

# Response ID ANON-5AGP-WT7X-7

Submitted to Land Reform in a Net Zero Nation  
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## Part 1: The road to reform

## Part 4: Criteria for large-scale landholdings

1 Do you agree or disagree with the criteria proposed for classifying landholdings as 'large-scale':

question1 - a) A fixed threshold of 3,000 hectares:  
Disagree

question1 - b) Land that accounts for more than a fixed percentage of a data zone (or adjacent data zones) or local authority ward(s) designated as an Accessible Rural Area or Remote Rural Area, through our six-fold urban/rural classification scheme:  
Disagree

question1 - c) Land that accounts for more than a specified minimum proportion of a permanently inhabited island:  
Agree

Please give some reasons for your answers and outline any additional criteria in the text box below::

Scottish Rural Action welcomes the opportunity to address the impact of scale and concentration of land ownership in Scotland.

We note that there are many issues with the concentration of decision-making power in Scotland, which in turn concentrates land ownership, and there are distributional impacts that coincide with this. We believe that communities must be consulted on decisions about land use around them, but, more significantly, communities must be better supported to have actual control over this land, its assets, and its benefits.

It is well documented that over the last few years, the sale of carbon and biodiversity credits has stimulated several well-publicised acquisitions across Scotland, notably in rural and island areas, which is where we focus our work. Whilst this may be done with environmental outcomes in mind, there are significant financial returns to offer too. A recent report from the Scottish Land Commission shows that "poor livestock land increased in value by over 60% in 2021" and "prices for sporting estates jumped by 88% in 2021 compared with 2020," with "natural capital and environmental motivations... driving increased competition."

We believe land underpins socio-cultural and economic practices across Scotland, and as such we look forward to working with others to better support the future health of our communities and ecosystems.

### Comments on specific criteria

We agree that an area threshold is an essential part of the definition of "large-scale landholdings" but propose that 3,000ha is too large: this would "capture" relatively few landholdings and would not have a significant impact in tackling issues of scale and concentration in land ownership in Scotland.

Instead, we propose a threshold of 500ha, which should be based on aggregate beneficial ownership. This is much bigger than most family farms and would only affect a very small percentage of overall landholdings. This minimum threshold should also include aggregate landholdings of landowners, rather than only single landholdings.

We await further detail on the data zone proposals and how these might work. However, we follow another respondent in proposing that the data zone measure is unlikely to be useful in rural areas (unless the qualifying % is set very low). The mean size of data zones across Scotland is just over 1,100ha but this hides a huge range: many data zones in urban areas are only a few hectares, whereas it is common for them to cover 10,000ha or more in rural areas. It seems likely therefore that any landholding covering a significant % of a rural data zone will already be captured by a fixed area threshold.

### Local Authority Wards

Similarly, we follow another respondent by stating that Local Authority wards have greater public recognition but are even larger: Highland Council covers over 2,500,000ha and has just 22 wards. It is commonly described as being the size of Belgium. As above, any landholding covering a significant % of a rural ward will already be captured by a fixed area threshold.

### Islands

We support the inclusion of the minimum proportion of a permanently inhabited island as a criterion, although the usefulness of any such criteria will depend on the % level set and whether it applies to all inhabited islands, no matter how small they are. There are around 96 Scottish inhabited islands, with a huge range of areas (15 over 10,000 ha, 11 under 100ha). Furthermore, this criterion might also consider a minimum number of the key economic assets on an island (such as a shop, pub, transport hub, housing or potential for development, recreational indoor/outdoor space, church, harbour space, airstrip, school, clinic). These criteria might also consider how the ownership and operation of these is affected by landownership. Attention should be drawn to the balance of power that ownership or control of key assets can have on an island, including on the community's agency to use the levers offered by previous Land Reform legislation without fear of endangering their jobs, homes or local services.

## General comments

Caution must also be given to land-transfers which fall beneath the 'large scale land transfer' threshold in themselves, but which take ownership by an individual / single entity above the threshold e.g. aggregated land, as we have mentioned. Many of our members know of situations where individual assets, parcels of land, and houses have been bought up over a period of time to create a substantial 'portfolio'.

There is also the issue of multiple organisations with the same person/people behind them buying up different assets in the community. For example, 3 different companies on Jura own an estate, multiple private homes, and the hotel. But, in fact, these companies belong to one person. This level of ownership must be considered in tandem with large scale land transfers.

With Community Land Scotland, we also see that the above proposals should also apply to landholdings in urban contexts as appropriate. We therefore support the inclusion of the following criteria in that regard:

- Financial value of the land and/or built assets (potentially also applicable in rural contexts);
- Local assets of community significance (e.g. piers, slipways, community facilities, land for housing, urban green space etc.) As noted above, inclusion of such assets would also be of relevance to islands, and potentially other rural contexts.
- Land in spatially smaller data zones than Local Authority wards.

2 Do you agree or disagree that family farms should be exempt from the proposals outlined in Parts 5 to 7 even if they are classified as a 'large-scale' landholding?

Disagree

Please give some reasons for your answer in the text box below::

Family farms should not be exempt from the proposals, even if they are classified as a 'large-scale' landholding. All holdings in receipt of public funds should be aggregated.

Whilst we support the livelihood of farmers across the country and recognise the key role, they play in food security and promoting biodiversity, the ownership structure should not dictate a difference in policy. However, we firmly believe the Scottish Government should be supporting smaller-scale landholdings and a diversity of ownership structures.

We note that there is no formal definition of a "family farm" and that many of Scotland's largest estates could be considered family businesses. Creating such an exemption would provide a loophole for large-scale landowners to sidestep the legislation.

In summary, the proposed provisions should apply equally to all types and categories of public and private landownership in Scotland.

3 Do you think that the proposals considered in this consultation should be applied to the urban context?

Yes

Please give some reasons for your answer in the text box below::

Along with Community Land Scotland, we see that land reform is as relevant to the urban context as to the rural context. This has been recognised in previous legislation and urban communities are just as deserving of new rights as their rural neighbours. We see no justification for not allowing urban communities to have Notification of Sale Rights, improved Community Right to Buy Rights and the ability to address local concentrations of scale of ownership. We therefore strongly support the application of the following proposals – and others in the consultation paper - in urban contexts as appropriate.

However, additional criteria are required to ensure significant urban assets are brought within the scope of the legislation, as they will not be captured by any of the proposed "large landholding" thresholds.

## Part 5: Strengthening the Land Rights and Responsibilities Statement

4 We propose that there should be a duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols. Do you agree or disagree with this proposal?

Agree

Please give some reasons for your answer in the text box below::

We agree that there should be a duty on 'large-scale' landowners to comply with the Land Rights and Responsibilities Statement and its associated protocols. The obligations in the Land Rights and Responsibilities Statement should be made compulsory and not remain voluntary. Compliance requirements need to be clearly framed and proportionate to provide certainty for landowners as to what they have a duty to do in relation to the Statement's 7 principles. We favour extending the duty to comply with the LRRS to also include urban landowners in towns and cities based on clearly defined criteria relating to their landholdings.

We also suggest that ALL holdings (of any size) that are in receipt of significant public funds (grants, subsidies, tax exemptions etc) should be subject to the new compulsory obligations under the Land Rights and Responsibilities Statement. We suggest this could be an aggregated sum (across all public resources) of approximately £80,000 pa or more.

5 If there was a legal duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols, we propose that this should be enforced by having a formal procedure for raising complaints, and by making provisions for independent adjudication and enforcement.

Agree

Please give some reasons for your answer in the text box below::

We agree that there should be a formal procedure for raising complaints, and by making provisions for independent adjudication and enforcement.

Disagree

question5b\_organisation\_type - Community:

Don't know

question5b\_organisation\_type - Charity:

Don't know

question5b\_organisation\_type - Public sector:

Don't know

Please provide some reasons for your answers and any additional suggestions in the text box below::

We do not agree that the ability to report breaches of the LRRS should be restricted to constituted organisations. This could place the focus on who is complaining, rather than on whether or not there is a breach of the LRRS. Our members tell us they believe that anyone should be able to report breaches.

The meaning of "constituted organisations that have a connection to the local area or the natural environment" is unclear.

question5c - the Scottish Government:

No

question5c - a public body (such as the Scottish Land Commission):

Yes

Please provide some reasons for your answers and any additional suggestions in the text box below::

The responsibility for investigating and dealing with complaints should sit with a public body and believe that the Scottish Land Commission is the most appropriate organisation for this role. However, they need supported to have the capacity, expertise and reach to enable it to do this work and its remit would therefore need to be altered.

question5d - Recommendation for a mediation process:

Don't know

question5d - Recommendation on how the landowner or governing body could comply with the Codes of Practice/protocols:

Yes

question5d - A direction to the landowner or governing body to implement changes to operational and/or management practices:

Yes

Please provide some reasons for your answers and any additional suggestions in the text box below::

Answers to this depend on the seriousness of the breach.

A recommendation on how the landowner or governing body could comply with the Codes of Practice/protocols is likely an appropriate remedy for relatively minor and/or accidental breaches.

We agree that a direction to the landowner or governing body to implement changes to operational and/or management practices is an appropriate remedy for more serious breaches.

Additional outcomes

We note that a further potential outcome of an investigation is that it is determined that no breach has occurred. As noted above, the regulator should have the power to dismiss clearly unsubstantiated or repetitive complaints without requiring a full investigation.

Where the breach is particularly serious, or where large landowners repeatedly refuse to comply with direction, there should be provision to terminate their landownership, e.g., through the issuing of a compulsory sale order.

question5e - Financial penalties:

Don't know

question5e - 'Cross-compliance' penalties:

Yes

Please provide some reasons for your answers and any additional suggestions in the text box below::

It is unclear whether fines could be at the level that would have meaningful deterrent effect on large scale landowners. Cross-compliance penalties, the pay back of government grants etc, especially if effective over more than one year, are likely to be a much more substantial deterrent for large scale landowners.

We follow direction from other organisations in contending that in the most serious cases, or where large landowners refuse to comply with direction, it could be possible to issue a Compulsory Sale Order i.e., the 'disposal of assets', potentially by lotting or other means, and like CLS we would favour that these go into community ownership where appropriate. Again, however, the community needs support to manage these.

6 Do you think the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners would benefit the local community?

Yes

Please give some reasons for your answer in the text box below::

In principle, yes, although this is a very broad question which is difficult to answer with any certainty, not least as the impacts will be felt very differently by different local communities.

7 Do you have any other comments on the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners?

Please write your answer in the text box below::

This must also apply to urban areas.

## Part 6: Compulsory Land Management Plans

8 We propose that there should be a duty on large-scale landowners to publish Management Plans. Do you agree or disagree with this proposal?

Agree

Please give some reasons for your answer in the text box below :

We agree with the proposals to introduce compulsory Land Management Plans and view them as a potentially effective ways to ensure owners of large-scale and other landholdings adhere to the proposed duty to comply with the strengthened Land Rights and Responsibilities Statement. We propose that this should be a condition for receipt of public subsidy. SG must ensure that these management plans accord as far as possible with the wider land use plans (with their multi-use focus) within which these units sit (for example, this might come through the work of the Land Use Partnerships) and that public funding (grants and tax exemptions) for uses is identified in these plans.

Land Management Plans should involve a public consultation phase. We suggest these plans should also include obligations to meet Community Wealth Building Principles, the need for local repopulation or affordable housing and the principles of a Just Transition to Net Zero.

9 How frequently do you think Management Plans should be published?

Please write your answer in the text box below::

Every five years, given changing socio-political circumstances, climate change, biodiversity crisis but to allow sufficient time for the Plans to be implemented in practice.

10 Should Management Plans include information on:

question10 - Land Rights and Responsibility Statement compliance:

Yes

question10 - Community engagement:

Yes

question10 - Emission reduction plans:

Yes

question10 - Nature restoration:

Yes

question10 - Revenue from carbon offsetting/carbon credits:

Don't know

question10 - Plans for developments/activities that will contribute to local and inclusive economic development or community wealth building:  
Yes

Please provide some reasons for your answers and any additional suggestions in the text box below::

The list above does not consider how the land will be used, which is a hugely important factor.

It is critical the management plans also include how the land integrates with wider land use in their district – biodiversity corners, water table pollution etc and it should cover all revenues – government grants, tax emption and carbon credits as transparency is critical.

The extent to which landowners can report meaningfully on Land Rights and Responsibilities Statement compliance will depend on the reworded statement and protocols.

Reporting on emission reduction plans assumes a well understood baseline.

Whilst it is reasonable to expect the management plans to include information on climate mitigation projects, it is unclear why revenue from carbon offsetting/carbon credits has been singled out, rather than revenue from other business activities (agriculture, shooting, forestry, property rentals, tourism, etc.) and public subsidy. We anticipate that any attempt to demand any of these figures would be fiercely resisted on grounds of commercial confidentiality.

All development plans should be included, not just those that “will contribute to local and inclusive economic development or community wealth building”.

11 Do you think the responsibility for enforcing compulsory land management plans should sit with:

question11 - the Scottish Government:  
No

question11 - a public body (such as the Scottish Land Commission):  
Yes

Please provide some reasons for your answers and any additional suggestions in the text box below::

Any public body needs the remit, expertise, capacity and reach to do this work and it is critical it is not captured by vested interests.

12 Do you think the proposal to make Management Plans a legal duty for large-scale landowners would benefit the local community?

Yes

Please give some reasons for your answer in the text box below: :

This is a broad question and is challenging to answer at this stage. However, in principle there are more reasons to assume these would benefit the local community than not. It is important to consider that communities are not homogenous: the impacts will be felt very differently by different communities.

If the threshold for “large scale landholdings” is set too high (e.g. 3000 ha, as proposed) then many communities will not be affected by the proposal.

Where land management plans are produced because of this proposal, the extent of community benefit will largely depend on the quality of community consultation, and the extent to which community aspirations are accommodated within the plan.

13 Do you have any other comments on the proposal to make Management Plans a legal duty for large-scale landowners?

Please write your answer in the text box below::

This should also apply to urban areas.

Part 7 i): Regulating the market in large-scale land transfers - a new Public Interest Test

14 We propose that a public interest test should be applied to transactions of large-scale landholdings. Do you agree or disagree with this proposal?

Agree

Please give some reasons for your answer in the text box below: :

We strongly support the introduction of a Public Interest Test on large-scale land transactions, as detailed in the Bute House Agreement, including transfers of shares and transfers within or between trusts and on inheritance, but that these should not only be limited to such landholdings and should consider significant land transfers (we would direct you to CLS's Manifesto 2021 for more details, which itself garnered significant political support).

For example, the following questions as proposed by CLS could be asked to constitute a public interest test:

- What land?
- Scale/pattern of ownership?

- Current/planned land use/management?
- Economic activity, including monopoly questions?
- Social issues, including potential for repopulation?
- Environmental matters?"

We call, with CLS, for the Public Interest Test to be designed to also be applicable in urban contexts.

Again, we follow CLS in suggesting the following criteria for a Public Interest Test:

- Land transactions which are over a proportion of a data zone
- Financial value of the land and/or built assets
- Local assets of community significance (e.g., piers, slipways, community facilities, land for housing, urban green space etc);
- Large scale and long term Vacant and Derelict Land Sites (possibly "DUSTE" sites), including the potential for PIT review of the land use of these sites, leading to compulsory sales orders or other mechanism to bring these sites into active use in the public interest.

15 What do you think would be the advantages and/or disadvantages of applying a public interest test to transactions of large-scale landholdings?

Please write your answer in the text box below::

In short, we are unaware of disadvantages that could arise when developing and implementing a Public Interest Test. Such a test, overall, will provide more certainty that the rural and urban economy will function in lines with the principles of a Just Transition, community empowerment, and will align with community wealth building.

16 Do you think the public interest test should be applied to:

The seller and buyer

Please give some reasons for your answer in the text box below :

Both the seller and the buyer will have impact on the future of land.

17 If the public interest test was applied to the seller, do you think the test should be considered as part of the conveyancing process?

Yes

Please give some reasons for your answer in the text box below :

This process should take place well before the actual transfer of a legal title if one of the objectives is to seek to reduce concentration of ownership, and if potential outcomes are to include requiring lotting, or providing opportunities for community bodies to acquire some or all of a qualifying sale.

18 Do you think that all types of large-scale landholding transactions (including transfers of shares and transfers within or between trusts) should be in scope for a public interest test?

Yes

Please give some reasons for your answer in the text box below :

19 Do you agree or disagree with these conditions?

question19 - Condition i.:

Agree

question19 - Condition ii.:

Agree

Please give some reasons for your answer and suggest any additional conditions in the text box below::

As with others, we note that the offer to constituted community bodies should come before consideration of lotting.

Condition 1: Splitting a large landholding into lots will only have a meaningful impact if it produces very much smaller and "affordable" lots.

Condition 2: Given the current land market, it is important to note that large-scale landholdings will often be way beyond means of communities, so in many cases, it is much more likely that community bodies will seek to buy part or parts of a holding. It is important, therefore, that they are given enough time to carry out an appropriate appraisal of options.

We suggest an additional condition, being the acquisition of all or part of the land by other public or non-statutory bodies (e.g. housing associations) for the delivery of specific activities for public benefit.

One further comment: we note the question is phrased as: "if a public interest test applied to the seller concluded there was a strong public interest in reducing scale/concentration" however, we would argue that it is already agreed there is a strong public interest in reducing scale/concentration of landownership: the decision a public interest test has to come to is which measures, if any, in the specific case under consideration, will be most effective in reducing scale/concentration.

20 Do you think that a breach of the Lands Right and Responsibilities Statement should be taken into account when determining the outcome of a public interest test?

Don't know

Please give some reasons for your answer in the text box below: :

It will depend on the significance of the breach. Significance would need to be defined; if only a very minor breach this can be discounted, but anything more than this needs to be taken into account in the public interest test.

21 Do you think that a public interest test should take into account steps taken in the past by a seller to:

question21 - Diversify ownership:

Don't know

question21 - Use their Management Plan to engage with community bodies over opportunities to lease or acquire land:

Don't know

Please give some reasons for your answer in the text box below: :

The answers to the above depends on the context and timing, and we follow the lead of another respondent on this:

a) If a landowner has attempted, prior putting the land on the market, to sell small parcels of land, but has not found any buyers, this suggests that a proposal for lotting may not be a useful outcome of a PIT. This would not however mean that other options for sale and purchase should not be explored by the PIT, or that there would not be scrutiny of potential purchasers.

b) We would welcome landowners proactively offering communities "first refusal" to buy land that they intend to sell, so if a landowner has offered the community the opportunity to buy some or all of the land in question, and given a reasonable timescale for the community to explore the opportunity, immediately prior to putting the land on the market, it seems reasonable that community acquisition should not be a potential outcome of the PIT. This would not however mean that other options for sale and purchase should not be explored by a PIT, or that there would not be scrutiny of potential purchasers.

Please write your answer in the text box below::

We consider that the timescale should be relatively short: perhaps around one year. However, we do note that this automatically discriminates against those who live in areas where there is less of a history of community buy outs, and so acquiring land as a community can take a lot more time. We suggest that organisations, such as Community Land Scotland (CLS) and the Scottish Land Commission, should actively support areas where there has historically not been much community buy out to order to assist folk to be able to move quickly on such a sale if it becomes available.

As above, we consider that landowners should be encouraged to proactively offer communities the opportunity to buy before bringing properties to market, but this should be effectively all part of a single process and formalised through prior notification of sales as below.

It is important to note that the single barrier to communities taking over the land from a landowner is capacity. A delve into the age demographic of Scotland's rural and island 17% resident population would clearly illustrate a degree of powerlessness in a market that has global corporate wealth and legal teams. We would suggest that place-based individuals within communities could also facilitate and support communities to undertake community ownership, along with CLS.

22 Do you think the responsibility for administering the public interest test should sit with:

question22 - the Scottish Government:

No

question22 - a public body (such as the Scottish Land Commission):

Yes

Please provide some reasons for your answers and any additional suggestions in the text box below::

Any public body identified, such as the Scottish Land Commission, must have the capacity, expertise, and powers to identify and administer the public interest test as applied across the different parts of Scotland. This responsibility will mean a significant change in the remit and responsibilities of the Commission, for example, and its membership may need to be re-considered to counter capture potential vested interests.

However, with CLS, we believe that adjudicating on the Public Interest Test should rightly be the responsibility of Scottish Ministers, as is the case in relation to the existing Community Rights to Buy legislation that do not require a willing seller, and in relation to other areas of Scots law.

23 Do you think the proposal that a public interest test should be applied to transactions of large-scale landholdings would benefit the local community?

Yes

Please give some reasons for your answer in the text box below :

Large scale landholdings and other land are likely to have multiple beneficial economic, social and environmental features important to the surrounding communities, which merits the public interest test. We believe it will also reduce concentrated land ownership, and in turn will result in more community land ownership.

However, these benefits may not be realised unless the threshold is reduced to 500 hectares, including aggregate holdings.

24 Do you have any other comments on the proposal that a public interest test should be applied to transactions of large-scale landholdings?

Please write your answer in the text box below::

Part 7 ii): Regulating the market in large-scale land transfers - requirement to notify an intention to sell

25 We propose that landowners selling large-scale landholdings should give notice to community bodies (and others listed on a register compiled for the purpose) that they intend to sell.

Agree

Please give some reasons for your answer in the text box below :

We strongly agree with this proposal and believe that it should be foregrounded in legislation. We also strongly suggest, as before, that the Scottish Government reduce the 3000 hectares minimal threshold to 500 hectares: the average size of estates marketed in 2020 was 971 hectares, according to SLC's 'Rural Land Market Insights Report'.

It is important to note that there are increasing 'off market' sales (e.g. 2/3 of estates in the Highlands were sold in secret last year, according to SLC's 'Rural Land Market Insights Report.')

We agree with CLS's proposal that: The notification process should include a standardised letter template which landowners intending to sell eligible land and other eligible land assets should circulate to the identified regulatory authority (we favour the Scottish Land Commission in that role), and eligible community organisations (including but not limited to Community Councils), details of which should be contained on the proposed register), and specified intermediary bodies such as Community Land Scotland, Development Trusts Association Scotland, and Communities Woodland Association). The 'Notification of Intention to Sell' should also be advertised in included in an appropriate local newspaper, as is the case for matters relating to crofting tenure.

Disagree

Please give some reasons for your answer in the text box below :

This is not long enough. 90 days would be sufficient.

It is important to consider that many community organisations are run by volunteer boards or may only meet once a month. Some landowners with knowledge of this could time the giving of notice to take advantage of this and of other things like holiday periods.

Disagree

Please give some reasons for your answer in the text box below::

6 months is not long enough; this would not allow time to secure funding through the two-stage processes of the Scottish Land Fund (which, as another point, needs to be increased to reflect changing and increasing land values).

26 Do you have any other comments on the proposal that landowners selling large-scale landholdings should give notice to community bodies that they intend to sell?

Please write your answer in the text box below::

Compiling the register will take significant time and energy. Community bodies who do register often rely heavily on volunteers: support should be made available to help them register.

Eligibility criteria should be light touch to ensure that existing community bodies are able to register without having to change their constitution.

Part 8: New conditions on those in receipt of public funding for land based activity

27 Do you agree or disagree with these requirements?



question27 - Requirement i.:

Agree

question27 - Requirement ii.:

Agree

Please give some reasons for your answer in the text box below :

Along with another respondent, we agree that there is a need for reform of the system of public subsidy for land-based activity, but any new requirements should apply to all (large-scale) recipients of public subsidy, regardless of whether they are the owners of the land or tenants, otherwise a very simple loophole for avoidance is created.

Requirement i

Whilst we agree in principle that all land should be registered, the reality is that a great deal of Scotland's rural land is not currently on the register, and there is a very substantial (and growing) backlog of open cases.

Imposing this measure would immediately disqualify a great many landowners / land managers from accessing grants to deliver work of public benefit, who might have to wait a considerable period before their registrations were processed. Any requirement to register land would have to be phased in over several years, starting with the largest landowners / land managers.

Additionally, clarity is needed as to how this measure would be applied where there are tenants in place. A crofter can register their croft tenancy but is not in a position (and could not afford) to register the landowner's holding. Tenants should not be penalised for any failure to register on the part of their landowner.

Requirement ii

We agree with the proposal that large-scale landowners should demonstrate they comply with the Land Rights and Responsibility Statement and have an up-to-date Land Management Plan.

As noted previously, we consider that there should be a duty on large-scale landowners to publish Land Management Plans, and that this should be a condition for receipt of public subsidy.

28 Do you have any other comments on the proposals outlined above?

Please write your answer in the text box below::

## Part 9: Land Use Tenancy

29 Do you agree or disagree with our proposal that there should be a Land Use Tenancy to allow people to undertake a range of land management activities?

Agree

Please give some reasons for your answer in the text box below :

30 Are there any land management activities you think should not be included within a Land Use Tenancy?

Please write your answer in the text box below::

31 Do you think that wider land use opportunities relating to diversification, such as renewable energy and agri-tourism, should be part of a Land Use Tenancy?

Yes

Please give some reasons for your answer in the text box below :

32 Do you agree or disagree that a tenant farmer or a small landholder should, with the agreement of their landlord, have the ability to move their agricultural tenancy into a new Land Use Tenancy without having to bring their current lease to an end?

Not Answered

Please give some reasons for your answer in the text box below :

33 Do you agree or disagree that when a tenant farmer or small landholders' tenancy is due to come to an end that the tenant and their landlord should be able to change the tenancy into a Land Use Tenancy without going through the process of waygo, with parties retaining their rights?

Not Answered

Please give some reasons for your answer in the text box below :

34 How do you think the rent for a Land Use Tenancy should be calculated?

Please write your answer in the text box below::

35 Would you use a Land Use Tenancy if you had access to a similar range of future Scottish Government payments which other kinds of land managers may receive?

Not Answered

Please give some reasons for your answer in the text box below: :

36 Do you think that there should be guidance to help a tenant and their landlord to agree and manage a Land Use Tenancy?

Yes

Please give some reasons for your answers and outline who you think should be responsible for writing and managing the guidance in the text box below::

37 Do you think there should be a process to manage disputes between a tenant of a Land Use Tenancy and their landlord?

Yes

Please give some reasons for your answers and outline how this process could be managed in the text box below::

38 Do you agree or disagree that tenants of a Land Use Tenancy and their landlords should be able to resolve their legal disputes in relation to the tenancy through the Scottish Land Court?

Don't know

Please give some reasons for your answers and outline additional ways in which disputes could be resolved in the text box below::

39 Do you have any other comments on our proposal for a Land Use Tenancy?

Please write your answer in the text box below::

## Part 10: Small landholdings

40 Would you like to be kept informed via email about the Small Landholding Consultation for the Land Reform Bill? We would use the email you provide in the 'About you' section to contact you.

Yes

## Part 11: Transparency: Who owns, controls and benefits from Scotland's Land

41 Do you agree or disagree with our proposal to explore:

question41 - Who should be able to acquire large-scale landholdings in Scotland:

Agree

question41 - The possibility of introducing a requirement that those seeking to acquire large-scale landholdings in Scotland need to be registered in an EU member state or in the UK for tax purposes:

Disagree

Please give some reasons for your answer in the text box below: :

We agree with the proposal to explore who should be able to acquire large-scale landholdings in Scotland.

We disagree with the proposal to explore the possibility of introducing a requirement that those seeking to acquire large-scale landholdings in Scotland need to be registered in an EU member state or in the UK for tax purpose. We build on Andy Wightman's question during an online event on the Land Reform Bill that the implication of the proposal is likely to be that those acquiring can still live anywhere in the world but are simply required to establish an entity registered in the EU or UK as a vehicle for the acquisition and ownership of land. Absenteeism and lack of landownership information is a notable issue in Scotland's towns and cities, with missing and complex information complicated by fragmented land ownership patterns.

We suggest that it would be preferable if all landowners were subject to a requirement to live and pay tax in Scotland.

Any measures with respect to who owns, controls or benefits from Scotland's land need to be underpinned by an effective and comprehensive transparency regime.

## Part 12: Other land related reforms

42 Do you have any views on what the future role of taxation could be to support land reform?

Please write your answer in the text box below::

We believe that taxation reform has a very significant role to play in supporting land reform as there is a pressing need to tackle the reasons why individuals and corporations want to buy land.

We acknowledge that some powers over taxation are currently reserved to Westminster, however, the recognition that their current implementation frustrates the delivery of Scottish Government policy and objectives provides a strong case for reform.

In general, land valuation taxation needs to be fully explored as there is a huge opportunity to generate progressive tax from this.

43 How do you think the Scottish Government could use investment from natural capital to maximise:

Please write your answer in the text box below::

We take the lead from other organisations on this:

Natural Capital is a broad term which should be understood as encompassing the flora, fauna, fresh water, coastal areas, renewable energy potential and the natural scenic beauty of rural and island Scotland, and its potential to support productive land-based industries and activities.

We consider that those investing at scale for any of these land-based industries and activities should be expected to deliver community, national and global benefit.

There is a need for more community ownership of what constitutes natural capital e.g. more community ownership of energy. This could be done in partnership with the public and voluntary sectors or indeed private bodies, but significant capacity and expertise is required here. We suggest reviewing CLS's response with regards to a Community Wealth Fund: we see great value in this to support communities to acquire and invest in revenue generating assets.

The production and sale of carbon and biodiversity credits is fundamentally a private transaction, which limits the potential for direct intervention. It would be possible to apply a levy to such transactions, although it is unclear how the Scottish Government could justify taxing net zero initiatives and not the income from other rural activities. There are, however, measures which could be taken by way of review and regulation of green finance mechanisms to ensure that they contribute more effectively to net zero:

- Continue the evolution of green grant schemes, ensuring that they provide a significant contribution to costs whilst incentivising best practice.
- Tighten regulation of carbon and biodiversity sellers to ensure additionality and remove rewards for past bad practice.
- Introduce mandatory third-party accreditation of carbon and biodiversity buyers to ensure that only genuinely unavoidable emissions are offset.

Please write your answer in the text box below::

44 Do you have any additional ideas or proposals for Land Reform in Scotland?

Please write your answer in the text box below::

With Community Land Scotland, we call for amendments to be made to the existing suite of four Community Rights to Buy to ensure they are fit for their intended purpose of bringing more land and assets into community ownership and reflect the changing market conditions.

We also call for the introduction of a key proposal of the Land Reform Review Group Report (2014) which stated that the most effective way of seeing a transformational diversification of ownership in Scotland was to place a control on the total amount of land owned by any one individual acting alone or in consortia with specified beneficial interests, or a company. Community Land Scotland contends that as we are seeing more and more concentration of ownership in fewer hands; the time has come for limits on total ownership to be brought into force.

Rural housing

In our work, we see that the housing shortage is a major constraint on the socio-economic development of rural Scotland and it directly impacts certain demographics (e.g. young people).

A raft of measures is needed to address this issue, and we take lead from others on stipulating what can be done: for example, one respondent states that the most important of which is making holiday houses a separate use class, to give local authorities the option to classify homes as primary residences, second homes or holiday lets. An owner would need planning permission to change a property's classification from a primary residence to a second home.

Other measures should include a licensing scheme for holiday lets and giving local authorities powers to increase Council Tax rates for second homes or apply to increase LBTT in specific areas to dampen prices.

This should not be seen as tangential to land reform: rural housing is wholly embedded and connected.

One member shared with us:

Ownership of multiple individual houses for business purposes is not necessarily covered by Land Reform, unless they are part of a wider estate (so, for

example, here a company related to the golf course has bought up multiple homes, many of which lie empty exacerbating the housing crisis). Used as short term lets these can have a large impact on housing availability but, used as long term lets or tied houses, this can directly affect people's willingness to challenge actions by landowners even when they would like to.

### Part 13: Assessing impact

45 Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

Please write your answer in the text box below::

The fact that islands have very clear boundaries, marked by the sea, does require special consideration when it comes to this area and enhances the importance of land reform. This spatial challenge affects the delivery of services, economic development and community resilience, all of which can be strongly affected by land ownership. While they have much in common with outlying rural areas in this regard, these issues are often more acute on islands as they have the additional consideration of ferry timetabling, availability and reliability to contend with, which creates additional constraints.

Along with the considerations about land area and assets mentioned previously, consideration should be given to the capacity of islanders to engage with this area even when legislation is in place to allow them to do so. This is especially relevant in relation to islands with very small populations who are often already stretched with volunteer roles interacting with individuals and corporations with extensive resources at their disposal. Ultimately, land reform must consider the balance of power within Scotland's islands.

46 Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

Please write your answer in the text box below::

Young people across Scotland are struggling with the rising cost of living crisis, compounded with a real lack of affordable housing and access to land.

We recommend that their interests be at the heart of any Land Reform Bill and subsequent interventions, and we would encourage those in government to work with young people on their ideas for the future. In particular, Scottish Rural Action is seeking to support a Rural and Island Youth Parliament: we would encourage the Scottish Government, and any other public body whose remit includes land and its management, to consult and work with youth via a Taskforce, appropriate consultation processes, etc.

An additional comment: it was made aware to us that this consultation itself was wholly inaccessible for young people to comment on: this is a major problem and consultation reform is needed more generally so that a diversity of views are captured and considered.

47 Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

Please write your answer in the text box below::

We firmly believe that land reform should be equitable, inclusive and be centred on justice.

We recommend that the Scottish Government consider this by working with the organisation 'Land in Our Name' (and others), whose work considers land dynamics relating to BPOC communities in the UK.

48 Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?

Please write your answer in the text box below::

49 Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at socioeconomic disadvantage (such as income, low wealth or area deprivation)?

Please write your answer in the text box below::

As above with question 47.

50 Are you aware of any potential costs and burdens that you think may arise as a result of the proposals within this consultation?

Please write your answer in the text box below::

51 Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?

Please write your answer in the text box below::

### Part 15: About you

What is your name?

Name:

Catriona Mallows

What is your email address?

Email:

catriona@sra.scot

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Scottish Rural Action

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent