

Land Rights and Responsibilities Statement

Consultation Analysis

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1. Executive Summary

1.1 The Land Reform (Scotland) Act 2016 requires Scottish Ministers to prepare, consult on, and publish a Land Rights and Responsibilities Statement (the “Statement”). The Statement is a set of principles with an overarching vision intended to guide the development of public policy on the nature and character of land rights and responsibilities in Scotland.

1.2 Scottish Ministers published a written consultation on the draft Statement on 16th December 2016 with views invited by 10th March 2017. 62 responses were submitted, 37 from organisations and 25 from individuals. A summary of the views of respondents follows.

Views on the Statement’s Policy Context

1.3 Most of those who provided a view considered that the supportive information in the consultation document, which set out the relationship between the Statement and other key policy areas, captured the range of relevant policy areas. Some suggestions were made for additional policy areas under the headings of: Human Rights and International Standards; National Performance Framework; Land Strategies; and Related National Policies.

1.4 Several respondents acknowledged the wide range of policy areas which interact with land rights and responsibilities, and identified the need for developing a strong and clear Statement to draw these together.

Views on the Statement’s Human Rights Based Approach

1.5 Most of the respondents who commented agreed with the Scottish Government’s human rights based approach to the Statement. This approach was viewed as reflecting current perceptions and expectations of land as a resource to be used in the public interest; it was seen as being consistent with various Conventions and Covenants on human rights; and was perceived to be a way of safeguarding owners’ enjoyment of their property, whilst making clear that public interest can, in some instances, justify interference with private interests.

1.6 A common view was that the Statement should mention the human rights based approach explicitly. Another recurring view was that the responsibilities which accompany human rights should be made clear.

1.7 Some respondents perceived the Statement to lack clarity on how existing human rights based legislation would support the implementation of the Statement’s vision and principles in practice.

Views on the Statement’s Vision

1.8 Most respondents who provided a view agreed with the Statement’s vision, although individual respondents were generally more supportive than organisations, almost half of whom disagreed with it.

1.9 The vision was perceived to be supportive of a collaborative approach; it was seen as introducing the concept that with land ownership comes responsibility to others; and it was viewed as encompassing both economic and social objectives.

1.10 Some respondents commented that the vision should make mention of environmental sustainability; others considered that responsibilities were not emphasised sufficiently.

Views on the Statement's Principles

1.11 All of the six principles received support from most of the respondents who provided a view. Some considered Principle 4 to be the most important in terms of demanding high standards and its focus on stewardship.

Principle 1

1.12 Principle 1 was welcomed as encompassing the key elements of a land rights and responsibilities framework, with specific aspects singled out for particular support: mention of a duty to future generations; promotion of environmental sustainability; and reference to a fairer society.

1.13 A few respondents suggested that the Principle's heading should include reference to fulfilling, or progressive realisation of, human rights.

1.14 A recurring view was that the Principle heading and the listed policies need to be more explicitly connected to show how the policies reflect, and align with, the Principle.

1.15 Those opposing the Principle considered that there is reluctance within it to acknowledge that there is a public right to private ownership and enjoyment of land and buildings; and that the term "fairer society" required clarification.

Principle 2

1.16 National Non-Governmental Organisations (National NGOs) were particularly supportive of Principle 2 in terms of its focus on broadening the pattern of land ownership, the inclusion of "tenure", and the mention of the role of charitable bodies in managing Scotland's natural and built heritage.

1.17 A recurring view amongst those opposing the Principle was that diversity of ownership does not link directly with diversity of land use or management. Some respondents considered the Principle to be overly ideological and detracting attention from what they identified as the key issue of stewardship of land, how it is used rather than how it is owned.

Principle 3

1.18 Respondents from a range of sectors supported Principle 3, with some highlighting existing evidence of positive benefits arising from broadening the opportunities for communities to own buildings and land.

1.19 Some respondents suggested that in view of the potential benefits to communities of leasing buildings and land, reference to leasing should be included in the Principle's title. Another suggestion was to refer to "having access to" in addition to owning or leasing, and that the opportunities for owning, leasing and having access to buildings and land should be communicated to local communities so that they are aware of these possibilities.

1.20 An emerging theme was that support should be in place to enable communities lacking in capacity and skills to realise Principle 3.

1.21 A common view in opposition to Principle 3 was that it is already covered by the Community Empowerment (Scotland) Act 2015.

Principle 4

1.22 Some respondents welcomed this Principle as addressing what they saw as the fundamental feature of land ownership, namely, stewardship.

1.23 Others supported the emphasis on responsibilities within the Principle and considered that it reached beyond owners, to land managers and users too.

1.24 It was suggested that the Principle could be strengthened by re-wording some phrases to make them more meaningful and providing examples as illustration.

Principle 5

1.25 Several respondents, across a range of sectors, identified the key advantages of Principle 5 to be increased transparency and accountability. Other important benefits were perceived to be improved communication between stakeholders, and better co-ordination of activities and collaborative ventures.

1.26 A few respondents requested that loopholes, which enabled data to be hidden or obscured, should be identified and addressed in order to support Principle 5.

1.27 A key concern was that landowners may find the provision of information to be costly and onerous.

Principle 6

1.28 There was strong support for Principle 6 which was welcomed as an approach to better and more transparent decision-making; and supporting a shift in focus towards the public interest and the common good.

1.29 Some respondents considered that "community" should encompass communities of interest in addition to communities of place.

1.30 A common concern was that wider community engagement should not result in delaying and increasing the complexity of decision-making. Another concern was that the community should be fairly represented, and not simply by those whose voices are loudest.

1.31 Some respondents held the view that community engagement should not be a blanket requirement in every decision on land, but should be instigated only in certain circumstances, such as a material change to land use.

Further comments

1.32 The Statement was generally welcomed as comprising a promising start towards changing culture and furthering the land reform agenda. Some National NGOs, however, considered that it was not sufficiently compelling and could go further to set a realisable vision and encourage a change in thinking.

1.33 Repeated calls were made for greater detail on how landowners, users and managers should be engaged to support the desired outcomes. Some respondents questioned whether the Statement's non-legal basis would undermine it.

1.34 Several respondents emphasised that a well-planned implementation of the Statement will be crucial in ensuring its effectiveness. A recurring view was for the Statement to be underpinned by a robust monitoring and evaluation framework.

Impact assessment

1.35 Most of those who provided a view envisaged potentially positive impacts as a result of the proposals in the consultation. The most commonly mentioned positive impacts were: reduction in inequality; better use of land; and community empowerment.

1.36 Some costs were associated with the proposals, such as increased funding requests to asset transfer funding schemes, and the costs of community engagement processes, but overall these were viewed as likely to reap benefits over the longer-term.

1.37 Most of those providing a view identified potentially positive impacts on the environment as a result of the proposals. In particular, decision-making on land in the public interest was perceived as likely to produce positive environmental impacts.

2. Introduction

2.1 The Land Reform (Scotland) Bill was introduced to the Scottish Parliament in June 2015. Part 1 of the Bill proposed the creation of a Land Rights and Responsibilities Statement. The Statement is a set of principles with an overarching vision intended to guide the development of public policy on the nature and character of land rights and responsibilities in Scotland.

2.2 During consideration of the Bill, amendments were made to the provisions relating to the Statement, and the Scottish Parliament was unanimous in its support for amendments to part 1 of the Bill that provided for the introduction of such a Statement. The Land Reform (Scotland) Act 2016 (“the Act”) was given Royal Assent on 22nd April 2016.

2.3 The Act requires Scottish Ministers to prepare, consult on, and publish a Statement. This is intended to provide a pro-active approach to land policy and to provide the context within which to consider the ongoing development and balance of rights and responsibilities relating to land ownership, management and use, in order to realise the full public benefits of land in Scotland.

2.4 Scottish Ministers published a public consultation on the draft Statement on 16th December 2016 with views invited by 10th March 2017.

2.5 Responses to the consultation were encouraged via Citizen Space, which most respondents used.

Consultation responses

2.6 The Scottish Government received 62 responses to the consultation in time for analysis. Table 2.1 overleaf shows the distribution of responses by category of respondent. A full list of respondents is in Annex 3. The respondent category applied to each response was agreed with the Scottish Government policy team.

2.7 60% of responses were submitted by organisations; 40% were from individuals. The largest category of respondent amongst the organisations was National NGOs comprising 29% of all respondents.

Analysis of responses

2.8 The analysis of responses is presented in the following 12 chapters which follow the order of topics raised in the consultation document. The consultation posed 14 key questions, most containing both closed and open elements.

2.9 The analysis is based on the views of those who responded to the consultation and are not necessarily representative of the wider population.

Table 2.1 Distribution of responses by category of respondent

Category	No. of respondents	% of all respondents*
National NGOs	18	29
Private Sector and Professional Bodies	9	15
Community Organisations and their Representative Bodies	6	10
Government and National Non-Departmental Bodies (NDPBs)	3	5
Academic	1	2
Total Organisations	37	60
Total Individuals	25	40
Grand total	62	100

*Percentages may not add to totals exactly due to rounding.

3. Views on the Statement's Policy Context

Background

The Statement sets out high-level principles to inform detailed policy work, and will interrelate with many existing and future strategy and policy documents. Key amongst these are the National Performance Framework; Scotland's Economic Strategy; the Land Use Strategy; and the National Planning Framework.

It is intended that the Strategy complements these existing frameworks in addition to guiding the creation of future land use policies.

The consultation provided a table (page 13 of the consultation document) setting out the relationship between the Statement and other key Government policy and strategy documents. Due to the breadth of policy areas and topics which are relevant to land, the consultation acknowledged that the table could not be fully comprehensive.

Question 1: Have we captured the range of policy areas to which you think the land rights and responsibilities statement should be relevant?

3.1 44 (71%) respondents answered the closed aspect of this question. Of these, 33 considered that the table in the consultation document had captured the range of policy areas to which the Statement should be relevant; and 11 did not agree that the range of policy areas have been captured. Table 3.1 overleaf summarises views by category of respondent.

3.2 The balance of views was similar across organisations and individuals, with around three-quarters of the respondents in both of these broad categories considering that the range of policy areas had been captured. All of the Community Organisations and their Representative Bodies, the Government and NDPB respondents and the Academic Body were of this view.

3.3 30 respondents provided further relevant commentary and their views are summarised below.

General commentary on the policy context

3.4 Several respondents remarked on the wide range of policy areas which interact with land rights and responsibilities, with a shared appreciation of the importance of developing a strong and clear Statement. A few of the National NGOs commented that the Statement has a valuable role in pulling together the many and varied land use related policies and their outcomes.

3.5 Whilst respondents acknowledged that the table outlining the Statement's policy context was not intended to be fully comprehensive, a few considered that further work is required on the rationale for including certain elements over others.

Some perceived the table to be inconsistent or even confusing, with one National NGO recommending expanding the table to encompass all relevant material.

Table 3.1 Views on whether the range of relevant policy areas has been captured in the consultation document table

Category	Yes – range of policy areas captured	No – range of policy areas are not captured	No. of respondents providing a view
National NGOs	7	4	11
Private Sector and Professional Bodies	2	3	5
Community Organisations and their Representative Bodies	6	0	6
Government and NDPBs	2	0	2
Academic	1	0	1
Total Organisations	18	7	25
Total Individuals	15	4	19
Grand total	33	11	44

3.6 Several respondents identified elements of the table which they particularly welcomed:

- Sustainable Development Goals (International Standards)
- Fairer Scotland Action Plan (National Plans and Strategies)
- Scotland’s Economic Strategy (National Plans and Strategies)
- Land Use Strategy (Land Strategies)
- National Planning Framework 3 (Land Strategies)
- Historic Environment (Related National Policy)
- The Future of Agriculture (Related National Policy)
- Regeneration Strategy (Related National Policy)
- Creating Places (Related National Policy)
- Scottish Planning Policy (Related National Policy)

Suggestions for additions to the policy context table

3.7 Many respondents suggested items to add to the table on page 13 of the consultation document. These are summarised below in order of the sections in the table:

Human Rights and International Standards

- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention).
- European Landscape Convention and associated Scottish Landscape Charter.
- Paris Convention on Climate Change.
- Convention for the Protection of the Architectural Heritage of Europe.

National Performance Framework

- Our children have the best start in life and are ready to succeed.
- We live longer, healthier lives.
- We realise our full economic potential with more and better employment opportunities for our young people.

Land Strategies

- Scottish Land Court (for its role in dispute resolution)

Related National Policies

- Explicit mention of the current planning consultation and the proposals for a new framework for planning. Also, suggestion that planning is added to the diagram on page 12 of the consultation which aims to capture the main topics which interact with land rights and responsibilities.
- Child Poverty Strategy.
- Play Strategy (linked to Physical Activity Implementation Plan).
- Utilities – water, sewerage.
- Connectivity – fast broadband; mobile phone reception.
- Energy generation – low carbon energy initiatives.
- Infrastructure Investment Plan 2015.
- Draft Peatland and Energy Policy Statement.
- Business – rural economy; using land as a source of public revenue (e.g. by way of annual ground rent).
- Scottish Landscape Charter and landscape protections (also mentioned in relation to international standards above).
- Land as a habitat for wild animals; Wild Deer: a National Approach.
- Outdoor recreation.
- Sustainable management of topsoil.

4. Views on the Statement’s Human Rights Based Approach

Background

The Scottish Government proposes a human rights based approach to the Statement. Such an approach is seen as putting people and their fundamental human rights at the centre of policies. The Scottish Human Rights Commission sets out values for what this means in practice:

Participation – involving people in decisions affecting their rights.

Accountability – monitoring of how people’s rights are being affected and remedies when things go wrong.

Non-discrimination – prohibiting, preventing and eliminating any forms of discrimination.

Empowerment – people understanding their rights and are fully supported to take part in developing policy and practices which affect their lives.

Legality – approaches to be grounded in the legal rights that are set out in domestic and international laws.

Question 2a: Do you agree with the Scottish Government’s proposed “human rights based approach” to the Land Rights and Responsibilities Statement?

Question 2b: Please give any further thoughts on the best way to ensure that the Statement is based on human rights or gives full consideration to human rights.

4.1 51 (82%) respondents answered Question 2a. Of these, 42 agreed with the Scottish Government’s proposed “human rights based approach”; nine respondents did not agree. Table 4.1 overleaf summarises views by category of respondent.

4.2 All but one organisation agreed with the proposed approach; eight of the 17 individuals who provide a view disagreed.

4.3 30 respondents provided further relevant commentary in response to Question 2b, and their views are summarised below.

Views on the benefits of a human rights based approach to the Statement

4.4 Several respondents welcomed the proposed human rights based approach as reflecting current perceptions and expectations of land as a resource to be used in the public interest; as consistent with obligations to adhere to various Conventions and Covenants on human rights; and as a way of safeguarding owners’ enjoyment

of their property, whilst making clear that private interests are secondary to justified public interest. The approach was viewed as taking account of the human rights concerns raised during the progress of the Land Reform (Scotland) Act 2016.

Table 4.1 Views on the proposed “human rights based approach” to the Statement

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	14	0	14
Private Sector and Professional Bodies	4	0	4
Community Organisations and their Representative Bodies	5	1	6
Government and NDPBs	1	0	1
Academic	1	0	1
Total Organisations	25	1	26
Total Individuals	17	8	25
Grand total	42	9	51

4.5 This approach was perceived to be in contrast to what one individual described as the “normal top-down approach of government”; with another individual perceiving it to be “refreshingly enlightened”.

4.6 Two respondents, one a community body, the other a National NGO, considered that the human rights based approach would provide a basis for decision-making when balancing competing rights over land.

Views on ensuring that the Statement is based on human rights or gives full consideration to human rights

4.7 A repeated view across several sectors of respondent was that the Statement should mention the human rights based approach explicitly. Others went further to suggest that the Statement should also refer to the International Covenant on Economic, Social and Cultural Rights and the links between these and human rights. A few of the National NGOs requested mention of relevant specific rights, for example, to housing, food, employment, health, work, and so on.

4.8 A few respondents considered that the legal standing of the Statement should be clarified and further regulations be put in place, where necessary, to ensure the Statement can be legally enforced.

4.9 One individual suggested that providing greater historical context in terms of land ownership could help to enhance the effectiveness of the Statement.

4.10 Another individual requested greater clarity on the applicability of the Statement across all communities, right down to the smallest hamlets and settlements, to make the human rights grounding appear real and not just an aspiration.

4.11 A National NGO envisaged that the Statement will need to be supported with awareness-raising campaigns to build capacity and to raise awareness of the human rights based approach.

Views on omissions from the Statement in relation to a human rights based approach

4.12 A recurring view, particularly amongst National NGOs, was that alongside human rights come responsibilities, and these should be made clear. Current concerns such as sheep worrying, fly tipping and poaching were highlighted as examples of lack of responsibility.

4.13 Two National NGOs raised the role of a healthy environment as an aspect of securing land rights and suggested that this be included in the Statement. Three individuals considered that equal rights measures should pertain to wildlife and other natural environments such as flora, fauna and landscapes.

4.14 A community organisation and several National NGOs highlighted issues of accountability and remedies if rights are infringed, as aspects of a human rights based approach which they considered should be covered by the Statement.

Views on challenges to the Statement promoting human rights

4.15 A few respondents perceived the Statement to lack clarity on how existing human rights based legislation would support the implementation of the Statement's vision and principles in practice.

4.16 A National NGO and an individual respondent shared the view that the wording of the Statement could be more precise and should use plainer language.

4.17 One National NGO suggested that a challenge may be tailoring the human rights based Statement for Scottish circumstances.

4.18 Another considered that the challenge lay in ensuring participation, particularly community participation, is meaningful and mutually beneficial.

Views of respondents opposed to a human rights based approach to the Statement

4.19 The view of several individuals was that human rights are not central to land rights and responsibilities and other factors should take precedence.

4.20 Two respondents, a National NGO and an individual, considered that the values underpinning a human rights based approach are well founded, but

describing the Statement as adopting a human rights based approach goes too far. Instead, it was suggested that a focus on “duty of care” or duty of stewardship of the land, may be more appropriate.

5. Views on the Vision of the Land Rights and Responsibilities Statement

Background

The proposed Statement is in Annex 1. It comprises a vision followed by six principles. The consultation sought views on each of these in turn.

Vision:

“The ownership, management and use of land and buildings in Scotland should contribute to the collective benefit of the people of Scotland. A fair, inclusive and productive system of land rights and responsibilities should deliver greater public benefits and promote economic, social and cultural rights.

Question 3: Do you agree with the vision of the Land Rights and Responsibilities Statement? Please provide comments.

5.1 47 (76%) respondents answered the first part of Question 3. Of these, 30 agreed with the vision of the Statement. Table 5.1 summarises views by category of respondent.

Table 5.1 Views on proposed vision of the Statement by category of respondent

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	8	4	12
Private Sector and Professional Bodies	1	3	4
Community Organisations and their Representative Bodies	3	3	6
Government and NDPBs	1	0	1
Academic	1	0	1
Total Organisations	14	10	24
Total Individuals	16	7	23
Grand total	30	17	47

5.2 Individual respondents who provided a view were more supportive of the vision than organisations, almost half of whom disagreed with it. Three of the four private sector and professional bodies who gave their view disagreed with the vision, whereas most of the National NGOs supported it.

5.3 47 respondents provided further relevant commentary in response to Question 3, and their views are summarised below.

General supportive views

5.4 A few respondents provided general views in favour of the draft vision. According to one NDPB, the vision is pro-active and supports a collaborative approach; it introduces, for the first time, the concept that with land ownership, management and use, come responsibilities to others; and it encompasses the key objectives of economic and social impact.

5.5 One individual considered it particularly useful in view of what was perceived to be the increasingly urbanised nature of our society and the loss of connection with the land. Another individual supported the vision as it stood and argued against making it more prescriptive, for example, by enshrining it in detail in statute.

Views on the vision title

5.6 Two respondents suggested that the title should recognise the changing relationship between people and the land. A community organisation proposed that the words “and developing” appear before “relationship”; and a National NGO recommended the insertion of “and dynamic” before “relationship”.

5.7 One National NGO suggested that at the end of the title, “and the land of Scotland” is replaced with “and its land”.

Views on the body of the Vision

5.8 The most frequent comment, largely from National NGOs, was that explicit mention of “environment” is missing from the vision. Some remarked that environmental sustainability had been included in a previous draft of the vision and should be included in the latest version. One respondent commented:

“...we are concerned that without explicit reference in the vision to delivering environmental sustainability and mitigating and adapting to climate change that these crucial priorities may not be given the same weight as economic and social considerations in the application of the Statement” (Nourish Scotland).

5.9 A few respondents suggested that adding environmental to the list of rights in the vision would be appropriate.

5.10 Another recurring view, across three different sectors, was that with rights come responsibilities, and these are not given sufficient emphasis in the vision.

5.11 Other views expressed by only a few respondents were:

- Replace “promote” with “fulfil” or “progressively realise”.

- Should include reference to the importance of transparency on all land matters.
- Should make clear that communities in cities should be given the same opportunities as those in more rural areas.
- Should be a reference to property rights.
- Should make mention of the future, as sustainable development is about meeting present needs without compromising those of future generations.
- Perception that the outcome sought is not simply the promotion of rights but what those rights can then deliver, so amend the last part of the vision to, “promote economic, social and cultural wellbeing”.
- There could be different interpretations of “benefit” and “benefits” which could lead to tension. These should be defined and approaches to addressing emerging conflicts developed.

General critical views

5.12 A few respondents were wholly critical of the vision. In particular, one individual was simply opposed to the concept of public benefit in land management and use; a National NGO considered the vision lacking in inspiration and lacking in clarity on what the Statement aims to achieve.

6. Views on Principle 1 of the Land Rights and Responsibilities Statement

Principle 1

The overall framework of land rights, responsibilities and associated public policies governing the ownership, management and use of land, should contribute to building a fairer society in Scotland and promote environmental sustainability, economic prosperity and social justice.

Question 4: Do you agree with Principle 1 of the Land Rights and Responsibilities Statement? Please provide comments.

6.1 47 (76%) respondents answered the first part of Question 4. Of these, 38 agreed with Principle 1 of the Statement. Table 6.1 summarises views by category of respondent.

Table 6.1 Views on Principle 1 by category of respondent

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	9	1	10
Private Sector and Professional Bodies	4	2	6
Community Organisations and their Representative Bodies	3	2	5
Government and NDPBs	1	0	1
Academic	1	0	1
Total Organisations	18	5	23
Total Individuals	20	4	24
Grand total	38	9	47

6.2 The balance of views in support of Principle 1 was broadly similar across both organisations and individuals, with a significant majority of respondents supporting Principle 1.

6.3 35 respondents provided further relevant commentary in response to Question 4, and their views are summarised below.

General views in support of Principle 1

6.4 Several respondents welcomed Principle 1 in broad terms as encompassing the key elements of a land rights and responsibilities framework. Aspects singled out for particular support were: mention of a duty to future generations; promotion of environmental sustainability; and reference to building a fairer society (although one individual suggested that “building a fairer society” should be referenced after the key outcomes, to give more emphasis to the latter).

6.5 Two individuals were generally supportive, but both considered that the Principle was more rhetoric than substance. Others were of the view that the Principle could go further, one individual suggesting that further consideration be given to bringing all land ownership into the hands of the people of Scotland; a National NGO suggested the Principle could be strengthened by replacing “promote” in the title to “leading to”.

6.6 Although supporting the Principle, one National NGO expressed concern that it provided scope for different interpretations across stakeholders. One professional body requested that the management of the Crown Estate be encompassed by this Principle.

Views on possible additions to Principle 1

6.7 A few community organisations and a National NGO considered that the Principle should include fulfilling or progressive realisation of human rights, explicitly, at the end of the title. This was viewed as being in line with the human rights based approach and adding value to the title.

6.8 One National NGO requested that good quality, affordable housing be added as another outcome along with environmental sustainability, economic prosperity and social justice. They also recommended that the section on “What are we doing” contain mention of affordable housing and the Scottish Government’s commitment to this.

6.9 Another National NGO suggested that “community resilience” should be included as a key outcome.

Views on realising Principle 1

6.10 A recurring view was that the Principle heading and the listed policies need to be more explicitly connected to show how the policies reflect the Principle and what will be done in future to strengthen and further align policies with the Principle.

6.11 A few other policies were identified for possible inclusion: Land Use Strategy; town and country planning policies. One National NGO welcomed in particular the mention of the Regeneration Strategy in realising Principle 1.

6.12 A community organisation gave their view that the text accompanying Principle 1 should recognise that the most effective lever for delivering this Principle is the alignment of Government fiscal (grant, subsidy and tax) mechanisms.

6.13 Two respondents (a National NGO and a private company) both referred to the need for stronger engagement and empowerment of local communities in enabling this Principle. They considered that structures should be in place for informed local decision-making involving local communities.

Views opposing Principle 1

6.14 An individual and a professional body considered that public right to private ownership and enjoyment of their land was not given sufficient emphasis. A contrasting view from another individual was that the Principle could give more emphasis to ownership of land being exercised in the interests of the community.

6.15 The term “fairer society” attracted comments with a few respondents considering this to be a subjective and abstract concept. They argued that different parties may have competing notions of what is “fair”. A National NGO considered that this phrase suggested that the current system is not fair, which they did not perceive to be the case. Another National NGO recommended removing the reference to “fairer society” as they considered that issues of fairness are already encompassed within social justice.

7. Views on Principle 2 of the Land Rights and Responsibilities Statement

Principle 2

There should be an increasingly diverse and widely dispersed pattern of land ownership and tenure, which properly reflects national and local aspirations and needs.

Question 5: Do you agree with Principle 2 of the Land Rights and Responsibilities Statement? Please provide comments.

7.1 44 (71%) respondents answered the first part of Question 5. Of these, 33 agreed with Principle 2 of the Statement. Table 7.1 summarises views by category of respondent.

Table 7.1 Views on Principle 2 by category of respondent

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	9	1	10
Private Sector and Professional Bodies	4	0	4
Community Organisations and their Representative Bodies	3	2	5
Government and NDPBs	1	0	1
Academic	1	0	1
Total Organisations	18	3	21
Total Individuals	15	8	23
Grand total	33	11	44

7.2 Organisations who provided a view expressed more support for Principle 2 than did individuals, one-third of whom disagreed with the Principle.

7.3 40 respondents provided further relevant commentary in response to Question 5, and their views are summarised below.

General views in support of Principle 2

7.4 National NGOs, in particular, welcomed Principle 2 in terms of its focus on broadening the pattern of land ownership, the inclusion of “tenure”, and the mention of the role of charitable bodies in managing Scotland’s natural and built heritage. Increased diversity of ownership was envisaged as promoting fairer access to land, which would support increased agricultural output, intelligent local regeneration processes and dynamic economic development.

7.5 An academic supported the inclusion of affordable housing within the Principle; a NDPB considered that broader access to land assets was fundamental to a modern, forward-thinking country seeking to build a fairer society and achieve sustainable growth.

Views on realising Principle 2

7.6 A few National NGOs emphasised the need for responsibility to accompany land ownership and tenure, and suggested that communities be provided with professional support to manage acquired land and property.

7.7 Some respondents identified the need for adjustments to current legislation and regulations to facilitate the realisation of Principle 2. For example: shortening the time during which land must be developed, following the granting of planning permission; relaxing planning permissions for rural housing and small business premises; updating the Compulsory Purchase Order process.

7.8 A few respondents suggested that greater emphasis will need to be placed on pro-actively ensuring larger landowners are obliged to sell part of their assets, perhaps by restricting the size of land permitted to be owned by one landowner.

7.9 Consistency and confidence were viewed as vital in realising the Principle, with a few respondents suggesting that unless terms such as “sustainable development” are clarified, then there will be inconsistency and lack of confidence in land and property markets.

7.10 One National NGO acknowledged the cultural change promoted by Principle 2, and identified the need for an education campaign to facilitate such change, particularly around greater female land ownership.

Queries emerging

7.11 A few respondents requested clarification on the interaction between Principle 2 and the Land Use Strategy, for example, regarding the proposal for the re-establishment of regional land use partnerships. One respondent provided their view:

“...the terms “increasingly diverse” and “widely dispersed” are too vague to be meaningful. What is the desired level of diversity or dispersal in land ownership patterns? Changing ownership patterns without setting a strategic direction for the outcomes we would like to see on the ground will not necessarily secure

more sustainable land use or management. This is where we would like to see a much stronger connection with the Scottish Land Use Strategy” (RSPB Scotland).

7.12 A few respondents raised the issue of security of tenure, with some querying how what they perceived to be a currently complex system would address the emphasis on greater diversity of ownership and tenure.

7.13 Some National NGOs and community organisations sought clarification on the terms, “widely dispersed” and “a wide and diverse availability of land and buildings”.

Views opposing Principle 2

7.14 A recurring view, particularly amongst National NGOs and private sector respondents was that diversity of ownership does not relate directly with diversity of land use or management. Some emphasised that diversity of land use can develop without any change of ownership. An example was given of local businesses renting land or premises from landowners who then have an interest in seeing their respective tenants prosper.

7.15 Several respondents identified what they considered to be disadvantages of greater diversity of land ownership: the loss of economies of scale necessary for some agricultural production; hampering of the cohesive management required for certain assets such as trees; loss of specialist management required for assets such as historic houses; loss of cross-subsidisation opportunities required to sustain significant though loss-making property; and challenges to efficient regeneration of, for example, town centres, due to fragmented ownership structures frustrating renewal.

7.16 A few respondents considered Principle 2 ideological and avoiding the realities of market forces. Some suggested that the Principle took attention away from the key issue of stewardship of land, how it is used rather than how it is owned.

8. Views on Principle 3 of the Land Rights and Responsibilities Statement

Principle 3

More local communities should be given the opportunity to own buildings and land which contribute to their community's wellbeing and future development.

Question 6: Do you agree with Principle 3 of the Land Rights and Responsibilities Statement? Please provide comments.

8.1 48 (77%) respondents answered the first part of Question 6. Of these, 37 agreed with Principle 3 of the Statement. Table 8.1 summarises views by category of respondent.

Table 8.1 Views on Principle 3 by category of respondent

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	7	3	10
Private Sector and Professional Bodies	6	1	7
Community Organisations and their Representative Bodies	3	2	5
Government and NDPBs	2	0	2
Academic	1	0	1
Total Organisations	19	6	25
Total Individuals	18	5	23
Grand total	37	11	48

8.2 The majority of individuals and organisations who provided a view agreed with Principle 3.

8.3 39 respondents provided further relevant commentary in response to Question 6, and their views are summarised below.

General views in support of Principle 3

8.4 Respondents from a range of sectors supported the Principle, with a few highlighting existing evidence of positive benefits arising from broadening the opportunities for communities to own buildings and land.

8.5 One individual considered that the Principle would help to address what they had observed as difficulties frequently faced by communities in obtaining land at the edge of settlements for community use, such as play areas for children.

8.6 An Academic Body welcomed in particular the reference in the supporting text to leasing land.

Views on possible additions to Principle 3

8.7 A few respondents suggested that in view of the potential benefits to communities of leasing buildings and land, reference to leasing should be included in the Principle's title.

8.8 Another suggestion was for including reference to "having access to" in addition to owning or leasing. It was remarked that some community groups, particularly in remote, rural areas, might want to make use of property without having to take responsibility for its maintenance.

8.9 Two National NGOs suggested that communities of interest rather than local communities should be given the opportunity to own buildings and land. One remarked that the resulting contribution may be in a national rather than local interest.

8.10 One National NGO considered that the natural environment should be added along with buildings and land, as communities may wish the opportunity to shape, protect and enhance this.

8.11 Another National NGO suggested inserting "may" in the second paragraph of supporting text, between "organisations" and "deliver", as not all community organisations are wholly successful.

Views on realising Principle 3

8.12 A few National NGOs commented that the opportunities for owning and leasing buildings and land need to be communicated effectively to local communities for them to be aware of these possibilities.

8.13 Some respondents, across a range of sectors, expressed concern that local communities may lack the capacity and skills to realise Principle 3. They suggested that support be put in place to underpin the transfer and sustainable management of assets by local communities, in order to combat, for example, "volunteer fatigue". One private company suggested that community bodies should be required to demonstrate they have the appropriate financial resources and general capacity needed to acquire and further invest in land.

8.14 A few respondents emphasised what they perceived to be the need to mitigate against minority, vocal bodies or individuals, who may be steering the actions of communities in taking ownership of buildings and land.

8.15 One National NGO called for clear mediation services and access to the Ombudsman for small, local organisations involved in owning and leasing land and buildings. A private company considered that rights to community ownership should be balanced with an emphasis on rights of landowners too.

Views opposing Principle 3

8.16 The most common view opposing Principle 3 was that this is not needed as, firstly, communities already have the opportunity for ownership by virtue of the Community Empowerment (Scotland) Act 2015, and, secondly, Principle 2 already encompasses Principle 3.

8.17 A few respondents provided their view that rather than focus on ownership, the emphasis in Principle 3 should be on utilisation of buildings and land.

8.18 An individual respondent considered that the Principle constituted neither a right nor a responsibility, and prioritises one approach over the diverse approaches which were suggested in Principle 2.

9. Views on Principle 4 of the Land Rights and Responsibilities Statement

Principle 4

The holders of land rights should recognise their responsibilities to meet high standards of land ownership, management and use, acting as the stewards of Scotland's land resource for future generations.

Question 7: Do you agree with Principle 4 of the Land Rights and Responsibilities Statement? Please provide comments.

9.1 46 (74%) respondents answered the first part of Question 7. Of these, 40 agreed with Principle 4 of the Statement. Table 9.1 summarises views by category of respondent.

Table 9.1 Views on Principle 4 by category of respondent

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	11	1	12
Private Sector and Professional Bodies	5	1	6
Community Organisations and their Representative Bodies	3	2	5
Government and NDPBs	1	0	1
Academic	1	0	1
Total Organisations	21	4	25
Total Individuals	19	2	21
Grand total	40	6	46

9.2 Most of the individuals and organisations who provided a view agreed with Principle 4.

9.3 42 respondents provided further relevant commentary in response to Question 7, and their views are summarised below.

General views in support of Principle 4

9.4 A few respondents across different sectors considered this to be the most important Principle in terms of demanding high standards and its focus on stewardship, perceived by some to be the most fundamental feature of land ownership.

9.5 Several respondents, across different sectors, welcomed the emphasis on responsibilities within this Principle as being intertwined with rights to ownership.

9.6 Some respondents specifically supported the Principle's reach beyond landowners, to managers and users too.

9.7 A few respondents welcomed in particular the bringing forward proposals for Compulsory Sales Orders, although a private company suggested that such orders present practical challenges and will need significant detailed examination and scrutiny.

Views on possible additions to Principle 4

9.8 Two respondents requested that the Principle should make clearer that everyone has a role in looking after Scotland's land, whether or not they are holders of land rights.

9.9 Further strategies were proposed for inclusion under "What we are doing": Scotland's Historic Environment Strategy, "Our Place in Time"; and the Scottish Bio-Diversity Strategy, the Route Map and the Forest Strategy.

9.10 One National NGO recommended adding a reference to landlords being responsible for realising their tenants' human rights to decent housing which meets repair standards.

9.11 Another National NGO called for:

- Reference to appropriate development and the right to challenge inappropriate development.
- More on the value of place, with references to cultural values, natural beauty, and historic built environment.
- Reference to climate change, biodiversity and enhancement of natural heritage/assets.
- Reference to the role of enforcement in ensuring minimum standards are met.

9.12 One private company suggested that the Principle should make clear that those with more formal rights to land must not be prohibited or inconvenienced in carrying out their management practices as a result of others using the land for informal purposes.

Views on strengthening Principle 4

9.13 Some of the respondents who stated that they disagreed with the Principle did so as they considered it was not strong enough as currently worded. The phrases,

“should recognise” and “high standards” were identified in particular as requiring to be re-phrased, or more closely defined, to make them more meaningful. Instead of “should recognise” respondents suggested “held accountable for” or “fulfil” or “exercise their rights in ways that recognise...”. A few respondents considered that further information and/or examples are required to demonstrate what is meant by “high standards” as the phrase could mean different things to different parties.

9.14 A few respondents commented that they agreed with Community Land Scotland’s views on strengthening Principle 4. These included:

- Possibilities of including a reference to the issues the Minister must have regard to in drafting the Statement: human rights; promoting respect for internationally accepted principles and standards for land practices; equal opportunities; reducing socio/economic disadvantage; facilitating community empowerment; increasing diversity in ownership; furthering sustainable development. Making clear that in considering the exercise of their responsibilities to meet “high standards of land ownership, management and use”, the holders of land rights should have regard to the matters which Scottish Ministers must have regard to in preparing this Statement, as set out in Part 1 of the 2016 Act.
- To encourage a changing culture through considerations that might exemplify key land responsibilities, including an aspirational statement at the conclusion of the Statement to the effect that Ministers: “believe that progressive and innovative holders of land rights will wish to exercise their rights in ways which: optimise the land’s productive use, without compromising conservation priorities; furthers sustainable economic growth and development; mitigates and does not contribute adversely to climate change; contributes to achieving climate justice; minimises the effects of flooding; delivers greater bio-diversity; protects and enhances the condition of soils; improves water quality; enhances local environments having regard to scenic considerations; assesses their plans and land decisions against how they will fulfil peoples’ human rights; meets the principle of ‘responsible investment’; furthers inclusive growth; and contributes to the achievement of the sustainable development goals.” This approach was perceived as explicitly setting out an aspirational standard of considerations which the most progressive and responsible owners could use to judge their actions, and which might also gain wider currency over time among all owners.

10. Views on Principle 5 of the Land Rights and Responsibilities Statement

Principle 5

Information on land should be publicly available, clear and detailed.

Question 8: Do you agree with Principle 5 of the Land Rights and Responsibilities Statement? Please provide comments.

10.1 51 (82%) respondents answered the first part of Question 8. Of these, 46 agreed with Principle 5 of the Statement. Table 10.1 summarises views by category of respondent.

Table 10.1 Views on Principle 5 by category of respondent

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	14	0	14
Private Sector and Professional Bodies	5	1	6
Community Organisations and their Representative Bodies	5	0	5
Government and NDPBs	2	0	2
Academic	1	0	1
Total Organisations	27	1	28
Total Individuals	19	4	23
Grand total	46	5	51

10.2 Most of the individuals and organisations who provided a view agreed with Principle 5.

10.3 42 respondents provided further relevant commentary in response to Question 8, and their views are summarised below.

General views in support of Principle 5

10.4 Several respondents, from a range of sectors, identified key advantages of Principle 5 to be increased transparency and accountability. Private sector companies and National NGOs highlighted improved communication between

stakeholders as a potentially positive outcome, with better co-ordination of activities and collaborative ventures.

10.5 A National NGO considered the Principle helpful in supporting investigations towards the viability of physical regeneration ideas and plans. Another viewed the Principle as playing a key role in safeguarding the public interest.

10.6 A few National NGOs stated that they agreed with the ethos of the Principle but not all of the wording. In particular, they suggested that there needs to be more explicit reference to increasing the transparency of ownership.

Views on possible additions to Principle 5

10.7 One National NGO requested that landlord and letting agency registers also be maintained as part of open information.

10.8 Another considered that there should be emphasis on land use in the data, for example, linking with spatial strategies, local development plans, and so on; and that local authority and public agency asset transfer registers should be referenced.

10.9 A private company suggested that “land” should include public goods and assets on that land.

Views on realising Principle 5

10.10 A few respondents requested that loopholes leading to data being hidden or obscured should be identified and addressed, in order to support Principle 5.

10.11 Another view from a few respondents was that the Principle should be pro-actively encouraged, so that more information becomes in the public domain, not just that which already exists.

10.12 Some respondents considered that the information should be freely available, or available for a nominal charge only, to promote its accessibility. Others emphasised the need for good quality information, with data providers and users having confidence in the security and accuracy of the information.

Views on the limitations of Principle 5

10.13 The main view was that provision of the information could be costly and onerous for landowners to provide.

10.14 A private company suggested that what is then done with this information and what it is used to measure, should be carefully considered in enacting this Principle.

11. Views on Principle 6 of the Land Rights and Responsibilities Statement

Principle 6

There should be wide community engagement in decisions about land.

Question 9: Do you agree with Principle 6 of the Land Rights and Responsibilities Statement? Please provide comments.

11.1 50 (81%) respondents answered the first part of Question 9. Of these, 40 agreed with Principle 5 of the Statement. Table 11.1 summarises views by category of respondent.

Table 11.1 Views on Principle 6 by category of respondent

Category	Agree	Disagree	No. of respondents providing a view
National NGOs	10	4	14
Private Sector and Professional Bodies	5	1	6
Community Organisations and their Representative Bodies	5	0	5
Government and NDPBs	1	0	1
Academic	1	0	1
Total Organisations	22	5	27
Total Individuals	18	5	23
Grand total	40	10	50

11.2 Most of the individuals and organisations who provided a view agreed with Principle 6. Amongst the organisations, there was less of a consensus amongst the National NGOs, with four of the 14 who responded disagreeing with the Principle.

11.3 40 respondents provided further relevant commentary in response to Question 9, and their views are summarised below.

General views in support of Principle 6

11.4 Several respondents, from a range of sectors, expressed strong support for Principle 6. It was welcomed as an approach to aid better decision-making, enabling transparency in decision-making, and supporting a shift in focus towards the public interest and the common good. Described as part of a pro-active planning system, wide community engagement in decisions about land was perceived as underpinning collaborative relationships between landowners, managers, users and communities.

11.5 An NDPB suggested that the Principle could directly benefit bio-diversity by promoting wider connections with nature and the ownership of the actions needed to address bio-diversity loss.

Views on possible additions to Principle 6

11.6 A few respondents considered that “community” should encompass communities of interest, both wider (e.g. National Farmers’ Union Scotland) and more concentrated (e.g. church congregation), in addition to the local geographical community.

11.7 One National NGO suggested that the description of the Principle should make clear reference to a human rights-based approach and Scotland’s National Action Plan for Human Rights.

11.8 Another National NGO recommended that the Land Use Strategy be referenced in view of the role of regional partnerships in decision-making on land.

11.9 An individual called for decisions on agricultural management to be explicitly cited under the Principle.

Views on realising Principle 6

11.10 A recurring view was that for the Principle to be effective and helpful, community engagement should not create undue delay or complexities in decision-making.

11.11 Another common concern was that the community should be fairly represented, and not simply by those whose voices are loudest. A private company suggested that community representatives should be democratically elected to take part in engagement. A National NGO suggested that strategies for conflict resolution, including mediation, should be a core part of an effective engagement strategy.

11.12 A private company considered it important that all parties should be clear on the purpose of any community engagement in terms of the scope of decisions which can be influenced, in order to make it meaningful and manage expectations.

11.13 A National NGO called for equal status for communities in planning decisions and for the Scottish Government to work out a proportionate and tractable approach to realising the ambition of community consultation as set out in the Land Reform (Scotland) Act 2016.

11.14 Another National NGO cautioned that community engagement should not detract from the overall key aims and work of bodies such as those with charitable objectives.

Views on the limitations of Principle 6

11.15 Those who opposed this Principle, and some of those who supported it, identified potential limitations and challenges to wide community engagement in decisions about land.

11.16 A recurring view was that community engagement should not be a blanket requirement in every decision about land, but should be utilised only in certain circumstances, such as a material change to land use. If applied to day-to-day, routine farming activities, for example, respondents considered that Principle 6 would be impractical.

11.17 A few respondents suggested that the aspiration of the Principle was admirable, but in reality landowners should be able to make their own decisions on land issues where there are factors such as economic climate and market opportunities to consider.

11.18 Some respondents considered that Principle 6 will result in delays in planning, for example, where community groups conflict with each other.

11.19 One National NGO did not consider the wording of the Principle to reflect the Scottish Government's position on community engagement and called for amendments to align with what will be contained in the forthcoming Community Engagement Guidance. Another National NGO suggested changing the wording of the heading to, "There should be thorough and effective community engagement in decisions about land" in order to counteract community engagement being interpreted differently to suit the needs of those undertaking the engagement.

12. Case Studies Illustrating the Vision or Principles

Question 10: We would like to hear real life stories about the relationship between Scotland's land and people. Please provide any case studies which you feel illustrate the vision or principles.

12.1 16 respondents provided substantive contributions in response to this question.¹ These are summarised in Annex 2.

12.2 Other respondents referred to their websites or links to further information.

12.3 The case studies provided encompass a wide range of experience involving communities, other stakeholders and their relationship with Scotland's land. They cover topic areas from housing to environment and local economies.

¹ There were other case studies put forward, but where information was overly subjective or could create offence, the case studies are not displayed in Annex 2.

13. Any Further Comments

Question 11: Do you have any further comments?

General views

13.1 Many respondents welcomed the draft Statement as comprising a promising start towards changing culture and furthering the land reform agenda. One National NGO referred to it as powerful tool to focus and frame the direction of travel.

Views on the Statement's ambition

13.2 A recurring view, emerging largely from National NGOs, was that the Statement could go further to set a realisable vision and encourage a change in thinking. A few respondents considered that the Statement was not sufficiently compelling as currently drafted to drive forward radical change, although one emphasised that the Statement should be fluid enough to develop further over time.

13.3 There were repeated calls for the Statement to be more specific on how landowners, users and managers should be engaged to support desired outcomes; the context in which the Statement will be exercised; and the expectations placed upon the parties involved.

13.4 The non-legal basis of the Statement was referred to by several respondents, with questions raised over the impact of this on driving change. One respondent suggested that replacing “should” in the Principle headings with “will” or “must” might suggest greater purpose.

13.5 One National NGO suggested that the vision should extend beyond five years.

Views on practicalities

13.6 A repeated view amongst National NGOs was that the Statement was pitched at too high a level to offer a realistic proposition on how best to use land. Several respondents emphasised what they saw as the need for more detail on the underpinning mechanisms, such as how current policies will be assessed and reviewed to better reflect the Principles; how the Statement will work in practice; how the Statement fits with wider relevant legislation and incentive programmes.

13.7 One National NGO suggested that case studies may help to illustrate the vision.

Views on omissions or the need for greater emphasis

13.8 A few respondents commented that despite the narrative on human rights based approaches, the Statement does not actually include the term “human rights” which they felt weakened this emphasis.

13.9 Other topics which respondents considered were missing or required more emphasis were:

- Marine environment.
- Socio-economic duty – a Scottish Government policy commitment for 2017.
- Environmental rights including environmental sustainability and climate justice.
- Private owners' property rights (seen as a key part of human rights legislation).
- Links with the Land Use Strategy.
- Recognition of land as a precondition to food production; equality, sustainability and resilience of Scotland's food system.
- Links with relevant international land use and management commitments such as the European Landscape Convention.
- Landowners' responsibilities towards wider society.
- Urban land reform as opposed to what was viewed as an emphasis largely on rural issues in the Statement.

Views on language/phrasing

13.10 Several respondents, across a range of sectors, commented that they perceived the language used in the Statement to be vague in places and open to interpretation. There were a few requests for the definition of "community" to be reviewed to ensure both communities of place and of interest are encompassed, but also to ensure consistency of reference to both throughout.

13.11 A few respondents suggested that "land management" should be re-defined, one remarking that at present the definition confused objectives of management with the state of the land. A need for definition of public or collective benefit was identified; and for "community ownership" to be included within the definitions of landowner and land manager.

Views on implementation

13.12 Several respondents, from a range of sectors, highlighted a well-planned implementation of the Statement as crucial in ensuring its effectiveness. One National NGO suggested that an Action Plan should be developed which outlined the steps for the Scottish Government to take in supporting the embedding of the principles of the Statement. A Communication Plan was also envisaged in order to ensure wide-scale awareness and publicity of the Statement, beyond the usual stakeholder suspects.

Views on monitoring and evaluation

13.13 A recurring view was for the Statement to be underpinned by a robust monitoring and evaluation framework. However, it was acknowledged that the absence of specific actions and targets could make measurement of achievement challenging. A shared view was that this should not deter regular review of

progress against the aspirations, and there should be reference to accountability structures within the main body of the Principles.

14. Impact Assessment

Equality

The Scottish Government is committed to promoting equality and removing or minimising disadvantage which may be experienced by different groups of people. The Scottish Government has a legal duty to consider the impact of policies on people who may be differently affected in relation to the “protected characteristics” under the Equality Act 2010. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Question 12: Please tell us about any potential impacts, either positive or negative, that you consider the proposals in this consultation may have.

14.1 16 respondents provided relevant comments in response to question 12. Most envisaged potentially positive impacts as a result of the proposals in the consultation. These are listed below from most commonly mentioned to least frequently mentioned:

- Reduction in inequality.
- Better use of land/better stewardship.
- Community empowerment.
- Increase in collaborative working between landowners and communities.
- Sustainable economic growth.
- Landowners exercising their rights in the public interest.
- Strengthened local democracy.
- Improved housing.

14.2 A few potentially negative impacts were identified. These were:

- Removal of property rights of landowners.
- Risk of poorer land management due to smaller pockets of land/break up of larger, managed areas.
- Risk of community groups not having the capacity to manage land effectively.

14.3 Three respondents considered that the proposals in the consultation will have no impact on those with protected characteristics. One individual remarked that the proposals were ineffective as the Statement had no legal underpinning and could not be enforced.

Business and regulation

The Scottish Government does not consider that a business and regulatory impact assessment is required, as the Statement will not directly impose new regulatory burdens on businesses, charities or the voluntary sector.

Question 13: Please tell us about any potential costs and burdens that you think may arise as a result of the proposals in this consultation.

14.4 13 respondents provided relevant comments in response to question 13. Four of these did not consider that costs or burdens will arise from the proposals, as they do not introduce any new regulatory burdens, nor are they enforceable.

14.5 A number of potential costs were identified, with some viewed as necessary in order to reap benefits over the longer-term:

- Increased funding requests to asset transfer funding schemes, such as the Scottish Land Fund.
- Community engagement processes including costs to the Scottish Government for capacity-building.
- Cost to the Scottish Government of developing associated guidance.
- Costs to landowners of registering ownership.
- Costs to farmers due to the potentially negative impact of division of land on agriculture; and requirement to engage with communities on decisions about land.
- Costs of disputes which go to court.
- Possible disincentive to inward investment.

Environmental

The Environmental Assessment (Scotland) Act 2005 ensures those public plans that are likely to have a significant impact on the environment are assessed and measures to prevent or reduce adverse impacts are sought, where possible, prior to implementation of the plan in question.

Question 14: Please tell us about any potential impacts, either positive or negative, that you consider that any of the proposals in this consultation may have on the environment.

14.6 22 respondents provided relevant comments in response to question 14. Most of these identified potentially positive impacts for the environment, as a result of the proposals in the consultation. Their views are summarised below:

- Generally, positive impacts will emerge over time.

- Decision-making on land will be in the public interest and therefore, is likely to have positive environmental impacts.
- The proposals recognise the importance of land management and use alongside ownership so improved stewardship will result.
- Increasingly diverse land ownership is likely to lead to greater diversity of land use, which could lead to increased bio-diversity.
- The proposals will promote pro-environment behaviour by communities.

14.7 Two respondents raised the possibility of greater use of brown and green field land for housing and economic development as a result of increased community involvement in decision-making, with negative impacts on the natural environment.

14.8 Three respondents identified a risk of more diverse land ownership leading to diminishing attention and skill required for sustaining effective stewardship of land.

Annex 1: Proposed Land Rights and Responsibilities Statement: Vision and Principles

Vision for a strong relationship between the people of Scotland and the land of Scotland

The ownership, management and use of land and buildings in Scotland should contribute to the collective benefit of the people of Scotland. A fair, inclusive and productive system of land rights and responsibilities should deliver greater public benefits and promote economic, social and cultural rights.

Principles

1. The overall framework of land rights, responsibilities and associated public policies governing the ownership, management and use of land, should contribute to building a fairer society in Scotland and promote environmental sustainability, economic prosperity and social justice.
2. There should be an increasingly diverse and widely dispersed pattern of land ownership and tenure, which properly reflects national and local aspirations and needs.
3. More local communities should be given the opportunity to own buildings and land which contribute to their community's wellbeing and future development.
4. The holders of land rights should recognise their responsibilities to meet high standards of land ownership, management and use, acting as the stewards of Scotland's land resource for future generations.
5. Information on land should be publicly available, clear and detailed.
6. There should be wide community engagement in decisions about land.

Annex 2: Case Studies Illustrating the Vision or Principles (in response to Question 10).

Respondent	Case Study/Studies	Focus/Topic
The James Hutton Institute	<ol style="list-style-type: none"> 1. 'Sustainable Estates for the 21st Century', including the project book 'Lairds, Land and Sustainability', presents case studies and lessons for sustainable upland land management that relate closely to the principles in the LRRS. 2. The recent film 'Grazing on the Edge', an output of the TRANSGRASS project, examines the challenges and competing demands of land management in upland grazing areas (funded through Scottish Government Underpinning Capacity 2011 – 2016). 3. The EU-funded 'FarmPath' project used a participatory visioning approach that involved farmers, community and local authority representatives to understand pathways towards the regional sustainability of agriculture in Europe. Similar lessons from successful visioning approaches are detailed in research reports by the Centre for Expertise on Animal Disease Outbreaks. 4. The contribution of green and open space in public health and wellbeing is demonstrated in the Scottish Government-funded 'GreenHealth' project, which included the case study of Finlathen Park, Dundee, to explore community visioning for urban greenspace. 5. A further case study from North East Scotland utilises visualisation techniques to support the public interpretation of future climate change and land use choices (funded by the Scottish Government Strategic Research Programme 2011 – 2016); see examples of use of the 'virtual landscape theatre'. 6. A recent study monitored the decision making of a private estate as it attempted to widen participation in the governance and management of its land (Eastwood et al, forth.). The study identified a number of key factors which counteracted the estates desire to widen community 	Research-based case studies – variety of topics

	<p>participation. These included lack of organisational capacity, a perceived risk of losing control of the stewardship for the land, and the inability to reconcile divergent but equally valued perspectives.</p> <p>7. The Ecosystem Approach Review, funded by the Scottish Government Strategic Research Programme 2011 – 2016, explored existing examples of the Ecosystem Approach, to identify implications for future equitable and holistic natural resource management.</p> <p>8. Lessons can also be learned from the Aberdeenshire Land Use Strategy Pilot, which will support development of the Land Use Strategy 2016 – 2012. In particular, the Local Focus Area pilot participants indicated their support for greater integration of land use planning and improved coordination between different policy areas.</p>	
Development Trusts Association Scotland	DTAS can provide examples of the benefits of community ownership, or where issues around land thwart community ambitions regarding sustainability.	Community ownership and challenges
Highlands and Islands Enterprise	<p>1. HIE can provide a number of case studies - written format and video - regarding community asset ownership.</p> <p>2. We also provided a list of examples to support the Scottish Government's research titled. 'Exploring the barriers to community land-based activities', published in August 2015</p>	Experiences of asset transfer and ownership
Scottish Natural Heritage	1. A recent partnership project in the Carse of Stirling, which was commissioned by SNH and SEPA, explored ways in which local communities, along with farmers, other land managers, and environment and recreation interests, could be more involved in decisions about land use and management. This project enabled both communities and others to gain a greater understanding of their relationships with the land and to develop a common vision for land use, maximising the benefits that it provides. This demonstrates one way in which wider community engagement in land use could be achieved in practice, and an evaluation report is available at http://www.snh.gov.uk/publications-data-and-	Stakeholder engagement

	<p>research/publications/search-the-catalogue/publication-detail/?id=2113.</p> <p>The principle of wider community ownership of buildings and land is demonstrated by the asset transfer which took place on Rum in 2009-10, pre-dating recent changes to land reform and community empowerment legislation. In 2007, the Isle of Rum Community Trust was established to acquire and manage land and buildings from SNH for the island community. This transfer took place in two phases in February 2009 and April 2010, and IRCT now has community ownership of approximately 65 hectares of mixed land, three crofts, 10 domestic properties and eight non-domestic properties in and around Kinloch village. We are also currently exploring the possible transfer of land at Loch Druidibeg, a former National Nature Reserve in South Uist, to community ownership for ongoing management as a local visitor attraction.</p>	<p>Experiences of asset transfer and ownership</p>
<p>Individual</p>	<p>So often, the relationship is one of powerlessness for local people over the decisions of landowners. For example, when local fishermen are prevented from accessing a harbour that has been used for centuries by previous generations of local fishermen. If they are not quite powerless, then the hoops that must be jumped through to make headway are very demanding and difficult to satisfy, administratively or legally. New law coming into effect soon may help.</p> <p>Landowners / developers can persist with planning applications over decades despite consistent large-scale opposition by many local people, and despite previous public enquiries which have turned previous applications down. Park of Keir is an example.</p> <p>Wealthy large-scale landowners often claim they have a key function in providing local employment in rural areas. While there is some truth in this, the employment is often poorly paid and sometime seasonal. However, when communities struggle through the process to take control over their own land, the economic situation usually improves significantly. with a much wider range of new and creative sources of income -developing, and populations starting to increase again after long-term decline.</p>	<p>Perceptions from community members</p>

<p>Individual</p>	<p>Land donated in 1904 to form amenity space for bowling and tennis to serve the tenants of the new high quality tenement flats in North Gardner Street (and thereby maintain the rental levels sought by landlords) resulted in a club that thrived with both sports long after all the houses were in private ownership. The club eventually fell into the hands of a small group of elderly men and women who drove off the tennis members and started agitating to sell the courts.</p> <p>I was part of a huge campaign in 2004, which included a petition to the Scottish Parliament and was successful at that time. Thereafter the club allowed the site of the tennis courts to deteriorate, the small club house burned down and all attempts in the locality to influence matters failed.</p> <p>A year or so ago Glasgow City Council granted consent to a speculative developer to build an incongruous row of townhouses on the site, putting an end for all time to tennis in the immediate area.</p> <p>In January 2017 Hyndland Secondary School, 500 metres from the site, is nominated as a "tennis school" with the support of Judy Murray and is now looking for space, either sharing facilities at a tennis club further away or acquiring land in an area of extremely high property values.</p>	<p>Impact of land use on local communities</p>
<p>Individual</p>	<p>As a member of a community which fought for two years, ultimately successfully, to prevent an open cast mine application on an attractive rural corner of Midlothian we learned how important our environment is to our physical, mental and spiritual health.</p>	<p>Benefits of community engagement</p>
<p>Individual</p>	<p>Community-supported agriculture, where local residents have some input into what is grown locally and then are able to buy the produce, would help with reducing food miles, and meeting climate change targets. See https://communitysupportedagriculture.org.uk/ for more info.</p>	<p>Benefits of community engagement</p>
<p>Individual</p>	<p>In 1981 I started a tech business in a totally rural location on the Black Isle. I built it up to 16 graduate employees turning over £1m and sold it in 1998. The buyers moved it to Inverness and it still serves customers all over the Highlands.</p>	<p>Examples of successful businesses using Scotland's land and</p>

	<p>I bought a small 33 hectare mixed stock and arable farm which has run profitably and formed a major part of my income in the 18 years since. I have seen several of the small farms in the area absorbed by larger units largely to give the acquirers a larger income without being particularly more efficient.</p>	<p>people.</p>
<p>Scottish Wildlife Trust</p>	<p>The Coigach – Assynt Living Landscape (CALL) is one of the largest landscape restoration projects in Europe, aiming to benefit the land, the people and the local economy in the north west of Scotland. Working with landowners and local people, CALL aims to restore the health of the whole ecosystem by improving and reconnecting habitats (especially native woodlands) and creating rural employment and volunteering opportunities.</p> <p>The Coigach & Assynt Living Landscape Partnership Scheme is a Heritage Lottery Funded project comprising 14 Partner organisations, of which the Scottish Wildlife Trust is the lead partner. The Partnership comprises community land-owners, community interest groups, charitable land-owners, private land-owners and charitable membership organisations working towards delivering the 2050 vision of: "the communities of Coigach and Assynt are working together to achieve a truly living landscape through improved understanding of their environment and the impacts of climate change; shared active management providing a diverse range of connected and resilient habitats; creation of local employment and training opportunities, and building on the communities' strong cultural heritage linked to the land.</p>	<p>Collaborative working involving communities to the benefit of the environment.</p>
<p>Shelter Scotland</p>	<p>1. Impact of housing on poverty</p> <p>Land, especially housing, is directly linked to poverty. In 2015/14, an additional 60,000 children in Scotland were living in poverty after housing costs were considered. Throughout our work we see the impact that housing has on poverty across Scotland. Children living in housing that has damp or condensation, for example, face an increased risk of developing asthma and other respiratory problems. In addition, children growing up in bad housing are more likely to not complete school and experience poverty as adults.</p>	<p>Impact of housing on poverty</p> <p>Impact of security</p>

	<p>2. Security of tenure</p> <p>In the Scottish private rented sector, Short Assured Tenancies, are the most common type of tenancies, and generally only provide a protection from eviction for no reason for 6 months. The following case study illustrates the huge impact that the lack of tenure security in the Scottish private rented sector can have on individuals and families: A woman in her mid-forties, who is married with a young son, has been renting since the age of 18. Over this time period, she had to move over 40 times – not through her own choice. The longest her family has been able to live in a home was five years. Each move costs them time and money, diminishing their savings that they were hoping to use to buy their own home. To this day, they haven't had a single family holiday. Besides the constant moving, the family has endured some terrible and even life-threatening house conditions, such as unsafe chimneys. Her son, who is nine years old, has already lived in five different homes and was only two weeks old when the family received a notice to leave. She and her husband have decided to educate him at home partly due to the constant moving, as they don't want him to start at a school only to have to tear him away from it soon after. The insecurity of tenure means that she generally cannot plan for the long term, saying she would love to garden but has given up on planting, as she doesn't know if her family will be around to see the flowers or eat the vegetables.</p> <p>3. Need for accurate and up-to-date information on accessible databases</p> <p>Shelter Scotland would therefore like to highlight a case study, which demonstrates some of the issues our advisers deal with on a regular basis. The particular case involved a rented property, which had been sold with our client, a single woman, as the sitting tenant. The new owner entered the property on various occasions without prior warning and demanded that the tenant moves out. Feeling threatened, she decided it was no longer safe to live in her home, moved out and contacted Shelter Scotland in order to deal with the landlord. Our advisor contacted the local authority's Landlord Registration team. The advisor was told that the property was still registered under the previous owner's name and that the new owner could not register until the old owner had de-registered. The local authority therefore had no contact details for the current landlord. The local authority seemed to have no system in place for dealing with such a situation and were unable to provide further help. This example clearly demonstrates that it is not merely enough to have a publicly accessible database but that its content</p>	<p>of tenure on families</p> <p>Need for accessible and up-to-date databases</p>
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	<p>Participation and the Practice of Rights (an organisation based in Belfast) have developed a human rights project focusing on housing. Social tenants in Leith have led this project, after having received training on housing as a human right and on how to adopt a human rights-based approach. These tenants have identified key indicators related to their living conditions that they want to see clear improvements on and have advocated for change by engaging with Edinburgh City Council.</p> <p>This example demonstrates what a human rights-based approach to housing and land can and should operate like. It not only needs to be based on the experiences of the people impacted by the relevant decisions but should be led by the people with lived experience themselves. Meaningful participation is of vital importance if Scotland is to ensure that everyone can have a say in how we use our land and buildings.</p>	
John Muir Trust	<p>We are currently in the process of developing a grass roots community land partnership based around woodland expansion: 'The Heart of Scotland Forest Partnership' which brings together neighbouring public (Forest Enterprise), community, private and NGO landowners to collaborate on environmental enhancement, creating increased training, employment and recreational opportunities. We think this model is useful as a pointer to where collaborative working based on environmental enhancement can produce public and private benefit.</p>	Collaborative working involving communities to the benefit of the environment.
RSPB Scotland	<p>1. Baron's Haugh. RSPB Scotland has been working closely with Phoenix Futures for more than 10 years. They are a drug and alcohol addiction rehabilitation group which volunteers at the reserve as a way of both carrying out maintenance and habitat management tasks which satisfy requirements of the RSPB reserve management plan, and aids the group's active recovery through a connection to nature. The group attends the reserve every Friday for six week periods, four times per year. This equates to many more staff hours than would otherwise be possible and means that we can carry out far more work than would otherwise be possible. In addition, we have a regular volunteer session every Thursday throughout the year, and once a month on a Saturday where local volunteers carry out similar tasks on the reserve. Many of the volunteers started as visitors who were keen to protect and help improve a site that they loved and the extent and variety of roles these volunteers play is broad.</p>	Collaborative working involving communities to the benefit of the environment.

These volunteer programmes are mutually beneficial – the reserve tasks get completed, whilst the individuals involved gain useful and rewarding experience and skills which are transferable to other walks of life. The reserve aspires to increase its profile both locally and further afield, and to this end, we are constantly recruiting more volunteers.

2. Our work with local schools also helps to garner a strong affiliation between the local community and the land: In the past year, we have worked with six local primary schools as well as three local high schools and several other local community groups. These groups have been kept abreast of happenings at the reserve and school children have experienced visits from reserve staff as well as experiencing follow-up visits to the reserve. In the past, vandalism and anti-social behaviour was a challenge at this urban site. Now, whilst it is unlikely that this problem will ever be removed completely, the rate of incident has decreased and the severity of these incidents has lessened. It could be argued that this is, at least in part, due to our investment in local community affiliation and continued liaison with the local police.

3. RSPB Scotland's Balranald nature reserve on the Isle of North Uist celebrated its 50th anniversary in 2016 with a special event aimed at young children. Every primary school aged child from the island of North Uist took part in the celebration which was widely reported in the local media. In some cases the children playing at Balranald were the grandchildren of crofters who were themselves children who played at the reserve when the RSPB designated it as the Society's first reserve in the Western Isles in 1966. One of the most significant facts about the Balranald nature reserve is that the RSPB owns no land on the reserve. It is all owned by other bodies, including the Church of Scotland, and is, in turn managed by more than twenty local people under the tenured system known as crofting. Since 1966, a succession of RSPB Scotland wardens has negotiated a series of management agreements with a succession of crofters at Balranald. The results, in terms of biodiversity, are there to be seen – a glory of arable wild flowers and one of Scotland's highest densities of breeding corncrakes and waders – and all achieved through goodwill and community consent. Balranald has, ever since, come to be seen as an exemplar of how traditional crofting can be sustained and the wildlife that goes with it. The Balranald approach has been replicated across the Western Isles through RSPB Scotland's advocacy and is the major factor behind the recovery of the corncrake population.

	<p>A key reason for Balranald’s success has been that RSPB Scotland has always recognised that the community is fundamental to the Society achieving its conservation goals. Each warden has been, in effect, a community engagement officer. Each warden’s success has been measured by the number and effectiveness of the management agreements that they have signed up. Each warden’s success has been determined by earning the trust and understanding of the local crofting community.</p> <p>4. The Inner Forth Landscape Initiative contains several discreet projects connecting people to the land. Wildlife Connections aims to work with farmers and land managers throughout the Inner Forth to help them find out more about the wildlife that uses their land. This will be achieved through bird surveys and conservation audits carried out largely by volunteers. This includes land around historic buildings. The project also aims to help them to re-establish wildlife corridors, to create a landscape flourishing with biodiversity, by fencing, buffer strips and hedgerows, and working with local schools to erect and monitor bird boxes. Creating a better environment for nature also creates a more pleasant place for people to walk and cycle. The project also hopes to bring land managers together to share knowledge and experience.</p>	
<p>SURF – Scotland’s Regeneration Forum</p>	<p>1. Tomintoul and Glenlivet Regeneration Project, Moray. The Cairngorms village of Tomintoul struggled economically in the first decade of the 21st century, epitomised by a major fall in tourism and the closure of its two main hotels. A local regeneration strategy, initiated by Tomintoul and Glenlivet Development Trust, delivered a number of projects in response, including taking the local youth hostel into community ownership, reopening a Visitor Information Centre and Museum, improving local footpaths, and establishing popular mountain bike trail routes. This all led to a sharp increase in tourism, the revitalisation of the local economy, and the reopening of the two hotels. The project won the ‘Community Led Regeneration’ category in the 2016 SURF Awards.</p> <p>2. Helmsdale Affordable Housing Project, Highland. The remote village of Helmsdale has suffered strong social and economic decline in recent decades, with effects including high out-migration, a lack of social housing, and a withdrawal of amenities and public services. In 2012, a group of local volunteers established a Development Trust to reduce further population deterioration by fundraising, planning, and managing the building and maintenance of four affordable family homes. They were</p>	<p>Examples of input of local Development Trusts using land and people to benefit the local economy.</p>

	<p>successfully constructed in December 2014 and fully occupied by the end of that month. The initiative was selected as the winner of the 'Community Led Regeneration' category in the 2015 SURF Awards.</p> <p>3. 'The Playz', Kilwinning, North Ayrshire. A derelict former public house in the deprived Pennyburn neighbourhood, which the local community group, Pennyburn Community Association, purchased and transformed into a popular community facility. It opened in March 2012, and functions as a sustainable income-generating social enterprise, providing, among other things, a community café and meeting place, several youth clubs, adult learning classes, and music tuition and production facilities. The project won the 'Community Led Regeneration' category in the 2012 SURF Awards.</p>	
<p>The National Trust for Scotland</p>	<ol style="list-style-type: none"> 1. St Kilda – Scotland's only dual World Heritage Site, and with no immediate local community to care for it. Yet descendants of the St Kildans, Hebrideans, Scots at home and abroad, and people around the world can all identify with this special place and its heritage. Under National Trust for Scotland management, a community organisation has been able to help sustain the natural and cultural heritage of the islands and ensure it can be enjoyed by everyone. 2. Falkland Town Hall – an early 19th Century civic survival in the village of Falkland, which was taken over by NTS when the then local authority was disposing of assets, and which is now in the process of being put into local community use. 3. Hutcheson's Hall – built in 1805 as a school, and one of Glasgow's most elegant buildings, Hutcheson's Hall has been in NTS care since 1982. The Trust has maintained the building, operating it as a visitor attraction and an office, and has recently entered into a partnership with a private company to open the property as a restaurant. 4. Mar Lodge – a Highland estate covering some 30,000 hectares, with internationally significant landscapes, species and habitats. Under Trust ownership since 1995, the Trust maintains and enhances its heritage, providing a national resource that benefits local communities, visitors and the wider economy. 	<p>Communities providing public benefits through land and property management.</p>

Scottish Land & Estates	We believe that a number of the case studies developed for our Helping it Happen Initiative illustrate both the vision and our own Landowners' Commitment. These includes examples as diverse as the Queensberry Initiative which has undoubtedly delivered a new relationship between young people and the land and the Scrib Tree where the local estate has provided premises for a local business to thrive. See www.helpingithappen.co.uk for more information.	Illustration of the vision and commitment of landowners
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Annex 3: Respondents to the Consultation

Academics = 1

The James Hutton Institute

Community Organisations and their Representative Bodies = 6

Central Scotland Green Network Trust

Community Land Scotland

Community Woodlands Association

Development Trusts Association Scotland

Royal Burgh of New Galloway and Kells Parish Trust

Selkirk Regeneration Company

Government and NDPBs = 3

Highlands and Islands Enterprise

Historic Environment Scotland

Scottish Natural Heritage

National Non-Governmental Organisations = 18

Built Environment Forum Scotland

John Muir Trust

Historic Houses Association Scotland

National Farmers' Union Scotland

Nourish Scotland

Royal Society for the Protection of Birds Scotland

Scottish Allotments and Gardens Society

Scottish Association for Country Sports

Scottish Community Alliance

Scottish Council of Voluntary Organisations

Scottish Environment LINK

Scottish Land & Estates

Scottish Tenant Farmers Association

Scottish Wildlife Trust

Shelter Scotland

SURF – Scotland's Regeneration Forum

The Church of Scotland General Trustees

The National Trust for Scotland

Private Sector and Professional Bodies = 9

Agricultural Law Association

Bidwells

Conveyancing Direct

Forest Policy Group

Royal Institution of Chartered Surveyors

Scottish Property Federation

The Crown Estate - Scotland Portfolio

The Law Society of Scotland

The Royal Town Planning Institute

Individuals = 25



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