



Scottish Government  
Riaghaltas na h-Alba

# Strategic Environmental Assessment (SEA) for the Small Landholdings and Land Use Tenancy Proposals

Environmental Report

## Quality information

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# Non-Technical Summary

## Overview of the Small Landholdings and Land Use Tenancy proposals

The Scottish Government's Vision for Agriculture, published in March 2022, outlines its long-term vision to transform how farming and food production can be supported in Scotland to become a global leader in sustainable and regenerative agriculture. As outlined in the Agricultural Reform Route Map, the Scottish Government is committed to ensuring that tenant farmers, smallholders, crofters, new entrants and land managers are given equality of opportunity to allow them to play a key role in making the Vision for Agriculture a reality.

### Small Landholdings proposals

The Programme for Government 2021- 2022 made the commitment to *“begin to modernise small landholding legislation”*. The Bute House agreement made the commitment to *“explore providing small landholders with the same pre-emptive right to buy as crofters and 1991 Act tenant farmers, and the treatment of the land under their houses.”*

These commitments have been informed by an extensive evidence gathering exercise. This originates from Section 124 of the Land Reform (Scotland) Act 2016 which specified that Scottish Ministers must undertake a review of legislation governing small landholdings including conducting a consultation with key stakeholders. This consultation occurred between October and November 2016.

Subsequent to this, small landholding proposals were consulted upon in the Small Landholdings Modernisation Consultation between October 2022 and January 2023, which set out proposals relating to primary legislation for the proposed Land Reform Bill 2023. The intention is to introduce legislation which mirrors the diversification framework available to other tenants of agricultural land to address issues around the declining numbers of small landholdings, stakeholder demand for small landholdings to develop in viable businesses and the lack of certainty in the current legislation.

This is in conjunction with the Programme for Government 2021-22's commitment to *“ensure tenant farmers and smallholders have the same access to climate change and mitigation measures”* and the Bute House Agreement's commitment to *“continue to improve the rights of tenant farmers and small holders so they are not disadvantaged from actively participating in climate change mitigation and adaptation”*.

### Land Use Tenancy proposals

The aim of the Land Use Tenancy proposals are to provide a flexible form of land tenure tenancy which caters for integrated land management in a way that the current agricultural tenancies do not. It seeks to support a vibrant land tenure in Scotland, optimising

Scotland's land use. This is with a view to delivering a more hybrid land management approach in one tenancy which enables climate change issues and biodiversity loss to be addressed, whilst catering for a just transition. The Land Use Tenancy was consulted on in the Land Reform in a Net Zero Nation consultation 2022 between July and October 2022.

Further information on the Small Landholdings and Land Use Tenancy proposals and component parts are set out in the consultation document with which this Environmental Report accompanies.

## Strategic Environmental Assessment of the Small Landholdings and Land Use Tenancy proposals

AECOM has been commissioned to undertake an independent Strategic Environmental Assessment (SEA) in support of the Small Landholdings and Land Use Tenancy proposals ("the proposals") on behalf of The Scottish Government. SEA is a systematic process for evaluating the environmental consequences of proposed plans, strategies, or programmes to ensure environmental issues are fully integrated and addressed at the earliest appropriate stage of decision making, with a view to promoting sustainable development.

This Environmental Report, which is the main output of the SEA process, accompanies the Small Landholdings and Land Use Tenancy proposals for consultation between September and October 2023.

The key stages of the SEA for the Small Landholdings and Land Use Tenancy proposals are set out overleaf.

### Issues/ themes scoped into the SEA

The SEA information in this Environmental Report has been presented through the following themes (including representative symbols):

#### Biodiversity and geodiversity



#### Climate change



#### Landscape and historic environment



#### Soil and water quality



The selected SEA themes have been chosen with a view to effectively presenting the SEA information. These themes reflect the broader interlinkages (including with regards to the flows of ecosystem services) relating to the themes scoped in through the scoping process.



## Purpose of this Environmental Report

This Environmental Report accompanies the latest version of the Small Landholdings and Land Use Tenancy proposals and is the main output of the SEA process. Its purpose is to:

- Identify, describe, and evaluate the likely significant environmental effects of the proposals and alternative approaches; and
- Provide a perspective on the likely environmental performance of the proposals and key areas for monitoring during its implementation.

The Environmental Report is the third document to be produced as part of the SEA process for the Small Landholdings and Land Use Tenancy proposals. The first document was the Screening Report prepared in February 2023<sup>1</sup>, and the second was the Scoping Report prepared in February 2023<sup>2</sup>, which included information about the baseline and the ‘framework’ against which the proposals have been assessed.

## Structure of this Environmental Report

In line with the provisions of the Environmental Assessment (Scotland) Act 2005, this Environmental Report presents:

- **Chapter 3** presents an overview of the scoping process for the SEA (**Stage 1**).
- **Chapter 4** presents an assessment of a number of alternative approaches relating to the broad principles underpinning the Small Landholding and Land Use Tenancy proposals. These have been assessed as reasonable alternatives (**Stage 2**).
- **Chapter 5** presents an assessment of the current proposals, in terms of their likely significant environmental effects (**Stage 3**).
- **Chapter 6** presents proposals for monitoring the significant environmental effects of the proposals, and opportunities for enhancements (linked to **Stage 5**).
- **Chapter 7** subsequently sets out the next steps for the Small Landholdings and Land Use Tenancy proposals and accompanying SEA process.

Consultation on this Environmental Report alongside the Small Landholdings and Land Use Tenancy proposals comprises **Stage 4**.

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<sup>1</sup> Scottish Government (February 2023) SEA Screening Report on the Land Reform Bill for Scotland

<sup>2</sup> Scottish Government (February 2023) Small Landholdings and Land Use Tenancy proposals: Agricultural Bill SEA Scoping Report

## Assessment of reasonable alternatives

As outlined above, **Chapter 4** of the Environmental Report presents an assessment of ‘reasonable alternatives’, which is a key element of the SEA process to meet the requirements of the Environmental Assessment (Scotland) Act 2005.

In developing options to assess through the SEA process, the SEA team engaged plan-makers to understand where the focus of alternatives assessment should be. To aid in these discussions, a workshop was undertaken in June 2023 with plan-makers to discuss reasonable alternatives in the context of the proposals.

The purpose of this workshop was to discuss what options can be assessed as reasonable alternatives for the Small Landholdings and Land Use Tenancy proposals, in conjunction with the objectives, issues, challenges and opportunities associated with the proposals.

The options formulated through the workshop relate to key components of the proposals, and are set out below:

- **Diversification:**
  - **Option D1:** A limited approach whereby minimal changes are made to the current legislation relating to land use on small landholdings.
  - **Option D2:** Changes to legislation which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity.
- **Right to buy:**
  - **Option RB1:** Do not introduce a right to buy for small landholders.
  - **Option RB2:** Introduce a right to buy clause for small landholders.
- **Land Use Tenancy:**
  - **Option LT1:** Limited changes, whereby legislative changes are limited to the existing agricultural tenancy framework.
  - **Option LT2:** Voluntary creation of a Land Use Tenancy, allowing tenant and landlords to enter into a new tenancy agreement allowing for greater flexibility about how to manage their holdings. This is with a view to both parties being aware of and agreeing to their new responsibilities.

**Chapter 4** of the Environmental Report presents details of the options assessed and the reasoning behind their choice as reasonable alternatives. This is accompanied by an assessment of the options against the SEA Framework developed during scoping. Infographics presenting summary appraisal findings for each set of options are also set out in **Chapter 4** and reproduced overleaf.

Presented in relation to the four SEA topics, the infographics show the relative performance of each option against each other. A green 'outer ring' highlights the best performing option (ranking 1st), whilst a red 'inner ring' represents the option which performs less well (ranking 2nd). Where options are ranked equally, or it is not possible to differentiate between the options, an equals sign is used within both diagrams.

# Assessment of options relating to diversification

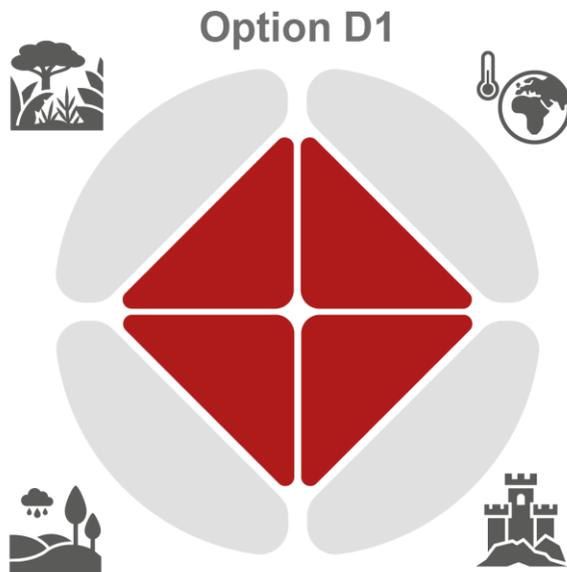


## Option D1

Minimal changes to current legislation

## Option D2

Changes to legislation which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity



# Assessment of options relating to right to buy

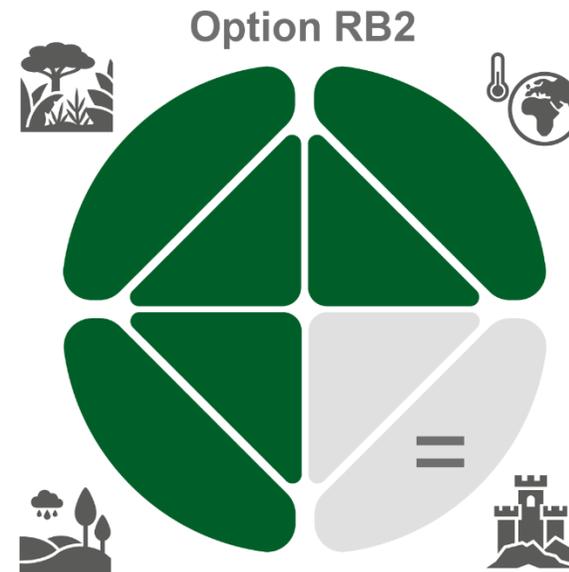
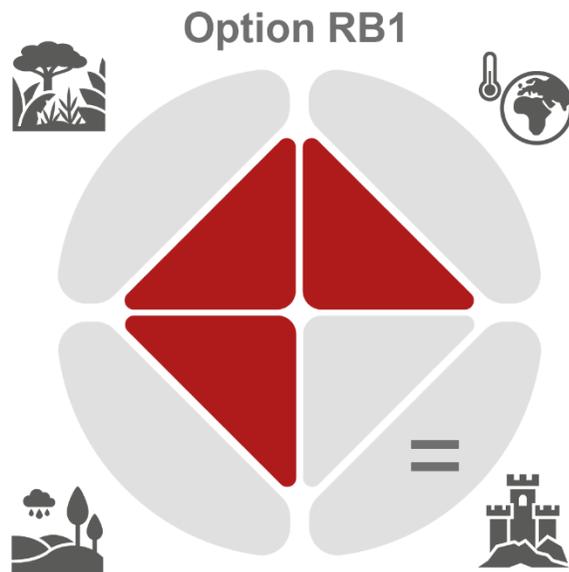


## Option RB1

Do not introduce a right to buy for small landholders

## Option RB2

Introduce a right to buy clause for small landholders



# Assessment of options relating to Land Use Tenancy

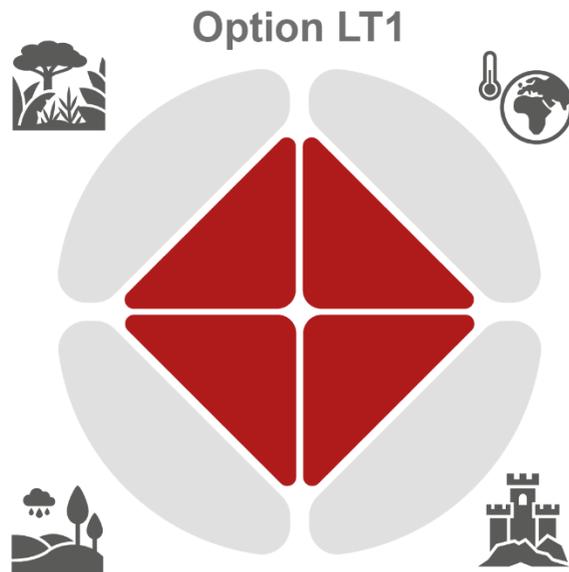


## Option LT1

Limited changes to the existing tenancy framework

## Option LT2

Voluntary creation of a Land Use Tenancy



Biodiversity and geodiversity



Climate change



Landscape and historic environment



Soil and water quality

## Assessment of proposals

**Chapter 5** of the Environmental Report presents the assessment findings and recommendations in relation to the current Small Landholdings and Land Use Tenancy proposals.

The key elements of the proposals can be summarised as follows:

- **Diversification (non-cultivated activities)** – The aim of this proposal is to allow small landholders greater opportunity to diversify their business. Currently, small landholdings may only be used for cultivated purposes. This proposals seek to remove the barriers that landholders face when undertaking non-cultivated activities, with a view to supporting integrated land management.
- **Right to Buy** – This proposal aims to ensure that small landholders and landlords have a fair right to buy opportunity, including a right to buy their holding in the same way as crofters and tenant farmers.
- **Land Use Tenancy** – This proposal aims to provide a flexible form of land tenure tenancy which caters for integrated land management in a way that the current agricultural tenancies do not.

The key significant effects and uncertainties identified through the assessment are summarised in the figure overleaf.

## Cumulative effects

A range of **positive cumulative effects** across the SEA themes are anticipated as a result of the in-combination effects of Small Landholdings and Land Use Tenancy proposals and other plans and strategies. In this respect, the proposals (and framework they sit within) complement and reinforce the objectives and actions of Scotland's Environmental Strategy, Climate Change Plan, National Strategy for Economic Transformation, NPF4 and other key plans and strategies nationally. No negative cumulative effects are anticipated in terms of the implementation of the proposals.

# Small Landholdings and Land Use Tenancy proposals

## Key significant effects and uncertainties



The small landholdings proposals will help address biodiversity loss and support nature restoration by allowing and encouraging small landholders to pursue non-agricultural activities such as tree planting, habitat and peatland restoration, and other nature-based solutions. This will be supported by the Land Use Tenancy proposals, which will introduce greater flexibility in the way land can be used, including a greater focus on activities contributing towards biodiversity recovery and nature restoration.

Enhancement of role of small landholders in environmental conservation and restoration activities.



The small landholdings proposals contribute to climate change mitigation by encouraging small landholders to pursue non-agricultural activities such as tree planting and peatland restoration which support biological carbon sequestration (the natural process of removing carbon dioxide from the atmosphere and storing it in trees/ soils). This will be supported by the Land Use Tenancy proposal, which introduces greater flexibility in the way land can be used, including a greater focus on activities contributing towards the transition to net zero.

Through facilitating and encouraging non-agricultural activities such as tree planting and habitat restoration, the proposals have the potential to reinforce and enhance landscape character and enhance the special qualities of landscapes.



The small landholdings proposals will facilitate and encourage activities which will contribute to climate change adaptation, such as wetland and floodplain restoration, by increasing the resilience of agricultural land to the impacts of extreme weather events such as floods and droughts. This will be supported by the Land Use Tenancy proposal, which introduces greater flexibility in the way land can be used, including a greater focus on activities contributing to climate adaptation.

There are however some uncertainties relating to the impact of the proposals on landscape character and the fabric and setting of the historic environment. In this respect activities such as tree planting could alter landscapes that are historically characterised by arable and agricultural land use, and inappropriate planting could lead to impacts on archaeological assets. In addition, renewable energy provision supported by the proposals has the potential to impact on landscape character, as well as negatively impact the setting of important heritage assets and historic areas.



The proposals will maintain and enhance soil and water quality and availability by encouraging regenerative agricultural techniques which support regulating and provisioning ecosystem services.



Biodiversity and geodiversity

Climate change

Landscape and historic environment

Soil and water quality

All SEA Themes



## Conclusions and recommendations

Three of the four SEA themes considered through the assessment are considered likely to lead to **major positive significant effects** – these are biodiversity and geodiversity, climate change, and soil and water. The proposals support activities which maintain and enhance biodiversity, contribute to climate change mitigation and adaptation, and improve soil and water quality through enabling the facilitation of a range of regenerative activities including nature-based solutions. With respect to climate change, renewable energy use also plays a key role. Nevertheless, it is recognised that the Right to Buy Proposal does not guarantee positive outcomes.

**Uncertainty** is noted with respect to the landscape and historic environment SEA theme because activities such as tree planting could alter landscapes that are historically characterised by arable and agricultural land uses. In addition, renewable energy uses have the potential to impact the special qualities of valued landscapes as well as negatively impact the setting of important heritage assets and historic areas. In light of this, it is recommended that the proposals clarify that activities, particularly non-agricultural activities, must give due consideration to the local landscape and historic context, with activities only being supported where they maintain or enhance local landscape character and/or the setting and significance of the historic environment.

Furthermore, there are a number of actions the Scottish Government can take to alleviate this uncertainty and support and encourage small landholders and tenants to undertake diversification on their land. For instance, detailed guidelines and case studies for small landholders can play a key role in demonstrating the landscape and heritage benefits that can be delivered through diversification and alleviate concerns about a changing baseline. These guidelines could profile land use options landholders could consider, for instance in terms of regenerative agricultural practices like cover cropping and riparian buffers. Guidance should include specific examples which provide advice on how the landscape features may differ to conventional approaches. This will help support clarity for small landholders whilst helping to alleviate concerns. For example, cover cropping differs from the bare fallow fields of conventional agriculture by planting cereals, legumes and brassicas between crop cycles to protect soil. When strategically planted and terminated, cover crops increase organic matter, fix nitrogen, and break pest cycles. Additionally, riparian buffers establish vegetation strips along waterways rather than cropland directly adjacent to streams. The buffers filter agricultural runoff, stabilize banks, and create wildlife corridors. Showcasing these and similar practices through guidelines and highlighting the benefits can provide visual and peer reviewed evidence of how biodiversity, climate soil and water benefits can be delivered through multiple land management routes. This guidance could be delivered as part of the implementation of changes to the Land Use Tenancy.

In addition, to address perceived uncertainties around the risks of moving to different land use practices, a piloting phase could be undertaken, focusing on demonstrator projects that provide a roadmap for agricultural tenants, how diversification can be achieved and evidence of successful implementation within a similar context. The demonstrator projects could be based on key themes relating to diversification options, for instance:

- Nature enhancement and restoration
- Net zero technologies
- Eco tourism
- Regenerative agriculture

Monitoring at the landholding level will also be a key element to demonstrate how diversified land uses not only contribute to national biodiversity and climate targets, but also deliver productivity benefits. Monitoring can be a complex and detailed process but will be critical to ensure diversification away from traditional intensive agriculture is delivering on objectives. As such, the Scottish Government should endeavour to develop robust monitoring guidance to help small landholders and tenants understand how to track habitat, soil, carbon sequestration, and other environmental improvements over time. Possibilities for monitoring could include aspects such as assessing soil organic matter content annually, monitoring species diversity and habitat surveys every three years, or undertaking soil analysis every five years to measure carbon sequestration rates and progress. From a wider landscape or national perspective a complete biodiversity inventory mapping habitat connectivity every ten years could examine the full impact of the system.

Finally, given the cultural importance of the agriculture sector, tight margins and established practices, small landholders and tenants should continually be encouraged and supported to deliver land use changes. Offering ongoing incentives could motivate adoption of diversification in line with climate and conservation goals and alleviate any perceived risk. Incentives could include initiatives such as tax reductions, cost-shares, low-interest loans and guidance and support to help small landholders and tenants access environmental markets relating to biodiversity, carbon, soil and agriculture and other ecosystem services.

## Proposed SEA monitoring programme

Schedule 2 of the Environmental Assessment (Scotland) Act highlights that the Environmental Report should include “a *description of the measures envisaged concerning monitoring.*” In response to this, Chapter 6 of this Environmental Report presents a proposed draft monitoring programme for measuring the proposals’ implementation. It draws on the identified potential significant effects identified through the assessment of the various components of the proposals, and also suggests where monitoring is required to help ensure that the potential benefits of the proposals are effectively achieved through implementation. This will enable appropriate interventions to be undertaken if monitoring highlights negative or underperforming trends relating to the proposals’ implementation.

## Next steps

This Environmental Report is being consulted on alongside the wider consultation on the SEA for the Agricultural Tenancies and Small Landholdings & Land Use Tenancies.

Following the completion of the consultation period in October, comments will be reviewed and analysed. The final proposals will then be developed prior to Royal Assent. Any changes arising to the proposals will need to be assessed as part of the SEA process.

Part 3 of the Environmental Assessment (Scotland) Act 2005 requires that a 'statement' be made available to accompany the proposals, as soon as possible after their adoption. The purpose of the SEA Adoption Statement is to outline how the SEA process has influenced and informed the proposals' development process and demonstrate how consultation on the SEA has been taken into account.

To meet these requirements, an SEA Adoption Statement will be published with the adopted proposals. The SEA Adoption Statement will set out: the reasons for choosing the preferred proposals in light of other reasonable alternatives; how environmental considerations were integrated into the proposals' development process; how consultation responses were taken into account; and the measures decided for monitoring the significant effects of the proposals.

# 1. Introduction

## Background

- 1.1 AECOM has been commissioned to undertake an independent Strategic Environmental Assessment (SEA) in support of the Small Landholdings and Land Use Tenancy proposals (“the proposals”) on behalf of The Scottish Government.
- 1.2 SEA is a systematic process for evaluating the environmental consequences of proposed plans, strategies, or programmes to ensure environmental issues are fully integrated and addressed at the earliest appropriate stage of decision making, with a view to promoting sustainable development.
- 1.3 This Environmental Report, which is the main output of the SEA process, accompanies the Small Landholdings and Land Use Tenancy proposals for consultation between September and October 2023.

## Small Landholdings and Land Use Tenancy Proposals

- 1.4 The Scottish Government’s Vision for Agriculture, published in March 2022<sup>3</sup>, outlines its long-term vision to transform how farming and food production can be supported in Scotland to become a global leader in sustainable and regenerative agriculture. As outlined in the Agricultural Reform Route Map<sup>4</sup>, the Scottish Government is committed to ensuring that tenant farmers, smallholders, crofters, new entrants and land managers are given equality of opportunity to allow them to play a key role in making the Vision for Agriculture a reality.

### Small Landholdings proposals

- 1.5 The Programme for Government 2021- 2022 made the commitment to “*begin to modernise small landholding legislation*”. The Bute House agreement made the commitment to “*explore providing small landholders with the same pre-emptive right to buy as crofters and 1991 Act tenant farmers, and the treatment of the land under their houses.*”
- 1.6 These commitments have been informed by an extensive evidence gathering exercise. This originates from Section 124 of the Land Reform (Scotland) Act 2016 which specified that Scottish Ministers must undertake a review of legislation governing small landholdings including conducting a consultation with key stakeholders. This consultation occurred between October and November 2016.
- 1.7 Subsequent to this, small landholding proposals were consulted upon in the Small Landholdings Modernisation Consultation between October 2022 and January 2023, which set out proposals relating to primary legislation for the

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<sup>3</sup> Scottish Government (March 2022): ‘Delivering our Vision for Scottish Agriculture’, [online] available to access via [this link](#)

<sup>4</sup> Scottish Government (June 2023): ‘Agricultural Reform Route Map (second edition)’, [online] available to access via [this link](#)

proposed Land Reform Bill 2023. The intention is to introduce legislation which mirrors the diversification framework available to other tenants of agricultural land to address issues around the declining numbers of small landholdings, stakeholder demand for small landholdings to develop in viable businesses and the lack of certainty in the current legislation.

- 1.8 This is in conjunction with the Programme for Government 2021-22's commitment to "*ensure tenant farmers and smallholders have the same access to climate change and mitigation measures*" and the Bute House Agreement's commitment to "*continue to improve the rights of tenant farmers and small holders so they are not disadvantaged from actively participating in climate change mitigation and adaptation*".

## Land Use Tenancy proposals

- 1.9 The aim of the Land Use Tenancy proposals are to provide a flexible form of land tenure tenancy which caters for integrated land management in a way that the current agricultural tenancies do not. It seeks to support a vibrant land tenure in Scotland, optimising Scotland's land use. This is with a view to delivering a more hybrid land management approach in one tenancy which enables climate change issues and biodiversity loss to be addressed, whilst catering for a just transition.
- 1.10 The Land Use Tenancy was consulted on in the Land Reform in a Net Zero Nation consultation 2022 between July and October 2022.
- 1.11 Further information on the Small Landholdings and Land Use Tenancy proposals and component parts are set out in the consultation document with which this Environmental Report accompanies.<sup>5</sup>

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<sup>5</sup> Scottish Government (September 2023): 'Strategic Environmental Assessment of Agricultural Tenancies, Small Landholdings and Land Use Tenancy Proposals'

## 2. Strategic Environmental Assessment (SEA) explained

### Purpose of SEA

- 2.1 SEA considers and communicates the likely significant effects of an emerging plan, programme or strategy, and the reasonable alternatives considered during the plan making process, in terms of key environmental issues. The aim of SEA is to inform and influence the plan-making process with a view to avoiding or mitigating negative effects and maximising positive effects.
- 2.2 An SEA is undertaken in line with the procedures prescribed by the Environmental Assessment (Scotland) Act 2005.
- 2.3 The Act requires that an environmental report is published for consultation alongside the draft plan that *'shall identify, describe and evaluate the likely significant effects on the environment of implementing (a) the plan or programme; and (b) reasonable alternatives to the plan or programme ...taking into account the objectives and the geographical scope of the plan or programme.'* The report must then be taken into account, alongside consultation responses, when finalising the plan or strategy.
- 2.4 The 'likely significant effects on the environment', are those defined in the Act as *'including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors'*. Reasonable alternatives to the plan need to take into consideration the objectives of the plan and its geographic scope. The choice of 'reasonable alternatives' is determined by means of a case-by-case assessment.

### Screening of the Small Landholdings and Land Use Tenancy proposals for SEA

- 2.5 SEA screening on the Land Reform Bill was undertaken in early 2023, with an SEA Screening Report released to the environmental bodies in February 2023.<sup>6</sup>
- 2.6 This established that secondary legislation relating to the New Agriculture Bill was likely to require SEA. In this respect it was viewed that the modernisation of agricultural tenancies components of the Bill fall under 5(4) of the Environmental Assessment (Scotland) Act 2005, and there is a likelihood of significant environmental effects.

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<sup>6</sup> Scottish Government (February 2023): 'SEA Screening Report on the Land Reform Bill for Scotland'

## Stages of SEA

2.7 The key stages of the SEA for the Small Landholdings and Land Use Tenancy proposals are set out below.



**Figure 2.1: Stages of the SEA for the Small Landholdings and Land Use Tenancy proposals**

## This Environmental Report

### Purpose of this Environmental Report

2.8 This Environmental Report accompanies the latest version of the Small Landholdings and Land Use Tenancy proposals and is the main output of the SEA process. Its purpose is to:

- Identify, describe, and evaluate the likely significant environmental effects of the proposals and alternative approaches; and
- Provide a perspective on the likely environmental performance of the proposals and key areas for monitoring during its implementation.

2.9 The Environmental Report is the third document to be produced as part of the SEA process for the Small Landholdings and Land Use Tenancy proposals.

The first document was the Screening Report prepared in February 2023<sup>7</sup>, and the second was the Scoping Report prepared in February 2023<sup>8</sup>, which included information about the baseline and the 'framework' against which the proposals have been assessed.

## Structure of this Environmental Report

2.10 In line with the provisions of the Environmental Assessment (Scotland) Act 2005, this Environmental Report has been structured as follows:

- **Chapter 3** presents an overview of the scoping process for the SEA (**Stage 1** in Figure 2.1).
- **Chapter 4** presents an assessment of a number of alternative approaches relating to the broad principles underpinning the Small Landholding and Land Use Tenancy proposals. These have been assessed as reasonable alternatives (**Stage 2**).
- **Chapter 5** presents an assessment of the current proposals, in terms of their likely significant environmental effects (**Stage 3**).
- **Chapter 6** presents proposals for monitoring the significant environmental effects of the proposals, and opportunities for enhancements (linked to **Stage 5**).
- **Chapter 7** subsequently sets out the next steps for the Small Landholdings and Land Use Tenancy proposals and accompanying SEA process.

2.11 Consultation on this Environmental Report alongside the Small Landholdings and Land Use Tenancy proposals comprises **Stage 4**.

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<sup>7</sup> Scottish Government (February 2023): 'SEA Screening Report on the Land Reform Bill for Scotland'

<sup>8</sup> Scottish Government (February 2023): 'Small Landholdings and Land Use Tenancy proposals: Agricultural Bill SEA Scoping Report'

## 3. Scope of the SEA

### What is the scope of the SEA?

#### SEA Scoping Report

- 3.1 The Environmental Assessment (Scotland) Act 2005 requires that: *“Before deciding on the scope and level of detail of the information to be included in the environmental report to be prepared in accordance with section 14; the responsible authority shall send to each consultation authority such sufficient details of the qualifying plan or programme as will enable the consultation authority to form a view on those matters.”* In Scotland, the consultation bodies are Historic Environment Scotland, the Scottish Environmental Protection Agency (SEPA) and Scottish Natural Heritage (NatureScot).
- 3.2 These authorities were consulted on the scope of the SEA for the Small Landholdings and Land Use Tenancy proposals through the release of an SEA Scoping Report to consultees in June 2023<sup>9</sup>.

#### Content of the Scoping Report

- 3.3 Developing the draft scope for the SEA as presented in the Scoping Report has involved the following steps:
- Exploring the policy context for the Small Landholdings and Land Use Tenancy proposals and SEA to summarise the key messages arising.
  - Establishing the baseline for the SEA (i.e., the current and future situation in the area in the absence of the proposals to help identify the likely significant effects of the proposals).
  - Identifying particular problems or opportunities (‘issues’) that should be a particular focus of the SEA; and
  - Considering this information, developing an SEA framework comprising SEA objectives and assessment questions, which can then be used as a guiding framework for the subsequent assessment.

#### Issues/ themes scoped into the SEA

- 3.4 Scoping identified a range of environmental themes that should be a particular focus of SEA. In this respect, in terms of the SEA ‘issues’ suggested by Schedule 3 of the Environmental Assessment (Scotland) Act 2005<sup>10</sup>, the following themes were scoped in through the scoping process.

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<sup>9</sup> Scottish Government (June 2023): ‘Small Landholdings and Land Use Tenancy: Agricultural Bill SEA Scoping Report’

<sup>10</sup> The Environmental Assessment (Scotland) Act 2005 highlights that the Environmental Report should present information on the likely significant effects on the environment, including on issues such as biodiversity; population; human health; fauna; flora; soil; water; air; climatic factors; material assets; cultural heritage, including architectural and archaeological heritage; landscape; and the inter-relationship between these issues.

**Table 3.1: Scoping of SEA themes**

SEA theme	Scoped In
Biodiversity, flora and fauna, and geodiversity	✓
Climatic factors	✓
Air quality	✗
Water	✗
Soil	✗
Cultural heritage	✗
Landscape	✗
Material assets	✗
Population and human health	✗

3.5 As set out in the Scoping Report *“In the interest of proportionality and given the national level focus of the policy, coupled with the presence of existing mitigation in place at the project level within existing current agricultural regulations and consenting regimes, the environmental theme areas: population and human health, soil, water, air quality, cultural heritage, material assets, and landscape have been scoped out of this SEA. Notwithstanding, to ensure that the potential for any localised indirect effects is recorded, and to allow for the SEA findings to directly inform the consideration of relevant issues at the local and project levels, it is proposed that the SEA acknowledge these within the context of the themes scoped into the assessment, as appropriate.”*

3.6 In response to this, the SEA information in this Environmental Report has been presented through the following themes (including representative symbols):

<p><b>Biodiversity and geodiversity</b></p> 	<p><b>Climate change</b></p> 	<p><b>Landscape and historic environment</b></p> 	<p><b>Soil and water quality</b></p> 
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3.7 The selected SEA themes have been chosen with a view to effectively presenting the SEA information. These themes reflect the broader interlinkages

(including with regards to the flows of ecosystem services<sup>11</sup>) relating to the themes scoped in through the scoping process.

## SEA Framework

3.8 The key environmental issues relating to the proposals have been translated into an SEA 'Framework' of objectives and assessment questions. The SEA Framework provides a way in which the likely significant environmental effects of the Small Landholdings and Land Use Tenancy proposals and alternatives can be identified and subsequently analysed based on a structured and consistent approach.

3.9 As discussed above, the SEA Framework and the assessment findings in this Environmental Report have been streamlined and presented under four SEA themes to deliver a proportionate and effective assessment process. In this respect the accompanying objectives and assessment questions for each theme have been refined as appropriate in recognition of the proposals at this stage.

3.10 The SEA Framework is presented in **Table 3.2** below.

**Table 3.2: SEA Framework**

SEA theme	SEA objective	Assessment questions (will the proposal help to...)
<b>Biodiversity and geodiversity</b> 	Support Scotland reach net zero emissions by 2045	<ul style="list-style-type: none"> <li>• Support the meeting of national tree planting and peatland restoration targets?</li> <li>• Support opportunities for the provision of renewable energy on current agricultural land?</li> <li>• Contribute to efforts to diversify strategic land use away from traditional agriculture to a more mixed-use model?</li> </ul>
	Enable small landholders and land use tenants to deliver climate mitigation measures	<ul style="list-style-type: none"> <li>• Increase investment in carbon sink/sequestering nature-based solutions such as woodland planting, peatland restoration, hedgerow planting?</li> </ul>

<sup>11</sup> Ecosystem Services are the variety of goods and services upon which people depend, and that arise from ecosystems. Ecosystem Services are commonly categorised into Provisioning (e.g. water, food production), Regulating (e.g. the control of climate and diseases), Cultural (e.g. aesthetic values, recreational opportunities), and the underpinning Supporting services (e.g. crop pollination).

	Support the ability of small landholders and land use tenants to be resilient to potential impacts of climate change	<ul style="list-style-type: none"> <li>• Enable tenants to effectively manage existing and emerging pressures associated with climate change that could impact their livelihoods (e.g. droughts; disease and pests; and flooding)?</li> <li>• Support the capacity of the landscape to become more resilient to the impacts of climate change?</li> </ul>
<b>Climate change</b> 	Protect and enhance habitats and species in Scotland	<ul style="list-style-type: none"> <li>• Enable the protection and enhancement of priority habitats species?</li> <li>• Enable the protection and enhancement of ecological networks and connectivity, supporting restoration and regeneration?</li> <li>• Support the recovery of historically declining species?</li> </ul>
	Enhance understanding of biodiversity and geodiversity	<ul style="list-style-type: none"> <li>• Enable tenants' opportunities for engagement with biodiversity and geodiversity?</li> <li>• Support access to, interpretation and understanding of biodiversity and geodiversity?</li> </ul>
	Support efforts to meet international and national biodiversity commitments	<ul style="list-style-type: none"> <li>• Connect and support enhancements to the condition of protected areas</li> <li>• Support the restoration of habitats to their original state (condition and features)?</li> </ul>
<b>Landscape and historic environment</b> 	Protect and enhance the character and quality of Scotland's landscapes	<ul style="list-style-type: none"> <li>• Conserve and enhance the special qualities of NSAs and National Parks?</li> <li>• Support the management objectives of Scotland's National Scenic Areas (NSAs) and National Parks as set out in their respective management plans?</li> </ul>
	Conserve and enhance Scotland's historic environment, including designated and non-designated heritage assets	<ul style="list-style-type: none"> <li>• Protect and where possible, enhance the wider historic environment, including gardens and designated landscapes?</li> <li>• Conserve and enhance the significance of buildings, structures features and areas of architectural or historic interest, both designated and non-designated, and their settings?</li> <li>• Facilitate enhanced understanding and awareness of the local archaeological resource?</li> </ul>

	<p>Promote opportunities for enhancing the understanding of Scotland's distinct historic and cultural resource</p>	<ul style="list-style-type: none"> <li>• Protect and conserve the heritage of traditional agricultural practices and methods across rural Scotland?</li> <li>• Support access to, interpretation and understanding of the character of the historic rural environment?</li> </ul>
<p><b>Soil and water quality</b></p> 	<p>Maintain and enhance soil quality</p>	<ul style="list-style-type: none"> <li>• Encourage practices which maintain and enhance the contribution of healthy ecosystems to quality and quantity of soil?</li> <li>• Enable access to environmental markets focused on restoring soil condition?</li> </ul>
	<p>Maintain and enhance water quality</p>	<ul style="list-style-type: none"> <li>• Encourage practices that maintain and enhance the contribution of healthy ecosystems to quality and quantity of water?</li> <li>• Enable access to environmental markets focused on improving water quality?</li> </ul>

## 4. Assessment of reasonable alternatives

### Assessing reasonable alternatives in SEA

- 4.1 The assessment of 'reasonable alternatives' is a key element of the SEA process to meet the requirements of the Environmental Assessment (Scotland) Act 2005.
- 4.2 A central facet of the SEA process to date has been the appraisal of reasonable alternatives for the Small Landholdings and Land Use Tenancy proposals. The Environmental Assessment (Scotland) Act 2005 is not prescriptive as to what constitutes a reasonable alternative, stating only that the Environmental Report should "*identify, describe and evaluate the likely significant effects on the environment of implementing the plan...and reasonable alternatives to the plan... taking into account the objectives and geographical scope of the plan...*"
- 4.3 In developing reasonable alternatives for the SEA, a central consideration has been with respect to the key choices being made relating to the provisions. In this regard this Environmental Report has assessed a range of options as reasonable alternatives, with a view to exploring the options with particular potential for significant environmental effects. These assessments are designed to inform plan makers and stakeholders on the relative sustainability merits of alternative approaches the proposals could take on various elements associated with the proposals.

### Development of options to assess as reasonable alternatives

- 4.4 In developing options to assess through the SEA process, the SEA team engaged plan-makers and stakeholders to understand where the focus of alternatives assessment should be. To aid in these discussions, a workshop was undertaken in June 2023 with plan-makers to discuss reasonable alternatives in the context of the proposals.
- 4.5 The purpose of this workshop was to discuss what options can be assessed as reasonable alternatives for the Small Landholdings and Land Use Tenancy proposals, in conjunction with the objectives, issues, challenges and opportunities associated with the proposals.
- 4.6 The options formulated through the workshop relate to the following key components of the proposals:
  - Diversification
  - Right to buy
  - Land Use Tenancy
- 4.7 The following chapter presents details of the options assessed and the reasoning behind their choice as reasonable alternatives. This is accompanied by an assessment of these options against the SEA Framework developed during scoping.

- 4.8 Infographics are presented in relation to the four SEA topics and show the relative performance of each option against each other.
- 4.9 A green 'outer ring' is used to highlight the best performing option (ranking 1st), whilst a red 'inner ring' represents the option which performs less well (ranking 2nd). Where options are ranked equally, or it is not possible to differentiate between the options, an equals sign is used within both diagrams.

## Diversification options

- 4.10 Under the current tenancy agreements based on the Small Landholders (Scotland) Act 1911, small landholders have an obligation to use the land for cultivation. In this context holdings used for cultivation are defined as being used for "horticulture or for any purpose of husbandry, inclusive of the keeping or breeding of livestock, poultry, or bees, and the growth of fruit, vegetables, and the like". There are also provisions that allow for subsidiary activities for letting dwellings or holiday homes on the land.
- 4.11 Responses to the 2016 consultation found there was confusion amongst small landholders and landlords about whether diversification is allowed or possible. These definitions offer little flexibility to diversify activities beyond the definition of cultivation.
- 4.12 To explore potential approaches further, two options have been assessed through the SEA process, as follows:
- **Option D1:** A limited approach whereby minimal changes are made to the current legislation relating to land use on small landholdings.
  - **Option D2:** Changes to provisions which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity.

**Table 4.1: Appraisal of options relating to diversification**

<b>Option D1: Minimal changes to current legislation</b>			
<b>Option D2: Changes to provisions which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity.</b>			
<b>SEA theme</b>	<b>Discussion of potential effects and relative merits of options</b>	<b>Ranking</b>	
		<b>D1</b>	<b>D2</b>
<b>Biodiversity and geodiversity</b>  	<p>Overall, Option D2 is likely to perform the most favourably in relation to biodiversity and geodiversity. By directly enabling habitat restoration, tree planting, peatland restoration and other nature-based solutions, Option D2 provides the clearest benefits for enhancing priority habitats and species, improving ecological connectivity, supporting recovery of declining species, and restoring degraded areas. It also provides the opportunities for small landholder and tenant engagement with conservation and restoration activities on their land, through enabling an understanding of how to implement these physical changes and monitor and manage the restoration and enhancement of habitats and associated species. As a result, increased levels of environmental enhancements across small landholdings are likely to provide additional opportunities to access biodiversity, not only for tenants but the wider general public.</p> <p>In contrast, Option D1 is less likely to provide direct benefits for biodiversity or opportunities for biodiversity engagement. In this respect minimal change to current legislation is not likely to resolve the barriers that are currently experienced relating to diversification on small land holdings. Depending on the current activities undertaken, the business-as-usual approach may pose risks to biodiversity through practices that continue to contribute to potential habitat loss, fragmentation, disturbance and other impacts associated with development.</p> <p>In summary, the analysis shows Option D2 as most supportive of biodiversity objectives, while Option D1 would largely resemble a business-as-usual approach that could result in furthering negative impacts on biodiversity.</p>	<b>2</b>	<b>1</b>

<b>Option D1: Minimal changes to current legislation</b>			
<b>Option D2: Changes to provisions which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity.</b>			
<p><b>Climate change</b></p> 	<p>Overall, Option D2 is more supportive of meeting climate goals and provides the clearest benefits for mitigation and adaptation. By developing legislation that could facilitate activities such tree planting, peatland restoration, and other nature-based solutions, Option D2 directly contributes to carbon sequestration and enhancing natural carbon sinks. This will help mitigate climate change by removing and storing more carbon in soils and biomass. D2 would also enable changes in land use such as wetland and floodplain restoration that, if appropriately designed, could increase the resilience of small landholders to impacts of extreme weather events like floods and droughts. This will help tenants effectively manage existing and emerging climate change pressures. This would in turn support the development of landscape-scale resilience to the impacts of climate change. In addition to potentially encouraging nature-based climate solutions, diversification facilitated by the option may also encourage renewable energy production and mixed-use land models.</p> <p>In contrast, Option D1 does little to directly enable natural climate solutions or adaptation for small landholdings and does not offer significant scope for the delivery of renewable energy provision. Without careful strategic/landscape scale management there is also a risk that carbon sequestration and storage from natural assets may even decrease under D2 if areas are continued to be used for intensive agricultural purposes.</p> <p>In summary, the analysis shows Option D2 as potentially providing the most adaptation benefits and potential avenues to mitigate climate change through creation, enhancement and protection of natural assets. Furthermore, it may also provide additional opportunities for the delivery of renewables such as wind or biomass energy on agricultural land. In contrast, the business- as-usual approach that would be pursued by option D1 could risk reinforcing negative trends in relation to climate adaptation and mitigation.</p>	<b>2</b>	<b>1</b>

<p><b>Option D1: Minimal changes to current legislation</b></p> <p><b>Option D2: Changes to provisions which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity.</b></p>			
<p><b>Landscape and historic environment</b></p> 	<p>Option D2 would provide additional benefits for protecting landscape character and quality. By directly facilitating habitat restoration, tree planting, and other nature-based solutions, Option D2 has the potential to reinforce and enhance landscape character and align with the management objectives of protected areas such as National Scenic Areas. However, it may negatively impact the current baseline of these NSAs, in terms of their special qualities, which may in some cases be characterised by the arable and agricultural use of the land. In this respect activities such as tree planting would have a dramatic impact on a landscape dominated by agriculture, creating new features that have not been typically associated with those areas. Option D2 could also result in mixed effects on the historic environment. On the one hand it may support the conservation of traditional agricultural landscape features such as hedgerows and stone walls. On the other hand, moving land away from agricultural use may risk the loss of traditional practices, and changes in local character. It should be noted though that diversification may provide a greater level of income for tenants, and this may allow for resources to be used to restore or better reveal the significance of features and area features of architectural or historic interest.</p> <p>In comparison D1 will do little to directly influence the landscape beyond the current impact. It is likely the D1 would result in a business-as-usual approach that may miss opportunities to transform landscapes based on nature restoration and restore native habitats that may be missing from the rural landscape, such as the Caledonian forests. Furthermore, a lack of opportunities to diversify may limit small landholders' income potential and as such could negatively impact their ability to effectively manage features and areas of historic environment interest. Diversification of any kind however has the potential to pose a risk to conserving the cultural heritage associated with traditional agricultural practices as further revenue avenues provide different land management options.</p> <p>In summary, Option D2 is likely to offer the most direct and indirect landscape and historic environment benefits.</p>	<p><b>2</b></p>	<p><b>1</b></p>

<p><b>Option D1: Minimal changes to current legislation</b></p> <p><b>Option D2: Changes to provisions which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity.</b></p>			
<p><b>Soil and water quality</b></p> 	<p>Option D2 provides the clearest benefits for maintaining and enhancing soil and water quality by enabling regenerative agriculture practices which support regulating ecosystem services. This includes, potentially, through facilitating participation in environmental markets. Specifically, this would allow tenants easier access to emerging carbon, water quality, and biodiversity markets that provide payments for practices like cover cropping, riparian buffers, and habitat restoration. However, proving additionality (i.e. that the benefits delivered are additional/new to what is being currently provided) and stacking of ecosystem services (i.e. where multiple ecosystem services or benefits are being claimed by one intervention) would need to be addressed to ensure the integrity of these environmental markets is upheld.</p> <p>At best Option D1 would result in incremental soil and water benefits compared to the status quo. While activities such as rotational agricultural practices form a foundation for soil quality, they have mixed results for improving soil health, reducing erosion, and mitigating nutrient runoff issues. In this respect further intensification of agricultural practices under current practices has the potential to result in further deterioration of water and soil quality.</p> <p>In summary, Option D2 provides the clearest direct and proactive approach to soil and water quality enhancements by removing barriers and encouraging regenerative agriculture practices and leveraging environmental market opportunities.</p>	<p><b>2</b></p>	<p><b>1</b></p>
<p><b>Summary</b></p> <p>Overall, Option D2 performs the strongest across the environmental objectives relating to biodiversity, climate change, landscape and historic environment, soil quality, and water quality. By directly enabling nature-based solutions and regenerative agriculture practices, D1 is likely to deliver targeted and significant positive effects.</p> <p>Option D1, through initiating minimal changes to current legislation on diversification, would likely result in business-as-usual approach to land use management. As such, the approach would be less likely to deliver benefits relating to the SEA themes and raises risks that negative trends associated with existing land management approaches would continue.</p>			

# Assessment of options relating to diversification

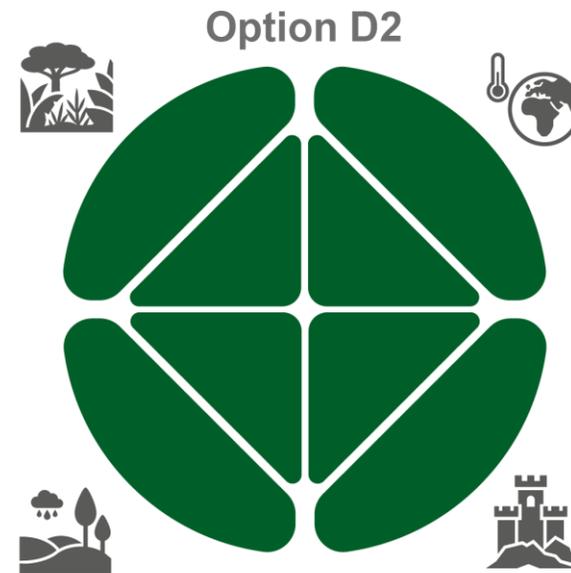
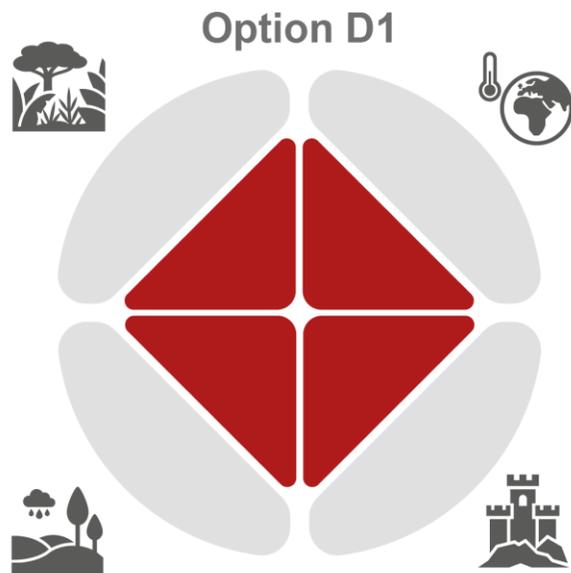


## Option D1

Minimal changes to current legislation

## Option D2

Changes to legislation which would provide flexibility to allow for other types of land use management approaches beyond cultivation, including activities which mitigate climate change and enhance biodiversity



## Options relating to right to buy

4.13 The proposal for a right to buy looks to allow the tenant the opportunity to purchase the holding where the owner or creditor takes any action with a view to the transfer of the land or any part of it. An alternative option is to not seek to facilitate a priority right to buy for tenants.

4.14 An option to allow absolute right to buy was considered, however it was noted that this had the potential to have implications relating to human rights legislation. For this reason, a potential similar option was scoped out as not being appropriate to assess through the SEA.

4.15 The two options assessed are therefore as follows:

- **Option RB1:** Do not introduce a right to buy for small landholders.
- **Option RB2:** Introduce a right to buy clause for small landholders.

**Table 4.2: Assessment of options relating to right to buy**

<b>Option RB1: Do not introduce a right to buy for small landholders</b>			
<b>Option RB2: Introduce a right to buy clause for small landholders</b>			
<b>SEA theme</b>	<b>Discussion of potential effects and relative merits of options</b>	<b>Ranking</b>	
		<b>RB1</b>	<b>RB2</b>
<b>Biodiversity and geodiversity</b>  	<p>Introducing a right to buy under Option RB2 has the potential to provide small landholders and tenants with empowerment opportunities that could be leveraged to support biodiversity and geodiversity through habitat restoration, species conservation, protected area enhancements and public engagement/education. However, any benefits remain largely dependent on the priorities and actions of the new landowner after purchase rather than being inherent outcomes of the policy itself. In this context right to buy has the potential for longer term biodiversity and geodiversity benefits but does not guarantee it.</p> <p>Option RB1 represents a continuation of the status quo barriers that constrain small landholder empowerment and limit biodiversity and geodiversity improvements on tenanted agricultural lands. However, it also avoids risks of the land being purchased by another party with an intention to increase intensive production that could degrade and negatively impact biodiversity and geodiversity.</p> <p>Ultimately, while a right to buy can create a platform for small landholders to gain more influence over land management, any biodiversity and geodiversity benefits under Option RB2 rely on new owners proactively choosing to implement conservation and restoration activities. However, it would increase the likelihood of land management activities being initiated which would benefit biodiversity.</p>	<b>2</b>	<b>1</b>

<b>Option RB1: Do not introduce a right to buy for small landholders</b>			
<b>Option RB2: Introduce a right to buy clause for small landholders</b>			
<p><b>Climate change</b></p> 	<p>Introducing a right to buy under Option RB2 provides small landholders and tenants potential empowerment opportunities that could be leveraged to support management activities that contribute to climate adaptation and mitigation. This includes tree planting, peatland restoration, renewable energy production, and resilience capacity building. Any benefits though remain largely dependent on the priorities of the incoming landowner after purchase rather than being inherent outcomes of the policy itself. However, a right to buy, as proposed in Option RB2, could empower small landholders with local knowledge, intergenerational ties and community oversight that could inform effective management of the land which is tailored to the area. The right to buy therefore may increase mitigation and adaptation activities (but does not guarantee it).</p> <p>In contrast, Option RB1 represents a business-as-usual approach, which would result in a continuance of the barriers and constraints that limits climate action. However, it also does not carry the possibility of purchase resulting in intensified agricultural production and associated carbon emissions.</p> <p>Ultimately, whilst a right to buy can create openings for small landholders to gain more control over land management and initiate practices which support climate change mitigation and adaptation, any benefits for this SEA theme under Option RB2 depend on incoming landowners proactively choosing to implement initiatives such as nature-based solutions, renewables, regenerative practices and resilience building activities. The purchase right alone does not dictate outcomes either way.</p>	<b>2</b>	<b>1</b>

<b>Option RB1: Do not introduce a right to buy for small landholders</b>			
<b>Option RB2: Introduce a right to buy clause for small landholders</b>			
<p><b>Landscape and historic environment</b></p> 	<p>Introducing a right to buy under Option RB2 provides opportunities to empower smallholder tenants who hold valuable place-based expertise, generational knowledge and intrinsic connections with the land. In this respect the option can create a platform for smallholders with generational ties to the area to apply their traditional and local knowledge in managing the landscape and historic features in an empathetic, place-responsive manner. This has the potential to support land and asset management which reflects and reinforces local character and engages with the historic environment resource. However, any landscape and cultural heritage benefits remain partly contingent on the actions of the incoming landowner. As such positive outcomes are not guaranteed.</p> <p>In contrast, Option RB1, which does not introduce a right to buy, represents a continuation of status quo barriers that limit small landholder influence over land management. It also to an extent limits opportunities to leverage tenants' localised understanding to sustainably manage landscapes in line with valued qualities and conserve historic assets in tune with cultural traditions.</p> <p>Overall, Option RB2 could be viewed as better performing given its potential empowerment opportunities for current tenants and the local knowledge they possess and inherent value they may ascribe the land. Any concrete enhancements though remain dependent on new owners' actions aligning with landscape and heritage objectives.</p>	<b>2</b>	<b>1</b>

<b>Option RB1: Do not introduce a right to buy for small landholders</b>			
<b>Option RB2: Introduce a right to buy clause for small landholders</b>			
<p><b>Soil and water quality</b></p> 	<p>Introducing a right to buy under Option RB2 provides small landholders potential long-term control over land management, potentially encouraging improvements which support soil and water quality. However, any soil or water quality benefits remain largely dependent on the priorities and actions of the incoming landowner, not the policy itself. The right to buy does not inherently dictate outcomes. Tenants may focus on intensive agriculture rather than diversification after purchase as such there is as much a risk that negative outcomes would be delivered as there are positive outcomes.</p> <p>Option RB1, which represents a continuation of status quo barriers that limit small landholder influence over land management, may limit longer term enhancements to soil and water quality.</p> <p>In summary, neither option directly encourages practices that support improving water and/or soil quality. While purchase can provide influence over land use, the right itself does not determine positive soil and water quality impacts either way. Realising improvements relies on new owners prioritising conservation and enhancements alongside broader policy reform enabling land management diversification. As such it is not possible to differentiate the options in relation to this SEA theme.</p>	=	=
<p><b>Summary</b></p> <p>Introducing a right to buy under Option RB2 provides small landholders and tenants potential long-term control over land management, potentially encouraging and empowering small landholders and tenants to deliver improvements which lead to positive environmental outcomes across climate, biodiversity, landscape, and soil and water quality objectives. However, any concrete benefits remain largely contingent on the priorities and actions of new owners, rather than being inherent policy results. Outcomes therefore rely on new owners actively managing lands in line with conservation, restoration, enhancement and stewardship objectives.</p> <p>In contrast, Option RB1, which does not introduce a right to buy, represents a continuation of business-as-usual barriers. This will limit small landholder and tenants' long-term influence over land use decisions, potentially reducing the scope for the potential benefits of land ownership for the environment to be realised.</p> <p>In summary, while a right to buy can open doors for progressive land management, realisation of positive environmental outcomes depends on new owners exercising their influence in line with climate and conservation goals, supported by wider legislative reform. The right itself does not guarantee outcomes.</p>			

# Assessment of options relating to right to buy

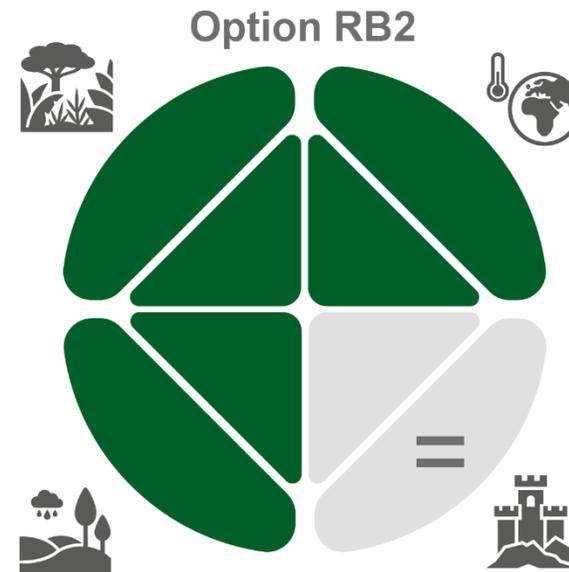
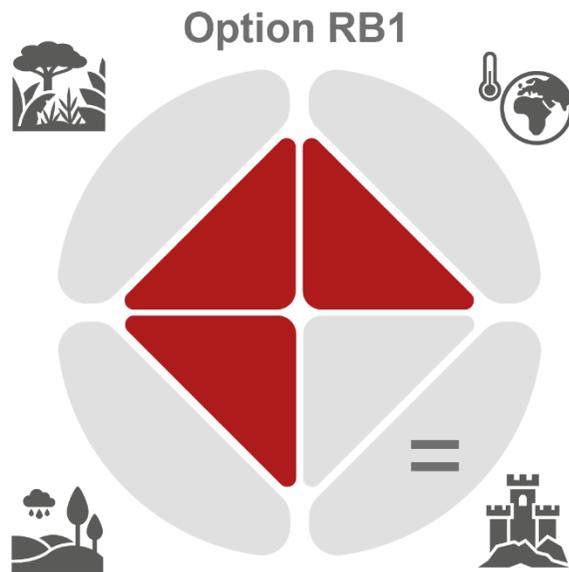


## Option RB1

Do not introduce a right to buy for small landholders

## Option RB2

Introduce a right to buy clause for small landholders



Biodiversity and geodiversity



Climate change



Landscape and historic environment



Soil and water quality

## Options relating to Land Use Tenancy

- 4.16 The Land Use Tenancy is a letting arrangement which seeks to support a vibrant land tenure sector. In response to the 'Land Reform in a Net Zero Nation' consultation, 71% of respondents agreed that there should be a Land Use Tenancy to allow people to undertake a range of land management activities through one tenancy. This has been driven through a desire from stakeholders for a flexible form of tenancy which caters for integrated land management in a way that the current agricultural tenancies do not.
- 4.17 Currently agricultural tenancy agreements are tied to the definition of agriculture and as such do not allow for flexibility in terms of land management. In light of this, two options relating to this theme have been assessed:
- **Option LT1:** Limited changes, whereby legislative changes are limited to the existing agricultural tenancy framework.
  - **Option LT2:** Voluntary creation of a Land Use Tenancy, allowing tenant and landlords to enter into a new tenancy agreement allowing for greater flexibility about how to manage their holdings. This is with a view to both parties being aware of and agreeing to their new responsibilities.

**Table 4.3: Assessment of options relating to Land Use Tenancy**

<b>Option LT1: Limited changes to the existing agricultural tenancy framework</b>			
<b>Option LT2: Voluntary creation of a Land Use Tenancy</b>			
<b>SEA theme</b>	<b>Discussion of potential effects and relative merits of options</b>	<b>Ranking</b>	
		<b>LT1</b>	<b>LT2</b>
<b>Biodiversity and geodiversity</b>  	<p>Option LT1, which would bring in limited legislative changes, is unlikely to result in substantial improvements to biodiversity and geodiversity, and would limit opportunities relating to habitats enhancements, species diversity, ecological connectivity, protected areas and restoration. By maintaining the constraints delivered by the status quo, LT1 does little to enable regenerative, nature-based solutions tailored to local contexts which balance productivity with nature restoration.</p> <p>In contrast, Option LT2 would voluntarily enable the creation of a flexible Land Use Tenancy that facilitates integrated management approaches bespoke to the local setting. This would allow a diversity of land uses to be engaged, including biodiversity initiatives. This provides clear opportunities for habitat enhancement and species protection, ecological regeneration, tenant engagement and the achievement of biodiversity goals through context-specific management.</p> <p>Overall, whilst Option LT1 would be likely to continue the barriers to delivering positive biodiversity and geodiversity outcomes present under the current approach, Option LT2 will help engage integrated place-based management that balances production with sustainability. This has the potential to catalyse opportunities for transformative biodiversity improvements through sustainable land use diversification and regeneration.</p>	<b>2</b>	<b>1</b>

<b>Option LT1: Limited changes to the existing agricultural tenancy framework</b>			
<b>Option LT2: Voluntary creation of a Land Use Tenancy</b>			
<b>SEA theme</b>	<b>Discussion of potential effects and relative merits of options</b>	<b>Ranking</b>	
		<b>LT1</b>	<b>LT2</b>
<b>Climate change</b> 	<p>Option LT1, which would bring in limited legislative changes, is unlikely to result in substantial progress on climate change objectives and would limit opportunities relating to emissions reductions, carbon sequestration and building resilience capacity. By maintaining status quo barriers, LT1 is therefore likely to do less to incentivise regenerative practices, nature-based solutions and renewables, or integrate diversification tailored to local climate challenges.</p> <p>Option LT2 would enable the voluntary creation of a flexible Land Use Tenancy that facilitates customised management approaches aligned to the local context. This would enable a diversity of approaches to be engaged allowing diversification to activities that will support climate change mitigation, including those that sequester carbon and renewables, or increase resilience through land-based adaptation strategies. This provides opportunities to leverage integrated place-based solutions that balance production with sustainability to achieve positive climate mitigation and adaptation outcomes. The approach may also provide additional opportunities for small landholders and tenants to access emerging environmental markets.</p> <p>Overall, whilst Option LT1 would be likely to continue the existing barriers to delivering effective climate action, Option LT2 has the opportunity to catalyse opportunities for transformative climate solutions by enabling context-specific management approaches that balance productivity, diversification, decarbonization and resilience.</p>	<b>2</b>	<b>1</b>

<b>Option LT1: Limited changes to the existing agricultural tenancy framework</b>			
<b>Option LT2: Voluntary creation of a Land Use Tenancy</b>			
<b>SEA theme</b>	<b>Discussion of potential effects and relative merits of options</b>	<b>Ranking</b>	
		<b>LT1</b>	<b>LT2</b>
<b>Landscape and historic environment</b> 	<p>The approach proposed by Option LT1 is unlikely to result in significant landscape or cultural heritage improvements. In this respect, through maintaining existing barriers, LT1 would do less to incentivise landscape character enhancements or secure the conservation and enhancement of the historic environment through approaches tailored to local contexts. This will lead to missed opportunities relating to landscape character enhancements and the protection, rejuvenation and understanding of local heritage assets.</p> <p>In contrast, Option LT2 would be more likely to facilitate integrated place-based management approaches which are relevant to the local context, allowing diversification to activities that balance production with landscape and heritage conservation and enhancement. This provides clear opportunities to support the proactive management of landscapes while conserving and reinvigorating the historic environment.</p> <p>Overall, while Option LT1 represents a continuation of the barriers to effective landscape and heritage management seen under current frameworks, Option LT2 provides a platform for the delivery of integrated regenerative solutions tailored to local conditions that have the potential to support valued landscapes and heritage assets.</p>	<b>2</b>	<b>1</b>

<b>Option LT1: Limited changes to the existing agricultural tenancy framework</b>			
<b>Option LT2: Voluntary creation of a Land Use Tenancy</b>			
<b>SEA theme</b>	<b>Discussion of potential effects and relative merits of options</b>	<b>Ranking</b>	
		<b>LT1</b>	<b>LT2</b>
<b>Soil and water quality</b> 	<p>The approach proposed by Option LT1 is unlikely to result in significant additional soil or water quality improvements. Through maintaining existing barriers, LT1 is likely to do less to incentivise wider adoption of regenerative or nature enhancement practices tailored to local conditions that could alleviate some of the environmental pressures resulting from agricultural land use.</p> <p>In contrast, Option LT2 would be likely to facilitate integrated place-based management approaches, allowing broader implementation of context-specific practices that result in improvements to soils and water quality. For example, the option would be more likely to enable the broader adoption of regenerative practices such as cover crops to enhance soil health or allow activities such as wetland restoration to protect water quality. The approach therefore provides additional opportunities to improve soil and water quality through solutions that are sympathetic to the local context. The approach may also provide additional opportunities for small landholders and tenants to access emerging environmental markets.</p> <p>Overall, while Option LT1 represents a continuation of the barriers to sustainable soil and water stewardship, Option LT2 provides a platform for the delivery of integrated regenerative solutions tailored to local conditions that have the potential to support enhanced soils and deliver enhancements to water quality.</p>	<b>2</b>	<b>1</b>
<b>Summary</b> <p>Overall, Option LT2, which enables the voluntary creation of a flexible Land Use Tenancy, will help facilitate the application of integrated, context-specific land management tailored to local conditions. By empowering approaches that are sympathetic to the local context, Option LT2 provides clear opportunities to balance productivity with the enhancement of biodiversity networks, the conservation and enhancement of landscape character and the historic environment, and improvements to soil and water quality. The approach also lends itself more effectively to the achievement of positive climate mitigation and adaptation outcomes.</p> <p>In contrast, Option LT1, which would bring in limited legislative changes, is unlikely to result in significant gains relating to the SEA themes. By continuing the existing barriers which are present, LT1 represents a missed opportunity to incentivise the application of regenerative, restorative and diversified practices aligned to local contexts.</p>			

# Assessment of options relating to Land Use Tenancy

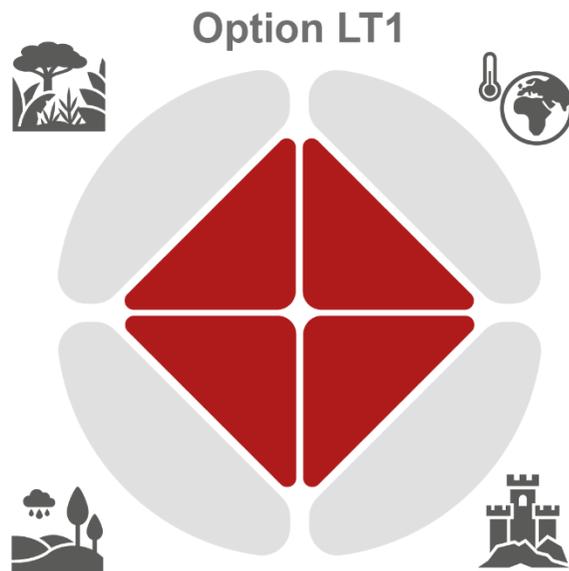


## Option LT1

Limited changes to the existing tenancy framework

## Option LT2

Voluntary creation of a Land Use Tenancy



Biodiversity and geodiversity



Climate change



Landscape and historic environment



Soil and water quality

## 5. Assessment of proposals

### Introduction

5.1 This chapter presents assessment findings and recommendations in relation to the current Small Landholdings and Land Use Tenancy proposals. The chapter is structured to present:

- An outline of the proposals and its component parts.
- An assessment of the proposals under the four SEA themes identified through scoping.
- Consideration of cumulative effects; and
- The overall conclusions at this stage and recommendations for the next stage of plan-making.

### Methodology

5.2 The assessment identifies and evaluates 'likely significant effects' on the baseline, drawing on the SEA framework identified through scoping (see **Table 3.3**) as a methodological framework.

5.3 Every effort is made to predict effects accurately; however, this is inherently challenging given the strategic nature of the proposals under consideration and understanding of the baseline (now and in the future under a 'no plan' scenario) that is inevitably limited. Given uncertainties there is a need to make assumptions, e.g., in relation to proposals implementation and aspects of the baseline that might be impacted. Assumptions are made cautiously and explained within the text (with the aim of striking a balance between comprehensiveness and conciseness). In many instances, given reasonable assumptions, it is not possible to predict 'significant effects', but it is possible to comment on merits (or otherwise) of the proposals in more general terms.

5.4 Finally, it is important to note that effects are predicted taking account of the criteria presented within Schedule 2 of the Environmental Assessment (Scotland) Act 2005. So, for example, account is taken of the probability, duration, frequency, and reversibility of effects as far as possible. Cumulative effects are also considered, i.e., the potential for the Strategy to impact an aspect of the baseline when implemented alongside other plans, programmes, and projects. These effect 'characteristics' are described within the assessment as appropriate.

### Proposals outline and component parts

5.5 A description of the Small Landholdings and Land Use Tenancy proposals and component parts are set out in the consultation document with which this Environmental Report accompanies.<sup>12</sup>

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<sup>12</sup> Scottish Government (September 2023) Strategic Environmental Assessment of Agricultural Tenancies, Small Landholdings and Land Use Tenancy Proposals

5.6 The key elements of the proposals can be summarised as follows:

- **Diversification (non-cultivated activities)** – The aim of this proposal is to allow small landholders greater opportunity to diversify their business. Currently, small landholdings may only be used for cultivated purposes. This proposals seek to remove the barriers that landholders face when undertaking non-cultivated activities, with a view to supporting integrated land management.
- **Right to Buy** – This proposal aims to ensure that small landholders and landlords have a fair right to buy opportunity, including a right to buy their holding in the same way as crofters and tenant farmers.
- **Land Use Tenancy** – This proposal aims to provide a flexible form of land tenure tenancy which caters for integrated land management in a way that the current agricultural tenancies do not.

## Assessment findings

### Biodiversity and geodiversity



- 5.7 The Diversification (non-cultivated activities) proposal will help address biodiversity loss by allowing small landholders to pursue non-cultivated activities such as tree planting, habitat and peatland restoration, and other nature-based solutions. In doing so, it will support the maintenance and enhancement of priority habitats and species, including the recovery of degraded habitats and declining species, and improve ecological connectivity. The proposal also provides opportunities for small landholders to engage with conservation and restoration activities on their land. Increased levels of environmental enhancements across small landholdings are likely to provide additional opportunities to access biodiversity, not only for small landholders but also the wider general public. This will help enhance understanding of biodiversity.
- 5.8 The Right to Buy proposal, by making it easier for small landholders to buy the land they farm, is likely to lead to small landholders developing a vested interest in their land. This could be leveraged to support biodiversity and geodiversity through activities such as habitat restoration, species conservation, protected area enhancements and public engagement/ education. However, it is recognised that any benefits remain largely dependent on the priorities and actions of the new landowner after purchase, rather than being inherent outcomes of the policy itself. Hence, whilst the proposal has the potential to lead to positive biodiversity and geodiversity outcomes, it does not guarantee them.
- 5.9 The Land Use Tenancy proposal introduces greater flexibility in the way land can be used, including a greater focus on activities contributing towards biodiversity recovery and nature restoration. It will support integrated land management approaches bespoke to the local setting, which will ensure that the local context, including local biodiversity and geodiversity, is considered through land management. This provides clear opportunities for habitat enhancement and species protection, ecological regeneration, tenant

engagement and the achievement of biodiversity goals through context-specific management.

- 5.10 It is noted that these proposals will also support other activities, such as renewable energy uses (e.g. wind, solar and biomass), which have the potential to negatively impact biodiversity. However, it is also possible for such uses to enhance biodiversity if designed and managed appropriately, particularly if biodiversity net gain is effectively enacted.
- 5.11 Overall, all three proposals perform well under the biodiversity and geodiversity SEA theme. Whilst there is some concern regarding the potential of non-agricultural uses such as renewable energy provision to harm biodiversity, it is recognised that proposals are unlikely to support activities that have a negative impact on biodiversity and geodiversity. In light of this, **major positive significant effects** are considered likely under this SEA theme. However, it is recognised that the Right to Buy Proposal does not guarantee positive outcomes with respect to climate change.

## Climate change

- 5.12 The Diversification (non-cultivated activities) proposal contributes to climate change mitigation by allowing small landholders to pursue non-agricultural activities such as tree planting and peatland restoration which support biological carbon sequestration (the natural process of removing carbon dioxide from the atmosphere and storing it in trees/ soils). It also supports activities such as wetland and floodplain restoration, which will contribute to climate change adaptation by increasing the resilience of agricultural land to the impacts of extreme weather events, such as floods and droughts. In addition to these nature-based climate solutions, this proposal supports renewable energy uses (e.g. wind, solar and biomass), further contributing to climate change mitigation and supporting Scotland's goal to reach net zero emissions by 2045.
- 5.13 The Right to Buy proposal, by making it easier for small landholders to buy the land they farm, is likely to lead to small landholders developing a vested interest in their land. This could be leveraged to support land management activities that contribute to climate adaptation and mitigation, including tree planting, peatland restoration, renewable energy production, and resilience capacity building. However, it is recognised that any benefits remain largely dependent on the priorities and actions of the new landowner after purchase, rather than being inherent outcomes of the policy itself. Therefore, whilst the proposal has the potential to lead to positive biodiversity and geodiversity outcomes, it does not guarantee them.
- 5.14 The Land Use Tenancy proposal introduces greater flexibility in the way land can be used, including a greater focus on activities contributing towards the transition to net zero and climate adaptation. It would facilitate customised land management approaches aligned to the local context, including diversification of activities that support climate change mitigation and adaptation. These include activities that increase carbon sequestration, produce renewable energy, or increase resilience through land-based adaptation strategies. The proposal provides opportunities to leverage integrated place-based solutions that balance production with sustainability to achieve positive climate mitigation

and adaptation outcomes. It may also provide opportunities for small landholders to access emerging environmental markets.

- 5.15 Overall, given that all three proposals perform very well under the climate change SEA theme, **major positive significant effects** are anticipated relating to both mitigation of and adaptation to climate change. Unlike with the biodiversity and geodiversity SEA theme, the impetus on both nature-based climate solutions and renewable energy uses will benefit the climate change SEA theme. However, it is noted that the Right to Buy Proposal does not guarantee positive biodiversity and geodiversity outcomes.

## Landscape and historic environment



- 5.16 The Diversification (non-cultivated activities) proposal, by allowing small landholders to pursue non-agricultural activities such as tree planting, habitat restoration and other nature-based solutions, has the potential to reinforce and enhance landscape character and enhance the special qualities of landscapes, including those associated with nationally designated landscapes such as National Scenic Areas. However, it also has the potential to negatively impact on the special qualities of local landscapes that are traditionally characterised by agricultural land uses. In this respect, activities such as tree planting would create new features that are not been typically associated with the landscape. The proposal could also result in mixed effects on the historic environment. Whilst it may support the conservation of traditional agricultural landscape features, such as hedgerows and stone walls, moving land away from agricultural use may risk the loss of traditional practices and lead to changes in local character. This has the potential to affect the setting of the historic environment. However, it is noted that diversification may provide a greater level of income for small landholders, and this may allow for resources to be used to restore or better reveal the significance of heritage features within the landscape.
- 5.17 The Right to Buy proposal provides opportunities to empower small landholders who hold valuable place-based expertise, generational knowledge and intrinsic connections with the land. In this respect, it can create a platform for smallholders with generational ties to the area to apply their traditional and local knowledge in managing the landscape and historic features in an empathetic, place-responsive manner. This has the potential to support land and asset management which reflects and reinforces local character and engages with the historic environment resource. However, any landscape and cultural heritage benefits remain partly contingent on the actions of the incoming landowner. As a result, positive outcomes are not guaranteed.
- 5.18 The Land Use Tenancy proposal introduces greater flexibility in the way land can be used, including a greater focus on activities contributing towards nature restoration and woodland creation, which contribute to the landscape. It would facilitate integrated place-based management approaches which are relevant to the local context, allowing diversification of activities that balance production with landscape and heritage conservation and enhancement.
- 5.19 Overall, whilst the benefits under all three proposals with respect to the landscape and historic environment SEA theme are recognised, **uncertainty** is noted at this stage. This is because activities such as tree planting could alter

landscapes that are historically characterised by arable and agricultural land use. In addition, renewable energy uses have the potential to impact on landscape character, as well as negatively impact the setting of important heritage assets and historic areas. It is also recognised that the Right to Buy Proposal does not guarantee positive outcomes with respect to landscape and the historic environment.

## Soil and water quality



- 5.20 The Diversification (non-cultivated activities) proposal will maintain and enhance soil and water quality by enabling regenerative agriculture techniques which support regulating ecosystem services. This includes, potentially, through facilitating participation in environmental markets. Specifically, this would allow small landholders easier access to emerging carbon, water quality and biodiversity markets that provide payments for practices like cover cropping, riparian buffers and habitat restoration. However, proving additionality (i.e. that the benefits delivered are additional/ new to what is being currently provided) and stacking of ecosystem services (i.e. where multiple ecosystem services or benefits are being claimed by one intervention) would need to be addressed to ensure the integrity of these environmental markets is upheld.
- 5.21 The Right to Buy proposal provides small landholders with potential long-term control over land management, which could encourage activities which support soil and water quality. However, any soil or water quality benefits remain largely dependent on the priorities and actions of the incoming landowner, not the policy itself. In this respect, the proposal does not inherently dictate outcomes. Small landholders may focus on intensive agriculture rather than diversification after purchase. Due to this, negative outcomes are just as likely to be delivered as positive outcomes.
- 5.22 The Land Use Tenancy proposal would likely facilitate integrated place-based management approaches, allowing the broad implementation of context-specific practices that result in improvements to soil and water quality. For example, it would enable the broad adoption of regenerative practices, such as cover crops, to enhance soil health, or allow activities such as wetland restoration to protect water quality. Therefore, the proposal provides opportunities to improve soil and water quality through solutions that are sympathetic to the local context. It may also provide opportunities for small landholders to access emerging environmental markets.
- 5.23 Overall, all three proposals perform well under the soil and water SEA theme by supporting activities which contribute towards improved soil and water quality. Due to this, **major positive significant effects** are anticipated. However, it is recognised that the Right to Buy Proposal does not guarantee positive outcomes with respect to soil and water quality.

## Cumulative effects

- 5.24 A range of **positive cumulative effects** across the SEA themes are anticipated as a result of the in-combination effects of Small Landholdings and Land Use Tenancy proposals and other plans and strategies. In this respect, the proposals (and framework they sit within) complement and reinforce the

objectives and actions of Scotland's Environmental Strategy, Climate Change Plan, National Strategy for Economic Transformation, NPF4 and other key plans and strategies nationally. No negative cumulative effects are anticipated in terms of the implementation of the proposals.

## Conclusions and recommendations

- 5.25 Three of the four SEA themes considered through the appraisal are considered likely to lead to **major positive significant effects** – these are biodiversity and geodiversity, climate change, and soil and water. The proposals support activities which maintain and enhance biodiversity, contribute to climate change mitigation and adaptation, and improve soil and water quality through enabling the facilitation of a range of regenerative activities including nature-based solutions. With respect to climate change, renewable energy use also plays a key role. Nevertheless, it is recognised that the Right to Buy Proposal does not guarantee positive outcomes.
- 5.26 **Uncertainty** is noted with respect to the landscape and historic environment SEA theme because activities such as tree planting could alter landscapes that are historically characterised by arable and agricultural land uses. In addition, renewable energy uses have the potential to impact the special qualities of valued landscapes as well as negatively impact the setting of important heritage assets and historic areas. In light of this, it is recommended that the proposals clarify that activities, particularly non-agricultural activities, must give due consideration to the local landscape and historic context, with activities only being supported where they maintain or enhance local landscape character and/ or the setting and significance of the historic environment.
- 5.27 Furthermore, there are a number of actions the Scottish Government can take to alleviate this uncertainty and support and encourage small landholders and tenants to undertake diversification on their land. For instance, detailed guidelines and case studies for small landholders can play a key role in demonstrating the landscape and heritage benefits that can be delivered through diversification and alleviate concerns about a changing baseline. These guidelines could profile land use options landholders could consider, for instance in terms of regenerative agricultural practices like cover cropping and riparian buffers. Guidance should include specific examples which provide advice on how the landscape features may differ to conventional approaches. This will help support clarity for small landholders whilst helping to alleviate concerns. For example, cover cropping differs from the bare fallow fields of conventional agriculture by planting cereals, legumes and brassicas between crop cycles to protect soil. When strategically planted and terminated, cover crops increase organic matter, fix nitrogen, and break pest cycles. Additionally, riparian buffers establish vegetation strips along waterways rather than cropland directly adjacent to streams. The buffers filter agricultural runoff, stabilize banks, and create wildlife corridors. Showcasing these and similar practices through guidelines and highlighting the benefits can provide visual and peer reviewed evidence of how biodiversity, climate soil and water benefits can be delivered through multiple land management routes. This guidance could be delivered as part of the implementation of changes to the Land Use Tenancy.
- 5.28 In addition, to address perceived uncertainties around the risks of moving to different land use practices, a piloting phase could be undertaken, focusing on

demonstrator projects that provide a roadmap for agricultural tenants, how diversification can be achieved and evidence of successful implementation within a similar context. The demonstrator projects could be based on key themes relating to diversification options, for instance:

- Nature enhancement and restoration
- Net zero technologies
- Eco tourism
- Regenerative agriculture

5.29 Monitoring at the landholding level will also be a key element to demonstrate how diversified land uses not only contribute to national biodiversity and climate targets, but also deliver productivity benefits. Monitoring can be a complex and detailed process but will be critical to ensure diversification away from traditional intensive agriculture is delivering on objectives. As such, the Scottish Government should endeavour to develop robust monitoring guidance to help small landholders and tenants understand how to track habitat, soil, carbon sequestration, and other environmental improvements over time. Possibilities for monitoring could include aspects such as assessing soil organic matter content annually, monitoring species diversity and habitat surveys every three years, or undertaking soil analysis every five years to measure carbon sequestration rates and progress. From a wider landscape or national perspective a complete biodiversity inventory mapping habitat connectivity every ten years could examine the full impact of the system.

5.30 Finally, given the cultural importance of the agriculture sector, tight margins and established practices, small landholders and tenants should continually be encouraged and supported to deliver land use changes. Offering ongoing incentives could motivate adoption of diversification in line with climate and conservation goals and alleviate any perceived risk. Incentives could include initiatives such as tax reductions, cost-shares, low-interest loans and guidance and support to help small landholders and tenants access environmental markets relating to biodiversity, carbon, soil and agriculture and other ecosystem services.

## 6. Proposed monitoring programme

### Monitoring in SEA

- 6.1 Monitoring in SEA is a means of evaluating the environmental performance of the plan or strategy and monitoring compliance through its implementation. It is also a way to check whether the effects predicted in the SEA arise as envisaged, or whether unforeseen issues arise.
- 6.2 Monitoring can help to evaluate whether a plan or strategy is fulfilling its core objective of delivering sustainable development and providing for a high level of protection of the environment. The information gathered through monitoring provides a basis to inform the review and preparation of subsequent iterations of plans, strategies and projects that sit within them, thus better informing future decisions.
- 6.3 Measuring indicators over time can identify long-term positive or negative changes and trends in the environment and can build knowledge on how these trends will affect (or will be affected by) the implementation of the plan or strategy itself. In this respect monitoring environmental changes occurring during the Small Landholding and Land Use Tenancy proposals' implementation phase can help to identify the need for additional mitigation measures or for appropriate remedial action to be undertaken where issues are identified, as well as to inform project-level assessments.

### Proposed SEA monitoring programme for the proposals

- 6.4 Schedule 2 of the Environmental Assessment (Scotland) Act highlights that the Environmental Report should include "*a description of the measures envisaged concerning monitoring.*" In response to this, this Environmental Report presents a proposed draft monitoring programme for measuring the proposals' implementation. It draws on the identified potential significant effects identified through the assessment of the various components of the proposals, and also suggests where monitoring is required to help ensure that the potential benefits of the proposals are effectively achieved through implementation. This will enable appropriate interventions to be undertaken if monitoring highlights negative or underperforming trends relating to the proposals' implementation.
- 6.5 The Scottish Government intends to monitor and evaluate the performance of Key Performance Indicators and use the data to enable them to adjust their approach if necessary. It is therefore beneficial if the SEA monitoring strategy builds on monitoring systems which are already in place. To this end, many of the indicators of progress chosen for the SEA are likely to reflect data that is already being routinely collected by the Scottish Government. As such, the indicators proposed for the SEA will be integrated into the Scottish Government's monitoring approach.
- 6.6 **Table 6.1** therefore outlines a proposed monitoring programme for measuring the proposals' implementation. It pays particular attention to the areas where the SEA has identified potential significant effects and also suggests where monitoring is required to help ensure that the positive effects of the proposals are achieved through implementation. It includes:

- The significant effect or environmental change to be monitored.
- The SEA theme(s) to which the monitoring proposal relates.
- The indicator to be monitored.
- The source of information and frequency of monitoring; and
- The trigger for where intervention should take place if monitoring suggests it is required.

6.7 It should be noted that the monitoring proposals presented below are 'plan-level' and differ from the recommendations discussed In Chapter 5 relating to monitoring at the landholding scale.

**Table 6.1 Proposed SEA monitoring programme**

Significant effect/ environmental change to be monitored	SEA theme(s)	Indicator	Data source	Frequency	Trigger for intervention
Area of restored habitat on agricultural land		Hectares of former farmland or other uses restored as biodiversity habitats on tenanted agricultural land	Scottish Government	Annual	When area does not increase on a year-on-year basis to targets set by the Scottish Government
Impact on biodiversity, soil and water quality and emissions from fertilisers		Use of nitrogen fertilisers	Scottish Government	Annual	When use increases on a year-on-year basis.
Impact of proposals on woodland creation		Area of woodland on tenanted agricultural land	Scottish Government	Annual	Where area does not increase on a year-on-year basis
Impacts on landscape character		Landscape character assessment findings	Scottish Government	Ongoing	Where landscape character assessment suggests significant change has taken place
Organic land use		Area of organic land on tenanted land	Scottish Government	Annual	When area does not increase on a year-on-year basis to targets set by the Scottish Government

## 7. Next steps

- 7.1 This Environmental Report is being consulted on alongside the wider consultation on the SEA for the Agricultural Tenancies and Small Landholdings & Land Use Tenancies.
- 7.2 Following the completion of the consultation period in October, comments will be reviewed and analysed. The final proposals will then be developed prior to Royal Assent. Any changes arising to the proposals will need to be assessed as part of the SEA process.
- 7.3 Part 3 of the Environmental Assessment (Scotland) Act 2005 requires that a 'statement' be made available to accompany the proposals, as soon as possible after their adoption. The purpose of the SEA Adoption Statement is to outline how the SEA process has influenced and informed the proposals' development process and demonstrate how consultation on the SEA has been taken into account.
- 7.4 To meet these requirements, an SEA Adoption Statement will be published with the adopted proposals. The SEA Adoption Statement will set out: the reasons for choosing the preferred proposals in light of other reasonable alternatives; how environmental considerations were integrated into the proposals' development process; how consultation responses were taken into account; and the measures decided for monitoring the significant effects of the proposals.

# Appendix A Scoping information

## Introduction

This appendix provides an overview of information presented in the SEA Scoping Report prepared by the Scottish Government for the Small Landholdings and Land Use Tenancy proposals in February 2023. Consultation took place between 7<sup>th</sup> February 2023 and 14<sup>th</sup> March 2023.

The purpose of the SEA Scoping Report is to set out sufficient information on the proposed Small Landholdings and Land Use Tenancy legislative proposals contained in the 'Land Reform in a Net Zero Nation' consultation and 'Small Landholdings Modernisation' consultation to enable the Consultation Authorities to form a view on the proposed scope and level of detail for the Environmental Report.

## Scoping of SEA topics

The Small Landholdings and Land Use Tenancy proposals are considered to have the potential for likely significant positive environmental effects on the climate factors and biodiversity, habitats, flora and fauna SEA topics.

At a local level, it is considered likely that the implementation of the agricultural tenancies proposals may result in a range of localised indirect environmental effects. Their significance will depend on factors such as location, scale and individual practices.

In the interest of proportionality and given the national level focus of the policy, coupled with the presence of existing mitigation in place at the project level within existing current agricultural regulations and consenting regimes, the environmental topic areas: soil; water; air quality; cultural heritage; material assets; and landscape have been scoped out of this SEA.<sup>13</sup> Notwithstanding, to ensure that the potential for any localised indirect effects is recorded, and to allow for the SEA findings to directly inform the consideration of relevant issues at the local and project levels, it is proposed that the SEA acknowledge these within the context of the topics scoped into the assessment, as appropriate.

## Development of the environmental baseline

For each topic scoped into this assessment, environmental baseline data has been collated to provide an understanding of these.

## Climatic factors

The global climate is changing. Since the 1880s, human activity has led to a significant increase in atmospheric greenhouse gas emissions and global warming. This has resulted in an increase in the average temperature of the atmosphere and oceans; a reduction in snow and ice cover; and sea level rise. In Scotland, the period 2008 – 2017 was an average of 0.7°C warmer than 1961 – 1990 and had fewer days of air and ground frost. An increase in precipitation (11%) has been observed for the

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<sup>13</sup>The Scottish Government and AECOM subsequently agreed to include two additional SEA topics in the Environmental Report – soil and water quality (a combination of the soil and water SEA topics outlined in the Scoping Report) and landscape and historic environment (a combination of the landscape and cultural heritage SEA topics outlined in the Scoping Report).

same period. The amount of rain from extremely wet days across the UK has also increased by 17% with the biggest observed changes seen in Scotland.<sup>14</sup>

In general, climate change projections suggest observed climate trends will continue to intensify in the future, including:

- An increase in both summer and winter average temperatures across both low and high emission scenarios.
- Drier summers and wetter winters.
- An increase in the intensity of rainfall; and
- Increased risk of flooding, drought, and extreme weather events.<sup>15</sup>

Key pressures on climate change include greenhouse gas emissions from a range of sectors with the highest contributors being the transport sector (including international aviation and shipping) (approximately 37%), agriculture and related land uses (24%), business and industrial process (22%), the energy supply sector (15%), and the residential sector (15%). Relatively minor contributions were reported for public sector buildings, development, and waste management. Forestry was a net carbon sink and contributed to reducing emissions by approximately 24% in 2017.<sup>16</sup>

Scottish agriculture generated 7.4 MtCO<sub>2</sub>e in 2020, equivalent to 18% of total Scottish emissions, making it Scotland's third highest GHG emitting sector. The government's Climate Change Plan update<sup>17</sup> requires agricultural emissions to reduce by a further 2.3 MtCO<sub>2</sub>e to 5.3 MtCO<sub>2</sub>e by 2032, the equivalent of a 30% reduction from 2020 levels.<sup>18</sup> For context, this means achieving double the reduction in emissions achieved over the past 30 years, in less than half the time.

## Biodiversity, habitats, flora and fauna

The changing climate, in addition to other human-related drivers such as pollution, direct exploitation, land use change and invasive non-native species, has led to the biggest global decline in the health of ecosystems ever seen in human history.<sup>19</sup> In Scotland, NatureScot's 2019 State of Nature report showed that between 1994 and 2016, average species abundance declined by 24%.<sup>20</sup> In addition to the intrinsic value of having a healthy natural environment, as a society we also rely heavily on the services Scottish ecosystems provide. It is therefore imperative that we halt the decline in biodiversity and restore it in a way that is resilient to future changes in climate for the future prosperity of Scotland.

Declining biodiversity has been observed both globally and in Scotland for several decades. The latest State of Nature report for Scotland<sup>21</sup> showed that half of the

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<sup>14</sup> Met Office (2018): 'UKCP18 Science Overview Report', [online] available to access via [this link](#)

<sup>15</sup> Met Office (2018): 'UKCP18 Climate Change Over Land', [online] available to access via [this link](#)

<sup>16</sup> Scottish Government (2019): 'Scottish greenhouse gas emissions 2017', [online] available to access via [this link](#)

<sup>17</sup> Scottish Government (2020): 'Update to the Climate Change Plan 2018-2032: Securing a Green Recovery on a Path to Net Zero', [online] available to access via [this link](#)

<sup>18</sup> Note the values used here are based on updated global warming potentials, as presented in [IPCC 5<sup>th</sup> Assessment Report](#). Previous inventory data was calculated based on the IPCC 4<sup>th</sup> Assessment Report leading to minor discrepancies when presenting emissions in units of CO<sub>2</sub>e.

<sup>19</sup> IPBES (2019): 'Summary for policymakers of the global assessment report on biodiversity and ecosystem services', [online] available to access via [this link](#)

<sup>20</sup> NatureScot (2019): 'State of Nature Scotland Report 2019', [online] available to access via [this link](#)

<sup>21</sup> Ibid.

species measured decreased in abundance between 1994 and 2016 with a 24% decrease in average species abundance, much of which has occurred since 2010. Likewise since 1970 there has been a 14% decline in the average distribution of species measured. Scotland now has one of the lowest biodiversity intactness index<sup>11</sup> scores in the world (212 out of 240 countries), with only 56% of Scotland biodiversity deemed 'intact'.

Agriculture is a contributing factor to all five drivers of biodiversity decline. In broad terms, the historical move from low input-low output agricultural systems towards agricultural intensification is linked to declining biodiversity<sup>22,23</sup>. Increasing intensification, whether in arable or livestock systems, aligns with a greater control over natural processes. For example, in arable systems, intensification generally leads to the increased use of pesticides and fertilisers, continuous cropping, changed sowing seasons and the loss of non-cropped habitats<sup>24</sup>. In livestock systems it is linked to higher nutrient inputs into and out from improved grasslands, the greater use of veterinary medicines and the removal and suppression of habitat<sup>25</sup>. These practices impact on biodiversity both directly (e.g. direct loss of habitat from agricultural practices<sup>26</sup>) and indirectly (e.g. increased nutrients in runoff causing eutrophication in aquatic ecosystems<sup>27</sup>). In the context of other drivers, agricultural management practices have been shown to be the largest driver of terrestrial biodiversity loss at the UK level<sup>28</sup>.

Land management and land use changes are driven, by market, economic and social factors that will influence the effect of policies and legislation on the ground.

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<sup>22</sup> Firbank et al. (2007): 'Assessing the impacts of agricultural intensification on biodiversity: a British perspective', [online] available to access via [this link](#)

<sup>23</sup> Robinson and Sutherland (2002): 'Post-war changes in arable farming and biodiversity in Great Britain', [online] available to access via [this link](#)

<sup>24</sup> Boatman et al. (2007): 'Impacts of agricultural change on farmland biodiversity in the UK', [online] available to access via [this link](#)

<sup>25</sup> Ibid.

<sup>26</sup> Hanley et al. (2008): 'Economic determinants of biodiversity change over a 400-year period in the Scottish uplands', [online] available to access via [this link](#)

<sup>27</sup> Withers et al. (2014): 'Agriculture and eutrophication: Where do we go from here?', [online] available to access via [this link](#)

<sup>28</sup> Burns et al. (2016): 'Agricultural management and climatic change are the major drivers of biodiversity change in the UK', [online] available to access via [this link](#)



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