. Many of them spent their lives just trekking around the hills here and out all the time, and so I get them out and walk them and stuff. If they can still walk, we walk, and then if they can't walk I wheel them around on the Tweed. And that's really very important for them."

(Peebles)

The value that these respondents place on the land around them heightens their sensitivity to any changes and makes them more actively interested in issues relating to the land and local land specifically. As the following verbatim comments indicate, continued access, preservation and maintenance of resources is often the top-of-mind priority for these respondents. They are acutely aware of anything that threatens to spoil the resources they value, regardless of where responsibility might lie, and protective of the land around them.

"I live near the Cuddy, which is a small stream – tributary – to the Tweed, and there's a friend of mine [who] organises the Cuddy action group which does a lot of really, really good work about keeping the Cuddy clean, and has looked into ways of developing the land and watching that Brown Brothers doesn't take more than what they should for the natural land and stuff like that."

(Peebles)

"I've noticed a big deterioration in the public footpaths and the right of ways going through field edges as well. You know, with the farmers

ploughing up the fields, so you are getting less foot path. It is supposed to be about six foot wide for the old horse and cart tracks, they're now down to like that and you are hard up against the fence ways and that. So that is just your farmers regaining more and more ground and they are not actually entitled to use that ground."

(Perth)

"There is a wee route between the back of Bankfoot on the back roads and I used to take the dog a walk there and then people started fly tipping there and then they ended up having to close access to the walk, because people were using it as a fly tip. So it was a great wee route and there wasn't that many people used it, but then fly tippers started using it and that was the end of it."

(Perth)

In contrast, our "negative" respondents i.e. those who did not appear to place any particular value on rural assets, were seldom concerned or critical about any issues relating to the land. Instead, they were unconcerned, uninvolved and largely apathetic about the topic, taking the land for granted and giving ownership, management and usage very little consideration.

"Generally never give it a second thought to be honest. The countryside, I normally just presume keeps itself to itself. The sheep just keep the grass short and everything else just does its own thing, so never give it a thought at all."

(Perth)

As indicated by the above quotation, "maintenance" and responsibility for maintenance is another topic of limited consideration amongst those who are less interested in the land and place less personal importance on its value to them. For a majority of respondents (not all) there is a tendency only to notice when land has been, in their view, "poorly maintained" – e.g. trees have been felled or land "sold off" to developers. A minority, usually through personal contact with friends or family living or working on estates, recognise the work involved.

"... was brought up on an estate, and like I've been over and I've seen the way of life, and the work that goes in to it. You know, you think

6352 Report v3.doc

the trees are just there... but they're not. They're looked after. And we've been out there planting these trees, like all day every day for days on end, and deer fence to manage the grass and pastures and.. There's massive amounts of work in it.

(Dingwall)

For many respondents, there is usually only consideration of maintenance in a positive context in relation to “spectacular” landmarks and heritage such as “stately homes” or themed / feature gardens that are open to the general public.

Regardless of the apparent importance of rural land in respondents' lives, the issue of access to land was a common and recurring theme across all of the eight focus groups. For those who particularly value their access to rural land, there is an acknowledgment of the need for responsible behaviour in return for the benefits and privilege that access affords. Almost all respondents, including those in the “negative” groups, understand that there are “rights and wrongs” although detailed understanding of the Land Reform (Scotland) Act or what is meant by the “Right to Roam” is hazy.

“I've read the whole book about rights of access and it's still not really clear, it's all kind of hedged with things

(Perth)

“The country code. You've got to keep gates shut. You've got to respect the land. You've got to stay .. You don't walk through the middle of a field. You walk to the edge of a field. And that's actually .. I think that's a new law that's passed not that long ago”.

(Dingwall)

Once group participants were prompted to consider the issue of land ownership, they showed wide ranging degrees of knowledge and understanding about local land and rural Scotland more generally. In Glasgow particularly, respondents found it unclear what might be privately owned and, in many cases, sites of historical and cultural significance were automatically assumed to be owned and managed by Scottish Natural Heritage. In other areas there was uncertainty about land that might or might not be owned by the Forestry Commission.

"Last summer I had the pleasure in going to a place I never even knew existed, it was on the way out to Aberfoyle. They took us to this place and people stayed for the weekend and it was owned by ... I think it was the National Trust. It was a beautiful big house with fabulous grounds and I just sat at the back for a couple of hours at lunch time, I just got lost in it. It was absolutely stunning and I can't even remember the name of the place."

(Glasgow)

Even when prompted to think about private ownership, few respondents initially used the phrase "estates" often referring more to "farmers" as owners of rural land in their area. Once the word "estate" is introduced it tends to conjure an entirely different image in respondents minds, either through focus on specific – usually very large – estates that are known to them, or a more generic vision that is invariably linked to the "Monarch of the Glen".

"Quite a lot of big estates, if they've been in the family and they've been handed down, and maybe they'd have had a lot of money – the family had a lot of money years and years ago – now it's maybe struggling to keep an estate, and having to find ways of either farming or just doing. I don't know what sort of activities they might be doing, but .. shooting or whatever, to try and make money from different ways to keep an estate. I wouldn't imagine it would be very cheap."

(Peebles)

"There's very few of us here, if anyone, who's ever come into contact with a landowner, so we're drawing just on what we imagine them to be like... to a certain extent we're also taking the mickey a little bit.... It would be nice to think they weren't like that.... But they don't "mix" with the likes of us. "

(Glasgow)

"Landed gentry, then you probably think of a business after that. The other thing that comes to mind in Scotland these days is the absentee, generally your Arabs and all the rest of it making tracks in the north of Scotland and what have you. You can't pass comment if it's a good thing or a bad thing. From the outside it doesn't seem good."

(Perth)

As noted in the above quotation, the issue of absentee landlords – often perceived as Londoners / “city businessmen” living away from the land and using it only for “shooting and the like at the weekend” – tends to provoke a negative response. This is typically fuelled by media comment, often when an estate changes hands.

“It’s generally when the estates are sold, that they make an issue, a headline out of who it’s been sold to, the issue is it a good thing or not, going outside the country.”

(Perth)

There was a fairly widespread feeling conveyed by many respondents that they prefer to think of landowners as being closely involved with their estates, valuing and nurturing them in a very individual and personal sense. Whilst there is recognition of commercial needs and drivers in estate management, the more romantic family vision springs readily to mind and holds appeal for members of the public.

Further, for respondents who have actually come into personal contact with local landowners the experience has been a positive one, particularly when there has been a sense of welcome and pleasure in sharing the land.

“I was walking in Alvie Estate, near Aviemore, and I happened to meet the laird in the big house, and he was just like ‘It’s great to have somebody on the land here. What do you think of the place? What do you think of what we’ve done here and there?’ and ‘Would you like me to get the Ghillie to show you around some more?’, and it was absolutely great.”

(Dingwall)

Media comment serves to heighten awareness of high profile or celebrity landowners and this is often associated with perceptions of reduced access to land for the public at large. In two or three focus groups there were references to Billy Connelly or Anne Gloag reducing public access and this works against the preferred romantic image of landowners, although there is some sympathy with the reasoning.

“Anne Gloag has blocked the right to roam across her estate, because she fears for her personal safety and that of her grandchildren. I think that is one of the first cases, I don’t know if it is the only one as well,

where someone has been allowed to actually erect a fence right round the estate and keep people out of it."

(Perth)

One or two respondents have picked up on other media coverage relating to issues of access and for those with little or no direct contact with estates or landowners, there is a tendency to assume that this is a common occurrence.

"There was one of the news last week though was it Speedy or Smiley he bought a big estate, I think it's waste management company. He bought a big estate and they got, the ramblers beat them in court so they could get access, because they shut those big gates, they have shut the gate and not let anybody access and the ramblers won. So that they had to, they couldn't walk within, they were wanting no rambling anywhere near the house, within two miles or something like that, but they said no 'you've got 500 yards', the judge said that's plenty. So there's cases going on all the time."

(Glasgow)

For those living close to estates and making regular use of the land, the personal experience of many has shown that public access is accepted or even welcomed.

"We're very lucky round Dunkeld because there is two estates sort of have land round about there and both of them, well particularly one encourages dog walking, mountain biking, horse riding, they actively encourage it and the other one allows it. ...One is Atholl Estate, which since the last Duke died has gone very much into a kind of tourism and the other one is Murthly Estate, which I think is trying to run, well they're trying to run it as a business, but the tourism side doesn't seem to really have. I wouldn't go along Murthly Drive whereas I would go up to Loch Ordie or anywhere like that which is Atholls"

(Perth)

B Perceptions and Understanding of Estates

Many respondents' "top-of-mind" associations with estates are focused on family / personal ownership, access and leisure opportunities and when asked to think about the role and activities of estates their comments are primarily related to leisure, tourism / hospitality and also farming. There is very little spontaneous comment on other commercial aspects of estate management.

"I think over years the family had it and then they are obviously living and keeping up this big house, but making money through tours and opening it up to the public and the likes of weddings and big functions and things like that. I know in Ayrshire, somebody that my dad knows, he owns it, he owns other companies but he's always lived there, that's just his big estate it is kind of different land, different variety of animals that live on it, but obviously that's not open to the public."

(Glasgow)

"The Glen Estate and things like that do weddings and all sorts of things now. Traquair House again have a lot of lands, but they are open to the public and they do all sorts of things down there a lot of sort of fairs and special events."

(Peebles)

In order to gauge the credibility and perceived importance of key messages relating to estates, their activities and their contribution, group participants were prompted with some headline messages drawn from an SAC report press release. These messages were as follows:

- Estates often create employment, sometimes in large numbers, for local people;
- Estates often provide affordable housing / housing at reasonable rents;
- Estates take environmental responsibility and manage the land they own;
- Some estates offer leisure opportunities such as fishing, golfing etc;
- Some estates offer business / industrial units for rent;
- Many estates support community / charitable projects;
- Many estates help / deliver tourism / visitor attractions e.g. historic buildings, country parks and gardens.

The idea that estates “create employment” was accepted by almost all group participants, although doubts were expressed about whether this would really be on a large scale. There was a tendency to assume that full-time employment would be available to small numbers of specialist workers and that any volume employment is likely to be seasonal or part-time, often linked to hospitality or tourism.

“It is a positive thing (employment). I mean we all stay in Glasgow, Clydebank, etc. so that is kind of Greater Glasgow, that is kind of urban obviously and the local communities, I mean the smaller communities, towns, etc. in Scotland, unless you’ve lived there, you might not know the ins and outs of the quality of life. So obviously it is positive, but I mean I would be interested to see how that is actually broken down... but how would that work, you can only have so many people being a chef.”

(Glasgow)

Like at this time of the year, they always need extra people, but then afterwards they’re just back to their old family. They just need 2 or 3 people, so .. I mean traditionally I could believe it would have been local, but not really now.... A gamekeeper and a groundskeeper.

(Perth)

“I technically agree with the statement with the exception of the bit about large, I just don’t think it’s large numbers.”

(Peebles)

The provision of affordable housing or housing at reasonable rents was perhaps the least widely accepted of the messages tested in the focus groups. Whilst the idea of offering affordable housing is universally well received, personal experience and anecdotal evidence amongst respondents living close to estates suggested that housing was not perceived as affordable or easily accessible. In some instances there were also concerns about the quality of housing available and a lack of investment in maintaining or restoring traditional properties on estate land.

"They're quite expensive the housing, the cottages. Very expensive for being out in the country and for what you get, some of them are not modern."

(Perth)

The message that *estates take environmental responsibility and manage the land they own* provoked slightly mixed responses, based on personal experience and perceptions. Once again, the message itself is a positive one and a majority of respondents tended to believe it is generally true.

"I think certainly up here they have, coz I mean they certainly maintain it well. Paths are kept clear."

(Dingwall)

A small number of respondents cited what they perceived as exceptions to the rule and, as indicated by the following quote, there are reservations that environmental initiatives are financially motivated. This does not necessarily devalue the initiative per se, and commercial realities are recognised.

"I mean Scotland used to be forested, and then the sheep farmers came up and that was that .. All the forest was taken away. And so the farm has been managed for sheep farming, and that's continuously the way it is. And it's only now that there's sort of these pockets of places I'm aware of..... and they're trying to put it in the original sort of forest/trees. There's Pishwantan which is also trying to look at sustainability. And I heard .. I can't remember the name... I think up in Leadburn they're trying to do something too along the way. But there's these little projects which are really looking at the sort of really environmental kinds of things, but I think the general big estates ..They're also out to make money at the end of the day these projects they're probably only interested in because there's some kind of .. something in it for them – which is I suppose fair enough, you know, in business. But I think they have a very chequered past about how well they've managed the land or not managed the land"

(Peebles)

"It is missing out where you do have like bad estates that don't repair the fence and don't maintain the land. Let their deer get out on to the

road, and the sheep and whatever else. I know of an estate that has got various run-down houses that are beautiful old buildings and they're just left to ruin."

(Dingwall)

There is widespread conviction and acceptance that *many estates offer leisure opportunities such as fishing and golfing* and the only caveat to positive acceptance of this message relates to the cost and, in some instances, the "exclusivity" of the opportunities. Respondents do, however, recognise the benefits of these leisure opportunities in attracting tourists and visitors to the area, which in turn can benefit the local economy.

The message that *some estates offer business / industrial units for rent* is met with a positive albeit muted response. Most respondents assume that this would be likely and a number think the opportunities would be taken up by small, local craft-based businesses.

Well Traquair had the little craft businesses going on ..Those are quite reasonably priced actually. I know somebody who's got one.

(Peebles)

The idea that *many estates support community / charitable projects* generates a positive response and respondents living in close proximity to estates can often identify specific local projects or charities that are known to have benefited. The scale of any support is often unknown and awareness of specific support given is once again based on individual experience and involvement.

"Quite sort of I guess patriarchal quite a lot of these and, you know, they've always seen themselves as having that kind of benefactor kind of role I imagine."

(Peebles)

As we have already indicated, the importance of tourism related to estates is widely recognised and the idea that *many estates help / deliver tourism / visitor attractions e.g. historic buildings, country parks and gardens* is widely accepted and credible. More importantly, the spin-off benefits to other businesses in the area and to local, rural economies is recognised and valued. This appears to be one of the most

widely recognised and accepted roles associated with estates by respondents in all locations.

"They offer tourist facilities and tourism, leisure which is a good thing, probably one of the biggest industries in Perthshire, well parts of Scotland."

(Perth)

Considering all of these messages or facts, respondents find it difficult or impossible to prioritise the importance of these contributions from estates; all are valued to some extent and appreciated in the purest sense. Indeed, there is a strong feeling that ALL of these collective benefits need to be communicated more effectively. Wherever possible, the messages should be supported with specific, quantifiable data.

C Reactions to Messages

In the final two pairs of focus groups, held in Clydebank and Perth, respondents were prompted with a variety of potential straplines relating to Scottish estates and landowners. The full list tested in Glasgow included the following:

- *Caring for the Scottish Countryside*
- *Custodians of Scotland's Countryside*
- *Conservation, Community, Countryside*
- *Supporting the Rural Scottish Economy*
- *Sharing Scotland's Rural Heritage*
- *Keeping People in the Scottish Countryside*
- *Building a Better Scottish Countryside*
- *Investing in the Scottish Countryside's Future*
- *Balancing the Needs of the Scottish Countryside*
- *Delivering environmental, economic and social benefits to rural Scotland*
- *Friends of Scotland's countryside*
- *Providing jobs and homes in rural Scotland*
- *Helping Scottish Rural Businesses*
- *Providing free access for all in the Scottish Countryside*
- *Welcoming People to Scotland's Countryside*
- *Promoting Tourism in Rural Scotland*
- *Champions of a Greener Rural Scotland*
- *Conserving Scotland's Rural Landscape*
- *Scottish Hills, Glens, Castles and Culture*
- *Your friends in Scotland's Countryside*

Those straplines which were felt to be overly "wordy" or "pretentious" tended to provoke a negative reaction. However, words and phrases which tended to attract a positive reaction were those exuding warmth or friendliness; e.g. *welcoming, caring, access for all*, and words which acknowledged Scotland and history; e.g. *Scotland, heritage, countryside*

It is also important to note that words and phrases which tended to attract negative comment / indifference in Glasgow were those with little or no salience to the urban dweller; e.g. *rural economy* – the word *rural* itself tended to be met with much indifference.

6352 Report v3.doc

"It's an 'us and them' - rural people, it shouldn't really be about that, it should be everybody's Scotland."

(Glasgow)

On a general level, the key theme which worked most positively for respondents was that which inferred that *"Scotland belongs to the Scottish people"*. Given these overall feelings, the straplines attracting the most positive reactions in Glasgow were:

- *Sharing Scotland's (Rural) Heritage*
- *Providing free access for all in the Scottish Countryside*
- *Caring for the Scottish Countryside*

The straplines attracting the least positive reactions overall were:

- *Supporting the Rural Scottish Economy*
- *Scottish Hills, Glens, Castles and Culture*
- *Providing jobs and homes in rural Scotland*
- *Delivering environmental, economic and social benefits to rural Scotland*

Whilst the term *Custodians of Scotland's Countryside* was a very positive message, there was a strong aversion to the term "custodian" as this had connotations of pretentiousness and 'aloofness'. A few further spontaneous ideas were also tested (i.e. presented verbally and not textually); the line ***Maintaining Your Scotland*** seemed to strike a very positive note with all respondents; ***Looking After Your Scotland*** also seemed to work effectively.

A modified list was tested in Perth, as follows:

- *Caring for the Scottish Countryside*
- *Stewards of Scotland's Countryside*
- *You're Welcome, Feel Free*
- *Scottish Hills, Glens, Castles and Culture*
- *Sharing Scotland's Rural Heritage*
- *Your Friends in Scotland's Countryside*
- *Encouraging access for all in the Scottish Countryside*
- *Promoting Tourism in Rural Scotland*

-
- *Enjoy Scotland's Countryside*
 - *Welcoming People to Scotland's Countryside*

From this list, the most positively received amongst both groups in Perth were:

- *Enjoy Scotland's countryside*
- *Welcoming people to Scotland's countryside*

"Caring for the Scottish countryside" was also popular amongst those recruited to the "positive" group. As indicated in the following comments, they placed emphasis on caring for both land owners and anyone using the land.

"Welcoming, caring, sharing - so caring and sharing and enjoy and welcoming.....There is two different themes there isn't there, like the welcome bit and then the caring and looking after. What do they want, what is the most important?caring so they won't destroy their land..... think you need to do both. You've got to be sure those you're welcoming understand they have a duty to look after it."

(Perth)

D Communication

Group participants were asked to consider the ways in which the types of information and messages discussed during the groups would be best conveyed to the public at large. For those living in rural communities close to estates, the importance of personal contact and local profile building for estates and land owners cannot be stressed too strongly.

"At the end of the day, you have to have relationships with people to understand them and trust them, and I think if landowners worked harder at building relationships through community involvement then they'd get a lot better feedback."

(Peebles)

In all groups there were examples cited of estates that promote tourism, leisure and more generally access, through signposting and through formal promotion via, for example, Tourist Information Centres. These tangible signs of welcome are widely appreciated.

"Well Atholl estate you can go up to Dunkeld, what's the car park? Tally car park and I mean there is a notice board showing the walks. They put out leaflets about the walks, they've got a sign saying, I think, Atholl Estates welcomes horse riders. I mean horses are quite a difficult thing to find places to go because they do make a mess, which I quite appreciate."

(Perth)

"There's good examples. I'm trying to think. We were all down near Aviemore and there's a big estate there. And, again, they've got really good leaflets. There's waymark walks and things, cycle tracks they encourage people to use. It's campsites and that ... and again it just gives you an impression, 'Oh, they're obviously forward looking. They're encouraging people to use the land and take pleasure and enjoyment out of it'. Sure it generates a bit of money, which I'm sure is useful, but that ploughs back and allows that to be continued. And I think everyone's happy with that. So it almost becomes a bit of a sort of a brand – a kind of 'environmental tourism' kind of brand – with good access, and about kind of developing almost a relationship

between the sort of the landowners and the people that are using the land."

(Peebles)

Some City based respondents commented on the positive nature of this research in conveying an impression that land owners are trying to encourage access for the public at large.

"I have actually been made aware that people are willing to try and make an attempt to open doors, which I never knew before, so this is an eye opening for me. have this kind of session and talk to your local public, so I think it is more positive.

(Glasgow)

In almost all groups there was spontaneous comment on the importance of links with education, not only in conveying a positive impression of land owners and estates but for education's sake per se. A good deal of emphasis was placed on young children, of primary school age, although potential benefits for urban dwellers of all ages were highlighted.

"I think with the teens, you could bus them out and what not, and you could give them a tour of the estate and tell them about the history - but then it all depends about how you're putting that across. You know, they could be really bored and absolutely hate it, and think 'I'm never going back to the country. What a waste of time that was'. You'd really have to put a lot of thought in about getting the message across at their level as something that they're going to take in and something that they would find interesting and exciting, and hopefully get hooked on outdoors and learn to appreciate that a bit".

(Peebles)

"I think if they educate taking school parties there maybe, start them quite young to appreciate it."

(Perth)

Whilst preference for specific messages is to some extent subjective, the findings suggest that it is important to be proactive in all communications, rather than reactive. It should also be borne in mind that sweeping, generalised statements can

6352 Report v3.doc

provoke negative comparisons with individual estates based on personal experience.
Tailored, localised messages are likely to be better received and more credible.

2. Quantitative Findings

This section outlines the key findings from the survey administered with 1,135 adults in Scotland. A copy of the questionnaire used for this survey is appended to this report.

A Attitudes towards Scotland's Countryside

Respondents were prompted with a number of statements relating to Scotland's countryside and asked to say how much they agreed or disagreed with each; that is "agree strongly", "tend to agree", "neither agree nor disagree", "tend to disagree" or "disagree strongly". A mean score was calculated based on the distribution of responses, where 5 equals "agree strongly" and 1 equals "disagree strongly" and the mean score is shown as a summary statistic in the table below.

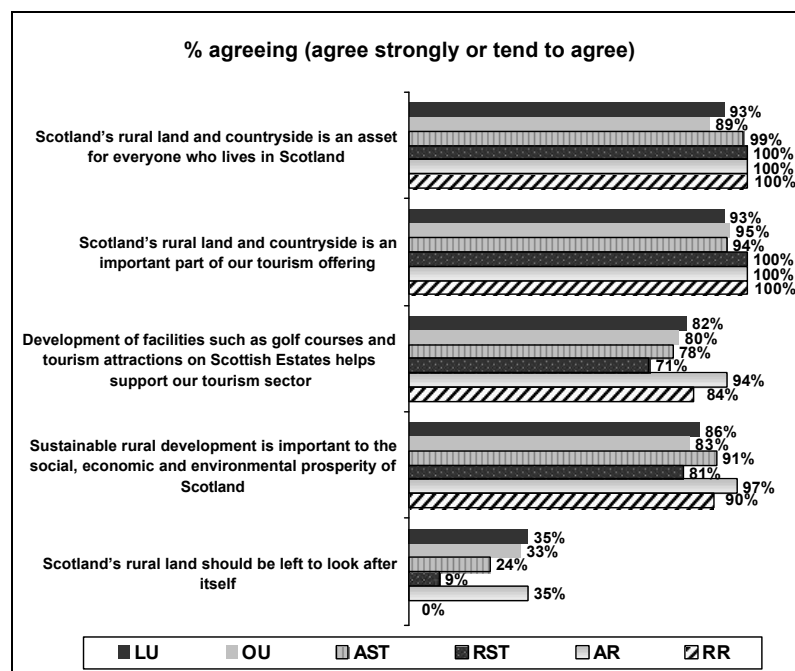
	Agr Str	Tend Agr	Nei Nor	Tend Disag	Dis Str	Don't Know	Mean Score
Scotland's rural land and countryside is an important part of our tourism offering	53%	41%	3%	1%	0%	1%	4.5
Scotland's rural land and countryside is an asset for everyone who lives in Scotland	49%	44%	5%	1%	*%	1%	4.4
Sustainable rural development is important to the social, economic and environmental prosperity of Scotland	40%	46%	10%	1%	*%	3%	4.3
Development of facilities such as golf courses and tourism attractions on Scottish Estates helps support our tourism sector	35%	47%	12%	2%	1%	3%	4.2
Scotland's rural land should be left to look after itself	10%	21%	17%	28%	17%	7%	2.8

There is widespread agreement that "Scotland's rural land and countryside is an important part of our tourism offering" and that "development of facilities such as golf courses and tourism attractions on Scottish Estates helps support our tourism sector" (94% and 82% respectively). Focusing on residents, 93% of respondents agree that "the rural land and countryside is an asset for everyone who lives in Scotland" and 86% agree that "sustainable rural development is important to the social, economic

6352 Report v3.doc

and environmental prosperity of Scotland". Views are mixed regarding active management of natural assets with 31% agreeing that "Scotland's rural land should be left to look after itself", 45% disagreeing with this statement and 17% neither agreeing nor disagreeing.

It is interesting to note some differences in the weight of opinions according to the urban rural classification of the area in which respondents live. As the following chart shows, respondents living in remote small towns (RST), accessible rural areas (AR) and remote rural areas (RR) are unanimous in agreeing that Scotland's rural land is an asset for everyone and that it is an important part of our tourism offering. None of the survey participants living in remote rural areas (RR) agree that Scotland's rural land should be left to look after itself.



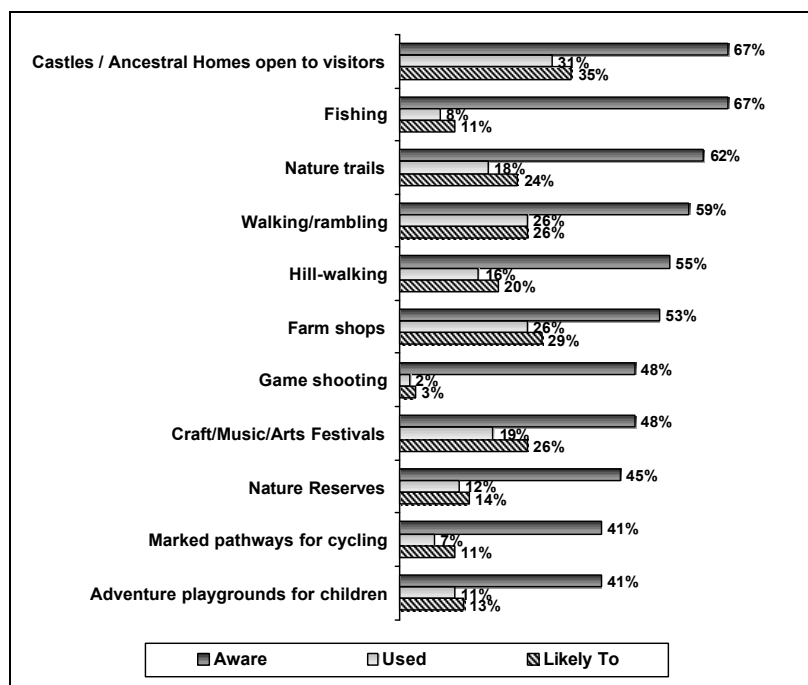
The youngest age group within our survey sample (16-24 years) shows the lowest overall level of agreement that "Scotland's rural land or countryside is an asset for everyone who lives in Scotland" (a mean score of 4.25 compared with 4.42 for the

sample as a whole). They are also less likely to view Scotland's rural land and countryside as an important part of our tourism offering (a mean score of 4.33 compared with 4.49 for the sample as a whole).

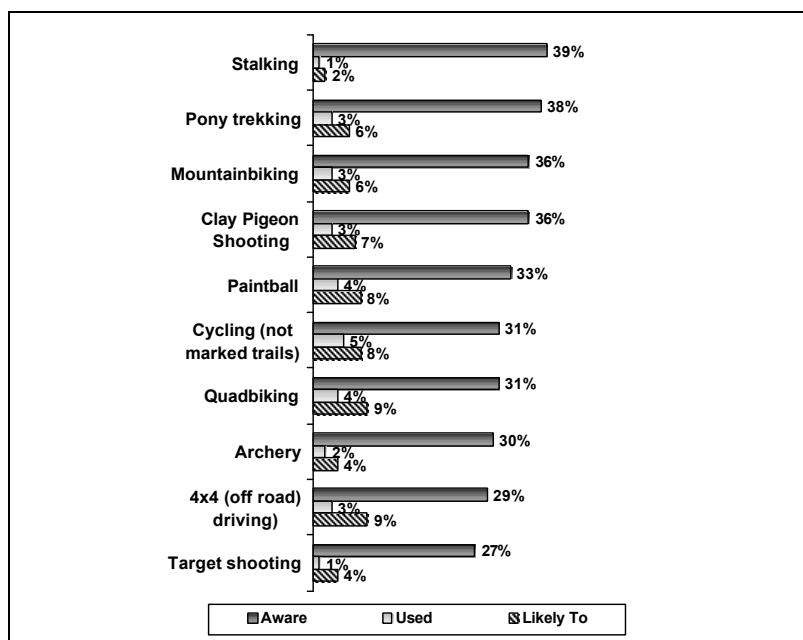
B Awareness and Use of Facilities Offered by Estates

Respondents were prompted with a list of facilities and attractions and asked to say which they were aware of as being offered by any estates in Scotland. They were then asked to say which, if any, they had used or visited on any Scottish estates in the last year or so and which, if any, they would like to use or visit in the future.

As the following chart shows, the best known facilities and attractions offered by any estates in Scotland are castles/ancestral homes, followed by more typical "rural" activities such as fishing, nature trails, walking and hill-walking. More than one in two respondents is aware of each of these being offered by any estates in Scotland. In terms of visits or use, castles / ancestral homes are the most popular (35% claim to have visited in the last year) followed by farm shops and walking /rambling (cited by 26% each). Encouragingly, there appears to be potential to increase use/visits, with higher proportions indicating they would like to use in the future.



Whilst the following facilities were less widely known or used, again there is potential for growth in use, with larger proportions who would “like to use or visit” than have done so in the last year or so.



C Awareness and Understanding of the Role of Estates

Respondents were asked to say roughly what proportion of Scotland's land mass they think is privately owned by Estates or private land owners. They were also asked to say how much they know about the role or activities of Scotland's estates and land owners.

As the following chart shows, estimates of the proportion of land that is privately owned vary widely, with 13% of respondents suggesting 30% or less, 20% giving estimates between 31% and 50%, 46% suggesting over 50% and 21% unable to estimate.

% of Scotland's land mass privately owned by Estates or private land owners	%
Less than 5%	*
5% - 10%	1
11% - 20%	5
21% - 30%	7
31% - 40%	12
41% - 50%	8
51% - 60%	10
61% - 70%	16
71% - 80%	13
81% - 90%	5
More than 90%	2
Don't know	21

When prompted to say how much they knew about the role or activities of Scotland's estates and landowners, only 1% said they knew "a great deal", 7% "a reasonable amount" and 18% "a little". Almost two in three respondents (65%) said they knew "very little/virtually nothing" or "nothing at all".

Knowledge of role or activities of Scotland's estates and landowners	%
A great deal	1
A reasonable amount	8
A little	18
Very little / virtually nothing	33
Nothing at all	32
Don't know / unable to answer	9

APPENDIX

Scotland's Land and Estates

Topic Guide

The following question areas have been developed to provide a framework for discussion. All relevant topic areas should be discussed at some stage during the group session, but should be addressed in such a way that facilitates a relaxed and natural flow of conversation.

Introduction / Warm-Up (10 - 15 minutes)

- Introductions and recap on the aims of the discussion i.e. *we are conducting research to better understand people's attitudes towards Scotland's assets in terms of the land, sites of cultural, historic and leisure interest and issues around their use;*
- How would you describe the role that rural land has in your life, for example through your work, through hobbies, through holidays etc;
- How much thought do you give to how land in Scotland is owned and managed and by whom; how much does this matter and why;
- What, if anything, do you know about land ownership and management in Scotland and where does this information come from;

Estates - spontaneous views (40-50 minutes)

- What comes to mind when I mention "estates" or "rural estates";
- What estates, if any, are you aware of either in the immediate area or elsewhere in Scotland;
- What do you think are the activities undertaken on / by estates; are they all the same or different and in what ways;
- What do you think estates contribute to local communities and why; Probe for: social, economic and environmental benefits;
- What, if anything, do you think of as negatives impact of estates and why – how did you form this opinion;
If not covered already:

- What do you feel are the environmental impacts of estates; to what extent do you feel estates could play a role in mitigating climate change; is this something you consider when you think of “estates”
- Who do you think of as owning estates (a corporate entity / an individual / everyone / don’t think of anyone or anything) – why;
- Tell me the picture that comes to mind when someone says “landowner” or “country landowner” – probe fully for age, personality, characteristics and reasons for this being the image that comes to mind;

Estates – prompts (20-25 minutes)

- PROMPT EACH OF THE FOLLOWING AND PROBE: Is this something you had considered before now; is it surprising; is it credible and why/why not;
 - ★ Estates often create employment, sometimes in large numbers, for local people;
 - ★ Estates often provide affordable housing / housing at reasonable rents;
 - ★ Estates take environmental responsibility and manage the land they own;
 - ★ Some estates offer leisure opportunities such as fishing, golfing etc;
 - ★ Some estates offer business / industrial units for rent;
 - ★ Many estates support community / charitable projects;
 - ★ Many estates help / deliver tourism / visitor attractions e.g. historic buildings, country parks and gardens;
- Which of these, if any, are significant positive features and why;
- Which if any have negative connotations and in what ways and why;
- How should Scotland’s estates be communicating these messages to people in Scotland (probe: editorial in local papers, editorial in national papers, local poster advertising, national advertising (what media), a public facing website;
- What are the most important messages to convey and why;

Summing Up (5-10 minutes)

- How, if at all, have your opinions changed during this discussion and why?

QUANTITATIVE SURVEY QUESTIONNAIRE

- 1 I am now going to read out a short list of statements about Scotland's countryside and I'd like you to tell me, using one of the phrases on this card, how strongly you agree or disagree with each? **SHOWCARD A**

	Agree strongly	Tend to agree	Neither agree/disagree	Tend to disagree	Disagree strongly	Don't know / no opinion
<i>Scotland's rural land and countryside is an asset for everyone who lives in Scotland</i>	1	2	3	4	5	6
<i>Scotland's rural land and countryside is an important part of our tourism offering</i>	1	2	3	4	5	6
<i>Development of facilities such as golf courses and tourism attractions on Scottish Estates helps support our tourism sector</i>	1	2	3	4	5	6
<i>Sustainable rural development is important to the social, economic and environmental prosperity of Scotland</i>	1	2	3	4	5	6
<i>Scotland's rural land should be left to look after itself</i>	1	2	3	4	5	6

- 2a Which of these are you aware of as facilities offered by any estates in Scotland?
SHOW CARD B

- 2b And which, if any, have you personally used or visited on any Scottish estates in the last year or so?

- 2c And which of these, if any, would you like you like to use or visit in the future?

	2a	2b	2c
Nature trails	1	1	1
Walking /rambling (not a trail)	2	2	2
Hill-walking	3	3	3
Marked pathways for cycling	4	4	4
Cycling (not marked trails)	5	5	5
Quadbiking	6	6	6
Mountainbiking	7	7	7
Pony trekking / Trekking on horseback	8	8	8
4 x 4 (off road) driving	9	9	9
Clay Pigeon shooting	10	10	10
Target Shooting	11	11	11
Game shooting	12	12	12
Stalking	13	13	13
Fishing	14	14	14
Nature reserves	15	15	15
Paintball	16	16	16
Archery	17	17	17
Castles or ancestral homes open to visitors	18	18	18
Adventure playgrounds for children	19	19	19
Craft / Music / Arts Festivals	20	20	20
Farm Shops	21	21	21
None of these	22	22	22

- 3 Roughly what proportion of Scotland's land mass do you think is privately owned by Estates or private land owners? If you don't know then just give your best estimate?
SHOW CARD C

Less than 5%	1
5% - 10%	2
11% - 20%	3
21% - 30%	4
31% - 40%	5
41% - 50%	6
51% - 60%	7
61% - 70%	8
71% - 80%	9
81% - 90%	10
More than 90%	11
Don't know	12

- 4 How much would you say you know about the role or activities of Scotland's estates and land owners? SHOW CARD D

A great deal	1
A reasonable amount	2
A little	3
Very little / virtually nothing	4
Nothing at all	5
Don't know / unable to answer	6

Appendix Seven



Your response to the Scottish Government's Land Reform Review Private & Confidential

Please help us to help you and your fellow members by answering the following questions as fully as possible. The more responses that we receive back, the better evidence we will have to respond to the Scottish Government. **We need this information from you urgently! Please ensure that your information reaches us by no later than Friday 7 December.**

Your answers to the following questions will allow us to display to the Scottish Government, MSPs and the public, the extent to which our members are playing a vital role in building a prosperous future for rural Scotland.

Simply type directly into the fields on this form and click *Submit* when complete. Or print and complete by hand (address and fax details at the end). You can also complete this survey securely online at www.scottishlandandestates.co.uk/landreformdata

Our Vision

To create a situation where the true value and contribution of private landownership in Scotland is recognised and appreciated both publicly and politically.

1. Contact & Address Details

Please help us to stay in contact with you as efficiently as possible, by confirming your full contact details below:

Full name

Membership name (if different from above)

Membership number (if known)

Principal property address

Postcode

Telephone

Mobile

Email

Website(s)

Mailing/contact address (if different from above)

Postcode

Telephone

Data Protection

Scottish Land & Estates takes Data Protection seriously and operates in strict accordance with the provisions of the Data Protection Act. The information collected on this form will be used only for membership statistics, communication and research purposes, to develop new methods of raising subscription income and to improve membership services and benefits.

Page 1 – Cont.

2. Rural Property Details & Business Activities

Please provide details of your property holdings and business activities.

The answers within this section will help to show the broad spread of activities that our members are involved in across Scotland. Using this we can clearly show how effective we are at delivering results for Scottish Government priorities:

Which of the following activities are relevant to your businesses?
Please indicate all that apply by providing an estimate of the proportion each activity contributes to your total turnover.

<input type="checkbox"/> Farming (in hand)	<input type="text"/>	%
<input type="checkbox"/> Contract Farming for others	<input type="text"/>	%
<input type="checkbox"/> Agricultural Lettings	<input type="text"/>	%
<input type="checkbox"/> Crofting	<input type="text"/>	%
<input type="checkbox"/> Forestry	<input type="text"/>	%
<input type="checkbox"/> Housing	<input type="text"/>	%
<input type="checkbox"/> Tourism/Recreation	<input type="text"/>	%
<input type="checkbox"/> Shooting, Fishing and Stalking	<input type="text"/>	%
<input type="checkbox"/> Renewable Energy	<input type="text"/>	%
<input type="checkbox"/> Commercial Property	<input type="text"/>	%
<input type="checkbox"/> Conservation and Environmental Schemes	<input type="text"/>	%
<input type="checkbox"/> Professional Services/Consultancy	<input type="text"/>	%
<input type="checkbox"/> Retail inc. Food & Drink	<input type="text"/>	%
<input type="checkbox"/> Equestrian	<input type="text"/>	%
<input type="checkbox"/> Fish Farming	<input type="text"/>	%
<input type="checkbox"/> Manufacturing	<input type="text"/>	%

Add in your Food & Drink, Moorland, Environmental Scheme/Service Provision *Please detail any activities not included above*

We will be commissioning a full, independent economic study in early 2013, which will take a number of months to produce results. In the meantime your response to the following questions will help us to build a picture of our members' contribution.

Annual Business Turnover

Please indicate your annual business turnover, based on all income from your rural-based activity in Scotland. If need to please use a three year average:

Up to:

<input type="checkbox"/> £100,000	<input type="checkbox"/> £500,000
<input type="checkbox"/> £200,000	<input type="checkbox"/> £750,000
<input type="checkbox"/> £300,000	<input type="checkbox"/> £1,000,000
<input type="checkbox"/> £400,000	<input type="checkbox"/> Over £1,000,000

If over £1,000,000 please state amount to nearest £100,000

Our members are responsible custodians of rural land, right across Scotland and we need to know exactly how this land is currently managed and utilised. Knowing the pattern of land use will enable us to present to the Scottish Government what it is our members are responsible for and how that fits with their priorities.

Landholding (all land)

Please state area in either acres or hectares:

Total area of in-hand farmland

Let land

Traditional Tenancy Let Farms

Limited Partnership (LP) Let Farms

Limited Duration Tenancy (LDT) Let Farms

Short Limited Duration Tenancy (SLDT) Let Farms

Other Tenancy Type Rent (ie. SAT)

Seasonal Grazing

Total area of let land

Woodland

Amenity Woodland

Commercial Woodland

On FC Lease

Total area of woodland

Other land

Grouse Moor/Deer Forest

Other (Dunes, golf etc)

Land in Crofting Tenure

Total area of other land

Total area of landholdings

Area which is under sporting management (other than grouse moor/deer forest above)

Our members are responsible for a great many livelihoods. Knowing exactly how many will show the extent to which rural employment matters to our members and how many communities and families depend upon thriving rural estates.

Employees

How many FTE do you employ?

Of these how many are:

a. Part time

b. Seasonal

How many of your employees above are involved in:

Game/Sporting Management

Farming

Tourism/Recreation

The amount that our members are willing to invest into their businesses in future shows the long term nature of their commitment to their business. This in turn creates sustainable futures for thriving rural communities and displays to the Scottish Government that we are here for the long term future of rural Scotland.

Rural Development

Approximate investment value of projects planned in next:

2 years

£

10 Years

£

Please provide an estimate of the capital value of rural development projects in the last 10 years, which you have

a) carried out directly

£

b) enabled through the provision of land or buildings to a third party, or the sale/letting of land for housing or infrastructure

£

The majority of our members are involved in farming in some way. The following section will show the variety and diversity of our members' farming operations across Scotland, thus how we are driving a healthy agricultural sector with security and certainty for all parties.

How would you classify your farming operation?
(Show as a percentage of total)

Arable		%
Dairy		%
Mixed stock low ground		%
Mixed stock upland		%
Hill Farm		%

Support payments from the Scottish Government?

Do you receive a Single Farm Payment?

Yes ☐ No ☐

Tenanted Agricultural Land

How many of the following tenancies do you have?
(Please indicate numbers)

1991 Act Secure Tenancies

Limited Partnership (LP)

How many of these LPs are running on tacit relocation (ie from year to year?)

Limited Duration Tenancies (LDTs)

Short Limited Duration Tenancies (SLDTs)

Seasonal Grazing/Cropping Lets

Crofts

Small Land Holdings (under the Small Land Holders (Scotland) Acts 1886-1931

Other (please specify)

Do you plan to let more land in future?

Yes ☐ No ☐

Many of our members are responsible for managing areas of Scotland within a certain way and in the public interest, the extent to which will be displayed within the answers to the following questions.

Designations

Is any part of your landholding covered by nature conservation designations?

Yes ☐ No ☐

If yes, which of the following apply:

- ☐ Site of Special Scientific Interest (SSSI)
- ☐ National nature Reserve (NNR)
- ☐ Special Area of Conservation (SAC)
- ☐ Special Protection Area (SPA)
- ☐ National Scenic Area (NSA)
- ☐ National Park

Other (please specify below)

Do you have any Scheduled Ancient Monuments on your land?

Yes ☐ No ☐

If Yes, how many?

The Scottish Government has set very ambitious renewable energy production targets and our members are key to meeting these. Our members have embraced this challenge enthusiastically and we want to show just exactly how much so in order for MSPs to realise how important this relationship is for Scotland's future.

Renewable Energy

Are you currently planning, building or operating a renewable energy project? Yes ☐ No ☐

What is the anticipated or actual output of your renewable energy project? kW

Which technologies are you using or planning to use? *(Please state all)*

Do you provide any community benefits from your renewable energy project? Yes ☐ No ☐

If yes how or what?

Sporting operations have long been an important and enjoyable enterprise for many members and with an estimated annual contribution of £220M to Scotland's economy it is a very important and mature sector.

Game/Sporting Management

Annual income from game/sporting management

Shooting	Stalking	Fishing
<input type="text"/>	<input type="text"/>	<input type="text"/>

Annual running costs of game/sporting management

Shooting	Stalking	Fishing
<input type="text"/>	<input type="text"/>	<input type="text"/>

Investment you have made in specific game and wildlife projects (last 5 years)

Shooting	Stalking	Fishing
<input type="text"/>	<input type="text"/>	<input type="text"/>

Level of financial assistance received from Scottish Government via RP or LMO payments (last 5 years)

Shooting	Stalking	Fishing
<input type="text"/>	<input type="text"/>	<input type="text"/>

The provision of private, rented accommodation is something which the majority of our members are involved in. The Scottish Government has to know the extent of this provision in order for them to realise their reliance on estates and farms for delivering its national housing requirement.

Housing and Property

Rented Housing Stock – please indicate the number of houses:

Let on Pre 1989 Regulated Tenancy

Let on Assured Tenancy

Let on Short Assured Tenancy

Other (please specify)

Let on tied basis to current employee

Rent free to former employee or family member of former employee

Rent free to family member

Let as part of an Agricultural Tenancy

Others

How many empty residential properties do you own?

Of these how many are
a) In need of repair

b) Derelict

Members with housing interests will be contacted soon, as part of a more in depth survey of current and potential housing interests.

How many redundant steadings / farm buildings do you own?

Do you own any of the following listed buildings?
(Please state how many)

A listed	B listed	C listed
<input type="text"/>	<input type="text"/>	<input type="text"/>

How many occupied commercial buildings do you have?

Approximate total sq ft

How many empty commercial buildings do you have?

Approximate total sq ft

Access to land is something that many people feel is very important to them and there is a great deal that members are already doing to open up their estates for public use. Please provide details of initiatives through which you are enabling public access.

Access

Does your property attract members of the public such as walkers, cyclists, horse riders, canoeists and kayakers? Yes ☐ No ☐

Please indicate approximate numbers of users:

- ☐ High – 30+ visitors/week
☐ Medium – 10-30 visitors/week
☐ Low – less than 10 visitors/week

Our members' role as a key component of their local community is essential to its vibrancy and future health. This is displayed by the many and varied activities embarked upon by estates, such as education and skills development, in the interest of making their communities flourish for years to come. Your answers here will help to highlight how estates recognise that they need local families to feel secure and involved for there to be a sustainable future for everyone within their community.

Community Engagement

Have you provided, leased or sold land or buildings for community use in the last 5 years? Yes ☐ No ☐

Have you delivered any projects in partnership with community group(s) in the last 5 years? Yes ☐ No ☐

Do you currently have a community engagement plan? Yes ☐ No ☐

Do you currently lease land for allotments? Yes ☐ No ☐

If yes, please provide an estimate of the area of land leased.

What evidence do you have of your own involvement within your local community that has not so far been covered within the questions above? This could include funding and/or involvement in local projects, community involvement in estate planning decisions etc. Please set out below:

The provision of rural education and skills development is an essential part of our work, to ensure the long term future of the rural sector and our members businesses. It is therefore important for us to know how much of this and to what extent it is already being provided by our members.

Education and Skills Development

Do you or have you hosted visits by schoolchildren and youth groups? Yes ☐ No ☐

Do you or have you provided work experience for young people? Yes ☐ No ☐

Do you or have you provided assistance for apprenticeships? Yes ☐ No ☐

Do you or have you utilised volunteers? Yes ☐ No ☐

Do you or have you provided internships and graduate placements or traineeships? Yes ☐ No ☐

Do you have an education or skills development programme? Yes ☐ No ☐

Thank you for your input. Your answers, along with those of your fellow members, will help us to ensure a bright future for us all.

Please click submit to email your completed form back to us, or send a printed copy to the address below.

SUBMIT



For further information, please contact
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