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A CONSULTATION ON THE FUTURE OF LAND REFORM IN SCOTLAND: Analysis of consultation responses

PEOPLE, COMMUNITIES AND PLACES

social research

A CONSULTATION ON THE FUTURE OF LAND REFORM

Analysis of responses

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CONTENTS

CHAPTER	PAGE NO.
1. EXECUTIVE SUMMARY	1
2. INTRODUCTION	11
3. A DRAFT LAND RIGHTS AND RESPONSIBILITIES POLICY STATEMENT	15
4. DEMONSTRATING LONG TERM COMMITMENT TO LAND REFORM	23
5. IMPROVING THE TRANSPARENCY AND ACCOUNTABILITY OF LAND OWNERSHIP IN SCOTLAND	31
6. ADDRESSING BARRIERS TO SUSTAINABLE DEVELOPMENT AND BEGINNING TO DIVERSIFY PATTERNS OF LAND OWNERSHIP	47
7. DEMONSTRATING COMMITMENT TO EFFECTIVELY MANAGE LAND AND RIGHTS IN LAND FOR THE COMMON GOOD	56
8. ADDRESSING SPECIFIC ASPECTS OF LAND OWNERSHIP AND RIGHTS	79
9. ASSESSING IMPACT	97
Annex 1: List of respondents	108
Annex 2: Campaign pro-forma	113

1. EXECUTIVE SUMMARY

1.1 The Scottish Government views Scotland's land as an asset that should benefit the many, not the few. The vision outlined in 1999 by the Land Reform Policy Group[1] has underpinned key developments over the last decade, with the focus on achieving greater diversification of ownership and ensuring increased community involvement in the way land is owned and used.

1.2 In 2014 the Land Reform Review Group's report, *The Land of Scotland and the Common Good*, was published, containing 62 recommendations which have been central to placing land reform debate in a modern context. The Scottish Government has already taken steps to progress many of the Group's recommendations but now wishes to hear wider views on a range of additional land reform proposals that have the potential to be taken forward in a Land Reform Bill in the current parliamentary term.

1.3 A consultation paper was published on 2 December 2014, which invited the people of Scotland and interested parties to provide their views on a number of proposals including a Land Rights and Responsibilities Policy and other potential legislative measures to further land reform in Scotland. 1,269 responses to the consultation were received. Of these, 104 were identified as campaign responses[2], with the remaining 1,165 constituting standard responses. Most (82%) of the standard responses were submitted by individuals; 18% were submitted by organisations.

1.4 A summary of views submitted in response to the consultation follows. The views are those of the respondents to this consultation and do not necessarily represent the views of the wider population. The full responses can be found on the Scottish Government website.[3]

DRAFT LAND RIGHTS AND RESPONSIBILITIES POLICY STATEMENT

1.5 The land reform consultation document outlined a proposed vision and set of principles to guide the development of public policy on land rights. Respondents were asked for their views on a draft Land Rights and Responsibilities Policy (LRRP) as well as their top priority actions for land reform in Scotland.

1.6 87% of respondents who provided a view agreed that the Scottish Government should have a stated Land Rights and Responsibilities Policy (LRRP). There was much support for the draft LRRP in the consultation

[1] Land Reform Policy Group, *A Vision for the Future,* Scottish Executive; Edinburgh,1999.
[2] A campaign is when one organisation or individual sets out their views to a consultation and other respondents follow this response template in their response. Amongst the 104 campaign responses, three "campaign" templates were identified.
[3] http://www.gov.scot/Topics/Environment/land-reform/consultation

document which was viewed as constituting a robust framework for future development and a step in the right direction.

1.7 One general concern to emerge from both supporters and opponents was that the vision and principles set in the draft required to be defined more clearly. A repeated view was that the LRRP appeared to present high level aspirations rather than a policy statement. Broad recommendations were made for the LRRP to take into consideration use and stewardship of land in addition to its ownership; and for a human rights perspective to be a key consideration in future developments in land reform.

Priority actions for land reform in Scotland

1.8 When asked to identify their top three priority actions for land reform in Scotland, those most frequently raised by respondents were: ensuring transparency of ownership of land; greater diversification of ownership; and establishing a supporting system of taxation.

Consultation Proposal 1: A Scottish Land Reform Commission (SLRC)

1.9 This proposal was for the creation of a Scottish Land Reform Commission to allow for oversight of a wide spectrum of land reform issues. The consultation document noted that the exact structure and remit were still to be defined but proposed some responsibilities such as promoting land reform, collecting evidence, monitoring the impact of law, policies and practices.

75% of all respondents who provided a view agreed that a SLRC would help ensure that Scotland continues to make progress on land reform and has the ability to respond to emergent issues. Most (68%) of the 54 private landowner organisations who responded to this consultation disagreed.

1.10 The main advantages to the SLRC were identified as ensuring land reform has a high profile, with developments driven forward irrespective of changes of government; and provision of an impartial resource for objective evidence-building on issues of land reform. Other advantages were identified as greater cohesion and co-ordination in policy-making on land reform; ensuring greater clarity on ownership of land; representing the people's voice; adjudicating where disputes arise; and provision of a forum for open debate amongst stakeholders. The potential independence of the SLRC, at arm's-length from Government, was also welcomed.

1.11 Concerns were raised over the costs of establishing and operating the new body and its potential to become overly bureaucratic, leading to delays in progress. Questions were posed relating to its membership and in particular how it can be seen to represent all parties and interests fairly. Some respondents cautioned that the SLRC should remain free from political interference. Other

dominant concerns related to the perceived potential of the SLRC to de-stabilise the rural economy by creating uncertainty; and the risk that it becomes little more than a “talking shop” with decisions hard to reach and delays inevitable.

1.12 Views on membership of the SLRC were that it should represent a wide range of interests including the following stakeholders: landowners; community representative bodies; rural bodies; urban bodies; environmental organisations; forestry bodies; third sector organisations; local government; retailers; farmers; church; recreational bodies; land management bodies; tourist bodies; tenants; and academics. Representation of lay people was also recommended. A recurring view was for membership to be time limited as a means of regularly refreshing the SLRC. Many individuals and community organisations recommended approaches to increasing openness and accessibility of the SLRC such as establishing regional sub-commission offices outwith the central belt.

1.13 There was much support for the remit of the SLRC to encompass land reform promotion and oversight. The predominant view was that its remit should be wide-ranging, although a minority of respondents called for restriction to short-term policy issues to ensure early achievement and tangible progress.

Consultation Proposal 2: Limiting the legal entities that can own land in Scotland

1.14 The second proposal referred to the Scottish Government’s understanding that in some cases it can be difficult to trace and contact landowners and that this can lead to practical difficulties for those seeking to engage with landowners of enforce fiscal or environmental obligations. The Land Reform Review Group had recommended that ownership should be restricted to increase accountability. The document sets out some of the issues to be considered in restricting ownership and asks for views.

1.15 The majority (79%) of those who provided a view agreed that restricting the type of legal entities that can, in future, take ownership or a long lease over land in Scotland would help to improve the transparency and accountability of land ownership. 82% of those addressing the issue agreed that in future land should be owned (or a long lease taken over land) only by individuals or by a legal entity formed in accordance with the law of a Member State of the European Union (EU). Amongst respondent sectors, individuals were most supportive of the proposals, with private landowner organisations and private sector and professional bodies least supportive.

1.16 The three advantages to the proposal to restrict ownership in this manner, identified most frequently by respondents were: increased transparency of ownership; addressing tax avoidance; and promotion of wider ownership of land in Scotland.

1.17 The three most commonly identified disadvantages to the proposal were: potential loss of inward investment; exploitation of loopholes by those intent on circumventing the restriction; and discouragement of a free market.

Consultation Proposal 3: Information on land, its value and ownership

1.18 According to the consultation document clear and up-to-date information about land, its value and ownership provides a good basis for open and transparent decision making. The document asked for respondents views on this issue as well as information on any data that they may hold or any data that they would wish to access.

1.19 88% of those providing a view agreed that better co-ordination of information on land, its value and ownership would lead to better decision-making for both the private and public sectors. 37% of those responding to the consultation indicated that they held data they could share and/or they had comments relating to data they or others would wish to access. A common view was that much more information could be made available for wider access, but that care should be taken over data protection issues and the potential for misuse of data if made more accessible.

1.20 The advantages to wider and more flexible sharing of land information most frequently raised by respondents were: transparency of ownership; increased knowledge about land ownership leading to greater empowerment of communities to engage on land reform issues in an informed manner; and efficiency of working in that owners can be contacted more readily, leading to speedier resolution of issues. The disadvantages of wider and more flexible sharing of land information most frequently identified were: cost of establishing and maintaining databases; risk of breach of confidentiality of sensitive information; and time required to set up databases.

1.21 A common view was that the land register should be completed as soon as possible. Some respondents recommended that secondary sources of land information should be identified and co-ordinated to support the main database of information, with calls made for more open access to relevant websites. A recurring theme was that sharing of data could be aided by establishing a dedicated, online system of land information.

Consultation Proposal 4: Sustainable development test for land governance

1.22 The fourth proposal referred to instances where the scale or pattern of land ownership, and the decisions of landowners, could be a barrier to sustainable development in an area. It proposed that where there was sufficient evidence that

current ownership patterns were causing barriers to sustainable development then steps could be taken to remove the barriers.

1.23 72% of those who provided a view agreed that there should be powers given to Scottish Ministers or to another public body to direct private landowners to take action to overcome barriers to sustainable development in an area. However, whilst most (75%) individual respondents supported this proposal, 93% of the 41 private landowner organisations who addressed the issue disagreed, as did over half (57%) of private sector and professional bodies.[4]

1.24 Commonly identified benefits of the proposal were: greater sustainability of land due to more diverse and improved land use; benefits for local communities; and priority of public good over private interests of landowners.

1.25 Commonly identified concerns were that legislation such as compulsory purchase provision already existed; that giving powers to Scottish Ministers was overly centralised and open to political influence; and that it would be difficult to resolve tensions between different aspects of sustainable development (social, economic, environmental) or local and national priorities. Legal challenges by landowners were predicted with the potential for delays and expensive court actions.

Consultation Proposal 5: A more proactive role for public sector land management

1.26 The fifth proposal noted that public land should be managed for the greatest overall benefit but sometimes the legal framework for some public bodies placed a constraint on the range of operations that they could undertake. Respondents were asked whether they thought public bodies should be able to engage in a wider range of management activities and whether any alternative mechanisms could achieve the same aim.

1.27 79% of those who provided a view agreed that public sector bodies, such as Forestry Commission Scotland, should be able to engage in a wider range of management activities in order to promote a more integrated range of social, economic and environmental outcomes. The most commonly identified benefit was better land use in terms of greater diversity and sustainable outcomes. Other key benefits identified were greater integration of land use and land management and ensuring that land is managed in the public interest rather than serving the interests of the few.

1.28 Contrasting views were that public sector bodies already have sufficient powers to engage in a wider range of management activities, with bodies making

[4] As noted in paragraph 1.5, the views reported here are those of the respondents to this consultation and may not represent the views of the wider population.

use of these to a greater or lesser extent. Some respondents felt that by extending functions too broadly such bodies ran the risk of reducing their overall effectiveness. A common view was that that the proposal that public bodies engage in a wider range of management activities would be costly in terms of finance and human resources and could generate conflicts, for example if different groups and sectors competed against each other for their own interests.

1.29 A common view was that greater ownership/leasing of land or management of land by the private sector or community bodies was an alternative way to achieve the same aim.

Consultation Proposal 6: Duty of community engagement on charitable trustees when taking decisions on land management

1.30 This proposal considered the relationship between charitable organisations that own land and the local communities who may be affected by decsions taken on the use, management or transfer of that land.

1.31 Most (76%) of those who addressed this issue agreed that a trustee of a charity should be required to engage with the local community before taking a decision on the management, use or transfer of land under the charity's control. All, or the majority of respondents in all categories, favoured the proposal, except for private landowner organisations and private sector and professional bodies, the majority of whom opposed the proposal.

1.32 The main benefits identified were improved community engagement; awareness of land management issues; and the opportunity for the community to have a say in the management, use or transfer of land under the charity's control. Other key advantages were identified as: greater community empowerment; more informed decision-making by charities; promotion of harmonious relationships between charities and local people; greater transparency and openness in decision-making; and increased accountability.

1.33 The main concern was that the proposal had the potential to become overly cumbersome, resulting in delay, costs and bureaucracy. Another common concern was that the duty on charities and trusts to abide by their respective organisation's constitution should not be compromised by the proposal. A recurring view was that there was no guarantee that by engaging with a community, an overarching community-representative view would emerge. Questions were raised over meanings of terms and words such as "engage with" and "community".

1.34 Should a trustee of a charity fail to engage appropriately with the local community a recurring view was that the organisation's charitable status should be removed. Other commonly identified remedies for such breach included: blocking progress until engagement has taken place; fining the charity; removal of the trustee from office; mediation; and confiscation of the charity's land. In

contrast, many respondents were of the view that rather than impose punitive action on the charity, it should be supported in its duty to engage.

Consultation Proposal 7: Removal of the exemption from business rates for shootings and deerstalking

1.35 An exemption from business rates for shootings and deer forests has been in place since 1955. This proposal suggests ending the business rate exemptions and asks for views on the likely advantages and disadvantages.

1.36 The majority (71%) of those who provided a view considered that current business rate exemptions for shootings and deer forests should be ended. However, of the 51 private landowning organisations who expressed a view on this issue, all but one opposed this proposal.

1.37 The main advantages to the proposal were perceived to be ensuring parity and fairness with other rural businesses in terms of paying tax; increased tax revenue for local and national government; and better use of land with opportunities for diversification as land values become lower.

1.38 The key disadvantages envisaged included potential loss of local jobs, tourism and inward investment; reduced land maintenance with a rise in the deer population; and the possibility of local estates and related businesses failing.

Consultation Proposal 8: Common good

1.39 Common good is a form of land ownership that has a long history in Scotland and often plays an important part in the historic, cultural and economic heritage of communities where such property exists. This proposal raised a number of detailed issues around the definition of common good and its use.

1.40 The majority (65%) of those who provided a view opposed the proposal that the need for court approval for disposals, or changes of use of common good property, should be removed.

1.41 If court approval was removed, frequently identified alternatives were: community approval; SLRC approval; or local authority approval. Some felt that local panels and committees could have a role in this respect, particularly if they involved community councils with democratically elected members.

1.42 71% of those providing a view considered that there should be a new, legal definition of common good. It was commonly thought that any new definition should refer explicitly to common good as being of benefit to everyone in the local population in terms of their well-being. There were contrasting views, however, on whether this should include economic well-being in addition to social

and environmental well-being. Many respondents called for further consultation on a legal definition of common good.

1.43 A recurring view was that common good property should be protected from being taken for other purposes, and that property taken previously for purposes other than the common good should be retrieved. Many considered that it should be possible to add to common good property in the future. Repeated calls were made for a searchable register of all common good property, with this publicised and promoted.

Consultation Proposal 9: Agricultural holdings

1.44 The Agricultural Holdings and Legislation Review Group has worked over the last year to develop a range of recommendations designed to address concerns and promote a vibrant agricultural tenanted sector. The recommendations have been developed on the basis of detailed consultation with tenants, landowners and others in the sector and were published during the Land Reform consultation period. This proposal asked whether the Scottish Government should take forward some of the recommendations requiring legislative change in the Land Reform Bill.

1.45 The majority (64%) of those addressing the issue agreed that the Scottish Government should take forward some of the recommendations of the Agricultural Holdings Legislation Review Group within the proposed Land Reform Bill. However, whilst 68% of individual respondents supported this proposal, 65% of organisations opposed it.

1.46 Those supporting the proposal considered that the Land Reform Bill provided a vehicle for early establishment into statute of very important recommendations. They also thought that it would result in more coherent, integrated land legislation and that this integration may enable wider interest and support.

1.47 The main disadvantage to the proposal was viewed as potentially rushing through complex legislation which may not do justice to the important topics at stake. Another dominant theme was that issues associated with agricultural holdings are distinct from land reform issues and should be packaged coherently in a separate Bill.

Consultation Proposal 10: Wild deer

1.48 Wild deer in Scotland are not owned, but the right to take or kill deer rests with the owner or occupier of land. There is no legal obligation on landowners to manage deer. However, the Deer (Scotland) Act 1996 contains powers for Scottish Natural Heritage to intervene and impose management measures where they consider that deer management is detrimental to the public interest and

there is a code of practice on Deer Management that sets out responsibilities for landowners. The consultation document notes that this voluntary approach has been criticised and asks whether new provisions to build on these existing public powers should be brought forward.

1.49 69% of those providing a view agreed that further deer management regulation measures should be introduced to be available in the event that the present arrangements are assessed as not protecting the public interest. Whilst the majority (72%) of individuals supported this proposal, organisations held more mixed views with 52% in opposition.

1.50 The most commonly highlighted advantage was that the proposal would ensure greater protection of the environment and a return to more natural local ecosystems due to a reduction in what was seen to be the current over-grazing by deer populations.

1.51 Another key benefit identified was that deer management would be become cohesive and organised within a strategic, coherent framework, contributing to consistency and transparency of approach. Other commonly perceived benefits included: a healthier, better maintained deer population; meeting the public interest; improved local economy; and fewer road and rail accidents.

1.52 In contrast, many respondents considered that there was no need to introduce further deer management regulation measures as there was no demonstrated need for such action. A common view was that the outcome of the review planned for 2016 should be considered before developing more regulation. Some felt that landowners should be left to manage deer as they see fit, without interference from centralised officials. Concerns were raised over increased costs and bureaucracy which were associated with more regulation. A common view was that there may be negative public reaction to the notion of more deer being culled.

Consultation Proposal 11: Public access: clarifying core paths planning process

1.53 Part 1 of the Land Reform (Scotland) Act 2003 formalised rights of public access in a statutory framework. The Land Reform Review Group said that this statutory framework should be judged a considerable success, however, they suggested there was a need for clarification of some aspects of Core path planning process and it is proposed that these clarifications are contained within the Land Reform Bill.

1.54 81% of those providing a view agreed that access authorities should be required, in the interests of transparency, to conduct a further limited consultation about proposed changes arising from objections. However, private landowner organisations on the whole opposed the proposal.

1.55 85% of those providing a view agreed that section 20 of the 2003 Act should be clarified so that Ministerial direction is not required when an access authority initiates a core path plan review. This was the majority view or the consensus across all respondent sectors.

1.56 78% of those providing a view agreed that the process for a minor amendment to core path plan (as set out in section 20 of the 2003 Act) should be simplified to make it less onerous than that for a full review of a core path plan. Majority or universal agreement with this proposal emerged across all respondent sectors except for private landowner organisations where the majority view (63%) was in opposition.

Assessing impact

1.57 Scottish Government set out its belief that by developing a clear Land Rights and Responsibilties policy and by implementing a broad range of land reform measures it can deliver a range of social, economic and environmental benefits. Respondents to the consultation were asked to consider and provide views on the potential positive and negative effects of the proposals in terms of equality and social justice, business and regulation and the environment.

Equality

1.58 A few prevailing themes emerged from responses relating to the potential impacts of the LRRP and other aspects of the Bill on different communities and groups of people. Most common was concern that the proposals appeared to be rural focused, and appeared to neglect the particular circumstances of urban areas of deprivation. Another dominant theme was that local communities may not be equipped to engage with the provisions and that training and support would be required to empower local people to take up the opportunities provided by the Bill. Many respondents emphasised that the Bill sits within wider, legislative and societal contexts of potentially greater socio-economic impact.

1.59 Some respondents highlighted young people as potential beneficiaries of the positive impacts of the proposals through increased local employment and affordable housing opportunities; others considered that the proposals had the potential to reduce isolation amongst elderly people in the community. The circumstances of travellers were raised by a few respondents who called for greater understanding of their needs in order to ensure they are able to access the potential benefits of the reforms.

1.60 Broad benefits identified for individuals and communities with different levels of advantage or deprivation included: increased social justice; better balance between landowners and local communities; increased local employment opportunities; greater opportunity for diversification of land use and community and individual ownership of land; community empowerment

opportunities; and greater access to land with potential for positive impacts on health and well-being.

1.61 Potential negative impacts were identified as: increased costs taking funds away from higher priorities such as healthcare and employment; reduction in inward investment; loss of local employment; communities failing to maintain assets over the longer-term; negative impact on landowners who are currently managing land successfully; risk of estates going bankrupt; risk of local engagement becoming dominated by loudest voices.

1.62 Calls were made for the proposals to be publicised locally and nationally in a variety of formats and for public education via public awareness campaigns in order to ensure all individuals and communities can access the benefits. Recommendations were made for start-up and on-going information to be accessible, simple and clear with impartial, free advice available. Further, local consultation was envisaged using approaches such as participatory activities.

Business and regulation

1.63 Many respondents expected that costs would be incurred initially as the proposals are implemented, but they considered that over time the benefits generated would outweigh the initial costs and/or would be money well invested.

1.64 The costs identified most frequently were associated with: monitoring and enforcement; establishing and operating the SLRC; establishing and operating the land register; landowner costs relating to registering land; legal advice; and deer management if no longer undertaken by sporting estates.

1.65 The most commonly identified savings were from increased tax revenue due to the removal of business rates exemption on deerstalking and shooting; increased tax revenue due to closing loopholes in the tax system; rationalisation of databases leading to easier use and clarity of ownership; and physical and mental health improvements amongst local people due to increased access to local land.

Privacy

1.66 An overarching theme was that a balance should be struck between the need for freedom and transparency in information and individual rights to privacy. Many felt that consideration of human rights should provide a backcloth to developing the reforms. Another common view was that the proposals would have negligible impact on the privacy of individuals, and that in other countries comparable reform has not led to curtailment of individual privacy; some remarked that private landowners in Scotland should be treated in the same manner as other people in terms of transparency of information about their property.

1.67 In contrast, some respondents identified what they perceived to be the removal of property rights/interference in running of private estates and the

exposure of private details about estates which risked impacting negatively on individual privacy.

1.68 A common theme was that it was inevitable that some reduction in privacy for some individuals would result from the proposals, but this drawback was outweighed by the need for transparency and the likely social, economic and environmental benefits which will emerge. Risks associated with data were considered to be manageable by careful attention to data protection requirements, and maintenance of accurate and up-to-date databases.

Environmental

1.69 The potential positive impacts on the environment resulting from reform which were most frequently highlighted by respondents were: greater diversification of land use/more sustainable land use; better management of the deer population; greater community ownership over and responsibility for the local environment; and increased natural regeneration of forest and increased tree cover.

1.70 By far the most commonly identified negative impact on the environment, identified particularly by private landowning organisations, was reduced spend on land management by private owners due largely to the abolition of the business rate exemption on shooting and stalking, potentially leading to deterioration of land and the environment.

2. INTRODUCTION

2.1 On the 26 November 2014 the First Minister, as part of the Programme for Government, set out the Scottish Government's vision that Scotland's land must be an asset that benefits the many, not the few. The relationship of people with land is viewed as fundamental to their well-being and economic success in addition to achieving environmental sustainability and social justice.

2.2 There has been much discussion on land reform in previous years. The vision outlined in 1999 by the Land Reform Policy Group[5] underpinned key developments over the last decade. The Group identified two main outcomes for land reform: firstly, to achieve more diverse ownership and a reduction in the concentration of ownership and management arrangements at local level, in order to promote sustainable development; and secondly, to ensure increased community involvement in the way that land was owned and used so that local people were not excluded from decisions that affect them as individuals and as communities.

2.3 Since the 1999 report there have been various legislative and other measures put in place to deliver land reform including the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the Land Reform (Scotland) Act 2003.

2.4 Following from a 2011 manifesto commitment, in 2012 the Scottish Government established an independent review of land reform in Scotland. The Land Reform Review Group (LRRG) was set up and its report, *The Land of Scotland and the Common Good*[6], was published in May 2014. The report contained 62 recommendations and has been pivotal in placing the land reform debate in a modern context, reflecting the emphasis on public interest and common good.

2.5 The Scottish Government welcomed the LRRG report and has already undertaken work to move forward many of its recommendations. In particular, the Scottish Government has committed to:

- complete the Land Register for the whole of Scotland within ten years, with registration of all public sector land in five years;
- improve and extend existing community rights to buy through the Community Empowerment (Scotland) Bill to allow urban communities the right to buy;
- develop a strategy to achieve the target for 1 million acres of community ownership by 2020;
- extend the Scottish Land Fund over the 2016-2020 spending period;
- bring forward a Land Reform Bill.

2.6 On 2 December 2014 the Scottish Government published a consultation paper seeking views on a proposed Land Rights and Responsibilities Policy and a wide range of other potential legislative measures to further land reform in Scotland. The responses to the consultation will be instrumental in guiding public policy on the nature and character of land rights, and on a range of potential provisions for a Land

[5] Land Reform Policy Group, *A Vision for the Future,* Scottish Executive; Edinburgh,1999.
[6] http://www.gov.scot/Publications/2014/05/2852

Reform Bill within this parliamentary term. The consultation closed on 10 February, although agreed late responses were received up until 25 February.

2.7 This report presents the analysis of views contained in the responses to the land reform consultation which were relevant to the questions asked. Additional information provided by respondents has been made available to Scottish Government where respondents gave permission for this to happen. All responses have been made publicly available on the Scottish Government website unless the respondent has specifically requested otherwise. The views are those of the respondents to this consultation and do not necessarily represent the views of the wider population.

Consultation responses

2.8 The Scottish Government received 1165 standard written and online responses to the consultation. Table 2.1 shows the distribution of standard responses by category of respondent. A full list of the organisations who responded is in Annex 1. The respondent category applied to each response was allocated by the Scottish Government policy team. On the few occasions where respondents did not fit clearly into any of the sectors, a decision was made on the closest match and a consistent policy followed.

Table 2.1: Distribution of standard responses by category of respondent

Category	**No.**	**%**
National non-government organisations	55	5
Private landowner organisations (largely land estates)	54	5
Private sector and professional bodies (e.g. legal bodies; land agencies)	39	3
Community organisations and representative bodies (e.g. community councils)	24	2
Government and NDPBs	13	1
Local non-government organisations (e.g. deer management groups)	13	1
Local government	12	1
Academic	4	0
Total organisations	**214**	**18**
Individuals*	951	82
Grand total	**1165**	**100**

* Amongst the individuals were private landowners, with the responses from this sector spread between the individual category and the private landowner organisation category. There were also community representatives split between the individual and community organisation categories. Percentages are rounded.

2.9 The majority (82%) of standard responses were submitted by individuals including members of the public, and people working within stakeholder organisations such as remote and rural estates and community organisations. Of the 18% of responses from organisations, the sectors submitting the most responses were national non-government organisations and private landowner organisations.

2.10 In addition to the standard responses, a further 104[7] responses were received which have been categorised as "campaign" or "campaign plus" responses. The three pro-forma templates can be accessed in Annex 2. A summary of the number of these responses is in Table 2.2. As campaign responses contain the same wording submitted by many people it is normal practice to exclude them from the quantitative element of analysis so that they do not skew response in one direction or another. They are however described separately in each section of the report to ensure that the views of the campaign are fully represented. Hence when the analysis refers to the 'Common Weal campaign response' it is referring to views held by, and responses made by, 82 separate submissions.

Table 2.2: Summary of responses to campaigns

Type of campaign response	No. of responses
Common Weal standard template	82
Common Weal standard template plus some significant additional material ("campaign plus")	5
Berwickshire Common Weal template	3
Birnam Land Reform Workshop (24th January 2015) submission	14
Total no. of responses	**104**

2.11 Submissions were made via the dedicated online system Delib or in other electronic or hard copy formats. Responses not entered directly onto Delib by the respondent were entered onto it manually by the Scottish Government policy team and the contractor in order to establish one database and to aid subsequent analysis of their content. The full responses from individuals and organisations who gave permission to publish their response can be found on the Scottish Government website[8].

Analysis of responses

2.12 The analysis of responses is presented in the following seven chapters which follow the order of the topics raised in the consultation paper. The consultation contained 45 questions, of which 15 were closed (yes/no answers requested) and the remainder were open, inviting free text response. The analysis of the standard responses to each question is provided, followed by a summary of the relevant views from the campaign responses.

2.13 Throughout the report quotes taken directly from responses have been used to illustrate specific points. These were selected on the basis that they enhanced the analysis by emphasising specific points succinctly. Quotes from a range of sectors were chosen, where the respondents had given permission for their respective response to be made public.

[7] This figure could be higher. The precise numbers of campaign and campaign plus responses are challenging to determine due to some respondents submitting their responses using the online response system (and therefore making identification very difficult) and others submitting electronic or hard copies which facilitated ready identification of the common templates used.

[8] http://www.gov.scot/Topics/Environment/land-reform/consultation

2.14 All numbers and percentages used in the analysis are based on the respondent population to this consultation. They are not necessarily representative of the wider population and cannot be extrapolated further.

2.15 A full analysis of responses has been undertaken and presented to the Scottish Government. For the sake of brevity in this published report, views provided by fewer than 10 respondents have been omitted, although these have been noted and reported.

2.16 Respondent categories have been abbreviated in the report as follows:

National non-government organisations	NNG
Private landowner organisations	Own
Private sector and professional bodies	PSPB
Community organisations and representative bodies	Com
Government and NDPBs	Gov
Local non-government organisations	LNG
Local government	LG
Academic	Acad
Individuals	Ind

3. A DRAFT LAND RIGHTS AND RESPONSIBILITIES POLICY STATEMENT

Background
The Scottish Government considers that the relationship between the people living in Scotland and the land of Scotland is of fundamental importance. The land of Scotland is viewed as a finite resource and the land rights that govern how the land is owned and used seen as crucial in influencing well-being, economic success, environmental sustainability and social justice in Scotland. The Scottish Government proposes a vision and set of principles to guide the development of public policy on the nature and character of land rights in Scotland.

Question 1: Do you agree that the Scottish Government should have a stated Land Rights and Responsibilities Policy?

3.1 This question attracted the highest volume of response of all questions in the consultation. 1018 respondents (87% of all respondents) provided an answer with the majority (87%) agreeing that the Scottish Government should have a stated Land Rights and Responsibilities Policy (LRRP). Table 3.1 presents views by category of respondent.

Table 3.1: Views on whether the Scottish Government should have a stated Land Rights and Responsibilities Policy (Question 1)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	42	100	0	0	42
Private landowner organisations	20	47	23	53	43
Private sector and professional bodies	21	84	4	16	25
Community organisations and representative bodies	21	100	0	0	21
Government and NDPBs	11	100	0	0	11
Local non-government organisations	8	n/a	0	n/a	8
Local Government	9	n/a	0	n/a	9
Academic	1	n/a	1	n/a	2
Total organisations	**133**	**83**	**28**	**17**	**161**
Individuals	753	88	104	12	857
Grand total	**886**	**87**	**132**	**13**	**1018**

* Throughout the report percentages are only used when the number of respondents is more than 10.

3.2 The only category of respondent where there was significant disagreement with the proposal was private landowner organisations. The majority of landowners who responded to the consultation addressed this question with just over half of these (53%) disagreeing.

3.3 All campaign responses agreed with the proposal.

Question 2: Do you have any comments on the draft Land Rights and Responsibilities Policy (LRRP)?

3.4 844 respondents (72% of all respondents) addressed this question. Comments varied from broad support for, or opposition to, the proposed overall vision and principles, to more specific, detailed views and suggestions relating to individual draft principles. Amongst the comments of individuals were those which concurred with the views of key stakeholders such Scotland's Rural College[9], the response of which was referred to repeatedly.

Summary of general views in support of the overall LRRP

3.5 Respondents from a range of different respondent categories expressed their general support for the draft LRRP as a whole. Comments included:

> "I think it is the most progressive set of proposals I've seen from any Government" (Ind).
>
> "I welcome the draft statement and think it is valuable to have such a statement to guide future policy" (Ind).

3.6 Many respondents provided a general rationale to underpin their support. The most common statements were that the proposal constituted a "good start" and "a step in the right direction", with many respondents considering this to be **long overdue**. A recurring theme across a few sectors was that the draft provided a robust framework upon which new policy could be constructed. The draft was viewed by some supporters as **future-focused and comprehensive**, with the potential to **reduce inequalities and promote transparency**. 17 respondents provided their view that the draft was not ambitious enough.

Summary of views criticising the overall LRRP

3.7 Four main criticisms dominated responses. The most common criticism (emerging from supporters and opponents alike) was that **phrases and words within the vision and principles were not clearly defined** within the context of the proposal leaving them open to various interpretations.

3.8 A second prevailing criticism specified by 31 respondents (largely individuals and landowning organisations) was that **in their view there is no evidence that land reform is required**, with existing legislation working well. One private landowner organisation remarked:

> "The vision proposed implies a current failure though this failure is not set out or demonstrated. The principles are clearly directed at changing landownership patterns but we are not aware of, nor is any presented, any evidence that such a change would, in itself, deliver benefits to the people of Scotland" (Moray Estates Development Company Ltd).

[9] The response of Scotland's Rural College contained detailed points relating to the proposed vision and principles and can be viewed at https://consult.scotland.gov.uk/land-reform-and-tenancy-unit/land-reform-scotland/consultation/published_select_respondent

3.9 Related to the previous argument, a further 30 respondents provided their general view that the **proposal fails to recognise the huge contribution currently being made by landowners** in terms of responsible stewardship of large tracts of land.

3.10 One further repeated view (14 respondents) was that the proposal represented **too much control by the Scottish Government**, the perceived centralisation of powers creating potential for future misuse, and unwanted interference with landowners' rights to utilise their land as they deem most appropriate for both environmental and business interests.

Summary of further general reflections on the LRRP

3.11 A number of other general comments were made by supporters and opponents alike. A repeated view was that what was proposed did not constitute a policy in its own right, but rather comprised **high level aspirations**. Without further detail, the principles were perceived to be ideological rather than practical goals. Comments included:

> "The draft principles as noted appear to be 'high level', in part subjective and hence potentially open to different interpretation. It would be helpful to see further specific proposals e.g. in terms of how it is suggested these objectives might be implemented and achieved to assist more informed comment" (Falkirk Council).
>
> "To convert these from the abstract into the tangible there needs to be action to tackle both wider inequalities in society and the lack of capital availability to community groups and individuals" (Ind).

3.12 11 respondents emphasised what they considered was the need to position the LRRP within the context of other **related policies** such as those on land use, forestry and rural issues, and link them in a cross-cutting manner.

3.13 The issue of **human rights** emerged in various guises in responses, with a general theme to emerge that a rights-based approach to developing land reform policy is in keeping with international approaches, and the European Convention on Human Rights (ECHR). The Common Weal campaign view was that the policy is consistent with international best practice and the rights-based approach of international development.

Specific comments on the proposed vision and principles

3.14 A multitude of very specific comments were made by respondents about aspects of the proposed vision and individual principles. A summary of the most prevailing and relevant views is presented in Table 3.2 overleaf.

Table 3.2: Summary of prevailing views on the proposed vision and principles

Vision: For a strong relationship between the people of Scotland and the land of Scotland, where ownership and use of the land delivers greater public benefits through a democratically accountable and transparent system of land rights that promotes fairness and social justice, environmentally sustainable and economic prosperity.
• Support for recognition of the relationship between people and the land. • Need clarity on whether this applies to urban and rural land • Meaning of "greater public benefits"? • Determination of "fairness"?
Principle 1: The ownership and use of land in Scotland should be in the public interest and contribute to the collective benefit of the people of Scotland.
• General support that this refers to benefitting the many and not just a few. • Perhaps add that this should also benefit future generations of people in Scotland. • Perhaps add that the principle should balance the interests of local and national public interest. • Need to define public interest – different groups may have conflicting interests. • General view particularly from landowners that the principle is too "sweeping" and that attempting to place ownership and use of land in the public interest can lead to degradation and neglect of previously well attended land. • General view largely from individuals that the needs of property owners should be balanced against a wider "public interest".
Principle 2: There should be clear and detailed information that is publicly available on land in Scotland.
• Much support from individuals in particular for this principle. Repeated calls for this information to be made freely available and readily accessible to all, with some form of interactive map a repeated suggestion. • Recurring view that the principle will promote a transparent system of land rights. • Other merits viewed as empowering communities and individuals to make more informed decisions; being able to establish who owns pieces of land; easier to identify relevant contacts over, for example, permissions to access land. • A request from an individual that the information encompasses all water courses and lochs. • Emphasis on the need to update the register regularly. • Concerns expressed by a small minority over: costs of set up and maintenance outweighing benefits; need to protect rights of owners from potential abuse of information which is made publicly available; impact on the workload of local authorities; information may be available elsewhere so no need to pursue this.
Principle 3: The framework of land rights and associated public policies governing the ownership and use of land, should contribute to building a fairer society in Scotland and promoting environmental sustainability, economic prosperity and social justice.
• Relatively few specific comments regarding this principle. General support largely from individuals.

- Most frequent comment, particularly amongst landowners, was that "building a fairer society" is an abstract concept, with many advocating its deletion from the principle.
- Notion of "fair" may benefit one party over another; what appears fair from one perspective may not appear so from another.

Principle 4: The ownership of land in Scotland should reflect a mix of different types of public and private ownership in an increasingly diverse and widely dispersed pattern, which properly reflects national and local aspirations and needs.

- Support largely from individuals, some of whom expressed views in strong language, over so few people owning so much of the land in Scotland
- Suggestion made by a small number of respondents that a restriction on the amount of land one person can own should be implemented.
- Term "increasingly diverse" attracted criticism from some. Comments included: "There is a need for its terminology to be clear and meaningful. While not in argument with "fairness" per se this is an abstract concept that will have different interpretations to different groups and specifically how it is attained in both rural and urban Scotland" (Scottish Land and Estates). "....would question the merits of such a policy where multiple ownerships, as seen in a European context, can hinder rural and urban development and go against the economies of scale that are essential to viable modern agriculture" (Brodies LLP).
- Concerns that diverse ownership requires supporting into the future with ongoing funding and expertise, to prevent neglect.

Principle 5: That a growing number of local communities in Scotland should be given the opportunity to own buildings and land which contribute to their community's well-being and future development.

- Balance of views between those highlighting their agreement with this principle in particular, and those expressing caution.
- Repeated views that: this principle should be actioned only where there are clear benefits; consideration has been given to whether the funding could be better spent on other benefits for the public such as social services or educational.
- Repeated concern that this principle could lead to disputes within communities.
- Calls for the principle to encompass communities of interest in addition to those of place.
- Suggestions of adding other types of resources for community ownership such as water, wind, inland and seabed resources.
- Consider benefits to communities of leasing and management agreements as alternatives to owning.
- The principle should be linked to the Community Empowerment policy due to its relevance in delivery.

Principle 6: The holders of land rights in Scotland should exercise these rights in ways that recognise their responsibilities to meet high standards of land ownership and use.

- Much support expressed largely by individuals.
- Owners in particular emphasised that they already adhere to this principle.
- A recurring comment was to request clarification on meaning of "high

standards" and seek information on who will determine these. • A few requests for "responsibilities" to be made more explicit.
Principle 7: There should be wide public engagement in decisions relating to the development and implementation of land rights in Scotland, to ensure that wider public interest is protected.
• Some general support expressed largely from individuals. • Two prominent concerns: legislation already exists which encompasses public engagement in such decisions; does not offer adequate protection for property owners. • Concerns mentioned by only a few respondents: could become dominated by the vocal few in the community; could result in too much bureaucracy with worthwhile development proposals being lost; need to ensure community volunteers involved are adequately supported and empowered to take part. • Relevance of "public interest" questioned by a few, with one suggestion that the word "public" is removed, leaving "wider interest".

Cross-cutting additional themes to emerge

3.15 Other significant cross-cutting themes which emerged less frequently included:

- Need for a reference to food and food security; forestry; and agriculture as underpinning rural economies.
- Include reference to access to land, in addition to land ownership.
- LRRP requires a review cycle, possibly every five years.
- Introduce and reference minimum standards of stewardship that landowners and managers are required to meet.
- Consider an appeal system to run alongside the LRRP (although some mention that there is already an appeal system for development decisions).

Question 3: Considering your long term aspirations for land reform in Scotland, what are the top three actions that you think the Scottish Government should take?

3.16 Responses to this question varied from one word answers to detailed, lengthy proposed priority action areas with supporting rationale. Some respondents provided broad commentary or reflections rather than identifying clearly their top three actions. In order to summarise overall direction of views, all responses were examined in detail to identify up to three substantive key actions put forward. Table 3.3 overleaf shows the result of this initial exercise.

Table 3.3: Summary of number of substantive action points identified

Action	No. of respondents identifying this action	% of all respondents to the consultation
One action identified by respondent	840	72
Two actions identified by respondent	692	59
Three or more actions identified by respondents	518	44

3.17 Actions to emerge from responses were grouped by broad topic. In total, 14 prevailing "action topics" were identified with a number of further topics emerging which had been raised by fewer than 30 respondents.

3.18 In considering long term aspirations for land reform in Scotland, the action raised most frequently by respondents amongst their top three priorities was **diversifying ownership/addressing issues of ownership** (who can own/approaches to diversification). The second and third most pressing actions were **transparency of ownership** and **establishing a fair system of taxation** which supports diversification, respectively. Table 3.4 shows the 14 most frequently mentioned action topics to emerge from respondents and the ranking of these in terms of number of times they were identified by respondents as their top priority for action.

Table 3.4 Priority actions for land reform in Scotland by number of respondents who identified these within their top three actions

Action	No. of respondents identifying this action within their top three	Ranking of number times identified as top priority for action
Diversification of ownership (e.g. through limiting size of holdings; encouraging community and other tenure groups)	412	2
Transparency of ownership	396	1
Establish a supporting system of taxation	312	3
Address environmental issues/deer control/neglected land/pollution	151	5
Focus on land use policy and stewardship/responsible land management	104	11
Empower communities to engage actively in the ownership and management of land/ongoing support	97	6
Underpin future policy with robust evidence and evaluation of impact	88	7
Establish a Land Reform Commission/similar body to	84	=8

promote land reform		
Support existing landowners/acknowledge high standards of current stewardship/work with them in partnership	79	4
Review and strengthen existing legislation and regulations to ensure fit for purpose and being used to full strength	62	12
Address issues of access to land for public to enjoy for leisure purposes	55	=8
Boost rural economies by addressing related issues of investment/transport/IT links etc.	47	=8
Address issues relating to agricultural holdings	44	14
Develop approaches to provide more affordable homes	31	13

3.19 Whilst column two of Table 3.4 shows the priority given to particular actions, column three could be interpreted as demonstrating the strength of view relating to urgency over taking the action forward. Transparency of ownership was the second most frequently identified action overall, but it was the action most frequently raised as action 1, suggesting a prioritising of this action over others. By the same token, a focus on land use and high standards of stewardship was the fifth most frequently raised action overall, but ranked eleventh in terms of prioritisation as the top priority for action.

Campaign views

3.20 The Common Weal view chimed largely with those of the standard responses. It presented its "top three actions" as: transparency of ownership; increasing accessibility to land ownership; and developing strategies that will assist in producing a wider range of options for the use of land. The Berwickshire Common Weal priority action list was also compatible with the standard responses: to complete the Land Register within 10 years; the introduction of a land value tax; and the introduction of a cap on land holdings by any one beneficiary. Emerging from the Birnam Land Reform Workshop were the following priority actions: introduction of a highly progressive taxation on large holdings; provide powers and resources to communities to engage actively in the oversight and management of their lands; and give third parties – tenants, neighbours and in particular communities – access to land justice.

4. DEMONSTRATING LONG TERM COMMITMENT TO LAND REFORM

Background
The Scottish Government proposes to introduce a Scottish Land Reform Commission to provide oversight of the wide spectrum of land reform issues that impact on ownership, access and use of land. It is proposed that the Commission could have responsibilities such as: promoting land reform; collecting evidence and carrying out studies; and monitoring the impact and effect of law, policies and practices on landownership in Scotland.

Proposal 1: A Scottish Land Reform Commission

Question 4: Do you agree that a Scottish Land Reform Commission would help ensure Scotland continues to make progress on land reform and has the ability to respond to emergent issues?

4.1 959 respondents (82% of all respondents) addressed this question with the majority (79%) agreeing that a Scottish Land Reform Commission (SLRC) would impact in the manner proposed. Table 4.1 presents views by category of respondent.

Table 4.1: Views on whether a Scottish Land Reform Commission would help ensure Scotland continue to make progress on land reform and has the ability to respond to emergent issues (Question 4)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	35	92	3	8	38
Private landowner organisations	12	32	25	68	37
Private sector and professional bodies	19	86	3	14	22
Community organisations and representative bodies	18	95	1	5	19
Government and NDPBs	9		0		9
Local non-government organisations	6		0		6
Local Government	9		0		9
Academic	1		1		2
Total organisations	**109**	**77**	**33**	**23**	**142**
Individuals	652	80	165	20	817
Grand total	**761**	**79**	**198**	**21**	**959**

4.2 Amongst the largest sectors of respondent, most or all respondents agreed with the statement. This trend was reversed, however, amongst the private landowner

organisations who provided a view, with around two-thirds (68%) disagreeing with the statement.

4.3 Campaign responses all agreed with this statement.

Question 5: What do you think the advantages or disadvantages of having a Scottish Land Reform Commission would be?

Perceived advantages of having a SLRC

4.4 715 respondents (61% of all those who responded to the consultation) provided a response to the question of potential advantages to the SLRC. Two perceived advantages to having a SLRC dominated most of the responses.

Maintenance of high profile, impetus and continuity of reform

4.5 225 respondents across a wide range of sectors envisaged SLRC to be a vehicle to sustaining the pace of reform, providing a focus and profile for land reform issues and ensuring progress and action continue to be driven as a process over the longer term, irrespective of changes in government. Comments included:

> "It would ensure that land reform is not subject to the whims of political parties, but instead becomes an on-going, comprehensive and enduring concern that is firmly located at the heart of the work of policy development in the Scottish Government" (Development Trusts Association Scotland).
>
> "It would signal that land reform was to be an on-going, long-term process, not limited to the current bill" (Reforesting Scotland).
>
> "Provide a higher profile and stronger government commitment to issues associated with land reform" (South Lanarkshire Council).
>
> "One advantage of having such a Commission would be that the stated aim of making land reform a process rather than an event could be realised" (Comhairle nan Eilean Siar).

Establishment of evidence-based knowledge and expertise

4.6 104 respondents across a wide range of sectors welcomed a SLRC as an impartial centre and resource for objective evidence-building on issues of land reform. In turn this was viewed as ensuring sound underpinning of policy and on-going monitoring and evaluation. Comments included:

> "It would have a positive impact on the development of evidence-based policy relating to land-use matters" (Aberdeen & Grampian Chamber of Commerce).
>
> "Provide the opportunity for impartial review and study of research, proposals and outcomes relating to Land Reform to ensure that lobby groups and vested interests do not dominate and divert the process of Land Reform" (StòrasUibhist).

4.7 A range of other advantages were identified by less respondents. 44 respondents commented specifically that policy built upon such objective, impartial evidence would be balanced and fair and reflect a broad range of perspectives.

4.8 42 respondents considered that the **collation of relevant information and objective evidence** under one roof would be hugely beneficial for individuals and organisations alike in that there would be a single point of contact for accessing this. The terms “hub” and “one-stop shop” were used by some.

4.9 Another prominent benefit of having a SLRC was seen as **greater cohesion and co-ordination in policy-making on land reform**. 71 respondents from a wide range of sectors welcomed the consistency in approach which they considered that this would bring with streamlined, more efficient decision-making and oversight of policy direction. Comments included:

> “....many of the issues pertaining to land reform encompass areas from different governmental offices, and any discussions on reform can be slow due to this. A specific, streamlined and independent body focusing on issues quickly, as and when they arise, is essential to ensure that land reform is an on-going process, and is not allowed to stall” (Ind).
>
> “It would allow land reform proposals to be developed coherently across all areas of public policy, rather than in an ad hoc manner” (Woodland Crofts Partnership).

4.10 Many respondents (81) focused specifically on issues of land ownership and envisaged the SLRC leading the way on **clarifying ownership of land and ensuring fairer distribution of land ownership** in Scotland.

4.11 A recurring theme was that the proposed body could **represent the people’s voice** (31 respondents), ensuring that community views are heard, giving them more power and possibly **adjudicating** where disputes arise (37 respondents).

4.12 Another theme was **transparency**, with many respondents identifying benefits of independence from Government (28 respondents), openness to public scrutiny (12 respondents), transparency and openness in decision-making (37 respondents).

4.13 27 respondents considered that the SLRC could be beneficial in providing a **forum for open debate amongst stakeholders**, in which views are listened to and information can be provided as required.

Views from campaign responses

4.14 Common Weal campaigners considered the advantages of a SLRC to be:

- Maintenance of focus on the continuing process of land reform.
- Establishment of the principle of interventionism on how the land is owned and managed.
- Potential quasi-judicial powers to determine access to disputes and a role in acting for communities in land disputes.

4.15 The proposed body was envisaged as beneficial in providing oversight of the process of land reform, being well informed and enabling the various strands of land ownership within a cohesive framework.

4.16 Views from the Birnam Land Reform Workshop were that the SLRC could be a driver to move policy forward and to arbitrate disputes between landowners and communities.

Perceived disadvantages of having a SLRC

4.17 621 respondents (53% of all those who responded to the consultation) addressed the question of potential disadvantages to the SLRC. Many respondents outlined potential risks rather than clear disadvantages.

4.18 By far the most common drawback identified (101 respondents, mostly individuals) was the anticipated high **cost of establishing and operating** the SLRC. Some respondents remarked that the cost could possibly be offset through land reform tax; a few commented that additional costs are inevitable and may not necessarily be a disadvantage.

4.19 Another common view (74 respondents) was that the SLRC could become **overly bureaucratic** and create delays to progress. One respondent commented:

> "Dangers with all bureaucracies where the existence and continuance of the body become the main focus" (Ind).

4.20 59 respondents expressed concerns over the **membership of the new body** and had reservations over how this could be established to be seen to represent all parties and interests fairly. Risks were associated with being perceived as influenced too heavily by activists (40 respondents), by landowner groups (33 respondents), or those overly intent on redistributing land ownership (13 respondents). Many respondents anticipated difficulties in achieving an appropriate balance in membership which could facilitate progress and is not stifled by too many disparate interests.

4.21 56 respondents identified a disadvantage to be potential **political interference and bias** in the operation of the SLRC. Caution was expressed over political intervention for short term gain, and the possible lack of independence of the SLRC if influenced by politics.

4.22 A common view (49 respondents) across several sectors was that the SLRC could serve to **de-stabilise the rural economy**. A typical comment was:

> "It could lead to uncertainty and so inhibit investment" (Highlands and Islands Enterprise).

4.23 37 respondents argued that depending on its set up and remit, the new body risked becoming a **"talking shop",** with decisions hard to reach and delays inevitable.

4.24 Other possible disadvantages to the proposal which were identified by fewer than 30 respondents were:

- May have no “teeth” and be simply “window dressing” but without legal powers. One respondent commented:
  “If ineffective or under equipped with powers and resources it could be a lame duck that diverts our energy from more effective means of bringing about change” (Ind).
- Just another quango.
- Will end up too remote/top-down/centralised with decisions being taken by people far away from the impact on the ground.
- The SLRC may feel it has to justify its existence and be pressurised into taking actions which are not justified.
- Will result in estates being split up and communities turning against each other.
- Duplication of effort with existing organisations. One remark was:
  “May be unnecessary given the role, remit and activities of those already in existence, including the Land Court, Scottish Land Fund and the Registers for Scotland, as well as the Land Reform Unit of the Scottish Government” (The James Hutton Institute).
- Insufficient resourcing of the SLRC.
- Amounts to meddling and unnecessary interference.
- Raises expectations of reform which cannot be met.

4.25 106 respondents stated that they **could not identify any disadvantages to the proposal**. 15 argued that land reform may not be necessary and more evidence is required before setting up dedicated bodies to take this forward.

Question 6: Do you have any thoughts on the structure, type or remit of any Scottish Land Reform Commission?

4.26 626 respondents (54% of all those responding to the consultation) provided commentary in relation to this question. Many responses overlapped with those already provided on the perceived advantages to the establishment of the SLRC. Responses ranged from the very general in nature to those which were much more specific in detail, for example, recommending precise numbers for membership, or even specific people to be on the SLRC. Several overarching themes emerged from general and specific responses alike and are documented below.

Structure and type of SLRC

4.27 A dominant theme was that the SLRC should be **independent** in thinking. Respondents emphasised that the SLRC should be seen to be at “arm’s-length” from Government and also separate from the influence of vested interests. A small minority of individuals suggested that membership should include a cross-representation across the political spectrum, but the absence of political or other interest bias was viewed as essential overall in establishing credibility of the new body.

4.28 Another prevailing theme was that membership of the new body should be **representative of a wide range of interests**. Many respondents specified stakeholder groups which they felt merited representation on the SLRC. These included: landowners; community representative bodies; rural bodies; urban bodies; environmental organisations; forestry bodies including the Forestry Commission;

third sector organisations; local government; retailers; farmers; church; recreational bodies; land management bodies; tourist bodies; tenants; and academics.

4.29 Representation of **lay people** was also recommended, with emphasis on people who manage and work on the land in rural areas and have robust working knowledge and experience. A recurring view was that the SLRC should represent "all sectors of society". Another was that representation should include a balance of gender, age, educational background and be accessible to those with a disability. Gaelic speakers were also suggested by a few respondents. Some suggested remuneration should be in place to promote wider diversity in membership and enable those without the means to take part otherwise, to be included.

4.30 Many respondents emphasised their view that **experts in the field,** including academics, should be included in membership of the SLRC. Others considered that rather than have permanent membership, those with expertise could be called upon to appear before the SLRC to provide advice as required.

4.31 There was a contrast between those respondents who advocated a broad, wide-ranging membership, with the minority of respondents who explicitly specified a tighter format, restricting the numbers of members (for example to between 5–7 members) which in their view would facilitate more efficient decision-making. One respondent remarked:

> "(The SLRC)... must be lean, respected and swift in action and investigation" (Ind).

4.32 One recurring suggestion was for **membership to be time limited**, so participants remained on the SLRC for a set length of time, before being replaced. This was seen as a means to refresh the SLRC with new ideas and energy and was also a way of appearing accountable and open. One respondent (NNG) envisaged an "ad hoc" body which formed only when required to deal with particular emerging issues.

4.33 Many respondents used the word **"democratic"** when referring to the proposed SLRC, with terms such as "democratically controlled", "democratically accountable" and "democratically elected" appearing frequently and indicating perhaps expectations of fair representation and being called to account.

4.34 Individuals and community organisations in particular recommended innovative ways to ensure the SLRC appears **open and accessible** across Scotland. Ideas included setting up regional sub-commission offices, ensuring the SLRC headquarters is outwith the central belt, the concept of a "mobile" SLRC which travels around Scotland meeting in different locations, and using information technology such as Skype to overcome physical distance and other barriers to participation. Repeated calls were made for the SLRC not to become overly centralised.

Views from campaign responses

4.35 Views emerging from the Common Weal and Birnam Land Reform Workshop focused largely around ensuring that membership of the SLRC is carefully considered and involves people with a direct interest in the land, living on it and

earning a living from it. The Common Weal response cautioned against membership with links to powerful vested interest groups and called for the SLRC membership to reflect Scottish society and ensure a gender balance. The Birnam Land Reform Workshop response envisaged an independent Land Reform Commissioner, championing land reform issues with a clear remit to take action.

Remit of SLRC

4.36 Many[10] respondents expressed their agreement with the general suggestions outlined in the consultation paper that the remit of the Commission could include:

- promoting land reform;
- collecting evidence and carrying out studies; and
- monitoring the impact and effect of law, policies and practices on land ownership in Scotland.

4.37 A few respondents urged that care be taken to ensure the remit of the SLRC does not overlap with that of existing bodies working in the same area such as Scottish Natural Heritage or local authorities.

4.38 The broad theme of **openness and accessibility** continued in relation to remit, with calls made for transparency in working, for example publishing all meeting documents and minutes. A recurring theme amongst individual respondents was for the SLRC to "get on the road" to consult face-to-face with stakeholders and hear their views in both urban and rural locations. Education of the public as part of the SLRC remit was raised by a few respondents.

4.39 There was much support for the remit of the SLRC to encompass **land reform promotion and oversight,** including issues of land ownership and use, and related environmental, social and economic topics. A small number of respondents recommended that the SLRC be responsible for putting in place an appropriate tax regime to support land reform.

4.40 A recurring theme was that the **objectives and aims of the SLRC should be realistic and tangible,** and set according to a timetable with progress measurable. Many respondents referred to SMART principles[11] in this regard.

4.41 Divergence of opinion emerged amongst some individual respondents in relation to the extent of the SLRC's remit. Of those who expressed a view, the predominant opinion was that the remit should be **wide ranging** to enable longer-term, innovative and forward-thinking policies to develop. A minority view was that the remit should be restricted to short-term policy issues to promote achievement and tangible progress over the immediate term.

4.42 Another dichotomy in view emerged over whether the new body should have **statutory powers of intervention**, acting as a regulator and/or watchdog, or whether the role should extend only as far as **data gatherer, research and**

[10] Precise numbers of respondents could not be used here, as explained in paragraph 4.26, due to overlapping responses across different questions. Instead, an indication of volume of respondents holding different views has been provided by using terms such as "few", "much support" and "recurring theme".

[11] Goals should be specific, measurable, attainable, realistic and timely.

advisory/information provision functions, with no clear dominant view emerging. Two respondents (Ind, NNG) suggested that a conflict of interest may arise if the SLRC sets policy against which it then monitors its own progress.

4.43 A recurring view, particularly amongst individual respondents, was that the SLRC should take on an **arbitration role in disputes**, for example between landowners and communities. A repeated recommendation was that the SLRC should address issues around planning permission.

4.44 Whilst a few respondents explicitly stated that they envisaged the SLRC reporting to Scottish Government and being held to account by them, others considered that the SLRC would hold Government to account on issues of land reform.

5. IMPROVING THE TRANSPARENCY AND ACCOUNTABILITY OF LAND OWNERSHIP IN SCOTLAND

Background
The Scottish Government understands that occasionally it can be difficult to trace and contact landowners, leading to practical difficulties for those seeking to engage with them or for enforcers of fiscal or environmental obligations.

The Review Group recommended that the Scottish Government should make it incompetent for any legal entity not registered in a Member State of the European Union (EU) to register title to land in the Land Register of Scotland, in order to improve traceability and accountability.

The Scottish Government supports the aims of this recommendation and is considering how any potential measures could work in practice whilst taking into consideration relevant policy and legal issues.

Proposal 2: Limiting the legal entities that can own land in Scotland

Question 7: Do you agree that restricting the type of legal entities that can, in future, take ownership or a long lease over land in Scotland would help improve the transparency and accountability of land ownership in Scotland?

5.1 944 respondents (81% of all respondents) addressed this question with the majority (79%) agreeing that restricting the type of legal entities, that can, in future, take ownership or a long lease over land in Scotland would help improve the transparency and accountability of land ownership in Scotland. Table 5.1 overleaf presents views by category of respondent.

5.2 Overall, individual respondents expressed stronger support for the proposal with 80% of those who provided a view in agreement, compared with 69% of organisations. Amongst organisations, private landowner organisations and private sector and professional bodies were those least supportive, with 50% and 45% of those providing a view in agreement, respectively.

Table 5.1: Views on whether restricting the type of legal entities that can, in future, take ownership or a long lease over land in Scotland would help improve the transparency and accountability of land ownership in Scotland (Question 7)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	28	93	2	7	30
Private landowner organisations	19	50	19	50	38
Private sector and professional bodies	10	45	12	55	22
Community organisations and representative bodies	16	89	2	11	18
Government and NDPBs	0	n/a	0	n/a	0
Local non-government organisations	5	n/a	0	n/a	5
Local Government	5	n/a	1	n/a	6
Academic	1	n/a	1	n/a	2
Total organisations	**84**	**69**	**37**	**31**	**121**
Individuals	659	80	164	20	823
Grand total	**743**	**79**	**201**	**21**	**944**

Question 8: Do you agree that in future land should only be owned (or a long lease taken over land) by individuals or by a legal entity formed in accordance with the law of a Member State of the EU?

5.3 827 respondents (71% of all respondents) addressed this question with the majority (82%) agreeing that in future land should only be owned (or a long lease taken over land) by individuals or by a legal entity formed in accordance with the law of a Member State of the EU. Table 5.2 overleaf presents views by category of respondent.

Table 5.2: Views on whether in future land should only be owned (or a long lease taken over land) by individuals or by a legal entity formed in accordance with the law of a Member State of the EU (Question 8)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	29	100	0	0	29
Private landowner organisations	12	34	23	66	35
Private sector and professional bodies	8	35	15	65	23
Community organisations and representative bodies	15	88	2	12	17
Government and NDPBs	1	n/a	0	n/a	1
Local non-government organisations	4	n/a	1	n/	5
Local Government	5	n/a	1	n/a	6
Academic	1	n/a	1	n/a	2
Total organisations	**75**	**64**	**43**	**36**	**118**
Individuals	605	85	104	15	709
Grand total	**680**	**82**	**147**	**18**	**827**

5.4 As with the previous question, individual respondents expressed strongest support for the proposal with 82% of those who provided a view in agreement, compared with 69% of organisations. Amongst organisations, private landowner organisations and private sector and professional bodies were again those least supportive, with their level of support reduced to 34% and 35% of those who provided a view, respectively.

Question 9: What do you think the advantages or disadvantages of any restriction would be?

Views on the advantages of any restriction

5.5 681 respondents (60% of all those who responded to the consultation) provided commentary in response to this question. Of them, 619 identified benefits to the restriction, the remaining 62 respondents stated that they saw no merits in restricting land ownership in this way. The advantages identified fell into 13 categories. These are presented in Table 5.3 overleaf.

Table 5.3: Advantages identified to restricting future land ownership to individuals or to a legal entity formed in accordance with the law of a Member State of the EU

Advantages identified by respondents	No. of mentions
Transparency of ownership; knowing who owns what; owners becoming more responsible due to their identities being known; greater accountability; "meaningful land reform is off the agenda until it is clear who owns the land" (Ind).	315
Addressing tax avoidance; ensuring those receiving grants and incentives are paying appropriate tax; reducing loopholes which use foreign ownership of land as a vehicle for tax relief.	183
Promotion of wider ownership of land in Scotland; reducing cost of land ownership; making more land available for purchase; increasing diversity of ownership.	78
Making it easier to resolve disputes over land when the owner is known; easier for communities and others to contact owners over emerging issues such as access.	42
Stronger legislative control over landowners, scrutiny using EU law; enforcement of land reform measures made easier; "easier enforcement of laws and regulation" (Reforesting Scotland).	41
Will reduce "exploitation" of land in Scotland bought solely for commercial investment and profit.	37
Better stewardship of land in Scotland; addresses potential neglect of land due to owner being absent; more sustainable land use and attention to environmental issues. Land maintained to appropriate standards. "The closer land-owners are to their property, the more effective their environmental stewardship will be" (Ind).	29
Will promote Scottish ownership of Scottish land. "Land should be owned by Scots for Scots" (Ind).	17
Will reduce problems associated with absentee landlords	12
Could have impact on local economies with more local investment and economic growth.	11

5.6 Common Weal campaigners and the Birnam Land Reform Workshop participants agreed that there were advantages to the proposal, with the Common Weal identifying in particular improving transparency over ownership and limiting illegal activity. Both recommended that the restriction be applied retrospectively.

Views on the disadvantages of any restriction

5.7 579 respondents (around half of all those who responded to the consultation) provided commentary in response to this question. Of them, 428 identified disadvantages to the restriction; the remaining 151 respondents stated that they saw no drawbacks to restricting land ownership in this way. The disadvantages identified were grouped into 19 broad categories. These are presented in Table 5.4 overleaf.

Table 5.4: Disadvantages identified to restricting future land ownership to individuals or to a legal entity formed in accordance with the law of a Member State of the EU

Disadvantages identified by respondents	No. of mentions
Potential loss of inward investment; "reduced GDP and restricted income generation or capital investment in a global market place. It could reduce flows of external funds into local economies. Anecdotal evidence suggests that Norwegian/Swiss/Middle Eastern owners have spent significant sums on holdings to the benefit of the wider rural economy" (SRUC); "by limiting ownership to a legal entity of an EU member state, this could threaten inward investment from other nationals, such as the Swiss" (Invercauld Estate); "Implying to the global community that Scotland is open for business only to those the Scottish Government sees fit to invite will drive away much of the potential investment" (Ind).	192
Loopholes will be sought and exploited by those intent on owning land; the restriction will not be watertight; could result in reducing transparency rather than increasing it; "It will still be possible for the true beneficial owners to conceal their identity within the permissible categories of ownership, e.g. shares in a UK/Scottish registered company can be held by nominees or residents of a jurisdiction in which Scottish law is unenforceable" (Ind); "Companies will just register in European countries and nothing will change if they are allowed to register in EU" (Ind).	52
Unfair; discourages a free market; possibly illegal; "it does undermine free ownership of property which is an essential cornerstone of any democratic country" (Strathbran Estate).	30
Too blunt an instrument; "catch all" will restrict desirable ownership such as innovative and pioneering owners who would manage their land well; "A catch all restriction like this will not make Scotland a better place. It appears arrogant about our own abilities and critical of the abilities of people of other nationalities. Such characteristics would not reflect well on Scotland as an outward looking nation engaged internationally" (Ind); "It would be a shame to miss out on owners who would inject private money and create jobs. You could create an owner selection committee. I can think of many EU residents that I would not want as land owners, and quite a few non EU people that I would welcome" (Ind).	25
Increase in bureaucracy; red tape even for legitimate purchasers under the restriction; "Local groups having to jump hoops to become owners of the land around them" (Ind).	20
May result in a fall in land prices in Scotland.	16
Does not address the key problems related to land use; land may still not be owned by locals and there may still be absentee landlords; there are other ways to address the key problems; "the problem is not with ownership...it is with use"	15

(Ind); “ownership is not the issue; management is” (Ind).	
Proposal is unworkable; not enforceable; too costly to set up; disproportionate.	12
EU legislation may conflict with Scottish land reform policy and may not always be in Scotland’s interests; the restriction would put Scotland in vulnerable position; “EU laws might enforce use or controls not in Scotland's interest” (Ind).	10

5.8 Campaign responses in general did not envisage disadvantages to the proposal.

Question 10: How should any restriction operate and be enforced, and what consequences might follow if the restriction is breached?

5.9 453 respondents (39% of all those who responded to the consultation) provided commentary of relevance to this question (this excludes those who repeated their previous opposition to the restriction being introduced at all). There were conflicting views on whether the operation and enforcement of the restriction would be complicated with legal challenges likely and compensation requested, or whether enforcement could be relatively straightforward using formal procedures.

Views on the operation of the restriction

5.10 The most common response was that mandatory registration of land at the time of purchase supported by legal recourse for abuse would ensure that the restriction operated effectively. 93 respondents from a wide range of sectors explicitly supported this view, although some acknowledged that this would have registration resource implications. A typical comment was:

> “.....would be operated via the Land Register and it would not be possible to register title if criteria were not met” (Ind).

5.11 21 respondents (largely individuals) considered that any unqualified attempts to purchase or lease land would be identified at the stage of conveyancing with lawyers thereby preventing such transactions from proceeding.

5.12 A recurring view (46 respondents from a wide range of sectors) was that a period of grace should be allowed within the early stages of operation of the restriction, with various suggestions of time periods during which those breaching the restriction could be allowed to put their house in order, or existing owners who do not qualify for ownership under the restriction could take action to address their situation. 20 respondents from a range of sectors emphasised their view that the restriction should apply retrospectively.

5.13 15 respondents (all but one individuals) advocated restricting the area of land which could be held by one entity.

5.14 11 respondents (all individuals) suggested that highly progressive taxation would serve to restrict ownership of larger tracts of land.

Views on how the restriction should be enforced

5.15 A common view (80 respondents) was that existing legal frameworks and legislation were appropriate to enforce the restriction. Mention was made of criminal courts, land court and civil courts being involved. A few urged that breaches should be dealt with robustly and consistently in order for enforcement to be effective.

5.16 A small minority of respondents specified entities whom they considered could potentially monitor the operation of the restriction. These included:

- SLRC
- Scottish Parliament/Ministers
- Scottish Government
- Special unit set up for this purpose
- Local authorities
- HMRC/Companies house
- Local people or their representatives/community councils
- EU

Views on consequences in the event of breach of the restriction

5.17 The prevailing view (196 respondents from a range of sectors) was that one consequence of breach of restriction, particularly where this has been persistent and other penalties have already been imposed, should be loss of land whether by confiscation or enforced sale. Many potential benefactors were identified including: common good; local community; Scottish Government; local authority; National Trust; and the Scottish Land Fund. 13 respondents suggested compulsory purchase orders should be invoked in cases of breach.

5.18 Another recurring view (60 respondents from a range of sectors) was that the perpetrator of the breach should be fined. It was suggested that the size of fine should be related to income or percentage of land value.

5.19 19 respondents (all individuals) suggested that those breaching the restriction should lose their right to own land in Scotland in the future.

5.20 11 respondents (all but one individuals) recommended prison for persistent offenders or large-scale breaches.

5.21 The Common Weal campaign response recommended that failure to transfer ownership to a compliant entity within a reasonable timescale and with proper engagement would result in the land reverting to either a local authority or the Scottish Government. The Birnam Land Reform Workshop advocated that the land concerned should be placed under the care of the local community immediately and that the final sanction should be that ownership of the land should be transferred to the community.

Proposal 3: Information on land, its value and ownership

Background
The Scottish Government contends that clear and up-to-date information about land, its value and ownership provides a good basis for open and transparent decision-making for both the private and public sectors.

At present there is a wide range of information on land ownership and land values held across the public sector by different organisations such as the Registers of Scotland, the Scottish Environment Protection Agency, Highlands and Islands Enterprise, Scottish Assessors, local authorities in addition to the Scottish Government and other bodies. The Scottish Government considers that it will be beneficial to bring this information together and that the longer term benefits will outweigh the initial costs.

Question 11: Do you agree that better co-ordination of information on land, its value and ownership would lead to better decision-making for both the private and public sectors?

5.22 985 respondents (85% of all respondents) addressed this question with the majority (88%) agreeing that better co-ordination of information on land, its value and ownership would lead to better decision-making for both the private and public sectors. Table 5.5 overleaf presents views by category of respondent.

5.23 Only one category of respondent was not largely in agreement with just over half (51%) of private landowning organisations who responded to the question in opposition.

Table 5.5: Views on whether better co-ordination of land, its value and ownership would lead to better decision-making for both the private and public sectors (Question 11)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	37	95	2	5	39
Private landowner organisations	20	49	21	51	41
Private sector and professional bodies	22	92	2	8	24
Community organisations and representative bodies	19	100	0	0	19
Government and NDPBs	10	100	0	0	10
Local non-government organisations	8		0		8
Local Government	10		0		10
Academic	1		0		1
Total organisations	**127**	**84**	**25**	**16**	**152**
Individuals	741	89	92	11	833
Grand total	**868**	**88**	**117**	**12**	**985**

Question 12: Do you hold data you could share or is there any data you would wish to access?

5.24 435 respondents (37% of all those who responded to the consultation) indicated that they held data they could share and/or they had comments relating to data they or others would wish to access.

5.25 A common theme was that much information is already publicly available, or in the process of being made available, but barriers exist to easy and affordable access to this. Comments included:

> "The data we sought was available in the Registers of Scotland. However access for those not able to use their excellent and user friendly services in person needs to be considered" (Holmehill Community Buyout).

> "If I want to find out who owns land then I apply to the Land Register. Frankly, that is understaffed and costly already - so fix what is in place" (Ind).

> "...there are many examples of important data being held in various silos which can be difficult to access. This is not good enough and is not consistent with the principles of transparency and clarity" (Ind).

5.26 A common view was that much more information could be made available for wider access, but care should be taken over data protection issues and the potential misuse of data.

Data which could be shared

5.27 There was a wide range of views on data which could be shared by the respondent or bodies known to the respondent. These ranged from individual respondents commenting that they had data on their own house, for example, contained in the deeds, to organisations publicising their own websites and registers of information which are available for sharing.

5.28 A recurring view from estates and trusts was that they already provide a wide range of data on a regular basis to their regulators including the Scottish Government.

5.29 Local authorities also highlighted their existing information databases on which information such as ownership, value, common good land and use was held.

5.30 The Crofting Commission and related organisations described the growing sources of information they held relating to ownership and demand for crofts.

5.31 A small number of individuals reported holding data which they could share on their own land, including woodland and planting regimes.

5.32 Local data, collected for specific purposes was also revealed by a few as potentially useful for others: common good land; land management in the north-east of Scotland; information (not comprehensive) on ownership in north-east Scotland.

5.33 Data on economic activity in rural Scotland was identified as being held by surveyors in rural areas, with a few respondents envisaging this to be useful to others if suitably anonymised.

5.34 A number of organisations declared their or other's ownership of databases which others could find useful if they were aware of them. Amongst these were:

- Big Lottery Fund data on awards to projects funded under the Scottish Land Funds and Growing Community Assets investment area.
- Environment-LINK members hold data on land ownership and use.
- Landscape Institute Scotland holds information on landscape condition and capacity.
- James Hutton Institute holds a number of spatial datasets that could facilitate the objective of enhancing the co-ordination of information, and ultimately improve evidence-based decision making. Examples of these include the land capability for agriculture and forestry.
- John Muir Trust reported that detailed information about all their properties is already available to the public on our website (www.jmt.org/properties.asp); and environmental information on all their properties is already shared through the National Biodiversity Network (https://data.nbn.org.uk).
- Highlands and Islands Enterprise reported that it holds data on its commercial property portfolio which comprises offices, industrial properties, development land and estate land. A record of land held in community ownership is also held though this is generally limited to community asset ownership projects we have supported. This information can be shared. An interactive map detailing the community owned estates in the Highlands and Islands be

accessed from the home page on their website: http://www.hie.co.uk/default.html

- Ordnance Survey described how they currently deliver and maintain a wide range of OpenData sets and are experts in managing such information.
- The Scottish Allotments and Gardens Society informed of their database on allotments in Scotland.
- The Game and Wildlife Conservation Trust highlighted their biological data on the environment, but stated that they already shared this information with others.
- Community Land Scotland reported that all community owners hold data which, by virtue of the nature of the ownership type, will be in the public domain. They stated that community owners would be happy to co-operate in arrangements to increase access to data.
- Development Trusts Association Scotland informed that their Community Ownership Support Service produced a baseline study of community ownership which is already publicly available.
- Scottish Land and Estates commented that, "individual owners already have basic information on websites or as part of projects such as The Economic, Social and Environmental Contribution of Landowners in the Cairngorms National Park".

Data which respondents would wish to access

5.35 Whilst most respondents responded in terms of their own requirements for access, others identified what they perceived others (for example, their constituent members) would wish to access.

5.36 There was much recognition that Registers of Scotland already hold very useful data on land and property, with many respondents urging that this be further developed and made more freely accessible to all. Many respondents commented that they already could access all the data they required.

5.37 The information most commonly cited as that which respondents wished to access was data on who owns land across Scotland, or in their geographical area. 173 respondents from a range of sectors highlighted this as data they and others would wish to access. There were many different reasons given for requiring access to this data, with examples provided below:

> "Would enable the community to base decisions for the community with full knowledge of current ownership" (Canonbie and District Residents Association).
>
> "We would appreciate access to information on land ownership to be able to support local groups who wish for better care of their local heritage" (Archaeology Scotland).
>
> "I'd like to access data on who owns what, in respect of disused land and buildings that may be better put to work for local, community orientated use" (Ind).
>
> "As a Water Bailiff I need to know who owns what so that it can be properly policed and protected" (Ind).

5.38 16 respondents specifically identified information on the value of land as important for them to access. However, 15 other respondents argued against wider sharing of data on value of land and property. Key reasons for their opposition were:

- Too expensive to keep up-to-date.
- Value is subjective and dependent on a wide range of current market and individual land factors.
- It will be very difficult to establish value.

5.39 13 respondents considered that they would wish to access information on the recipients of public subsidies and grants and the size of these.

5.40 12 respondents requested information on common good land and assets.

5.41 A few respondents advocated the establishment of various forms of sophisticated on-line, interactive databases for storing and providing information for wider access, with the Cadastral Land Register being highlighted in particular as having potential. There were differences of opinion over the benefits of establishing portals to comprehensive databases relating to a wide spectrum of information, or whether simpler systems, for example, focusing only on ownership, would be of greater use.

5.42 Amongst the campaign responses, the general view from the Common Weal and Birnam Land Reform Workshop was that as a group, they do not hold relevant information. A few individual campaign responses, however, referred to information which would be useful to access: ownership of local land; and business connections/vested interests in local land.

Question 13: What do you think the advantages or disadvantages of wider and more flexible sharing of land information would be and do you have any recommendations about how this can best be achieved?

Views on the advantages of wider and more flexible sharing of land information

5.43 527 respondents (45% of those who responded to the consultation) identified benefits of wider and more flexible sharing of land information. Of these, many simply stated that greater access to information constituted a key benefit in itself.

5.44 Other advantages identified could be grouped in a number of broad categories and are summarised below in Table 5.6 overleaf.

Table 5.6: Summary of advantages of wider and more flexible sharing of land information which were identified by respondents

Advantages identified by respondents	No. of mentions
Transparency/accountability of ownership and responsibilities; democratic.	247
Increased knowledge about land ownership; awareness-raising; empowering communities to become involved in decisions on a more informed basis.	96
Increased efficiency of working as owners can be identified and contacted more easily. Speedier resolution of issues; better partnership working.	89
Better decision-making; better policy making.	49
Easier to address concerns about neglect of land/environmental issues as owner can be identified; aids environmental audit.	42
Better longer term planning; community planning.	39
Better co-ordination of information; data all in one place.	28
Makes taxation of land easier.	21
Cheaper and quicker conveyancing.	15

5.45 The Common Weal campaign response argued that it is in the public interest for communities to be able to find out who the owners of land are in order to identify bad management, abandonment or dereliction or inquire about leasing or purchasing. The Berwickshire Common Weal submission suggested that public availability of free-to-use open data is one of the keys to unlocking informed debate and will be a major tool at the disposal of the SLRC in pursuit of its aims.

Views on the disadvantages of wider and more flexible sharing of land information

5.46 237 respondents (20% of those who responded to the consultation) identified drawbacks of wider and more flexible sharing of land information. Further respondents simply commented that wider and more flexible sharing of land information is not needed.

5.47 The disadvantages identified were grouped under a number of broad categories and are summarised Table 5.7.

Table 5.7: Summary of disadvantages identified by respondents of wider and more flexible sharing of land information

Disadvantages identified by respondents	No. of mentions
Cost of setting up and maintenance.	69
Issues of confidentiality; loss of privacy; disclosure of sensitive commercial and personal information.	50
Too difficult to establish; land value information in particular will be too challenging to ascertain and keep up-to-date.	42
Will take a long time to establish.	30
Potential for abuse of information e.g. by advertising	24

companies; political use; hacking; or misinterpretation.	
Very complex with likelihood that land registration targets may not be met.	11

5.48 Campaign responses did not identify drawbacks to wider and more flexible sharing of land information.

Views on how wider and more flexible sharing of land information can best be achieved

5.49 412 respondents (35% of those who responded to the consultation) provided a response to this part of the question over and above the comments they had already submitted in relation to the other parts. Views were wide-ranging, with some relatively vague and difficult to interpret, particularly in relation to whether they were referring to existing databases (such as the Land Register) or envisaging new databases being established. Overarching themes did emerge, however, and are reported below along with comments submitted by only one or a few respondents, but nonetheless contain views of relevance.

5.50 The most common response (95 respondents) was that the **Land Register should be completed** as soon as possible. 32 respondents urged that adequate resources are made available to support the completion and upkeep of the register, including more staff.

5.51 A further 30 respondents referred to the **establishment or creation of a national land database** or similar such dataset, for example:

> "An easily accessible national land data base confirming all aspects of land management, staff training, allocation of resources, environmental improvement, stock and catch figures (fish, deer, grouse etc), access to the countryside, numbers of people living on the land and measure to increase rural populations" (Ind).

5.52 The concept of a **comprehensive collation of wide-ranging data in one integrated data framework** was recommended explicitly by 11 respondents. However, the significant planning and management involved was acknowledged by some, for example:

> "To produce an integrated land information service, the Scottish Government needs to create a governance framework, legal framework, a set of mandated information standards to support interoperability and publishing using web services, defined custodians of the land information with clear responsibilities, a data quality improvement program, and effective maintenance regimes of the land information. The government must have commitments and budgets from the custodians to migrate towards this vision and to maintain it. The use of these key land information registers must be mandated across local and central government" (Know Edge Ltd).

> "The better co-ordination of information about the land is a feature of the Borders Land Use Strategy pilot helping better decision making for those who wish to make use of it. This information has been collected from secondary sources in a non-intrusive way. It is largely broad brush and

not always entirely accurate but nevertheless very useful in showing up significant conflicts and positive interactions. Having this information, and that on ownership, readily and widely available would help enable higher-quality planning and decision making on land use and stewardship" (Borders Forest Trust).

5.53 A recurring view (24 respondents) was that current **secondary sources of land information could be identified and co-ordinated,** with suggestions made of who may be tasked with this including the Scottish Government, local government, the Community Land Agency, National Records of Scotland (or Land Register), HMRC and volunteers from the community. One individual respondent highlighted the Improvement Service as having undertaken much work in this field already.

5.54 43 respondents considered that wider and more flexible sharing of land information could be achieved by using **dedicated, online mapping systems** which could produce opportunities for sophisticated analysis and possibly interactive functions. GIS systems were mentioned, in addition to specific websites such as www.oasisnyc.net and the map-based systems operating in other countries such as Latvia and Montana which respondents described as having online cadastral systems that Scotland could learn from.

5.55 Ten respondents called for more **open access to useful websites of public bodies which held land information data**. The Scottish Government's Rural Payments and Inspections Directorate (SGRPID) and the Agricultural Holdings Register were highlighted in particular, with local planning bodies and universities also identified as hosts of relevant websites containing land information.

5.56 12 respondents raised the notion of an **online "portal"** or similar, through which signposting and access could be gained to relevant data sources. One respondent commented:

"The SG (Scottish Government) has developed through SEWeb better portals to access information to designated heritage assets and this process continues through the One Scotland mapping & INSPIRE actions" (Archaeology Scotland).

5.57 Some respondents focused on issues of **acquiring the data and updating it once stored.** A repeated view (18 respondents) was that efforts should be made to ensure the information is accurate and up-to-date with suggestions made that registration of details could be required as part of transaction procedures when land changes hands. The need to accept a trade-off between level of accuracy and extent of sharing of information was hinted at by a few respondents, for example:

"Any breadth or flexibility in sharing has to be balanced by levels of accuracy being maintained" (Scottish Land and Estates).

5.58 One overarching theme was that of **access to land information**, however it is captured and maintained. Whilst 50 respondents stated simply that information should be easily accessible, 68 respondents stipulated that online access should be the norm. Ten respondents called for information to be available in public places too, with libraries, council and government buildings and post offices being identified as outlets.

5.59 Whereas 23 respondents specifically recommended that access to land information should be free, three suggested charging in order to offset the costs of upkeep and also to reflect the commercial value of the data.

5.60 15 respondents called for the Scottish Government to **consult** local people and landowners and managers over the issue of sharing of land information, or to **learn lessons from other jurisdictions** before developing new systems in Scotland.

5.61 28 respondents considered that there was **no need to widen or make more flexible the sharing of land information** as the current systems and information were sufficient for requirements.

5.62 Common Weal respondents called for information to be made accessible as soon as possible, with a short timeframe set to allow for compliance in submitting land information details and heavy penalties for non-compliance. The Berwickshire Common Weal submission advocated the acceleration of completion of the land register.

5.63 Birnam Land Reform Workshop participants stated:

> "We believe that it would be possible informally to crowd-source, through a website, information about land holding, ownership and management, based on existing field-boundary data. While we appreciate that crowd-sourced data would not be authoritative, such a website could be established quickly by citizen activism if the Government does not take action. It could also be linked into official and authoritative sources of data if the Government chose to make these available".

6. ADDRESSING BARRIERS TO SUSTAINABLE DEVELOPMENT AND BEGINNING TO DIVERSIFY PATTERNS OF LAND OWNERSHIP

Background

Landowners are instrumental in promoting sustainable local development and supporting communities. However, the Scottish Government contends that in some instances the scale or pattern of land ownership and the decisions of landowners can be a barrier to sustainable development of an area.

The Government considers that in situations where there is sufficient evidence that current ownership patterns and decisions on land are causing such barriers, then landowners could be directed by Scottish Ministers or other public bodies to take steps to remove those barriers, including working with the public sector body or the local community.

It is proposed that subject to the nature of the barrier, the evidence available and the solution required, the owner may be required to release or sell land. Any proposal must, however, comply with the requirements of EU law and the ECHR.

Proposal 4: Sustainable development test for land governance

Question 14: Do you agree that there should be powers given to Scottish Ministers or another public body to direct private landowners to take action to overcome barriers to sustainable development in an area?

6.1 941 respondents (81% of all respondents) addressed this question with the majority (72%) agreeing that there should be powers given to Scottish Ministers or another public body to direct private landowners to take action to overcome barriers to sustainable development in an area. Table 6.1 overleaf presents views by category of respondent.

6.2 Whereas three-quarters (75%) of individual respondents agreed with the proposal, only 56% of organisations supported it. Private landowner organisations expressed most opposition, with 93% of those providing a view disagreeing with what was proposed. Over half (57%) of private sector and professional bodies also disagreed.

6.3 Common Weal respondents agreed with the proposal; views from the Birnam Land Reform Workshop were that Scottish Ministers should not intervene in the management of local land, but communities through their community councils should be empowered to do so where this is justified.

Table 6.1: Views on whether Scottish Ministers or another public body should have powers to direct private landowners to take action to overcome barriers to sustainable development in an area (Question 14)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	25	78	7	22	32
Private landowner organisations	3	7	38	93	41
Private sector and professional bodies	10	43	13	57	23
Community organisations and representative bodies	18	95	1	5	19
Government and NDPBs	6	n/a	0	n/a	6
Local non-government organisations	5	n/a	0	n/a	5
Local Government	7	n/a	0	n/a	7
Academic	1	n/a	1	n/a	2
Total organisations	**75**	**56**	**60**	**44**	**135**
Individuals	602	75	204	25	806
Grand total	**677**	**72**	**264**	**28**	**941**

Question 15: What do you think the benefits would be and do you have any recommendations about how these can best be achieved?

6.4 570 respondents (49% of all those who responded to the consultation) addressed this question, with relevant comments and/or identification of benefits and how best these can be achieved.

6.6 Many respondents provided very broad support indicating that they considered that benefits would accrue, but not specifying further what they may be, or being very precise in naming specific tracts of land and ownership which they felt were barriers to sustainable development.

6.5 A recurring comment (70 respondents) was that there required to be clearer definitions of the terms “sustainable development” and “public interest”. A common view was that what one party may perceive to be sustainable development and in the public interest may not appear so from another perspective. A few respondents recommended that sustainable development be assessed and judged on a case by case basis. Other remarks included:

> “Sounds like a catch all. I would need to know much more about the definition of sustainable development. For people? For nature? For the world?” (Ind).

> “There is a great problem with defining sustainable development. Its origins lie in environmental concerns but it has been hijacked to mean anything with a 'sustainable' element in the sense of being economically

long lasting rather than contributing to environmental sustainability. It should be clearly defined/redefined" (Ind).

Views on benefits

6.7 One of the most common benefits identified by respondents (83 mentions) was **greater sustainability of land** created by more diverse land use and improved land use. One view was:

"This could energise land use in Scotland and remove large tracts of 'fallow' land being bought purely for the gathering of grants, tax-breaks and unearned investment return" (Ind).

6.8 53 respondents stated that the proposal would be **beneficial for local communities;** 15 commented that the **benefits would extend across Scotland.**

6.9 89 respondents considered a key benefit to be the provision of **public good over private interests.** Many comments focused around the advantage of a specified body with appropriate powers being able to stand up to what some saw as obstructing landowners, on behalf of local communities. Comments included:

"The main benefit would be that it would be less likely that landowners could thwart the aspirations of local communities and other relevant communities of interest, often also against the spirit of national vision and policies" (Ind).

"....the aspirations of communities regularly get overlooked as land-owners may seek to further their own private interests at the expense of the sustainable development aspirations of communities in relation to local environmental quality. An independent regulator could start to redress the balance, by reviewing relevant policies relating to a given proposal and make recommendations independent of party political or commercial interests (Damhead & District Community Council).

6.10 In terms of sustainable development, a number of respondents were specific about the development they envisaged emerging from the provisions:

- economic benefits/increased employment in rural areas (59 respondents)
- more land available for housing (24 respondents)
- bringing neglected land sometimes caused by absentee landlords into public use (22 respondents)
- better renewable energy developments (21 respondents)
- stemming de-population of rural areas (17 respondents).

Recommendations on how the benefits can best be achieved

6.11 A common view (33 mentions) was that **legislation already exists** which can be used to achieve such benefits, but barriers may prevent this being used, with a recurring view that local authorities were, for various reasons, reluctant to use the provisions for compulsory purchase. Examples of other relevant legislation were provided, for example, the Scottish Wildlife Trust referred to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c.)

Amendment (Scotland) Regulations 2004 (as amended) and Deer (Scotland) Act 1996 (as amended) and the Wildlife and Natural Environment (Scotland) Act 2011.

6.12 32 respondents called for the provisions to **encompass legal entities and charities** in addition to private landowners.

6.13 Many respondents appeared to share a vision of a stated process starting with community discussions with landowners and escalating to Ministerial intervention, which 29 respondents recommended should be deployed only as a "**last resort**".

6.14 The phrase "**carrots and sticks"** was used by several respondents, with contrasting views over whether the proposal should be supported with carrots (9 respondents), sticks (21 respondents) or both (5 respondents). Carrots were identified as financial support for landowners in terms of tax reductions and other monetary incentives. One respondent remarked:

> "Landowners should be persuaded and if necessary helped to improve visual appearance in relation to derelict buildings or land which may be creating a long-term eyesore in a community. It may be that the offending property is to be developed, but due to economic reasons this is not occurring. If it is in the public interest to demolish the building and clear the land, the landowner could receive a loan to carry out the necessary work which could be repaid once development takes place" (Perth and Kinross Council).

6.15 Sticks related to threats and legal sanctions, which several respondents considered may be sufficient in themselves to result in co-operation from resistant landowners. Comments included:

> "Having an agreed route set out so that land-owners know the repercussions should they not co-operate with reasonable requests will make them more likely to work with communities to find solutions" (The Highlands Small Communities Housing Trust).
>
> "If a realistically useable power of intervention could be developed when public interest was clearly being thwarted, it could act as a sanction or deterrent. The very existence of such a measure might help prevent such situations arising" (The Forest Group).
>
> "The presence of such powers of intervention will reduce the chance that they will be used, as private landowners will see the benefits in a locally negotiated outcome rather than one which is externally imposed" (Scottish Woodlot Association Limited).

6.16 There were other views expressed on **which body should have powers to direct private landowners to take action** to overcome barriers to sustainable development in an area, in particular:

- local community/community councils (16 respondents). One respondent commented:
  "If greater powers and duties were vested in local communities, (currently local authorities, but could be down to community council level) the powers over local land use decisions would not need to be, and should not be

exercised by Scottish Ministers. Leaving these powers with Ministers would in my view be taking a sledgehammer to crack a nut" (Ind)

- top-down by Ministers (11 respondents)

6.17 The **process** by which the powers should be executed was referred to by some respondents. Many recommended models of arbitration (18 respondents); and discussions involving communities and landowners in which each presented their case (17 respondents).

6.18 A common theme was that decisions on whether to provide new powers should be **evidence-based** (31 respondents). A typical comment was:

> "We think it important to carry out a review to assess all barriers to sustainable development before deciding on whether to give Scottish Ministers new powers" (Dunecht Estates).

Question 16: Do you have any concerns or alternative ways to achieve the same aim?

6.19 Of the 548 respondents (47% of all those who responded to the consultation) who addressed this question, many referred to previous answers they had provided in relation to other questions, or made broad comments without identifying specific concerns or alternative ways to achieve the same aim. The analysis below focuses largely on new material contained in responses.

Concerns about the proposal

Challenging assumptions and defining sustainable development

6.20 A common general concern (raised by around 50 respondents) was over what many felt was a pre-supposition in the consultation that landowners do not currently manage land well and are acting as barriers to sustainable development. Such a premise was questioned repeatedly, with comments such as:

> "We are extremely concerned about the premise of this proposal, that private landowners are somehow the barrier to sustainable development. Behaviour as opposed to scale of ownership is the key issue. Land in the ownership of private organisations is overwhelmingly employed productively. It benefits local communities through tourism, job creation, agriculture, housing and more. Private and community ownership should not be viewed as opposite ends of a spectrum - both ensure the viability of our rural areas" (The MacRobert Trust).

6.21 Many respondents (also around 50) held the view that most barriers to sustainable development were generated by current planning legislation and restrictions rather than by private landowners.

Concerns over balance of power

6.22 A commonly raised concern (around 70 respondents) was over Scottish Ministers holding powers to direct private landowners to take action. This was viewed as overly centralised, with powers in the hands of those without local knowledge, unaccountable and open to political influence and abuse, particularly in circumstances where there is not a clear definition of sustainable development. Comments included:

"Ministerial whims would be a major concern" (Ind).

"It is not for the government to dictate how a given parcel of land is to be managed" (Ind).

"The notion of Scottish Ministers being able to take action to "overcome barriers to sustainable development in an area" is outwardly attractive, but fraught with philosophical and practical danger. The accretion of almost wartime powers to the Executive without individual parliamentary oversight is deeply worrying and would seem to overturn the notion of living in a market-based economy with limited, strictly defined and parliamentary-based government intervention" (Smiths Gore).

6.23 Many respondents recommended that another body, such as the proposed SLRC, would be more independent and accountable as the power-holding body.

6.24 A few respondents urged that care should be taken not to place too much power in the hands of local communities in terms of instigating the deployment of such action over landowners. Concerns were raised that loudest voices could dominate over a more reasoned community view.

Conflicts of interest and conflicting interests

6.25 Another broad theme to emerge from responses related to concerns over conflicting and contrasting interests.

6.26 Around 30 respondents raised concerns over which aspect of "sustainable development" would take precedence. Some predicted that economic interests would dominate in decision-making, with social, environmental and other aspects relegated. Comments included:

"We have a concern that the proposed powers could be interpreted as a 'presumption in favour of development' at the expense of environmental and social sustainability. There are considerable areas in the South of Scotland where the value of the land for environmental, cultural and recreational uses combined with their considerable contribution to ecosystems such as clean water, carbon sequestration and flood management is not adequately recognised. Limitations need to be put in place on the proposed powers to avoid these important areas from being damaged and sacrificed for socio-economic benefits which ignore or minimise their existing value and importance and the importance they have for the welfare of future generations" (Borders Forest Trust).

"Opposing approaches to sustainability may be difficult to accommodate, e.g. deer stalking vs quad bike trails. Fish farms vs wild salmon fishing (Ind).

6.27 Many respondents expressed concern that the proposal could lead to the loss of what they perceived to be scenic tracts of local land to land developed according to economic goals. The existence of different perspectives was acknowledged as an issue which would require to be addressed. One respondent summed up their view thus:

"One person's farm land is another person's wilderness for butterflies" (Ind).

Concerns over legal issues

6.28 27 respondents, mostly individuals, expressed concern that attempts to deploy the powers over private landowners could result in legal challenges by owners and expensive court actions leading to delay and costs to the public purse. Without clear definitions and criteria for action, it was felt that enforcement would be difficult with loopholes existing for unwilling landowners to drag their feet and use their wealth to engage experienced lawyers to argue their case.

6.29 24 respondents cautioned that any new proposal should meet the requirements of ECHR. A few considered that, as described, the new powers ran the risk of breaching human rights. 17 respondents perceived the proposed use of powers over private landowners to threaten the rights of owners. Comments included:

"Landowners' human rights must not be infringed" (Big Lottery Fund).

"We have concerns that landowners' rights could be infringed if the rights are given to the Scottish Ministers to direct the use of the property" (Ind).

"....propose that reasonable tests be laid down to ensure that a balance is maintained between the rights of the competing parties, including a financial/reasonable test, to ensure that landowners are not being asked to undertake tasks, carry out works etc which are not financially viable, or reasonable" (East Ayrshire Council).

6.30 A recurring comment generated by this question and previous topics raised was that entities other than private bodies own land, and should the proposal be widened to apply to landowners such as charities and communities, then other issues would emerge, such as conflicting interests between the aims of the entity, its constitution and those of the wider community/national priorities.

Other possible negative consequences

6.31 Other potential negative impacts of the proposal were identified each by a smaller number of respondents and included:

- Deters investment by creating uncertainty over permitted use and ownership of land. (16 mentions) A representative comment was:
  "Potential investors and developers making a crucial contribution to the Scottish economy need certainty and would be deterred from investing in Scotland if there was potential for their land to be purchased compulsorily by or at the direction of the state. The mere existence of a state power to do that could deter investment and development and such a power would be a further interference with the fundamental right to private property" (Pinsent Masons LLP).
- Short term projects with early economic gains prioritised over longer term, sustainable land use. Concerns that longer term management plans may not be established. (10 mentions)

Views on alternative ways to achieve the same aim

Ground the proposal with evidence

6.32 A common view was that before any such powers are introduced, research requires to be undertaken to review the evidence on barriers to sustainable development in order to identify these objectively and thereby be better equipped to design strategies to address these.

6.33 To further the underpinning of any new policy, repeated calls were made for genuine consultation with communities over the proposals.

Make better use of planning strategy and law

6.34 A shared perception amongst many respondents was that there was a disconnect between local planning and local land use. Several held the view that many Government agencies relating to planning and development are not joined-up. They advocated streamlining and alignment of these processes as a high priority for Scottish Government and commented that in their view the current system is slow, expensive and inconsistent. Another thread running through several responses was that the proposal over-emphasised the role of ownership in barriers to sustainable development over land use.

6.35 Many respondents argued that more astute use of planning legislation could provide an alternative way to achieve the aim of promoting sustainable local development of land. Requests were made (over 40 respondents) that the current planning legislation is reviewed in order to make it more effective and straightforward to deploy. Several different mechanisms were referred to such as compulsory purchase orders (see paragraph 6.37 below) and community planning mechanisms which various respondents considered were under-utilised and could be better deployed with the aim of promoting sustainable development. Some respondents commented that the current system of planning regulations should be loosened with bureaucracy reduced. A few suggested that restrictions on land ownership (for example, capping the amount of land which can be purchased) would also contribute to the overall aim.

Sticks and carrots

6.36 As before, respondents made suggestions for sanctions and enticements aimed at landowners to promote their sustainable development of their land. A common view (27 respondents) was for land tax or similar to underpin any new legislation.

6.37 Around 50 respondents considered that compulsory purchase orders should be reviewed and made more useful as tools to deter landowners from failing to develop their land in a sustainable fashion.

6.38 39 respondents called for incentives rather than sticks to prevail. A few mentioned tax breaks or other incentives, but in general the view was for landowners to be encouraged and supported in their plans for development. Four respondents suggested that education on best practice elsewhere along with peer review and advice from experts would be useful.

Other comments

6.39 16 respondents (largely individuals) remarked that the Scottish Government should let free markets prevail, with several commenting that if there was an economic benefit to a sustainable development, landowners would need little persuasion to follow this route and would most likely be undertaking it already.

Views from campaign responses

6.40 Common Weal respondents reiterated the view emerging from many of the standard responses that the phrase "sustainable development" required further clarification. Caution was also expressed that landowners may intimidate tenants particularly in rural communities, and ways should be found to include communities in planning in a more empowering way. A call was made to ensure community powers are increased with Ministerial direction considered to be a last resort. The Common Weal view was that land value tax would be an alternative means to achieve similar aims.

6.41 The Berwickshire Common Weal response identified the release of land for local food production, affordable housing and other community enterprises as benefits to the proposal with local communities having more power, influence and control over their lives and the local environment.

6.42 Participants at the Birnam Land Reform Workshop considered "sustainable development" to be a "contentious phrase" and promoted the notion of a Caretakers' Charter as a tool for establishing, monitoring and defining what is sustainable. They also recommended the introduction of a mechanism for binding arbitration in disputes between landowners and communities.

7. DEMONSTRATING COMMITMENT TO EFFECTIVELY MANAGE LAND AND RIGHTS IN LAND FOR THE COMMON GOOD

Background
The Scottish Government believes that the public land should be managed for the greatest overall benefit, balancing a number of differing and sometimes conflicting public needs. They consider that a proactive approach should be taken across the public sector to deliver greater benefits across a wide range of policy areas and across the whole of Scotland. A range of ways to improve the ability of the public sector organisations, such as Forestry Commission Scotland, to manage public land to promote social, economic and environmental outcomes in the public interest are being considered with views on how to achieve this welcome.

Proposal 5: A more proactive role for public sector land management

Question 17: Do you agree that public sector bodies, such as Forestry Commission Scotland, should be able to engage in a wider range of management activities in order to promote a more integrated range of social, economic and environmental outcomes?

7.1 906 respondents (78% of all respondents) addressed this question with the majority (79%) agreeing that public sector bodies, such as Forestry Commission Scotland, should be able to engage in a wider range of management activities in order to promote a more integrated range of social, economic and environmental outcomes (see Table 7.1 overleaf). Private landowner organisations was the only sector where fewer than half of those providing a view disagreed. Of the two academics who addressed the question, one agreed and one disagreed. A clear majority of respondents in all other sectors agreed with the proposal.

7.2 Common Weal respondents agreed with the proposal. The issue was not addressed by the Birnam Land Reform Workshop.

Table 7.1: Views on whether public sector bodies should be able to engage in a wider range of management activities in order to promote a more integrated range of social, economic and environmental outcomes (Question 17)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	28	85	5	15	33
Private landowner organisations	20	48	22	52	42
Private sector and professional bodies	19	86	3	14	22
Community organisations and representative bodies	16	94	1	6	17
Government and NDPBs	6	n/a	0	n/a	6
Local non-government organisations	5	n/a	0	n/a	5
Local Government	8	n/a	0	n/a	8
Academic	1	n/a	1	n/a	2
Total organisations	**103**	**76**	**32**	**24**	**135**
Individuals	613	80	158	20	771
Grand total	**716**	**79**	**190**	**21**	**906**

Question 18: What do you think the benefits would be and do you have any recommendations about how this can best be achieved?

7.3 545 respondents (47% of all those who responded to the consultation) provided a response to this question, their responses ranging from general agreement that benefits would accrue, to the identification of specific benefits and recommendations on how they can best be achieved.

Views on benefits

7.4 The most commonly identified benefit (88 respondents) was **better land use** in terms of more diverse and sustainable outcomes with environmental benefits in addition to other social and economic benefits.

7.5 Many respondents (41) considered that a key benefit would be **greater co-ordination and integration in the management of land** with one body having an oversight which would produce efficiencies and avoid duplication of effort.

7.6 Another broad benefit identified (35 respondents) was that public sector bodies would ensure that land use and management were in the wider **public interest**, for the common good, rather than meeting the interests of the few:

> "This could potentially lead to greater benefit in public land being managed for the wider public benefit rather than just the private one of an individual local community" (Invercauld Estate).

"Public sector bodies exist to provide services to the public, and under this definition, it is surely beneficial that they are able to take on management strategies that extend beyond their official remit" (Ind).

7.7 Public sector bodies such as Forestry Commission Scotland were viewed as having the **expertise to manage land and use it for community benefit** (21 respondents). One respondent reflected the views of many:

"The various public bodies, especially the Forestry Commission, engage in best practice and are monitored and held accountable by the Scottish Government. Their aims already include the promotion of sustainable development and biodiversity etc. They are trusted by the Scottish people and deliver a very good service. Consequently, they are best placed to promote a more integrated range of social, economic and environmental outcomes" (Ind).

7.8 21 respondents considered that the proposal would enable public sector bodies to have **greater flexibility** in how they managed land with this freedom created by the removal of unnecessary constraints. It was felt that such bodies could be more responsive in terms of, for example, acquiring and disposing of land. Comments included:

"Greater flexibility for public sector bodies to have a more outcomes based approach to land management" (British Association for Shooting and Conservation).

7.9 11 respondents remarked on the potential benefits of public sector bodies working in **collaboration and partnership** with others and in **alignment with national aims.**

7.10 More specific benefits identified by respondents were:

- Improved employment opportunities through initiatives such as starter farms; apprenticeship schemes (43 respondents).
- Greater local amenities with positive impacts for physical and mental health (40 respondents).
  "From a health perspective there is much to be gained from building on the social prescribing activity that has been supported by the forestry commission in recent years - promotes recovery and increases awareness of surrounding environment" (Ind).
- Increased public access to land for leisure purposes (e.g. cycle paths; footpaths) (25 respondents).
- Boost to viability of rural communities through increased economic benefits such as greater tourism (22 respondents).
- Potential for increase in housing, both short and longer term, through initiatives such as hutting and forest crofts (18 respondents).
  "Woodland crofts should be more widely spread and given the same protection as other crofts" (Ind).

7.11 One theme to emerge across many responses was that the proposal would create the context for **innovation and entrepreneurialism**. Ten respondents raised this possibility specifically with a few commenting that community-based projects which aligned with the land reform agenda could be trialled, underpinned by what

they perceived to be this forward-thinking, proactive approach to public sector land management.

7.12 Another theme was the potential of the proposal to promote **community empowerment and involvement** in aspects of the management and use of land. Community development groups and the opportunity for integrated community and public sector working were envisaged, underpinned by capacity-building amongst local communities. Comments included:

> "Empowerment of local communities with regular consultation and collaboration" (Ind).

> "More local control over how land is used, through Community Development Groups and local councils" (Ind).

Views on how this can best be achieved

General comments

7.13 A small number of respondents (12) took the opportunity to praise what they perceived to be current effective working by Forestry Commission Scotland and recommended that **nothing be changed**.

7.14 A common view (35 respondents) was that there would need to be a degree of **easing of current legislative restrictions** relating to land use and management in order to maximise the beneficial outcomes from the proposal. Restrictions in relation to buying and selling land and building on land were referred to in particular. Typical comments were:

> "If public sector bodies had greater flexibility in what they could do with their land or it was easier to transfer ownership or management to another public body then it might be possible to make more efficient use of the public estate. Asset transfer by local authorities is well-established as a means of moving land and property into the hands of community organisations where they can best make use of it" (Ind).

> "It would help in this process if the Scottish Government were less cautious in its interpretation of EU regulations on grant making, especially where local business and community groups may be requesting some support from public funds" (City of Brechin and District Community Council).

Balanced decision-making

7.15 A recurring view (47 respondents) was that public sector bodies should **work closely with local communities** to pursue sustainable development of land, so that local interests and views inform decisions. Formal consultation was recommended specifically by five respondents. One respondent remarked:

> "Greater involvement of local communities in the land-use decisions of public sector landowners, especially national ones with their greater potential for losing touch with the local context, would help to ensure sensitive and progressive land management actions" (Ind).

Another envisaged:

"....small local management committees reflecting on and overseeing Forestry Commission locally to input local concerns. Including local land owners and residents" (Ind).

7.16 Different views emerged **on factors to take into account** when making decisions on land management and use. Most of those who provided a view (39 respondents) recommended that in order to be balanced and sound, decisions should consider not only a range of environmental and social impacts, but economic concerns should also feature strongly. Eight respondents cautioned that commercial returns should not be the driving force behind decision-making on land use:

"Profit itself is not a "dirty word", but it must not be the prime motive in this connection" (Ind).

A contrasting view presented by 14 respondents was that economic benefits should be prioritised:

"The economics of activity must be the driving force whilst taking care of the environment and social responsibilities" (Ind).

Models of working

7.17 A myriad of recommendations on different models of working emerged from responses, with only a few respondents proposing each. Key amongst these were:

- All powers (land management and development) should be devolved to communities.
- Use existing public sector bodies rather than set up new bodies
- Regional forestry bodies should be established or regional land boards set up to co-ordinate activities.
- New SLRC should co-ordinate and monitor public sector bodies engaging in these activities.
- An independent public organisation should co-ordinate activities across public sector bodies.
- New body subsidiary to Forestry Commission Scotland to co-ordinate activities across public sector bodies.
- Better to let private organisations own and manage land.
- Cast the net widely to include public bodies such as NHS and Scottish Water.
- Community Land Agency could have a role in integrating the land assets and expertise of public bodies.

Views from campaigns

7.18 The Common Weal view was that where land is in public ownership or management, its management should be integrated into wider strategies of economic and social development. However, they identified the "best strategy" to be the encouragement of more diverse ownership of land, allowing for a wider range of use and increased innovation, and envisaged the introduction of the Land Value Tax as instrumental in bringing the cost of land much closer to its economic value and thereby giving individuals and groups better access to land ownership.

7.19 Birnam Land Reform Workshop did not comment on this proposal.

Question 19: Do you have any concerns or alternative ways to achieve the same aim?

7.20 456 respondents (39% of all those who responded to the consultation) provided a relevant response to this question. There was a tendency amongst many respondents to focus on Forestry Commission Scotland as the only public sector body concerned, rather than view this organisation as an example of the type of public sector bodies which could be involved. This resulted in many respondents judging the performance of Forestry Commission Scotland in terms of how effective they felt it would be under the proposal.

Concerns raised by respondents

Lessons from the status quo

7.21 A recurring view (25 respondents) was that public sector bodies already have powers and arrangements in place to engage in a wider range of management activities with different bodies making good use of these, with others considered to under-use them. One landowner commented:

> "....the Scottish Government should be aware there are in any local government area any number of agencies, bodies, business groups and indeed individuals communicating regularly and acting together whenever opportunity offers to make that area more effective, improve all manner of facilities and ensure that there is wider and better understanding of people's needs and aspirations. It is impossible to visualise any further participation that would make any useful difference" (Ballogie Estate Enterprises).

7.22 It was commonly thought (55 respondents) that there was no reason to expect that the proposal would lead to improvements over the existing arrangements, with many respondents documenting instances in which they felt that public sector bodies had not managed activities well. Some respondents perceived public bodies such as Forestry Commission Scotland to lack the expertise required to engage in a wider range of management activities.

7.23 58 respondents argued that bodies like Forestry Commission Scotland should focus on their current remit. Some felt that widening their functions would lead to a diminution of their effectiveness in their specialist area. Comments included:

> "The Forestry Commission has for many years been broadening out into a wider range of management activities. I think most people in the forestry business would agree that this process has, if anything, gone too far already and the FC is in danger of losing sight of its original mission" (Ind).

> "FCS should concentrate on their main role of providing a strategic timber resource and supporting the forestry industry. This industry provides important long term and well paid rural jobs in fragile areas" (Ind).

> "I believe that public sector bodies already deliver excellent social, environmental and economic outcomes and would question what sort of "wider range of management activities" are being sought. These bodies should be permitted and indeed encouraged to manage their land in the best and most integrated way, subject to their remit and constitution" (Ind).

7.24 Some respondents (13) considered that public sector bodies lacked the necessary business acumen to undertake a wider management role with the possibility of fiscal incompetence a barrier to the success of the proposal.

Structural restrictions on effectiveness

7.25 A common view (35 respondents) was that the proposal would incur costs in terms of finance and human resources. They perceived public sector bodies already stretched on both of these counts.

Conflicting agendas and interests

7.26 A dominant theme was that different public sector bodies have different aims and agendas which may be in conflict with each other. In addition, many different groups and sectors who will be involved in a range of activities will be competing for their own interests. 50 respondents questioned how such tensions will be addressed. Key concerns were whether economic interests would prevail, or whether environmental concerns would take priority. Comments included:

> "Encouraging a 'wider range of management activities' should not be confused with the much narrower aim of maximising the financial return from the land under a public agency's control. The primary aim of publicly owned land is the public good and public agencies should not be driven to prioritise economic development over all other public benefits" (Borders Forest Trust).

> "There is concern that misplaced "green" motives, however commendable, might over rule necessary and basic land managers' objectives" (Ind).

> "Public agencies should hold land for the public good and that needs to be the test applied rather than simply trying to maximise financial returns" (Ind).

7.27 There was some concern that in trying to marry many different interests, public sector bodies could end up not fulfilling their main purpose and not achieving anything to anyone's satisfaction. One respondent summed this up:

> "It is a fine example of giving a body a mixture of objectives, resulting in it achieving none, and especially not its primary one" (Ind).

Accountability and independence

7.28 Questions were raised over how accountable and independent public sector bodies would be in undertaking this broadened remit, when personnel are appointed by Scottish Ministers and are not democratically appointed (23 respondents). The importance of openness was emphasised with one respondent remarking:

> "There is a risk of public money being seen to giving unfair advantages unless there are clear and open accountability as well as defined rules and regulations" (Ind).

Other concerns

7.29 Several other concerns were raised by respondents, the substantive ones being:

- Centralised and possibly remote public sector bodies may not engage with communities and take necessary cognisance of their views. There will be a power imbalance between the large professional organisations and the smaller community bodies. (44 respondents)
- Risks becoming too bureaucratic and inefficient. (24 respondents)
- Risk of unhelpful state interference over local land management activities. (18 respondents)
- Questions over how different public sector bodies will integrate and collaborate over their engagement in a wider range of management activities. Concern over duplication of effort or that some will pay only "lip service" to their wider remit. (10 respondents)
- The rights of private owners appear to be overlooked in the proposals. (10 respondents)

Views on alternative ways to achieve the same aim

7.30 Common views were that greater ownership/leasing of land and/or management of land should be in the hands of private sector or community bodies. The most frequent recommendation was for increased community land ownership (45 respondents) or community trusts (19 respondents). 39 respondents advocated greater private ownership of land, with some considering that private owners should be incentivised and supported to manage their land for the public good.

7.31 A recurring view (16 respondents) was that community planning provided a useful model for operation of the proposal. One respondent suggested that bodies such as Forestry Commission Scotland and SEPA are represented on the proposed SLRC.

7.32 A theme which emerged in responses across many questions was that a land value tax would assist in promoting greater diversity in ownership.

Views from campaign responses

7.33 Common Weal respondents re-iterated their view previously provided that a land value tax could influence the cost of land and would be an important step forward. Berwickshire Common Weal respondents considered that fair value transfers or leases to local community groups or individuals who operate in the public interest may achieve the same aims. There was no comment on these issues from the Birnam Land Reform Workshop.

Proposal 6: Duty of community engagement on charitable trustees when taking decisions on land management

Background
Trustees of a charitable organisation must comply with a number of general and specific duties under section 66 of the Charities and Trustee Investment (Scotland) Act 2005 (The 2005 Act), including a duty to act in a manner consistent with the purposes of the charity. The 2005 Act recognises that other legislation may impose duties on the trustee and the obligation to act in accordance with the purposes of the charity is without prejudice to any other legislative duties.

The Scottish Government proposes adding a specific stand-alone duty on trustees of a charity that when considering the management, use or transfer of any land under the charity's control, the trustees must engage with the local community and consider the potential impact on the local community before taking any decision. This consideration will require to be balanced with the exercise of their other functions and their duty to act in the interests of the charity and to ensure that the charity acts in a manner which is consistent with its purposes.

Question 20: Do you think a trustee of a charity should be required to engage with the local community before taking a decision on the management, use or transfer of land under the charity's control?

7.34 920 respondents (79% of all respondents) addressed this question with the majority (76%) agreeing that a trustee of a charity should be required to engage with the local community before taking a decision on the management, use or transfer of land under the charity's control (see Table 7.2 overleaf). Whereas 79% of individual respondents agreed with the proposal, the majority support was reduced to 55% amongst organisations. All or the majority of respondents in all categories favoured the proposal except for private landowner organisations and private sector and professional bodies, the majority of whom opposed the proposal.[12]

7.35 Common Weal respondents agreed with the proposal in principle. The Birnam Land Reform Workshop view was also to support the proposal.

[12] It was not possible to identify the views of Charities as a separate group as they were not readily identifiable from the information requested on the consultation response form.

Table 7.2: Views on whether a trustee of a charity should be required to engage with the local community before taking a decision on the management, use or transfer of land under the charity's control (Question 20)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	24	69	11	31	35
Private landowner organisations	8	21	31	79	39
Private sector and professional bodies	11	48	12	52	23
Community organisations and representative bodies	15	88	2	12	17
Government and NDPBs	4	n/a	1	n/a	5
Local non-government organisations	5	n/a	2	n/a	7
Local Government	5	n/a	0	n/a	5
Academic	1	n/a	0	n/a	1
Total organisations	**73**	**55**	**59**	**45**	**132**
Individuals	626	79	162	21	788
Grand total	**699**	**76**	**221**	**24**	**920**

Views on the advantages of the proposal

7.36 570 respondents (49% of all respondents to the consultation) provided relevant comments. A few simply provided very general support, indicating that there would be advantages but did not go into detail. A few others recommended that the wording of the proposal change so that "trustees" or the "board of trustees" be required to engage with the local community, rather than suggesting, as at presently worded, that an individual trustee should be tasked with this. 20 respondents took the opportunity to emphasise that what constitutes a charity is not always clear, and that the reasons for groups to establish themselves under this banner should be examined as a prerequisite to progressing any policy in this area. One respondent commented:

> "The term charity should be clearly defined in relation to land management issues. For example a charity could be a few local residents who manage a wildlife site or a group of rich landowners who have set up a charity as a tax dodge" (Ind).

7.37 Twelve respondents commented that charities already consult with local communities over land issues, as a matter of good practice. However, some acknowledged that formalising the process would produce greater consistency in approach. Comments included:

> "This is not rocket science just good practice" (Ind).

> "Having served previously as a trustee of The John Muir Trust, one of the major land owning charities in Scotland I know that some charities already do consult effectively with local communities, but I think that the

mechanisms in place for doing this are variable and in some cases not sufficiently robust or transparent" (Ind).

Better decision-making through collaborative working

7.38 The most prevalent theme to emerge related to the perceived benefits of improved decision-making through working partnerships between local people with local knowledge and charities.

7.39 157 respondents identified **improved community engagement, awareness of land management issues** and the opportunity for the community to have a say in the management, use or transfer of land under the charity's control as key benefits of the proposal. Many felt that community empowerment would result as communities gained greater control over what happens in their local community.

7.40 14 respondents remarked that the proposal would be particularly beneficial in circumstances where the charity was not based locally and where decisions had tended to be top-down without local voices heard.

7.41 For many respondents (114) it followed that greater community involvement, which utilised local knowledge and expertise, would result in more **informed decision-making** by charities which took account of different perspectives and were likely to produce sustainable outcomes for local land. Views included:

"We have seen, through the work of deer management groups, many examples where positive engagement can bring about the best outcomes. The greatest problems often arise when there has been a lack of, or insufficient, engagement" (Scottish Gamekeepers Association).

"Local communities generally have a better understanding of local land management and use, and their information-bases could be very useful in addressing sustainable land management in the future" (Ind).

"Charity trustees are not always particularly knowledgeable about local conditions and/or needs (or, indeed, land management). On numerous occasions, their decisions have therefore either had detrimental effects, or occasioned challenges or conflicts. These are costly to the charity, the community, and the local economy. They are avoidable, by requiring best-practice community engagement" (Ind).

7.42 Another positive impact of greater engagement between charities and local communities was viewed as the promotion of **harmonious relationships built on trust and mutual understanding** between charities and local people. 63 respondents expressed this view, which many felt would have the added benefits of greater local buy-in to projects and perhaps even greater willingness to volunteer to participate. Comments included:

"The winning of hearts and minds would be crucial to success" (Ind).

"It is arguable that local community engagement may **increase local support** for charities in some circumstances, particularly if the charity is focused on a local community" (Turcan Connell).

Promotion of openness

7.43 A common view (79 respondents) was that the proposal would result in greater **transparency and openness** about charities' plans and decision-making.

7.44 37 respondents identified **increased accountability** as a beneficial outcome, with charities required to openly account for their decisions and actions.

7.45 One indirect impact of the proposal which 15 respondents perceived as advantageous was the focus on the motives of the charity involved, which according to these respondents, would **illuminate entities who held a charitable status for beneficial tax reasons** rather than more altruistic purposes. Some respondents were of the view that this in itself could act as a deterrent from such practice.

Other benefits identified

7.46 20 respondents welcomed the **alignment of charities with other landowners** with regard to requirements to engage with local communities. However, a further ten respondents questioned why charities should be singled out for this proposed policy.

Views on the operation of the proposal

7.47 Some respondents documented views on ways in which the proposal could work on the ground. The most common view (48 respondents) was that members of local communities should become trustees on the board of charities, thereby in a formal position to represent the views of the local community. Comments included:

> "Governance arrangements could be improved by allowing local residents to become full members of the charity, providing for a number of local people to take up a position on the Board of the company (or Trustee of the Trust) and for enhanced local management of the affairs of the charity. This is already done by the Isle of Eigg Trust and the Knoydart Foundation who have a certain number of elected community representatives on their governing bodies" (Ind).

7.48 16 respondents argued that one size does not fit all, and that the proposal may bring benefits in some contexts and not others. For example, there may be issues of minor significance, or other issues on which the charity's hands are already tied.

Views on the disadvantages of the proposal

7.49 455 respondents (39% of all those who responded to the consultation) provided relevant views on the possible disadvantages of the proposal. Some of them indicated that they supported the proposal on balance, with its benefits outweighing its drawbacks. 12 respondents stated clearly that they felt the proposal was not necessary as engagement of this nature was already undertaken by charities, local authorities or planning authorities. Concerns were raised that it could lead to duplication of effort. Comments included:

> "Local Authorities are already accountable and consult the communities at a local level when considering such matters, so there may be an element of duplication here, which would delay the delivery of decision making and the benefits of such decision to the community. This provision should not apply to Local Authority trusts" (Aberdeenshire Council).

"May overlap with the re-organisation provisions of the Charities and Trustee Investment (Scotland) Act 2005, which already oblige charities (in certain circumstances) to inform the public about changes and imposes a consultation process of sorts" (Law Society of Scotland).

7.50 A theme which emerged across a range of responses was that the policy would need to be **monitored and enforced**. Questions were raised over which body would do this, with one respondent clear that this remit would fall to the Office of the Scottish Charity Regulator (OSCR) with implications on resources:

"As the duty is one on charity trustees it would suggest that OSCR could be responsible for its enforcement. If so, this will be an additional area of work for OSCR, and although the number of concerns raised may not be significant, it could prove a complex area of inquiry. It will also most likely involve engagement activity and specific guidance. Together this could have a substantial financial impact on OSCR both in terms of staff time and possible legal costs depending on how far inquires are taken" (Scottish Charity Regulator).[13]

Potential for being cumbersome

7.51 A prevailing theme across many responses was that what was proposed had the potential to be overly cumbersome resulting in delay, costs and bureaucracy. The Law Society of Scotland, for example, considered that the public benefit component of the charity test already provides an adequate formula for taking the interests of the local community into account and that an express statutory duty to engage is unnecessary and would be cumbersome in practice and potentially expensive for charities without proportionate benefit to local communities.

7.52 The most common problem emerging from responses was perceived as potential **time delays and failure to progress** resulting from undertaking engagement and addressing conflicting views (85 respondents). One respondent remarked:

"A protracted process can delay or demotivate and be an impediment to progress" (Canonbie and District Residents Association).

7.53 42 respondents cautioned that engagement could provide the opportunity for those with strong opinions to manipulate proceedings to **block progress**:

"Lone or vociferous voices can delay, impede, frustrate the process of engagement and the progress of change which can be irritating and cause ears to close whether or not their intervention is justified or not" (Ind).

7.54 A recurring view (37 respondents) was that this would add another layer of **bureaucracy** to the process leading to complexity and delay.

7.55 32 respondents called for a **more discerning and proportionate approach** instead of a blanket requirement. They argued that engagement should be required only where it could be justified in terms of the scale of development or its significance. Comments included:

[13] The full response from the Scottish Charity Regulator has been published by the Scottish Government and can be accessed using the link Scottish Charity Regulator

"The new duty on charities would impose a potentially bureaucratic process on thousands of charities with land assets. This would be irrespective of the size of land held or the type or charity they are" (Scottish Council for Voluntary Organisations).

"Every charity is caught up in a provision only intended for a few, with significant additional demands being placed on small charities which may technically own land, for example, a charity shop in a town centre. It would seem preferable to make clear and to avoid unintended consequences, that this would only apply to Charities which have recognised wholly or partly settlements within their boundaries" (Community Land Scotland).

"Imposing a general duty would add another regulatory burden to thousands of small voluntary asset-owning charities without any clear indication of there being a problem requiring to be solved" (Community Woodlands Association).

Managing conflicts

7.56 A common theme was that charities and trusts are bound by their own organisation's constitution, with trustees required to carry out their responsibilities in accordance with this. Many respondents (95) cautioned that this **duty should not be compromised** by a new duty of community engagement. Questions were raised over how conflicts between public demands and the aims of charities and trusts could be resolved if the latter are required to engage with communities over proposed developments. A comment emerging across a range of responses was:

"Charity trustees are already under much heavier public scrutiny than private owners, under charitable objectives which they are obliged to define clearly and work to. It therefore seems illogical to place them under a special burden of community engagement. The burden of managing and funding a charity is significantly greater than that of private ownership and there is frequently no link between the charitable objectives and the community aspirations" (many respondents).

7.57 38 respondents predicted significant problems for charities in trying to reach an agreed way forward in the face of diverging views. Some felt that the proposal itself could create greater conflict than otherwise, leading to **indecision and delays.** Others (32 respondents) considered the proposal amounted to **unwarranted interference** in the running of charitable bodies by people with possibly no expertise or knowledge of the issues in hand, leading to poor decisions and inefficient management of land which meets no one's needs:

"Consulting before "taking a decision on the management" would make it impossible to do anything (Ind).

"The concept that a community (with little or no knowledge of land management matters and - more importantly - no responsibility) should be able to dictate how a property should be managed or used is completely alien to the concept of ownership as it is presently legally recognised" (Ind).

7.58 A recurring view (16 respondents) was that there was **no guarantee that by engaging with the community, one overarching community-representative view would emerge**. Some felt that the loudest community voices would dominate, or those with the most free time, or local activists with a particular agenda to pursue. Comments included:

> "The loudest speaking, often those with most resources, will direct the landscape" (Ind).

> "The risk is that the engagement only involves a select few from the local community and so is not a truly participative and representative process. Changes to local governance and new means of participation are required to achieve this" (Ind).

Implications for charities

7.59 Many respondents expressed concern over the implications of the proposal for the viability of charities, particularly those relatively small in size. Some (33 respondents) asked why charities should be singled out in this manner over other private landowners. One respondent remarked:

> "In light of the higher obligations already on charities, it is not clear to us why an additional statutory duty of community engagement should be placed on charitable trustees over and above the obligations on other private landowners" (Loch Lomond & The Trossachs National Park Authority).

7.60 The substantive concerns raised by respondents on the impact of the proposal for the future of charities were:

- Increased costs to cover the costs of engagement. (83 respondents)
- Need for greater capacity in personnel to conduct engagement. As most of the personnel could be voluntary this was seen as potentially a significant burden. (20 respondents)
- Negative impact on donations and people willing to volunteer. Public perception of the charity using funds for bureaucracy and not in control of its own property. (14 respondents)

Concerns over definitions

7.61 A general view was that the terminology used for this proposal would require to be precise and well defined. Of particular concern (57 respondents) was that "engage with the local community" left too much room for disingenuous and tokenistic communication between landowners and local communities. The Common Weal response also alluded to this. Comments included:

> "Engagement must be real, allowing local input which has an active effect on decision-making. Non-binding just-going-through-the-motions consultation will not improve the current situation" (Ind).

> "If done in a tokenistic way, could give spurious legitimacy to a decision that the Charity would have favoured anyway and is not necessarily seen by the local community as the best way forward" (Ind).

7.62 Other respondents (11) recommended that "community" required further explanation with some concern that as currently worded, local people, bound by

geography, appeared to take precedence over communities of interest. Question 22 below explores respondents' views on how "community" should be defined.

Question 22: How should "community" be defined?

7.63 736 respondents (63% of all those who responded to the consultation) provided a relevant response to this question. Whilst most of these provided an attempt at defining community, some (43 respondents) considered this too fraught with difficulties. 50 respondents argued that no one definition would be applicable for all different contexts and that different definitions would depend on, for example, the plans under discussion and who they may impact on.

7.64 A recurring theme amongst a minority of respondents, and one which the Common Weal supported, was that Scotland requires a proper system of local democracy with community-level governance, and that identification of relevant communities would take place as part of that development.

7.65 Amongst those who made recommendations for the definition of "community", many suggested more than one option with these not necessarily being mutually exclusive. Others were not entirely clear in their response and an assumption of their most likely meaning has been made (for example, some referred to "community councils" but may have meant people living within community council areas, or the community councils themselves). Table 7.3 overleaf lists the recommendations made by respondents on how "community" should be defined, in order of number of mentions as a general indicator of support rather than a precise measure.

7.66 Birnam Land Reform Workshop participants recommended that a community should be defined by community council(s) whose boundaries include all or any part of the land concerned. They considered also that in some cases community could encompass communities of interest such as groups wanting to access the land for recreation. The Berwickshire Common Weal respondents also recommended community council boundaries as "a reasonable definition of local community" but accepted that there may be communities of interest too.

Table 7.3 Recommendations for the definition of "community"

Recommendations for definition of "community"*	No. of mentions
People living in a geographic area (amongst the areas mentioned were: neighbourhoods; parishes; wards; postcodes; districts; hamlets; local authorities; marching boundaries; 10km, 2, 4, 5 miles radius; villages; community council area). A few respondents described geographical areas in remote locations in terms of glens, valleys and other more physical structures.	436
Interest groups; social groups with common interest; stakeholders with common goals; formal or informal.	133
People working in an area.	68
Those affected by the issue (including those living in adjoining areas).	61
Community councils.	34
Businesses in a local area.	27
Key stakeholders (local authority representatives were mentioned for example).	25
Regular users of the land (e.g. hillwalkers).	24
Use existing statutory/established definitions such as that of the Community Empowerment Bill or the Crofting Act.	20
All Scottish people are part of one community/could be a national interest.	16
People of voting age within a locality.	14

*Please note that the categories are not necessarily mutually exclusive, with many respondents considering that several of these categories could apply.

Question 23: What remedies should be available should a trustee of a charity fail to engage appropriately with the local community?

7.67 639 respondents (55% of all those who responded to the consultation) addressed this question. Whilst the majority of the respondents who provided a view identified remedies to deploy in this situation, others provided more general views supporting some form of sanction for failing to engage appropriately, most likely incremental, beginning with requests to the charity to engage and escalating to more punitive sanctions for non-compliance.

7.68 Queries were raised repeatedly over the meaning of the phrase, "engage appropriately" with some respondents questioning who would judge this and on what criteria. Several respondents once again queried whether the question refers to one trustee or a board of trustees. One respondent remarked:

> "Duties on charity trustees are imposed collectively as well as individually. As volunteers, giving of their time and commitment for no reward, the Committee would view it as unacceptable if financial or other quasi criminal penalties were to be imposed on trustees as individuals or indeed that the funds of the charity should be targeted. Similarly it would appear to be disproportionate were charity trustees to find themselves being investigated for misconduct with the threat of possible disqualification or other sanctions" (The Scottish Churches Committee).

7.69 A recurring theme was that remedies could not be established before such fundamental issues of definition and governance are decided and made explicit.

7.70 Many respondents made recommendations for remedies (some more than one), whether or not they agreed with the overall proposal for charities to engage with the local community. Table 7.4 below summarises their views.

Table 7.4 Remedies proposed by respondents should a trustee of a charity fail to engage appropriately with the local community

Proposed remedies	No. of mentions
Removal of charitable status.	156
Block progress/halt proceedings/stop any granting of public funds until engagement has taken place.	64
Monetary penalty such as a fine.	56
Removal of trustee/barred from holding office.	44
Engage an arbitrator or independent body such as the proposed SLRC to mediate and/or decide on further remedial action.	40
Confiscation of charity's land.	35
Prosecution.	34
Offer land for community to buy.	30
Any decisions taken without prior consultation to be nullified.	20

7.71 A common view (42 respondents) was that rather than take punitive action, the charity should be supported in their duty to engage. Some remarked that the charity may be experiencing difficulties in getting the community to cooperate and they should be helped in their endeavours rather than punished.

7.72 The Common Weal respondents advocated that sanctions such as the removal of charitable status should be considered where there is clearly insufficient public benefit to local communities from the governance of land. The Berwickshire Common Weal recommended that in the case of a charity failing to engage appropriately there should be a recognised and independent body to appeal to for arbitration. The SLRC was referred to in this regard. They also suggested that the charitable status of such trusts could be reviewed.

7.73 Birnam Land Reform Workshop participants did not answer the question directly, but emphasised their overarching view that the community should have power to make, if necessary, a controlling input into the management of the land as "consultation" is not adequate.

Proposal 7: Removal of the exemption from business rates for shooting and deerstalking

Background
A business rate exemption is currently in place for shootings and deer forests.[14] Business (non-domestic) rates raise revenue to help deliver essential local services and help to support businesses. The exemption for shootings and deer forests has been in place since 1995.

The Scottish Government proposes that the Land Reform Bill should include provisions to end the business rate exemptions for shootings and deer forests. Ending these provisions would require identification and valuation of subjects by the Assessors, with rates bills calculated and relief applications determined by local authorities. This would bring shooting and deerstalking businesses back into line with other ratepayers.

Question 24: Should the current business rate exemptions for shootings and deer forests be ended?

7.74 983 respondents (84% of all respondents) addressed this question with the majority (71%) considering that the current business rate exemptions for shootings and deer forests should be ended (see Table 7.5 overleaf).

7.75 Whilst the majority (75%) of individual respondents who provided a view supported ending the exemptions, most of the organisations (56%) opposed this. All but one of the 51 private landowner organisations who addressed this issue disagreed with ending the business rate exemptions; the majority (56%) of the private sector and professional bodies who responded to it also disagreed.

7.76 Common Weal respondents agreed with the proposal to end these current business rate exemptions. The Birnam Land Reform Workshop participants had no objection to business rates being extended to encompass shootings and deer forests in the short term but proposed that this be in the context of a wider review of land taxation in the longer term.

[14] s.151, Local Government etc. (Scotland) Act 1994.

Table 7.5: Views on whether the current business rate exemptions for shootings and deer forests should be ended (Question 24)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	25	68	12	32	37
Private landowner organisations	1	2	50	98	51
Private sector and professional bodies	8	44	10	56	18
Community organisations and representative bodies	14	93	1	7	15
Government and NDPBs	2	n/a	0	n/a	2
Local non-government organisations	5	n/a	3	n/a	8
Local Government	6	n/a	1	n/a	7
Academic	0	n/a	1	n/a	1
Total organisations	**61**	**44**	**78**	**56**	**139**
Individuals	633	75	211	25	844
Grand total	**694**	**71**	**289**	**29**	**983**

Question 25: What do you think the advantages would be?

7.77 677 respondents (58% of all respondents to the consultation) identified advantages to the proposal to end current business rate exemptions for shootings and deer forests. Their views are summarised below in Table 7.6 in order of the number of times the advantage was raised.

Table 7.6: Summary of advantages to ending the business rate exemptions for shootings and deer forests as identified by respondents

Advantages identified by respondents	No. of mentions
Fairness and parity with other rural businesses; level playing field; end to public subsidy.	364
Increased tax revenue for local/national government which can be invested into land maintenance and related activities.	268
Better use of land; opportunity for diversification; lowering of land values so land becomes affordable. "More creative / productive use of the land in order to generate income to pay/justify the rates. Land that cannot pay its way would be more likely to be placed on the market, so this could be a driver for diversified land ownership" (Ind).	105
Reduction in harmful environmental impact of over-stocking of deer and grouse for shooting purposes. "Grouse shooting has been an environmental, economic and social disaster for the areas of Scotland in which it operates. Vast swathes of monoculture are terrible for biodiversity" (Ind); "The ecological	65

management of deer forests and shootings is detrimental to most other species other than the chosen hunting target. Artificially high Red Deer numbers managed for shootings mean that these naturally woodland animals are forced to live stressed lives on open hillside and their high numbers mean that woodland, with all its biological diversity cannot regrow. Incidents of raptor persecution are directly mapped to land managed for shooting. Given the damage this form of management does to the environment, and the restrictions it places on access by people it is the last sector that should be given unjustifiable tax breaks" (Ind).	
Greater efficiency in management of land on estates.	23
Revelation of the real, market price of these activities; removal of the artificial market which is subsidised; ensuring people play the economic price for their leisure activities.	21
Reduction in hunting and shooting; reduction in killing of wildlife. "This system encourages an outdated practice of the elites to kill our indigenous wildlife. Any cull, if required, should be carried out by the relevant authorities in a controlled, humane manner. Allowing wealthy individuals to kill animals is disgusting and we should all be ashamed that this practice is allowed to occur at all. Let alone allowing them to do it with an implicit subsidy. This will hopefully reduce the occurrence of shootings and also prevent any accidents from occurring" (Ind).	18
Better public image for landowners as contributors to public purse; greater local community support; demonstration of Scottish Government commitment to fairer society.	16
More rural employment opportunities associated with greater diversification of land.	15
Deterrence to individuals/organisations who may be attracted to purchasing estates for purposes of tax efficiency.	13

7.78 Common Weal respondents and participants at the Birnam Land Reform Workshop were in agreement that a key advantage to the proposal was more productive use of land for other purposes. Common Weal respondents also viewed the exemption as ending an unjust subsidy to wealthy landowners; a Birnam Land Reform Workshop view was that the end of the exemption would produce some benefit to the public purse.

Question 26: What do you think the disadvantages would be?

7.79 476 respondents (41% of all respondents to the consultation) identified disadvantages to the proposal to end current business rate exemptions for shootings and deer forests although a few urged that further, detailed work is undertaken to weigh up the benefits against the drawbacks. One respondent remarked:

> "This needs careful looking at to ensure any taxation is fair, open and does achieve what it intends e.g. revenue– the whole issue of land taxation needs further debate and development" (Ind).

7.80 Other general comments were that should the exemptions be ended, then this should be undertaken in a phased manner; some respondents perceived short-term disadvantages to be outweighed by longer-term benefits. Possible initial loss of jobs being replaced by new jobs created through diversification in use of land was a recurring example.

7.81 Another theme emerging across many responses was that a blanket end to exemptions may be too blunt an approach which will not differentiate between deer stalking activities for sport and those undertaken for land management. Comments included:

> "As a RICS valuer (specializing in deer forest management) I am wholly clear that there would need to be a differentiation between deer shot for sporting purposes as opposed to those controlled in order to protect agriculture, forestry biodiversity or the public. This is a complex subject and warrants much consideration" (Ind).
>
> "A blanket policy on this would not make the distinction between those estates that derive the majority of their income from let stalking and those smaller units that may only employ a single stalker who carries out culling in-house and without significant let income" (The Applecross Trust).

7.82 The disadvantages of enduing the current business rate exemptions for shootings and deer forests which were identified by respondents are summarised in Table 7.7.

Table 7.7: Summary of disadvantages to ending the business rate exemptions for shootings and deer forests as identified by respondents

Disadvantages identified by respondents	No. of mentions
Loss to rural economy; loss of local jobs; loss of tourism; loss of inward investment in local areas. "The provision of deer stalking very often comes at a cost to the provider/land owner especially where deer management is concerned. The public wider benefits to the local rural communities are of utmost importance in the form of direct employment, tourism, healthy meat production and provision of healthy outdoor activity" (Ind); "this would jeopardise the fragile employment situation in parts of the highlands and islands" (Ind).	287
Reduced land maintenance; not in keeping with deer management policy; rise in number of wild deer; reduction in ability to subsidise this aspect of land management as a result of loss in income. "With one hand land owners are being told to restrict deer and other impacts, particularly on designated land and with the other, they are being taxed for complying with Government/European policy" (Ardverikie Estate Limited); "Care must be taken not to penalise those who are culling deer to satisfy SNH targets" (Ind).	138
Financial pressure on estates and related businesses; some may go out of business. "These activities are carried out on estates which are maintained by income from other activities	65

as the estate is not in itself viable financially. Additional tax burdens would have a serious effect on whether the estate can be maintained" (Ind).	
Current estate owners will be disgruntled; they may raise legal actions.	43
Difficulty in setting valuations and keeping these up to date. Need to set them at the right level to raise income yet keep businesses sustainable. "...assessors and appeal panels will require training and additional resources to enter into a sphere of assessment that has been absent from their remit for the last 20 years" (Invercauld Estate).	28
Loss of a long-standing valued part of Scotland's heritage and tradition.	21
Unfair to target these activities over the activities of agricultural estates/forestry which are exempt from business rates.	18
Estate owners would find ways to avoid being eligible. "...there is the potential for landowners to escape re-imposed charges by reclassifying their activities, or arguing that land use is mixed and therefore sporting rates should not apply" (Woodland Crofts Partnership).	13

7.83 The Common Weal respondents and those of the Birnam Land Reform Workshop were of the same view that there were no drawbacks to the proposal. Both considered that some jobs would be lost initially, with the Common Weal arguing that these are likely to be "temporary, seasonal and low paid" and Birnam Land Reform Workshop participants arguing that the same land could support at least as many people if better managed.

8. ADDRESSING SPECIFIC ASPECTS OF LAND OWNERSHIP AND RIGHTS

Background
Common good is a form of land ownership that has a long history in Scotland and often plays an important part in the historic, cultural and economic heritage of communities where such property exists. However, there is widespread agreement that the legal framework around common good needs to be modernised to meet modern circumstances and the expectations of communities.

Provisions already being proposed in the current Community Empowerment (Scotland) Bill seek to improve transparency by placing duties on local authorities to: a) establish and maintain common good property registers; and b) consult with community councils and others over any planned disposal of common good property. There are, however, a number of outstanding issues to be addressed around the definition of common good and the use and alienation of common good property.

Proposal 8: Common good

Question 27: Do you agree that the need for court approval for disposals or changes of use of common good property, where this currently exists, should be removed?

8.1 626 respondents (54% of all respondents) addressed this question with the majority (65%) disagreeing that the need for court approval for disposals or changes of use of common good property should be removed (see Table 8.1 overleaf).

8.2 Common Weal respondents and participants at the Birnam Land Reform Workshop shared the view that protection over disposals should be strengthened rather than removed.

Table 8.1: Views on whether the need for court approval for disposals or changes to the use of common good property should be removed (Question 27)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	4	31	9	69	13
Private landowner organisations	3	20	12	80	15
Private sector and professional bodies	7	58	5	42	12
Community organisations and representative bodies	9	56	7	44	16
Government and NDPBs	1	n/a	4	n/a	5
Local non-government organisations	1	n/a	4	n/a	5
Local Government	3	n/a	2	n/a	5
Academic	0	n/a	1	n/a	1
Total organisations	**28**	**41**	**40**	**59**	**68**
Individuals	193	35	365	65	558
Grand total	**221**	**35**	**405**	**65**	**626**

Question 28: If removed, what should take the place of court approval?

8.3 198 respondents (17% of all those who responded to the consultation) provided a view on an alternative to court approval. Many others addressed this question by urging that court approval be retained.

8.4 The most frequently identified replacement for court approval was **community approval**, via voting, referenda or similar (47 respondents). One respondent remarked:

> "Common Good land is held in trust for the people. If court approval were to be removed, the only just replacement would be a participatory decision-making process in which the people themselves are asked for consent" (Ind).

8.5 Another common view was that **SLRC** approval should replace court approval, supported with recourse to legal review (45 respondents).

8.6 36 respondents identified **local authorities** as having potential for involvement in agreeing disposals or changes of use of common good property, through vehicles such as their planning system, Reporter in planning appeals and full council meetings.

8.7 A recurring view (27 respondents) was that **local panels/committees/forums** could replace court approval, particularly if they involved community councils and democratically elected members. One respondent called for:

"Locally based independent representative bodies, made up of diverse interests, and without conflict of interest" (Ind).

8.8 13 respondents recommended the deployment of **independent arbitrators** to approve disposal or change of use decisions.

8.9 12 respondents considered that a **land court/tribunal** or new, local land courts could have a role in approving disposals or changes in use.

8.10 Common Weal respondents were of the view that if court approval for disposals or changes of use of common good property is removed, then the SLRC could take on this role, with recourse to legal review. Birnam Land Reform Workshop participants did not provide a view.

Question 29: Should there be a new legal definition of common good?

8.11 559 respondents (48% of all respondents) addressed this question with the majority (71%) agreeing that there should be a new, legal definition of common good (see Table 8.2). Of all the respondent sectors, private landowner organisations and one academic were alone in opposing the proposal overall.

8.12 Common Weal respondents considered that the issue of a new, legal definition of common good should be decided on further consultation. The Berwickshire Common Weal view was there should be a new definition as the issues are complex and clarification is required. Participants at the Birnam Land Reform Workshop recommended a new, legal definition.

Table 8.2: Views on whether there should be a new, legal definition of common good (Question 29)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	11	73	4	27	15
Private landowner organisations	5	31	11	69	16
Private sector and professional bodies	9	64	5	36	14
Community organisations and representative bodies	16	94	1	6	17
Government and NDPBs	2	n/a	1	n/a	3
Local non-government organisations	4	n/a	0	n/a	4
Local Government	4	n/a	1	n/a	5
Academic	0	n/a	1	n/a	1
Total organisations	**51**	**68**	**24**	**32**	**75**
Individuals	348	72	136	28	484
Grand total	**399**	**71**	**160**	**29**	**559**

Question 30: What might any new legal definition of common good look like?
Question 31: Do you have any other comments?

8.13 The responses to questions 30 and 31 overlapped significantly and have been analysed together to reflect this. 392 respondents (34% of all those who responded to the consultation) provided a response to one or both of these questions. Many other respondents remarked that they had very little or no knowledge of the issues under consideration and were therefore unable to comment.

8.14 Responses to these questions were particularly difficult to analyse due to lack of consistency and clarity over terminology. A recurring theme was that "common good land" and "common good" meant different things, and that there were formal and informal meanings of "common good" which some felt that not all respondents would appreciate. Various respondents used phrases such as land "held by", "owned by" or "managed by" interchangeably, and without precision on what was meant. Taking into consideration these challenges, key themes and recurring views did emerge and have been summarised below, along with substantive minor themes and views.

Views on the content of any new, legal definition
8.15 It was commonly thought (71 respondents) that any new definition should refer explicitly to common good as of **benefit to everyone in the local population** in terms of their well-being. Some of these respondents specified "economic, social and environmental well-being" in this regard. The notion of benefitting local communities economically was not universally shared, with a small number of respondents emphasising that common good should not be used for economic gain.

8.16 13 respondents considered that the definition should encompass the **well-being of future generations** in addition to current local communities; 16 respondents urged that well-being should include the sustainability of the environment.

8.17 Whilst 33 respondents recommended that any new, legal definition refers to common good property as **belonging to the local community,** nine respondents advocated reference to common good property as **held on behalf of local people**, perhaps by locally elected representatives, or the local authority.

8.18 Some respondents alluded to management of common good property, with 18 recommending that the definition sets out that any change in use should be subject to local community review. Others (11 respondents) simply requested that an outline of how the property will be managed should be included, along with details of how the local community will be involved in this.

General comments on content of the new, legal definition
8.19 A common view (36 respondents) was that any new, legal definition should be **subject to further consultation**. This was also the view of Common Weal respondents. It was felt that the definition should be precise in setting out clearly the scope of the common good property including maps where appropriate (17

respondents). Calls were made for the definition to be drafted in simple terms (12 respondents).

8.20 A recurring theme (28 respondents) was that the inconsistent terminology around common good and the lack of clarity on what falls within its remit in local communities contribute to **considerable difficulties in establishing a common definition**. Views included:

> "We fully support the principle of the Common Good but strongly suspect our interpretation of the meaning of Common Good would differ from others" (Ben Shieldaig Estate).
>
> "To avoid confusion the term "common good" should only be used when referring to "common good land" and should not be used as a synonym for public interest" (Scottish Wildlife Trust).

8.21 One view was that:

> "....rather than seeking to reform the workings of Common Good, the Government would be better placed to abolish the legal standing of Common Good, with Common Good assets thereafter treated as all other local authority assets. In this way the assets could be managed effectively and efficiently in the public interest by the democratically accountable body. By abolishing what is largely an anachronistic system, the RICS considers that this would meet the general aims of land reform as espoused in the Land Reform Review Group report" (RICS).

8.22 22 respondents argued for the **retention of the status quo** instead of introducing a new, legal definition of common good. Views included:

> "Many LAs have done extensive work on establishing a register of CG assets and any radical change to the definition of CG assets would undermine this work" (Perth and Kinross Council).
>
> "The existing definition has been built up over years of experience. I think that it is rather arrogant that we feel that we may be able to improve on the historically developed definition" (Ind).

Other comments

8.23 Many comments (95 respondents) revolved around what respondents felt was the need to **protect common good property** from being taken for other purposes, and to **retrieve property** back into common good which they perceived had been wrongly sold over previous years. Some felt that common good property required greater protection to keep it for benefit of all local people. One respondent remarked:

> "The current protections don't seem good enough. Recently I noticed some garden extensions happening into local common good land. Contacted the council and found they had been approved. I don't live close enough to have been consulted but make use of the land. I don't think councils should be able to sell off common good land by salami slicing when financial times are hard" (Ind).

8.24 A common theme (33 respondents and also the view of Berwickshire Common Weal and Birnam Land Reform Workshop participants) was for **common good to be added to** with more property taken into its ambit. A typical view was:

> "Should be expanded to include not just the historical lands but include community space in new towns and suburban areas. Also community woodlands, gardens and allotments" (Ind).

8.25 33 respondents called for **greater transparency** in what constitutes common good. A recurring view (71 respondents) was for a searchable **register of all common good property** in local areas, readily accessible to local communities, for example on-line and in their local library.

8.26 Several respondents (14) recommended that the register and the existence of local common good should be **publicised and promoted.** One respondent remarked:

> "I had no idea of its existence until recently. There should be a massive publicity campaign to tell people exactly what common good and common land exists in their local areas, and taught in schools too. Every citizen should know the situation in their community and it should be guarded as precious knowledge" (Ind).

8.27 17 respondents urged that local groups and/or trusts are put in charge of **managing common good property**. It was felt by some that local authority management constituted a conflict of interests.

8.28 For some (14 respondents), the current meaning of common good remains in the past, a historical legacy which is **in need of modernising**:

> "I think that the definition needs to be updated for the 21st century as the current definition appears be a a historic hangover from medieval burghs" (Ind).

8.29 22 respondents called for a comprehensive **review of the issues** by an independent body or by researchers. Some advocated a new statutory framework covering management, ownership and the involvement of communities. The Community Empowerment (Scotland) Bill was cited as a point of reference regarding relevant issues relating to common good.

8.30 Additional views emerging in the Berwickshire Common Weal responses and amongst Birnam Land Reform Workshop participants were that it is everyone's responsibility to manage land and rights in land for the common good.

Proposal 9: Agricultural holdings

Background
The Scottish Government considers that the legislative framework governing the tenant farming sector needs to be modernised. The Agricultural Holdings Legislation Review Group has worked to develop a range of recommendations designed to address current concerns and promote a vibrant tenanted sector. Following consultation with stakeholders and the public, the Group published an interim report in July 2014 and a final report with recommendations in late January 2015 (towards the end of the Future of Land Reform consultation period).

The aims of the recommendations are to re-build confidence and improve relationships between tenants and landowners, facilitate retirement and encourage new entrants and provide modern, flexible letting vehicles. It is proposed that a number of the recommendations, where legislative change is needed, can be taken forward in the Land Reform Bill.

Some respondents to the consultation submitted their responses before the publication of the Group's final report, with others having sight of it prior to responding.

Question 32: Do you agree that the Scottish Government should take forward some of the recommendations of the Agricultural Holdings Legislation Review Group within the proposed Land Reform Bill?

8.31 634 respondents (54% of all respondents) addressed this question with the majority (64%) agreeing that the Scottish Government should take forward some of the recommendations of the Agricultural Holdings Legislation Review Group (the Group) within the proposed Land Reform Bill (see Table 8.3 overleaf). However, the proportion of respondents in agreement was very much weighted by individual views, as two-thirds (65%) of organisations opposed the proposal. Opposition was the strongest amongst private landowner organisations, 88% of whom disagreed.

8.32 Common Weal campaign respondents remarked that as the public had not yet been made aware of the precise recommendations of the Group[15], they did not feel comfortable with the proposal yet. The Berwickshire Common Weal agreed with the proposal. Participants at the Birnam Land Reform Workshop commented that they had not yet had sight of the Group's recommendations, and therefore could not endorse them, but in principle agreed that agricultural holdings legislation should form part of the Land Reform Bill.

[15] The Review Group's report was published in January 2015 and was referenced in the consultation document with a hyperlink.

Table 8.3: Views on whether the Scottish Government should take forward some of the recommendations of the Agricultural Holdings Legislation Review Group within the proposed Land Reform Bill (Question 32)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	10	50	10	50	20
Private landowner organisations	5	12	38	88	43
Private sector and professional bodies	5	36	9	64	14
Community organisations and representative bodies	5	n/a	0	n/a	5
Government and NDPBs	1	n/a	2	n/a	3
Local non-government organisations	3	n/a	0	n/a	3
Local Government	4	n/a	0	n/a	4
Academic	0	n/a	1	n/a	1
Total organisations	**33**	**35**	**60**	**65**	**93**
Individuals	370	68	171	32	541
Grand total	**403**	**64**	**231**	**36**	**634**

Question 33: What do you think the advantages would be?

8.33 Many respondents stated that they did not know enough about the issues to comment. Some remarked that as they had not yet seen the Group's recommendations they were not in a position to comment[16]. The responses contained a mix of views related to the question posed, in addition to more specific views on issues under consideration by the Group, some informed by the Group's report and some views provided without this information. A few respondents requested guidance on which of the recommendations would be identified for inclusion in the proposed Land Reform Bill. One remarked:

> "Paragraph 73 of the Final Report of the Agricultural Holdings Review Group states that the recommendations are made as an integrated package" (Thorntons Law LLP).

8.34 Five substantive rationales were provided by supporters of the proposal. These were:

- **Importance of issues**: The issues are crucial and have significant positive implications which are too important to leave to later legislation. (26 respondents)
- **Coherence**: The proposal will result in more coherent, integrated land legislation, a comprehensive package of measures which will foster greater public awareness of the issues. (22 respondents)

[16] As above, the Review Group's report was published in January 2015 and was referenced in the consultation document with a hyperlink.

"Bringing forward agricultural holdings reform within the Land Reform Bill will facilitate a coordinated and integrated approach to these complex and closely interrelated matter" (Highlands and Islands Enterprise).
"Tenancy reform is inextricably part of the land reform debate and the structure of land tenure in Scotland and should be considered as part of the wider land reform agenda" (Scottish Tenant Farmers Association).

- **Timing**: Opportunity to push forward various issues and get these onto the statute in a timely fashion. (18 respondents)
- **Broader Support**: Will enable wider support of the proposals if contained in the context of the Land Reform Bill, as opposed to a separate Bill which could attract stronger vested interests and lobbying by opponents. (13 respondents and also the view from the Birnam Land Reform Workshop and Common Weal respondents)

8.35 As stated above, many respondents focused on aspects of the issues considered by the Group and identified benefits which they perceived would be generated by taking forward the Group's proposals. Whilst not directly relevant to the consultation question posed, the benefits which recurred in responses were largely associated with more security for tenant farmers, better use of land and the encouragement of more people into farming.

Question 34: What do you think the disadvantages would be?

8.36 Amongst the responses to this question, 162 were identified as containing one or more disadvantages to the proposal that the Scottish Government take forward some of the recommendations of the Agricultural Holdings Legislation Review Group within the proposed Land Reform Bill. Other responses contained general commentary on aspects of the topics contained in the Group's report or stated that they were unsure.

8.37 Two perceived disadvantages dominated the responses. These were:

- Consideration of the complexities of the issues associated with agricultural holdings should not be rushed as this will not do justice to the complex and important topics involved, will undermine the significant body of work already done by the Group and will lead to insufficient scrutiny and poor legislation (81 respondents, exactly half of all those who provided a valid response). Comments included:
"There has been a tremendous amount of time and effort put into the Agricultural Holdings Review process by the group itself, tenants and landowners. It would be a disservice to that collective effort – whichever side of the argument one is on - for the various recommendations to be distilled into a convenient addendum to a Land Reform Bill" (Scottish Land & Estates).

"We consider that the Land Reform debate should be kept separate from the Agricultural Holdings Review. Agricultural Holdings Legislation forms an extremely important part of the makeup of the rural economy and deserves its own debate and legislation, which it already has. If rolled into the Land Reform Debate, we run the risk of losing sight of its overall importance" (Millden Estate).

- Issues associated with agricultural holdings are distinct from those being considered for the proposed Land Reform Bill, and therefore should be packaged together in a cohesive framework rather than scattered across different legislative vehicles (49 respondents). One respondent remarked: "We feel, in the strongest terms, that agricultural holdings requires and deserves its own bill bringing forward a coherent package of measures (preferably in a consolidation act) not a piecemeal approach based on short term political expediency" (Moray Estates Development Company Ltd).

8.38 22 respondents held the view that spreading the agricultural holdings proposals across different Bills created the **potential for confusion**; seven respondents also perceived the proposal to create **unnecessary bureaucracy and officialdom**.

8.39 The theme of state interference emerged across a several responses, with 23 respondents concerned that the proposal paved the way for **Scottish Government control** over which of the agricultural holdings proposals should progress as a priority and which can be left for later legislation. Some felt that this amounted to state "cherry-picking" and may be politically motivated.

8.40 Ten respondents commented that the proposal could result in **undermining confidence** in letting farms. Views included:

> "Including legislation with the stated aim of rejuvenating the let sector in a land reform bill that has heavy connotations of redistribution will undermine this opportunity to breathe new confidence into let farming, being interpreted as a threat to the very people who let land now and may wish to in the future" (Syre and North Loch Naver Estates).
>
> "Some NFUS members are worried about the implications of Agricultural Holdings being embroiled with the wider land reform debate, and the ramifications on the confidence of those who own land to let it. The aim of any new legislation should be to have a healthy and vibrant tenanted sector, and one in which all parties can have confidence. A potential disadvantage of containing Agricultural Holdings within the Land Reform Bill could be an undermining of that confidence" (National Farmers Union Scotland).

Proposal 10: Wild deer

Background
Wild deer in Scotland need to be managed to control their adverse impacts on the environment and on land use objectives. The right to take or kill deer rests with the owner or occupier of land. Whilst there is no legal obligation on them to manage deer, there is a Code of Practice on Deer Management that sets out the responsibilities of landowners. This voluntary approach to deer management has been criticised for failing to address over-population of deer in some areas of Scotland. The Deer (Scotland) Act 1996 contains powers for SNH to intervene and impose management measures where they consider deer management is detrimental to the public interest.

The Scottish Parliament's Rural Affairs and Climate Change (RACCE) Committee undertook an enquiry into deer management in 2014 and concluded that Deer Management Groups (DMGs) need to make progress on development and implementing deer management plans. RACCE recommended that progress should be reviewed at the end of 2016. The Minister for Environment and Climate Change agreed that this would be a suitable juncture at which to consider progress.

It is proposed that the Land Reform Bill contains provisions to give further powers to SNH to act in areas of the country where they judge that insufficient progress is being made to protect the public interest. The powers would build on those already available in the Deer (Scotland) Act 1996. The new powers will be a backstop to be brought into play where the voluntary system is deemed not to be delivering in the public interest. If Scottish Ministers decided on the basis of the 2016 review that there is a requirement to replace the voluntary arrangements with a statutory system, then this would be developed at that point.

Question 35: Do you agree that further deer management regulation measures should be introduced to be available in the event that the present arrangements are assessed as not protecting the public interest?

8.41 883 respondents (76% of all respondents) addressed this question with the majority (69%) agreeing that further deer management regulation measures should be introduced to be available in the event that the present arrangements are assessed as not protecting the public interest (see Table 8.4 overleaf). However, the proportion of respondents in agreement was very much weighted by individual views (72% in favour), as a slight majority of organisations (52%) opposed the proposal. Opposition was the strongest amongst private landowner organisations and private sector and professional bodies, with 93% and 64% in opposition respectively. Common Weal respondents and Birnam Land Reform Workshop participants supported the proposal.

Table 8.4: Views on whether further deer management regulation measures should be introduced to be available in the event that the present arrangements are assessed as not protecting the public interest (Question 35)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	24	71	10	29	34
Private landowner organisations	3	7	42	93	45
Private sector and professional bodies	5	36	9	64	14
Community organisations and representative bodies	13	93	1	7	14
Government and NDPBs	6	n/a	1	n/a	7
Local non-government organisations	5	n/a	1	n/a	6
Local Government	5	n/a	0	n/a	5
Academic	0	n/a	1	n/a	1
Total organisations	**61**	**48**	**65**	**52**	**126**
Individuals	544	72	213	28	757
Grand total	**605**	**69**	**278**	**31**	**883**

Question 36: What do you think the advantages would be?

8.42 484 respondents (42% of all those who responded to the consultation) provided a response of relevance. Amongst the comments were those advocating using further deer management regulation measures only as a last resort. Emerging across many responses, largely as a secondary theme, was the view that introducing predators such as wolves into rural areas of Scotland would serve to reduce deer numbers in an alternative way.

8.43 The advantage to the proposal most commonly highlighted (302 respondents) was that it would ensure greater **protection of the environment** and a return to more natural local ecosystems due to a reduction in over-grazing by deer populations which some considered were kept at artificially high numbers. Views included:

> "....would allow local ecosystems to make a substantial recovery from decades of severe overgrazing. Most noticeably it would enable natural regeneration of woodland to take place, a habitat that has all but disappeared from the Scottish natural landscape. Let Scotland's future generations benefit from native woodlands again" (Ind).
>
> "Deer numbers need desperately to be reduced if native and natural ecosystems are to return to Scotland" (Ind).
>
> "Overgrazing by deer is now perhaps the single largest factor preventing widespread forest regeneration in Scotland" (Ind).

8.44 Another benefit of the proposal which was identified repeatedly (159 respondents) was that deer management would become cohesive and organised, with measures part of a **strategic, coherent framework**, contributing to consistency and transparency of approach with all working towards the same goals. Successful strategic frameworks in other countries were referred to, with some respondents commenting that the proposal would bring Scotland in line with others. Remarks included:

> "A cohesive, area based management plan where land owners are required to work with neighbours on agreed aims" (Ind).
>
> "....would lead to greater consistency – at present deer management appears to very arbitrary: some landowners are diligent some less so" (Coigach Community Development Company).
>
> "Deer management measures should be transparent, scrutinised and governed like all other activities in the countryside" (Ind).

8.45 Other advantages identified were:

- Healthier, better maintained deer which produce higher quality venison. (45 respondents)
  "Adequately controlling deer populations would enhance deer welfare due to increased resources being available per individual deer, rather than permitting overgrazing and consequent malnutrition of wild deer herds" (Ind).
- In the public interest. (44 respondents)
  "To allow proper management from the public point of view and not private landowners" (Ind).
- Improved local economy due to more employment opportunities, increased tourism and higher sales of venison. (41 respondents)
- Fewer road and rail accidents. (35 respondents)

8.46 Common Weal respondents also highlighted positive impacts on the environment as a major benefit of the proposal with the deer management frameworks in other European countries referenced as effective. Birnam Land Reform Workshop participants identified improvements to biodiversity as an advantage and also considered that managers of some sporting estates may be forced to re-evaluate their economic activities leading most likely to more socially beneficial uses of land.

Question 37: What do you think the disadvantages would be?

8.47 389 respondents (33% of all those who responded to the consultation) provided a response of relevance. One theme running through many responses was to question the meaning of "protecting the public interest" in relation to wild deer. Another overarching view was that issues of management of wild deer should not be considered within the context of the proposed Land Reform Bill, but instead merit separate focus in their own right. One respondent remarked:

> "Wild deer in Scotland are by law not property and therefore it is entirely inappropriate to include deer management regulation measures within a consultation on land reform" (Scottish Association for Country Sports).

No demonstrated need

8.48 Many respondents felt that there was no need to introduce further deer management regulation measures without a demonstrated need for such action. A common view (110 respondents) was that the current system works well. Remarks included:

> "RICS feels that the position of deer is already strictly regulated and administered" (RICS).
>
> "Existing legislation already deals with the issue of deer management, as does the Deer Commission (SNH)" (Ind).

8.49 Some respondents recommended that consultation with stakeholders most closely involved in the issues should precede any development of further regulation.

8.50 A recurring view (48 respondents) was that any decision to introduce further measures was tantamount to pre-empting the review planned for 2016. Comments included:

> "To draft legislation in advance would undermine the current reorganisation of deer management on a voluntary basis. It would indicate that SG had made judgement on the outcome of the present reorganisation and had already condemned it. Further, legislation drafted and enacted now, will very likely have to be redrafted to reflect a different situation in 2-3 years time" (Ballogie Estate Enterprises).
>
> "We question the motives of including the subject of further deer management regulation in this consultation on land reform as this is currently a work in progress moving towards governmental review, with a timetable for conclusion in late 2016" (Scottish Gamekeepers' Association).

8.51 29 respondents suggested that rather than developing more regulation, other approaches may be as effective. Incentivising sustainable deer management through carrots (largely support) rather than sticks was suggested. Another common suggestion was for the re-introduction of wolves as natural predators to keep deer numbers down.

8.52 A prevalent theme (22 respondents) was that the status quo should remain, with landowners continuing to manage deer as they see fit and without interference from centralised officials who do not have hands-on experience. Remarks included:

> "Deer managers should be afforded the flexibility to manage their populations as best they see fit. This is not a glamorous occupation, or a particularly well remunerated one, and it's rare to find a deer manager who doesn't have the welfare of the deer and surrounding ecology at heart. Further red tape won't help this" (Ind).
>
> "The decisions would be made by those sitting behind a desk in the city not those on the ground who understand their local area" (Ind).

Operational issues

8.53 Many respondents expressed concern about operational aspects of the proposal. A common view (40 respondents) was that the proposal would be costly to instigate and operate.

8.54 31 respondents perceived that any benefits of the proposal would be outweighed by the additional bureaucracy which would be generated by additional regulation.

8.55 Some respondents (14) envisaged difficulties with achieving "buy in" from the various parties involved, due to tensions between perspectives and ongoing conflicts. One remarked:

> "As with any 'large group' activity this would be very difficult to gain consensus and to get differing sizes of land owners to all play their part" (Ind).

Negative perceptions

8.56 It was commonly felt (48 respondents) that there may be negative public reaction to the notion of greater culling of deer. Some felt that this could be perceived as treating deer like vermin and other pests. One respondent remarked:

> "We could end up with a situation where under-informed public could block deer management due to a foolish disney-bambi idea of deer and their behaviour" (Ind).

8.57 22 respondents identified negative reactions from estates as a disadvantage, causing them to drag their heels and refuse to accept their responsibilities under the regulations.

Too broad a brush

8.58 Some respondents (10) expressed caution that overarching regulation measures may not be appropriate for all circumstances, for example, urban and rural contexts may demand different approaches.

Other perceived disadvantages

8.59 A number of other perceived disadvantages were identified by respondents and are summarised below.

- Separates deer management from biodiversity; will lead to damaging the environment. (18 respondents)
  "There is a need to ensure that measures taken by the Scottish Government do not inhibit the ability of forestry managers to manage deer populations as one means of protecting growth of trees" (Ind).
  "From a forestry perspective we have concerns over any legislation that limited the ability of land and forest managers to control the numbers of Deer impacting on crops" (Aitchesse Ltd).
- Increase in unemployment (e.g. gamekeepers). (17 respondents)
- Negative impact on local economy/tourism. (16 respondents)
  "Over many years I have met visitors from overseas and have yet to find one that came to Scotland to see trees but the thrill of sighting a stag or a herd of deer on our hills excited them" (Ind).
- Closure of estates; abandonment due to loss of income. (12 respondents)

8.60 None of the campaign responses identified any disadvantages to the proposal.

Proposal 11: Public access: clarifying core paths planning process

Background
Part 1 of the Land Reform (Scotland) Act 2003 formalised rights of public access in a statutory framework. The Review Group considered that the statutory framework in Part 1 should be judged a considerable success but that aspects of the core path planning process (sections 18 – 20 of the Act) need clarification.

Question 38: At present, section 18 of the Land Reform (Scotland) 2003 Act is silent on the issue of resolving objections to a core path plan consultation. Do you agree that access authorities should be required, in the interests of transparency, to conduct a further limited consultation about proposed changes arising from objections?

8.61 752 respondents (65% of all respondents) addressed this question with the majority (81%) agreeing that access authorities should be required, in the interests of transparency, to conduct a further limited consultation about proposed changes arising from objections. Majority or universal agreement with the proposal emerged across all respondent sectors except for private landowner organisations, where the majority of respondents (61%) opposed the proposal (see Table 8.5). Campaign respondents did not provide a response to this question.

Table 8.5: Views on whether access authorities should be required to conduct a further limited consultation about proposed changes arising from objections (Question 38)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	24	86	4	14	28
Private landowner organisations	16	39	25	61	41
Private sector and professional bodies	14	82	3	18	17
Community organisations and representative bodies	12	100	0	0	12
Government and NDPBs	5	n/a	2	n/a	7
Local non-government organisations	6	n/a	0	n/a	6
Local Government	8	n/a	0	n/a	8
Academic	2	n/a	0	n/a	2
Total organisations	**87**	**72**	**34**	**28**	**121**
Individuals	520	82	111	18	631
Grand total	**607**	**81**	**145**	**19**	**752**

Question 39: Do you agree that section 20 of the 2003 Act should be clarified so that Ministerial direction is not required when an access authority initiates a core path plan review?

8.62 702 respondents (60% of all respondents) addressed this question with the majority (85%) agreeing that section 20 of the 2003 Act should be clarified so that Ministerial direction is not required when an access authority initiates a core path plan review. This was the majority view or the consensus across all respondent sectors (see Table 8.6).

8.63 The view of the Birnam Land Reform Workshop participants was that there is no need for ministerial involvement. Common Weal respondents did not comment on this proposal.

Table 8.6: Views on whether section 20 of the 2003 Act should be clarified so that Ministerial direction is not required when an access authority initiates a core path plan review (Question 39)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	25	100	0	0	25
Private landowner organisations	35	81	8	19	43
Private sector and professional bodies	18	95	1	5	19
Community organisations and representative bodies	11	92	1	8	12
Government and NDPBs	5	n/a	0	n/a	5
Local non-government organisations	6	n/a	0	n/a	6
Local Government	9	n/a	0	n/a	9
Academic	2	n/a	0	n/a	2
Total organisations	**111**	**92**	**10**	**8**	**121**
Individuals	484	83	97	17	581
Grand total	**595**	**85**	**107**	**15**	**702**

Question 40: Do you think that the process for a minor amendment to core path plan (as set out in section 20 of the 2003 Act) should be simplified to make it less onerous than that for a full review of a core path plan?

8.64 707 respondents (61% of all respondents) addressed this question with the majority (78%) agreeing that the process for a minor amendment to core path plan (as set out in section 20 of the 2003 Act) should be simplified to make it less onerous than that for a full review of a core path plan. Majority or universal agreement with the proposal emerged across all respondent sectors except for private landowner organisations, where the majority of respondents (63%) opposed the proposal (see Table 8.7). Campaign respondents did not provide a response to this question.

Table 8.7: Views on whether the process for a minor amendment to core path plan (as set out in section 20 of the 2003 Act) should be simplified to make it less onerous than that for a full review of a core path plan (Question 40)

Respondent category	Agree		Disagree		Total no. of respondents
	No. of respondents	%	No. of respondents	%	
National non-government organisations	20	83	4	17	24
Private landowner organisations	14	37	24	63	38
Private sector and professional bodies	13	68	6	32	19
Community organisations and representative bodies	12	100	0	0	12
Government and NDPBs	6	n/a	0	n/a	6
Local non-government organisations	6	n/a	0	n/a	6
Local Government	9	n/a	0	n/a	9
Academic	2	n/a	0	n/a	2
Total organisations	**82**	**70**	**35**	**30**	**117**
Individuals	471	80	119	20	590
Grand total	**553**	**78**	**154**	**22**	**707**

9. ASSESSING IMPACT

Background
The Scottish Government believes that by setting out a clear LRRP and by implementing a broad range of land reform measures this will deliver a range of social, economic and environmental benefits for local areas.

The Scottish Government has a legal duty to consider the impact of policies on people who may be differently affected in relation to the "protected characteristics" under the Equality Act 2010 of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. They also wish to consider issues relating to poverty and social justice, to ensure that all individuals and communities are able to access the benefits that the Bill will deliver.

Equality

Question 41: Please tell us about any potential impacts, either positive or negative, you feel the draft Land Rights and Responsibilities Policy or any of the proposals for the Bill may have on particular groups of people, with reference to the "protected characteristics" listed above. Please be as specific as possible.

Question 42: What differences might there be in the impact of the Bill on individuals and communities with different levels of advantage or deprivation? How can we make sure that all individuals and communities can access the benefits of these proposals?

9.1 The responses to these questions are reported together as respondents commonly provided commentary relating to both questions under question 41. Responses tended to be broad rather than specific with many respondents recommending in-depth examination and analysis by experts in order to achieve an educated assessment of the impacts of the proposals. Some respondents expressed confusion over the questions or stated that they did not understand the relevance of what was being asked, particularly in relation to "protected characteristics". One respondent remarked:

> "Many charities fall within the Charity Exemption contained in the Equality Act 2010 which specifically allows them to discriminate in relation to protected characteristics. This exemption should be respected" (Law Society of Scotland).

Overarching themes

9.2 A few prevailing and overarching themes emerged from responses. Firstly, the policy focus on rural areas and communities was acknowledged, but in terms of the wider impact on individuals and communities across Scotland, many respondents highlighted **urban areas of deprivation as potentially neglected** by the land reform measures. Comments included:

> "There will be concern that deprived urban communities with great social needs are disadvantaged by the focus on some of these proposals. A

focus on urban Scotland as well as rural Scotland is therefore needed" (Ind).

"Given that the overwhelming majority of Scottish people live in towns and cities there is very strong imperative to ensure that Land Reform Bill addresses land development in urban areas and the provision of better designed, more affordable housing" (Community Central Hall).

9.3 Another dominant theme was that positive impacts on particular groups, individuals and communities are there to be had, but **only if the potential recipients are equipped to engage with the processes** proposed in the Bill and are supported to take up the opportunities on offer. Some respondents considered that training and support for local people will need to go hand-in-hand with implementation of the proposals. Comments included:

"Research shows not all communities have the capacity to engage.....there needs to be a parallel set of processes which enhance capacity more broadly, otherwise only those who know how to engage, and have the resources to do so, will be able to, thus leading to implicit marginalisation" (Scotland's Rural College).

9.4 A third key theme was that the changes proposed in the Bill will not take place in a vacuum, but will sit within a **wider, legislative and societal context** of greater socio-economic impact on individuals and communities. Taking this perspective, the potential for significant impacts of the proposals was viewed as questionable by some.

Impacts on groups of people with "protected characteristics"

9.5 Very few respondents provided views specifically in relation to people with protected characteristics, or other specific characteristics, with a more common view being that their experiences would not differ from those of the general population. General comments included the expectation that higher local tax income generated from taxing sporting businesses could be used to support people in the community requiring physical or mental health care.

9.6 **Younger people** were highlighted as potential beneficiaries of the positive impacts of the proposals, through increased local employment opportunities and potential lower land prices leading to more affordable housing.

9.7 A few respondents felt that the proposals had the potential to reduce social isolation which would be of particular benefit to **elderly people** in the community.

9.8 The circumstances of **travellers** were highlighted by a few respondents who called for greater understanding of their needs in order to ensure they are able to access the potential benefits of the reforms.

9.9 Some respondents recommended that efforts should be made to ensure that local people are not excluded from accessing positive impacts on account of **communication barriers**. One respondent remarked:

"Consultation with relation to land/building use must be accessible to those with more limited access to written documentation or public

meetings whether through ability or ethnic origin. Care should be taken in areas of mixed ethnic communities that the aspirations and needs of all groups are taken into consideration" (Ind).

9.10 More funds were called for to support adaptations which may be required to ensure people with **physical disabilities** are able to access land, for example, by providing wider fence/gate openings. One respondent commented:

"We suggest that the Scottish Government ensure that there are no negative impacts on those with mobility issues whilst revising proposals for public access" (The James Hutton Institute).

9.11 Calls were made for the rights and opportunities for **Gaelic speakers** to be respected in any proposals.

9.12 Linking the proposals to an overhaul of legislation relating to succession, was viewed as positive by many, particularly for **women**:

"The widening out of land ownership, linked to Scottish Government's proposals to radically overhaul the law of succession, will have positive impact on women's access and involvement in land ownership" (Forest Policy Group).

Impacts on individuals and communities with different levels of advantage or deprivation

9.13 Comments on **positive impacts** ranged from very broad and vague to more specific identification of potential impacts, but all generally falling within the following seven themes:

- Increased social justice; fairer society.
- Better balance between landowners and local communities, for example in terms of distribution of land.
  "Rural communities, in particular, are often almost entirely dependent on one or a few landowners for their health and development and have no power to influence their futures. The Land Rights & Responsibilities Policy should address this and in so doing should re-balance the scales, empowering communities to speak out against conditions currently leading to poverty, socio-economic disadvantage & social injustice" (Ind).
- Increased local employment opportunities; greater economic development in local areas.
- Greater opportunities for diversification of land use and community and individual ownership of land; increase in affordable local housing. Many viewed the introduction of a land tax as essential to underpin these impacts.
- Community empowerment opportunities; greater engagement of local people in the management of land; local voices being heard.
- Greater access to land with potential positive impacts on health and well-being resulting.

9.14 Potential **negative impacts** were identified by many respondents:

- Implementation of the proposals will incur costs which could be better spent on higher national priorities of employment and healthcare.
- Reduction in inward investment coupled with costs which local communities will have to bear, will impact particularly on areas of deprivation.

- Potential loss of local employment; redundancies associated with closure of game/sporting enterprises with knock-on effect on local trades and tourism.
- Longer-term negative consequences of communities failing to maintain assets owned by them.
  "I don't think that the 'community' in many cases is well placed to take on the management of large areas of land on a long term basis. There are many examples where the community has taken on the responsibility for running local nature reserves for instance and the local wildlife trust or Authority has to go back into to 'rescue' the site. There are good examples but there needs to be a safeguard as there is the potential to waste a huge amount of public money if not overseen properly" (Ind).
- Negative impact on landowners who may have built up their land over time and are managing it well, running successful land-based enterprises which are generating local income and employment.
- Lack of confidence in using land (e.g. for tenancies) if there is a risk of estates winding up or going bankrupt.
- Risk of local engagement being dominated by loudest voices which may not be representative of those most deprived or disadvantaged.

Views on making sure all individuals and communities can access the benefits of the proposals

9.15 Respondents addressed this aspect of question 42 in a variety of ways, some re-iterating views made previously in relation to specific proposals, but others interpreting this more broadly as relating to publicity of the proposal, on-going information provision and sustaining community engagement. The themes which emerged most commonly were as follows:

- Publicise the proposals locally and nationally in a variety of formats; educate through public awareness campaigns. (77 specific mentions)
- Ensure start up and ongoing information is made accessible, is simple and clear. (44 specific mentions) This should be online and available in accessible outlets such as libraries.
  "More could be done to make complex legalistic terminology more accessible to ordinary citizens" (Ind).
  "Make this issue make sense to people, translate it into terms that people can make sense of" (Ind).
- Support local communities to engage with land reform issues, for example, by ensuring they have access to impartial, free advice, and by ongoing community development activities. (36 specific mentions)
  "....putting in place access to support, resources and funds necessary for the least advantaged communities to take advantage of the opportunities which are in theory unlocked by the passing of land reform legislation" (Ind).
  "Where community capacity is lacking, it needs to be nurtured through sustainable community development" (Ind).
- Broadening the provisions to apply clearly to urban as well as rural contexts. (31 specific mentions)
- Ensuring meaningful local consultation and decision-making using approaches such as participatory activities. (29 specific mentions)
- Producing a high quality, clearly drafted Bill containing powers which will provide teeth to the provisions. (23 specific mentions)

"...properly prepared legislation which will last for generations to come" (Ind).

- Promoting transparency and openness in all decision-making on land reform. (10 specific mentions)

9.16 A small minority of respondents gave their view that it is impossible to make sure that all individuals and communities can access the benefits of these proposals as it is up to individuals if and how they wish to respond to the opportunities that the land reform proposals will provide.

9.17 Common Weal respondents provided general comments relating to equality impact and these can be viewed in their response in Annex 2.

Business and regulation

Background
A full Business and Regulatory Impact Assessment will be carried out to analyse whether any of the proposed policies are likely to increase or reduce the costs and burdens placed on businesses, the public sector and voluntary and community organisations.

Question 43: Please tell us about any potential costs or savings that may occur as a result of the proposals for the Bill and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

9.18 348 respondents (30% of all those who responded to the consultation) provided relevant commentary in response to this question. Responses ranged from very general views that costs and/or savings would most likely result as a result of the proposals, to more specific identification of the nature of the costs and savings anticipated. Several respondents called for in-depth cost and savings analysis of the proposals by experts.

9.19 Amongst those identifying likely costs were many who stated that these may be incurred initially, but over time would be balanced by the benefits from the proposals. Some considered that increased costs should not be a concern in view of the expected advantages which the proposals would bring. Comments included:

"If it's real and meaningful change and for genuine greater good then we go for it even if it incurs initial cost/inconvenience" (Ind).

"Any costs occurred short term will be recouped in the long term. Cost should not be too important an issue in reforms of such magnitude and significance" (Ind).

"....it is readily justifiable to incur costs to bring about necessary change toward greater fairness and social justice" (Community Land Scotland).

9.20 A recurring view was that the introduction of a land tax would impact positively on the cost-benefit balance of the proposals.

9.21 A considered view of a few respondents was that inevitably the proposals will increase regulation for landowners but this can be restricted by skilful legislative

drafting, with some commenting that greater regulation of land management is urgently required.

Costs identified

9.22 Potential costs were identified by respondents (although some considered this to be a wise investment, rather than something to be regarded as negative). These are summarised in Table 9.1 below.

Table 9.1 Potential costs identified by respondents

Nature of cost	Number of respondents identifying this cost
Monitoring, enforcing and complying with new regulations.	91
Establishing and operating the SLRC.	68
Loss of rural employment; negative impact on rural economy.	48
Public sector costs in completing and operating the land register.	40
Landowner costs in registering land.	37
Legal advice and other costs associated with the new provisions.	31
Deer management if no longer undertaken by sporting estates; re-evaluation of strategies.	27
Management and future funding of land obtained through community buy-outs.	16
Loss of inward investment into rural areas.	15
Start-up costs.	14
Engagement with communities (e.g. by charities).	13
Establishing the new business rates for deerstalking and shooting.	10

Savings identified

9.23 Potential savings were identified by respondents. These are summarised in Table 9.2.

Table 9.2 Potential savings identified by respondents

Nature of savings	Number of respondents identifying this saving
Increased tax revenue due to removal of business rates exemption on deerstalking and shooting.	44
Greater tax income due to closing loopholes in tax system and transparency in ownership of land.	29
Clear regulation and rationalisation of databases leading to ease of use, clarity over ownership, less bureaucracy and time involved in tracing ownership. "Savings in simplifying the collection of information on	24

land ownership and land use, currently in multiple databases - both for those collecting data, and for those sourcing it" (Friends of the Earth Tayside).	
Physical and mental health improvements amongst local people.	20
Better use of land.	17
Boosted rural economy.	13
Lower land costs.	13
Reduction in burden on public sector due to community ownership of land.	11

Privacy

Background
A full Privacy Impact Assessment will be conducted to ascertain whether any of the proposed policies will have an impact on the privacy of individuals.

Question 44: Please tell us about any potential impacts upon the privacy of individuals that may arise as a result of any of the proposals contained in this consultation. Please be as specific as possible.

9.24 318 respondents (27% of all those who responded to the consultation) provided commentary relevant to the question. An overarching theme emerging in many responses was that a **balance should be struck** between the need for freedom of information and transparency in information, and individual rights to privacy. For example:

> "There is always a balance to be struck between privacy and the public interest. It has always been thus" (Ind).

> "As a farmer one's responsibilities to one's neighbours are important but there is a point when the impact of the public's demands and managing the communications certainly impacts upon ones privacy and private lawful enjoyment of one's property rights" (Ind).

9.25 A recurring comment was that that **consideration of human rights** should provide a backcloth to developing the reforms**.** One respondent remarked:

> "A right to quiet enjoyment and privacy is a fundamental principle and human right both within the UN Charter and European Convention of Human Rights. Many of these proposals may lead to a risk of dispute between public and private interests; therefore, it is absolutely vital that all matters are properly consulted and all legislative clauses carefully examined and well defined. Failure to do this will inevitably lead to disputes and conflict which will lead to expense and friction, and a failure to deliver the land reform objectives" (RICS).

9.26 67 respondents provided their view that the proposals would have **negligible impact** on the privacy of individuals, several pointing out that in other countries such reform has not led to curtailment of individual privacy.

9.27 The view of ten respondents was that **private landowners should be treated in the same manner as others** in terms of transparency of information. Comments included:

"If the owner of a house can easily be identified then the owner of a large estate should be identifiable too. One law for all" (Ind).

"I can't think of any infringements on privacy that would actually matter. Why would some people need more privacy than others?" (Ind).

9.28 Many respondents identified implications for individual privacy as a result of the proposals. 22 respondents simply stated that this was inevitable but did not provide further detail.

9.29 The two impacts on individual privacy most frequently identified by those who provided detail were:

- Removal of property rights/state interference in running of private estates. (22 respondents)

  "If the Government takes upon itself the power to direct business how they should run, they inevitably will impinge on that business's privacy. The same would be true were the Government to require details of property transactions to go onto a public database" (Spital Tower Property).

  "At the moment land owners do not have the power to do much without some sort of governmental approval. They can however choose to do nothing without much interference. The new proposals will mean that they cannot choose this course of action. They will be reduced to paying for everything without being able to enjoy their ownership fully" (Ind).
- Exposure of private details of estates/publication of details which could be open to abuse and/or misinterpretation. (21 respondents)

  "The availability of information about ownership, securities and property value etc could be abused by companies / lenders undertaking targeted marketing" (East Ayrshire Council).

  "You may open up private individuals to hate tactics based upon jealousy or differing political views" (Glenprosen Estate).

9.30 13 respondents identified increased access across privately owned land as potentially encroaching on the privacy of individuals. Some private landowner organisations identified increases in litter, dog fouling, dogs loose amongst cattle and so on, as resulting from previous right to roam legislation.

9.31 A common theme (42 respondents) was that inevitably there would be a reduction in privacy for some individuals, but this was outweighed by the need for transparency and potential social, economic and environmental benefits. Some respondents commented that private individuals with nothing to hide should have nothing to fear by greater openness brought about by the reforms. Comments included:

"Privacy should be secondary to the greater public good" (Ind).

"Privacy is not a right when it impedes social justice" (Ind).

9.32 Many respondents (42) argued that impacts on individual privacy can be minimised by careful management of individual data, particularly the information contained on the proposed land register. Recommendations were made for data protection considerations to be paramount, with disclosure implications to be thought through before information requests are met. Some felt that restrictions on access to land registry data should be applied. It was seen as imperative that data is kept up-to-date and is accurate, with means of correcting inaccuracies readily available. A few respondents urged that the operation of the land register is underpinned by appropriate funding to ensure privacy of individuals is respected. Comments included:

> "The valuation information used to produce and maintain Valuation Rolls may be commercially sensitive, private or be perceived to be private. Similarly, Council Tax data such as the physical attributes of dwellings may be covered by the Data Protection Act. Any data sharing initiatives would therefore require clear guidance or legislation on issues which are potentially affected by commercial sensitivity, privacy and Data Protection law" (Scottish Assessors Association).

> "The level of detail available to the public is a concern, however we do believe that there is necessity for greater transparency in Land ownership information. .....The Land Register will hold a significant amount of details regarding land ownership and this should be used as the basis for the information gathering. It would be useful to know how the Government would intend to use the information held" (Millden Estate).

> "I have particular concerns over the commercial sensitivity attaching to commercial transactions. Any proposals require to be considered in line with the current Data Protection and Freedom of Information legislation" (Glendoune Estate)

> "Private property rights must be observed although as I have said I am quite happy to disclose my land ownership extent as are many land owners but only the basis that the information is held accurately and that the Land Registry is properly resourced accordingly" (Dinnet&Kinord Estate).

> "Additional information gathering on property ownership is in principle not a bad thing – but serious consideration needs to be given to what level of information is held and how it is used. There is potential for huge infringements on privacy" (Ind).

Environmental

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

At this early stage in the plan's preparation it is difficult to determine whether significant environmental effects are likely to arise and the aim of the Scottish Government is to use this consultation process as a means to fully explore the likely environmental effects. Once completed they intend to determine, using the consultation process, what their statutory obligations under the 2005 Act are and how these can best be met.

Question 45: Please tell us about any potential impacts, either positive or negative, you feel any of the proposals contained in this consultation may have on the environment. Please be as specific as possible.

9.33 387 respondents (33% of all those who responded to the consultation) provided commentary of relevance to this question. This excludes several respondents who felt that the proposals were not developed enough for them to provide a considered response. A few respondents recommended that a strategic environmental assessment be undertaken; others expressed concern that the consultation appeared to them to focus too much on maximising the economic development of land as opposed to other developments.

Views on positive impacts on the environment
9.34 51 respondents provided their general view that the proposals would most likely result in positive impacts on the environment. Other respondents were more specific about the potentially positive impacts they envisaged:

- Greater diversification of land use /more sustainable land use. (62 respondents)
- Better management of the deer population/lower deer population resulting in increased bio-diversity of land. (59 respondents).
- Greater community ownership/community responsibility/community views taken into account, resulting in increased care taken over local environment. (56 respondents)
  "I believe that communities taking ownership of the land around them will have large environmental benefits. It is far easier to ensure that small groups of people who are elected by the community and responsible to them will act in the best interests of the local environment than it is to convince large landowners to change their ways" (Ind).
- Increased natural regeneration of forest and increasing tree cover which will help to reduce soil erosion and reduce carbon omissions. (33 respondents)

Views on negative impacts on the environment

9.35 22 respondents provided their general view that the proposals would most likely result in negative impacts on the environment. Other respondents were more specific about the potentially negative impacts they envisaged:

- Reduced spend on land management by private landowners, for example due to the abolition of business rate exemption on shooting and stalking, will result in deterioration of land and environment. Many respondents highlighted that the current landscape has been created and is managed largely by active land management, and plays a significant part in the tourist industry in Scotland. (95 respondents)
  "Damage to the environment, particularly on heather moorland, resulting from reductions in land management for shooting and stalking as a result of sporting rates changes; this in turn will have a negative impact on tourism, not only from a reduction in sporting tourists coming to shoot/stalk in Scotland, but also possibly from other tourists who come to see the "iconic" landscape as it is. There could potentially follow a reduction in inward investment by landowners from earnings outside Scotland with a consequent reduction in rural employment. The gradual transfer of land use from grouse moor to commercial forestry may in all probability be inevitable, although many grouse moors incorporate areas of deep peat, which are likely to be no-go areas for forestry and so abandonment of land would result" (Scottish Land & Estates).
- Damage to visual environment due to increased use of land for poor quality housing, hydro-power turbines, fish farms, and so on. (19 respondents)
- Reduction in the management of deer leading to increased environmental damage. (14 respondents)
- Increase in fragmentation in ownership of land risking over-intense working of land, owners with little knowledge and experience, lack of longer-term finance to underpin land management. (14 respondents)
  "The full-time commitment, expertise, co-ordination and substantial investment required appear to be beyond the scope of many community schemes" (Game and Wildlife Conservation Trust).

ANNEX 1: LIST OF RESPONDENTS

Academics
Arran Centre for Strategic Land Use and Policy Studies
James Hutton Institute
Scotland's Rural College (SRUC)
University of Glasgow, Adam Smith Business School

Community Organisations and their representative bodies
Callendar Charitable Trust
Canonbie and District Residents Association
City of Brechin and District Community Council
Coigach Community Development Company
Community Central Hall
Community Energy Scotland
Community Land Scotland
Community Woodlands Association
Crieff Community Council
Croftamie Community Council
Cumbernauld Village Community Council
Damhead& District Community Council
Development Trusts Association Scotland
Dunpender Community Council
Forres Community Council
Highlands Small Communities Housing Trust
Holmehill Community Buyout
Jura Community Council
Kirkhill&Bunchrew Community Trust
Lochardil and Drummond Community Council
StòrasUibhist
Sustaining Dunbar
Ullapool Community Trust Limited
Assemble Collective Self BuildCIC

Government and NDPBs
Big Lottery Fund
Cairngorms National Park Authority
Crofting Commission
Highlands and Islands Enterprise
Loch Lomond & The Trossachs National Park Authority
Network Rail Infrastructure Limited
Ordnance Survey
Scottish Charity Regulator
Scottish Human Rights Commission
Scottish Natural Heritage
Scottish Water
Sportscotland
Valuation Office Agency - District Valuer Services

Local government
Aberdeenshire Council
Clackmannanshire Council
Comhairle nan Eilean Siar
East Ayrshire Council
East Lothian Council Countryside Services Department
Falkirk Council
Highland Council
Perth & Kinross Council
Scottish Assessors Association
Scottish Borders Council
South Lanarkshire Council
Stirling Council

Local non-governmental organisations
Arran Deer Management Group
Borders Forest Trust
Cockburn Association
Friends of the Earth Tayside
Glenmoriston Deer Management Group
Lothian & Borders Badger Group
Midlothian Access Forum
Radical Independence Campaign Berwickshire
Radical Independence Campaign, East Kilbride
Trustees of the Archdiocese of St Andrew & Edinburgh
West Ross Deer Management Group
Women for Independence Midlothian
Yes Bute Moving Forward

National non-governmental organisations
Animal Aid
Animal Concern
Archaeology Scotland
Association of Deer Management Groups
British Association for Shooting and Conservation
British Deer Society
British Horse Society Scotland
Built Environment Forum Scotland
Church of Scotland
Ekklesiathinktank
Game and Wildlife Conservation Trust
Global Witness
Historic Houses Association Scotland
John Muir Trust
League Against Cruel Sports
Mission and Ministry Board of the General Synod of the Scottish Episcopal Church
Mountaineering Council of Scotland
National Farmers Union Scotland
National Trust for Scotland
North East Mountain Trust (NEMT)

Nourish Scotland
Planning Aid Scotland
Plunkett Foundation
Ramblers Scotland
Reclaim the Fields Scotland
Reforesting Scotland
Royal Society for the Protection of Birds
Rural Housing Scotland
Scotland's Moorland Forum
Scottish Allotments and Gardens Society
Scottish Association for Country Sports
Scottish Churches Committee
Scottish Community Alliance
Scottish Council for Voluntary Organisations
Scottish Country Sports Tourism Group
Scottish Countryside Alliance
Scottish Crofting Federation
Scottish Environment LINK
Scottish Gamekeepers Association
Scottish Land Action Movement
Scottish Land & Estates
Scottish Moorland Group
Scottish National Anglers Association Ltd
Scottish Sports Association
Scottish Tenant Farmers Association
Scottish Outdoor Access Network
Scottish Wild Land Group
Scottish Wildlife Trust
Scottish Woodlot Association Limited
Shelter Scotland
Trees for Life
Volunteer Scotland
Wild Food Association
Woodland Crofts Partnership
Woodland Trust Scotland

Private landowner organisations
Aitchesse Ltd
Altnaharra Estate Ltd
Andrew H Mackay Limited
Applecross Trust
Ardverikie Estate Limited
Arniston Estate
Atholl Estates
Ballogie Estate Enterprises
Balnamoon Farms Company
Ben Alder Estate
Ben Shieldaig Estate
Burton Property Trust
Cawdor Maintenance Trust Trustees

Comrie Croft
Conagleann Ltd
Dalgonar Farming Company
Dalhousie Estates, Brechin
Dinnet&Kinord Estate
Dunachton Estate
Dunecht Estates
Dunphail Estate
Earlstoun and Sanquhar Estate
Eskdalemuir Forestry Ltd
Falkland Estate Trust
FearannEileanIarmain
Firm of the Inver & Kirkaig Fishings
Fowler Fortescue
Glendoune Estate
Glenprosen Estate
Gray-Cheape Family, Carse Gray Estate, Forfar
Hopetoun Estates
Horseupcleugh Estates
Invercauld Estate
Islay Estate Company
Leys Estate
Lothian Estates
MacRobert Trust
Maysheil Estate
Merkland
Millden Estate
Moorfoot Capital Management Ltd
Mount Stuart Trust
Moray Estates Development Company Ltd
Penicuik Estate
Roxburghe Estates
Scaniport Estate
Scourie Estate
Seafield and Strathspey Estates
Spital Tower Property
Strathbran Estate (1)
Strathbran Estate (2)
Syre and North Loch Naver Estates
Urlar Estate
Wemyss and March Estates

Private Sector & Professional Bodies – legal, land agency etc
Aberdeen & Grampian Chamber of Commerce
Aberdeen Endowments Trust
Balfour and Manson LLP
Bidwells
Brodies LLP
BSW Timber Ltd
C-N-Do Scotland

Confor (Confederation of Forest Industries)
Conveyancing Direct
European Forest Resources (Scotland) LP
Faculty of Advocates
Forest Policy Group
GeoGeo
Highland Titles Limited
Homes for Scotland
I&H Brown Ltd and Fordoun Estates Ltd
J & S Grant
Know Edge Ltd
Landscape Institute Scotland
Law Society of Scotland
Pinsent Masons LLP
Planning Progress
RIC Aberdeen “Facilitated” (Cross-Party) Land Reform Working Group
RIC Inverness Land Reform Workshop
Royal Institution of Chartered Surveyors (RICS)
Rio Tinto Alcan
Royal Town Planning Institute Scotland
RSA Fellows’ MCICH Network
SafferyChampness
Savills (UK) Limited
Scottish Property Federation
Scottish Woodlands Ltd
Smiths Gore
Society of Local Authority Lawyers and Administrators in Scotland (SOLAR)
Stewart Milne Homes
Thorntons Law LLP
Turcan Connell
Turcan Connell Group
Vattenfall

ANNEX 2: CAMPAIGN PRO-FORMA

As the campaign templates are quite lengthy they have not been reproduced here but can be accessed via the following links. Please note that all three responses are offline answers which can be found by scrolling to the bottom of the linked online response form.

Common Weal

Berwickshire Common Weal

Birnam Land Reform Workshop

social research

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