



**The Land Reform Review Group's
Call for Evidence:
Analysis of Responses**

**THE LAND REFORM REVIEW GROUP'S
CALL FOR EVIDENCE:
ANALYSIS OF RESPONSES**

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EXECUTIVE SUMMARY

Introduction

This report provides an analysis to the Call for Evidence by the Land Reform Review Group (LRRG). The Call for Evidence was launched on 4 October 2012 and closed on 11 January 2013. It provided the opportunity for any interested party to make a written submission to the LRRG. There was no prescribed format for submissions. Instead, the Group sought respondents' visions of how and why land reform could be strengthened, the potential barriers, and how these could be addressed.

Overview of the response

The LRRG received a total of 475 responses to the consultation from a wide range of organisations and individuals. Responses were split broadly equally between organisations and individuals. Over two-fifths of responses came from organisations and individuals representing 'estates, farm owners and landowners' interests.

Summary of responses

We have organised the respondents' comments into 12 main themes, each of which is summarised below:

Theme 1 - Land ownership and management

Responses which dealt with this theme centred on the concentration of land ownership in Scotland. Some felt that the current pattern of ownership is inequitable and unjust. It was also felt that there is an imbalance of power between landowners and communities, and that this imbalance should be addressed. Some argued that reform would yield benefits to communities, and cited published evidence to support this view.

Others felt that the status quo is not problematic. Many who held this view argued that there was a lack of an evidence base for the need for further reform or more particularly, diversification of ownership. Some also insisted that the status quo is already beneficial to communities.

Theme 2 - Community land ownership

The central issue regarding community land ownership was whether the Community Right to Buy should be extended. Those arguing in favour felt that extending the Right to Buy had the potential to bring social, economic and environmental benefits to communities. They provided suggestions as to how current barriers could be overcome including:

- funding and other support for community ownership;
- simplifying and introducing more flexibility to existing procedures;
- extending the Community Right to Buy; and
- introducing new legislation.

Those arguing against referred to the contributions that private owners make to their local area, asserting that there is a lack of demand for increased community ownership, and the sustainability of the community ownership model.

Theme 3 – Other models - Models other than ownership which would give communities and individuals a greater stake in land management

Respondents from across the groupings called for better communication and collaboration between communities, local landowners and authorities. However, a minority argued against further community involvement, suggesting that it is unnecessary and may adversely affect business.

Theme 4 – Taxation

The central debate in this theme was over the introduction of a Land Value Tax. Some felt that this tax would be an equitable source of revenue, and that it would tackle the concentration of land ownership. However, others felt that it may result in a loss of investment to the rural economy.

Theme 5 – Succession rights

Some of those who commented on this theme felt that succession rights should be amended because this would be an effective way of changing the pattern of ownership. However, others wanted to avoid any change to ownership patterns, fearing that smaller parcels of land would not be economically viable.

Theme 6 – Tenant farmers and encouraging new entrants

The introduction of the Right to Buy was the central issue within this theme. Those in favour felt that this would address what they felt to be an imbalance of power between landlords and tenants. However, those against worried that the Right to Buy would reduce landlords' confidence in taking on tenants, therefore discouraging new entrants to the industry.

Theme 7 – Crofting

Some argued that the requirements of the Crofting Community Right to Buy were too complex, and should be replaced with a universal right. Others felt that existing crofters' rights should be applied to all communities.

Theme 8 – Access rights

In general, most found the status quo to be acceptable. However, some felt that rights should be extended as landowners do not currently meet their obligations. By contrast, some landowners felt that the current rights are too generous and that corresponding responsibilities are unclear.

Theme 9 – Forestry

The central issue here was the diversification of ownership. Estates and landowners were generally opposed, arguing that a more diverse ownership pattern would not be economically viable. Those in favour thought that diversification would invigorate communities.

Theme 10 – Water resources

Again, the central issue was diversification of ownership. Some felt that coastal communities needed control of water if they were to thrive economically, whereas others felt that this may be unworkable.

Theme 11 – Affordable housing

Many respondents felt that the planning system was the main barrier to providing affordable housing. Some also suggested that the Scottish Government should give more support to the private rented sector. Others stressed the importance of a lack of available land, noting the significance of the concentration of ownership.

Theme 12 – Other relevant themes raised by respondents

Additional comments related to improving broadband in rural areas, concerns surrounding State Aid, renewable energy and the Common Agricultural Policy, along with other issues.

1. INTRODUCTION

About this report

- 1.1 This report provides an analysis to the Call for Evidence by the independent Land Reform Review Group (LRRG).
- 1.2 This report identifies and presents the issues and views raised by those who responded to the Call for Evidence, and shows how the views of different groups vary. It is important to note that:
- This is a summary of views and opinions expressed by the individuals and organisations which submitted a response. It is not a summary of all evidence relevant to land reform in Scotland, and it will not highlight every proposal or way forward that could be considered in the land reform debate.
 - Respondents were not provided with a prescribed format for submitting their responses to the Call for Evidence. This has the potential advantage of encouraging individuals to put forward their views without worrying about whether they are relevant, but it does mean that key questions may not get the attention that policy makers would have preferred.
 - The authors of this report were asked to provide an independent summary of opinion and evidence presented. They were not asked to make any judgement about whether the views or evidence was valid. The report therefore presents all issues equally. Any judgement will be undertaken by the independent Land Reform Review Group.
- 1.3 It is important that the above issues are taken into account when reading this report, and considering its contribution as evidence for the Land Reform Review Group to consider.

Background to the consultation

- 1.4 The Land Reform (Scotland) Act 2003 was introduced as a significant policy initiative to reshape land access and ownership in Scotland. It has three components:
- The Act established statutory public rights of access to land and inland water for recreational and other purposes.
 - The Act provides opportunities for communities with a population of less than 10,000 in Scotland to apply to register an interest in land and the opportunity to buy that land when it comes up for sale (Community Right to Buy).
 - The Act gives crofting communities the right at any time to acquire and control the croft land where they live and work and to acquire the

interest of the tenant in tenanted land (Crofting Community Right to Buy).

- 1.5 The Act was introduced as part of a raft of measures within the wider Land Reform Programme, which included the set up of the Community Land Unit in Highlands and Islands Enterprise (HIE), and the Scottish Land Fund (superseded by Growing Community Assets).
- 1.6 In July 2012 the Scottish Government announced the establishment of a Land Reform Review Group (LRRG) to assess the workings of the Act and identify how land reform could:
- enable more people in Scotland to have a stake in the ownership, governance, management and use of land;
 - assist with the acquisition and management of land by communities, to make stronger, more resilient, and independent communities; and
 - generate, support, promote, and deliver new relationships between land, people, economy and environment in Scotland.

About the Call for Evidence

- 1.7 The Call for Evidence provided the opportunity for any interested party to make a written submission to the LRRG. There was no prescribed format for submissions. Instead, the Group sought respondents' visions of how and why land reform could be strengthened, the potential barriers, and how these could be addressed.
- 1.8 Following an initial review of the responses, we structured our analysis of them around 12 themes which were raised by respondents as follows:

Theme 1	Land ownership and management – Does the current pattern of land ownership and management need to be addressed?
Theme 2	Community land ownership – Should the Community Right to Buy be amended or extended?
Theme 3	Other models - Models other than ownership which would give communities and individuals a greater stake in land management?
Theme 4	Taxation – Should a land value or similar tax be introduced?
Theme 5	Succession rights – Should succession rights be amended?
Theme 6	Tenant farmers and encouraging new entrants – Should a Right to Buy be introduced for tenant farmers?
Theme 7	Crofting – Is there a need to amend crofting rights or extend crofting areas?

Theme 8	Access rights – Should access rights be extended or restricted?
Theme 9	Forestry ownership and management – Is there a need to diversify the ownership or management of existing forests?
Theme 10	Water resources ownership and management – Is there a need to change the way in which fresh water resources are owned and managed?
Theme 11	Affordable housing – Proposals to improve the supply of affordable housing
Theme 12	Other relevant themes raised by respondents

1.9 The analysis was undertaken using a response matrix. Respondents' comments were matched to the corresponding theme. Any additional comments that did not directly relate to any of the themes were fed into a separate section of the matrix and analysed separately.

2. OVERVIEW OF RESPONSES

Introduction

2.1 This section of the report provides an overview of the responses received to the Call for Evidence. It considers who the responses came from, who was not represented in the response, and provides general comments on the responses.

Who replied to the Call for Evidence?

2.2 The Call for Evidence was publicised through the Scottish Government website and issued to a broad range of stakeholders with an interest in the issues covered. The Call for Evidence was issued on 4 October 2012 and the closing date for submissions was 11 January 2013.

2.3 In total, 475 responses were received to the Call for Evidence. The response was split equally between organisations and private individuals. There were 237 from organisations and 238 responses from individuals.

2.4 The Call for Evidence drew a relatively high proportion of responses from individuals. In some cases, responses came from individuals employed by or associated with an organisation that also made a response.

2.5 In order to identify common and divergent views among respondents, we split them into stakeholder groups as follows:

- Community ownership organisations and their representative bodies
- Deer management groups and their representative bodies
- Estates, farm owners, landowners and their representatives
- Tenant farmers, crofters and their representatives
- Local authorities, public bodies and their representative bodies
- Fishery boards and their representative bodies
- Local community organisations
- National voluntary organisations and charities
- Other representative bodies
- Others.

2.6 Table 2.1 provides a breakdown of respondents by stakeholder group.

Table 2.1: Distribution of Responses to Land Reform Review Group Call for Evidence by Stakeholder Group		
	No.	%*
Organisations		
Estates, farm owners, landowners and their representatives	110	46
National voluntary organisations and charities	31	13
Local community organisations	19	8
Other representative bodies	17	7
Community ownership organisations and their representative bodies	15	6
Local authorities, public bodies and their representative bodies	15	6
Other organisations	12	5
Tenant farmers, crofters and their representative bodies	7	3
Fishery boards and their representative bodies	6	3
Deer management groups and their representative bodies	5	2
Organisations sub-total	237	100
Individuals		
Other individuals	100	42
Estates, farm owners, landowners and their representatives	102	43
Tenant farmers, crofters and their representative bodies	27	11
Local community organisations	7	3
Community ownership organisations and their representative bodies	1	0.5
Local authorities, public bodies and their representative bodies	1	0.5
Deer management groups and their representative bodies	-	-
Fishery boards and their representative bodies	-	-
National voluntary organisations and charities	-	-
Other representative bodies	-	-
Organisations sub-total	238	100
Total number of respondents	475	

*Percentages have been rounded.

- 2.7 The largest group of organisational responses came from ‘estates, farm owners, landowners and their representatives’ (110 – 46%). We analysed this group further to identify whether it was possible to break into smaller groupings. However, based on the content of the responses, we were only able to identify eight responses from farms which were owner managed and farmed. In a number of cases, it was not possible to distinguish between a farm and estate. When analysing the responses, we have sought to identify any divergent views from these eight owner managed farms and other respondents within this grouping.
- 2.8 In the case of the ‘estates, farm owners, landowners and their representatives’ and ‘tenant farmers, crofters and their representative bodies’, we have included their representative bodies. However, as the NFUS and its two branches which responded represent organisations in both groupings, we have included them as an ‘other representative body’ and highlighted their views where appropriate.

- 2.9 'National voluntary organisations and charities' include a wide range of groups including conservation bodies, sports and outdoor organisations, grant distributing bodies and housing organisations.
- 2.10 'Community ownership organisations and their representative bodies' include a number of organisations that have been unsuccessful with community ownership bids or are developing prospective bids.
- 2.11 A small number of responses were received from 'fishery boards and their representative bodies' and 'deer management groups and their representative bodies'. Their views have been analysed separately. Some of these boards and bodies were also estates or landowners, or coalitions of these.
- 2.12 Although individual respondents were not asked to identify any stakeholder group they belonged to, a number of respondents made this clear (for instance, by indicating their current employment and referring to their current role and employer) and we have allocated their response to a particular grouping.
- 2.13 In the case of 100 individual responses (42%), we were not able to identify if they belonged to a particular grouping and have classified them as 'other individuals'.
- 2.14 The largest identifiable grouping of individuals came from 'estates, farm owners, landowners and their representatives' (102 – 43%), followed by 'tenant farmers, crofters and their representative bodies' (27 – 11%).
- 2.15 Based on the responses received, the Call for Evidence was seen as being primarily a 'rural issue'. The overwhelming majority of respondents live or work in, or represent rural communities or interests. There was only one response from a predominately urban local authority, and one from a local community organisation in an urban area. Urban interests were largely restricted to national voluntary, representative or other organisations. This is in contrast to the Scottish Government's consultation on the proposed Community Empowerment and Renewal Bill (which sought views, among other things, on extending the Community Right to Buy to urban areas <http://www.scotland.gov.uk/Publications/2013/01/9545/0>) and elicited a much greater proportion of responses from individuals and organisations with urban interests.
- 2.16 Just over half of the organisational respondents did not return a Respondent Information Forms (RIFs) or requested that their details were not shared with others. In addition we have followed the Scottish Government's practice of not identifying individual respondents. As a consequence, while taking account of the views of these 80 per cent of respondents, we have reported on them anonymously.

The interpretation of quantitative and qualitative information

- 2.17 Given the lack of prescribed structure required for responses, the focus of our analysis has been primarily qualitative. Where a quantitative analysis of the response to a particular theme has been provided, this should be treated with some caution given that respondents were not specifically requested to respond to any particular issue.

3. RESPONSES TO THE CALL FOR EVIDENCE

Theme 1: Land Ownership and Management

Does the current pattern of land ownership and management need to be addressed?

- 3.1 Almost three-fifths of respondents (280 - 59%) addressed this theme. Of those, just over a quarter of respondents (75 - 27%) felt that the current system of land ownership in Scotland was a problem. In contrast, almost three-quarters of respondents (205 - 73%) were content with the 'status quo'. Well over half of the responses came from 'estates, farm owners, landowners and their representatives'.
- 3.2 Support for change was strongest among 'other individuals' and 'other organisations', followed by 'tenant farmers, crofters and their representatives' (mainly individuals) and 'national voluntary organisations and charities' (mainly organisations). There was fairly negligible support for change among 'estates, farm owners, landowners and their representatives'. In contrast, support for the 'status quo' was strongest among 'estates, farm owners, landowners and their representatives', split fairly evenly across individuals and organisations from this group. In addition, a small number of other respondents including 'other individuals' and 'other organisations', 'deer management groups', 'fishery boards' also expressed their support for the 'status quo'.

Support for change

- 3.3 The main reasons for change cited by respondents focused around the need for increased equity and fairness in relation to land ownership in Scotland, and also the need to redress the perceived power imbalance between landowners and communities and individuals.

A more equitable system

- 3.4 There was a degree of consensus across stakeholders arguing for change (particularly 'other individuals', 'tenant farmer and crofter' individuals and 'national voluntary organisations and charities') that the current system of land ownership was "unfair", "undemocratic" and "inequitable" and favoured the "landowning elite".
- 3.5 To address these issues, many respondents called for a more equitable and more socially just system of land tenure and land use in Scotland. With some respondents suggesting it was the single most important challenge facing the people of Scotland and politicians. A number of respondents suggested that Andy Wightman's book: "The Poor Had No Lawyers"¹, provided useful context on this issue.

¹ The Poor Had No Lawyers – Andy Wightman (October 2010)

- 3.6 One national voluntary organisation stated that as long as land in Scotland was concentrated in the hands of a minority of the population, this would stand in the way of Scottish Government's policy objective of delivering what has been declared as the "most radical transfer of power since devolution".
- 3.7 A number of respondents called for a more democratic system of landownership and governance in Scotland as a way of addressing the current concentrations of landownership.
- 3.8 Similarly, a representative body commented that land ownership patterns in Scotland were still among the most concentrated in Europe and that, with the exception of growth in the community ownership of land, the Land Reform (Scotland) Act 2003 had had little overall impact on patterns of land ownership in Scotland.

Greater empowerment

- 3.9 Many respondents also expressed concern about the imbalance of power between landowners and communities and individuals, and that this was a significant issue that often acted as a barrier to change. In some cases, it was suggested that the behaviour and attitudes of some landowners stifled local development within communities. Others argued that landowners were using their inherited assets to limit the progress of the agricultural industry.

"Community development is still heavily "oppressed" by the decisions of a few (totally out of touch) absentee landlords."

(Local Community Organisation)

- 3.10 Another individual respondent stated that it was imperative that the Scottish Government initiated land reform to stop a small number of "elite landowners" – many of them domiciled overseas, or hiding in offshore tax havens - from controlling the majority of the land.
- 3.11 A community trust highlighted their experience where an absentee landlord owns the estate. The trust considered that during the twenty years of the current ownership, the estate had only pursued projects, which had brought financial gain to the landowner, whereas projects that might have helped the local economy had been actively discouraged.
- 3.12 Similarly, one farm owner believed that there was strong evidence to indicate that land could deliver many more private, community and public benefits under a more diverse landownership system, with a particular emphasis on community ownership. Again, it was felt that in some large estates, land management was skewed towards the interest of the owner without a great deal of local or wider public benefit.
- 3.13 A small number of respondents expressed concern that landowners had a significant amount of lobbying advantage due to their financial and networking powers, which was used to make the system work to their benefit.

“The barriers prohibiting this at the moment are the powers and wealth of many of the current landowners who have very persuasive spokesmen and lawyers to tilt the system in their favour.”

(Individual)

- 3.14 A number of respondents commented on the role of the Crown Estate as a significant landowner in Scotland. Some proposed that Scottish Government should abolish Crown rights; others suggested that all Crown property should be brought into public ownership. Another individual respondent gave an example where it was felt that the Crown Estate had had a “strangling hold” on the local community.

Time for change

- 3.15 A few respondents proposed that it was time for the current system of land ownership to be modernised to ensure that it was fit for the twenty first century. Some of these respondents made reference to the fact that the current system was an inheritance from medieval times and needed a complete overhaul to bring it into line with other European countries. Although others acknowledged that this might be “politically difficult” in view of the power and influence still held by many landowners.

“For centuries the male landed elites have made the very laws that today underpin Scotland’s system of landownership. They have fashioned them in a manner designed to suit their own interests. We live with the legacy of much of that law today unlike virtually every other European country where revolutions and democratic reforms have empowered the peasantry and democratised the commons.”

(Individual)

- 3.16 In this context, a note of caution was sounded about the practical realities of redistributing land and property ownership, particularly in relation to existing legal constraints. It was suggested that it might be better to focus efforts on finding practical solutions that didn’t involve too much upheaval or risk of challenge.

Benefits for communities

- 3.17 There was a degree of support among some respondents (particularly ‘other individuals’ and ‘national voluntary organisations and charities’) that the focus of land reform should be on communities and people. It was recognised that the overall aim should be about securing and maximising a wide range of social, economic and environmental benefits that contribute to the sustainable development of communities across rural and urban Scotland.

- 3.18 In its response, the Carnegie UK Trust pointed to a number of its own research reports that provided evidence of how community ownership could deliver a range of social, environmental improvements that could act as a catalyst for change for local communities.²

“Community ownership of land or other local assets can have a transformative effect in communities... Our own research has shown that it can be a powerful catalyst for a wide range of social, environmental and economic improvements in local communities with a positive impact on individual and community wellbeing.”

(Carnegie UK Trust)

- 3.19 The Big Lottery Fund also referred to recent evaluations³ of its programmes, which provided further evidence that asset ownership was an extremely potent and powerful vehicle for making communities stronger, more resilient, independent and forward looking.

- 3.20 The Community Woodlands Association felt that the current pattern of ownership does not serve Scotland well, and called for legislation that would bring about sustainable development. Other organisations echoed this view.

“Moreover, there is a widespread consensus, reflected in the Scottish Government’s Land Use strategy, that the current ownership arrangements are not delivering sustainable development and the broad range of desired social, economic and environmental benefits.”

(Community Woodlands Association)

- 3.21 A number of respondents called for a system that encouraged more equal communities and made reference to Scandinavian models of land ownership and land use, particularly in relation to forestry. One individual highlighted the sharp contrast between Norway and Scotland, where vibrant communities thrive in forested areas in Norway, with occupied houses, smallholdings and local economies focused around the timber industry.

“Forestry would become more typical of forestry in Europe and elsewhere in the world: it would become ‘forestry for people’. A core part of this vision would be thousands of new woodland crofts, contributing to a new forest culture in Scotland.”

(Woodland Crofts Partnership)

² Carnegie UK Trust - Research Publications: Pride in Place: Tackling Environmental Incivilities (2012); Rural Broadband: Reframing the Debate (2012); Appreciating Assets (2011); The Effectiveness of Rural Housing Burdens (2011)

³ Big Lottery Fund – Publications: Evaluation of the Scottish Land Fund – Summary Report (2007); Growing Community Assets – Year 1 Summary Report (2010); Growing Community Assets Evaluation – Phase 2 (2011); Report Evaluating Growing Community Assets – First Report from Third Phase (2102); Learning from Growing Community Assets Year 4 (2012)

Other issues

- 3.22 The Women's Land Reform Group expressed particular concern in relation to the current national land policy framework, stating that the current system disempowers and disenfranchises women. They highlighted that current legislation allows land to be distributed from women to men without any recourse in law. They proposed that this issue should be addressed and a new non-discriminatory policy be developed.
- 3.23 Some respondents expressed disappointment at the slow pace of change since the passing of the 2003 Act, with some commenting that the Scottish Government's flagship policy of Community Right to Buy (CRtB) had been less successful than expected. There was an element of concern that the LRRG was back looking at issues that had already been debated prior to the 2003 Act coming into force.

“Notwithstanding the benefits of the existing legislation, it is widely recognised that the Act is cumbersome and complex to use and is in need of significant simplification and streamlining; it is deficient in its range of powers and needs to be reformed if there is to be further advance in the cause of land reform.”

(Community Land Scotland)

Support for the current pattern of land ownership in Scotland

- 3.24 In contrast, support for the 'status quo' was strongest among 'estates, farm owners, landowners and their representatives', split fairly evenly across individuals and organisations. A small number of other respondents (including 'other individuals' and 'other organisations', 'deer management groups', 'fishery boards' and 'other representative bodies') also expressed their support for the 'status quo'.

Lack of evidence base

- 3.25 The most common objection cited by these respondents to any proposals for further reform was the lack of a robust and transparent evidence base. Many highlighted that the Call for Evidence did not attempt to provide any evidence that further reform was required, particularly in relation to the need for further diversification of land ownership.

“...a clear statement of the benefits of community land ownership needs to be made. This needs to be backed with evidence of the benefits that communities, that have already secured land through the 2003 Land Reform Act, have gained from the purchase.”

(Bidwells)

- 3.26 A number of respondents also felt that the remit of the LRRG was deliberately biased against landowners, with some suggesting that Governments were not best placed to take a view on the best 'type' of person to run and own rural businesses. Others expressed concern that the remit that had been set for the LRRG presupposed the outcome of the Group's work, in that a solution had been identified without actually clearly defining what the problem was.

“The land reform agenda requires greater clarity as to what its objectives are. Changing the pattern of ownership appears to be the ends rather than the means and we do not accept the implied proposition that, in itself, a change of ownership will bring socio-economic development to communities.”

(Moray Estates)

- 3.27 Many questioned the extent of the actual demand for further diversification of land ownership, and whether communities themselves had a real appetite for becoming involved in the ownership and management of large tracts of land across rural Scotland, as opposed to small scale community projects. Others queried whether communities had the capacity, knowledge, skills and financial backing to take on such a challenge, particularly in the current economic climate.

“From our experience, Strutt & Parker LLP do not see that there is evidence of any real appetite across both rural and urban Scotland for the types of land reform that the LRRG are considering.”

(Strutt & Parker LLP)

- 3.28 In particular, Scottish Land and Estates (SLE) questioned whether there was a democratic call for further diversification of land ownership. They also expressed concern that within the Call for Evidence, there seemed to be a clear predisposition that existing land ownership patterns were flawed.
- 3.29 One farm owner commented that it wouldn't make any difference who owned the land, if rural communities are unable to sustain unsubsidised competitive businesses that can employ and retain the local population.
- 3.30 A number of respondents suggested that the LRRG might want to commission research to establish the facts first, before embarking on a whole scale programme of reform. An estate owner urged caution before implementing any radical proposals, proposing that pilots be used to trial any new proposals first. Whilst some other respondents sought clarity on what the alternative models were that could deliver better results than the current land ownership models.

Economies of scale

- 3.31 Another contentious subject raised by respondents was around the issue of the size of land holdings. Many respondents from the 'estates, farm owners and landowners' group were keen to dispel the 'sentimental myth' around too much land being owned by too few people. Many highlighted the importance of achieving economies of scale to ensure the viable management of land in Scotland, particularly in marginal upland areas and areas of low productivity. This was cited as one of the key reasons for land holdings in Scotland being much larger than other parts of UK and Europe.

“What may be considered large landholdings in the remoter areas of Scotland compared with elsewhere in Europe reflect the productivity of the landholding and its ability to provide a financial return to the owner.”

(Alvie and Dalraddy Estates)

- 3.32 In this respect, the Scottish Land and Estates Moorland Group commented that it would be more important for the LRRG to consider what scale of land holding gives the most community and environmental benefit in rural Scotland, rather than simply focusing on the size of land holdings per se.
- 3.33 There was real concern expressed by a number of these respondents that proposals for further land reform might result in the fragmentation of ownership and land holdings and it was felt that this would not be beneficial for the agricultural industry or local communities more generally.
- 3.34 Some respondents pointed to the French experience of fragmentation that happened as a result of the Code Napoleon, and the fact that this had led to the creation of small unviable and uneconomic farming units.
- 3.35 In particular, a few respondents argued that it was as a result of the consolidation of ownership and the creation of efficient sized farm units, that Scotland and the UK now had one of the most efficient agricultural sectors in the EU.
- 3.36 A number of ‘deer management groups’ and ‘national voluntary organisations and charities’ also expressed concern about the potential impact of further fragmentation and diversification of land ownership on the sustainable management and conservation of the environment in fragile rural areas.

“...deer management is required over all land in Scotland and requires a high level of collaboration across a broad range of land management situations. Further fragmentation of ownership or management of land would be likely to create additional barriers to sustainable deer management in many situations.”

(Association of Deer Management Groups)

- 3.37 Scotland’s Rural College (SRUC) commented that it is often on large estates that the most positive, long term environmental gain can be secured. This point was echoed by another conservation group, who also queried how large scale diversification of ownership would achieve national environmental targets at a landscape scale.

“In developing proposals and making recommendations for land reform, it is important that the rights and wishes of all communities are recognised, including communities of interest.”

(RSPB Scotland)

- 3.38 Similarly the Association for the Protection of Rural Scotland (APRS) highlighted that the LRRG's remit did not appear to give sufficient recognition to the importance of protecting and enhancing the rural landscapes that were valued so highly by local people and visitors alike. They also queried the tacit assumption that the acquisition and management of land by communities would be inherently good for society and the environment.

Contributions to communities

- 3.39 There was fairly widespread agreement across the 'estates, farmers and landowners' group that the sector already made a substantial contribution to the development of sustainable and resilient rural communities across Scotland. Respondents provided many examples of the wide range of social, economic and environmental benefits that are delivered as a result of their investment and business activities. Many respondents felt that these contributions were often undervalued, and in some cases not even recognised or understood.

"...we hope that the Land Reform Review Group will recognise the contribution that well managed private estates make to Scotland's rural communities and its economy."

(Roxburghe Estate)

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

(Scottish Land and Estates)

- 3.40 Dunecht Estates also suggested that the LRRG commission specific research on the benefits provided by existing landowning businesses before making recommendations on actions that should be taken by way of further land reform.

Risk to investment

- 3.41 A substantial number of respondents from the 'estates, farm owners and landowners' group expressed concern at the likely impact of further proposals for land reform on their businesses. Many argued that any further uncertainty in relation to property rights and land ownership could threaten confidence within the sector and pose a significant risk to future investment. It was suggested by some that this could in turn destabilise local economies in already fragile rural communities across Scotland.
- 3.42 Many of these respondents questioned the wisdom of moving away from a system that was already heavily subsidised by private investment, to a system that would need to rely on significant public sector investment at a time of extreme fiscal constraint. Some questioned whether diversification of land ownership to communities could be sustained in the longer term, without reliance on public sector investment support.

“We have a longstanding commitment to the good management of the land... Our vision is to continue and if possible improve our management. We see no purpose or benefit to the public in owning the land, nor do we have any wish to pass ownership to anyone else.”

(Allargue Estate)

- 3.43 In this vein, some of the fishery boards commented that, although their stance on ownership was neutral, their main concern was in ensuring that investment was sustained in the longer time, and that this was supported by sound management practices.

Land management

- 3.44 Another argument put forward by the ‘estates, farmers and landowners’ group was about whether the real focus of debate should be on land management, rather than on land ownership. Many of these respondents maintained that how land was managed was more important than who actually owned it. One estate owner stated that responsible use of land whether in private, public or community ownership should be the determining factor.

"The Buccleuch Estates generally disagrees with these statements due to the presumption that by addressing ownership as the sole issue ignores both what is currently being achieved through landowners and communities working together and also what might be achieved in the future."

(Bowhill & Dalkeith Estates of Buccleuch Estates)

- 3.45 The NFUS expressed a similar view, stating that it was important to encourage positive land management practices regardless of ownership or tenure of land. They also made the point that changes in ownership should not be seen as a solution to a problem that could be addressed by other means.
- 3.46 A number of respondents felt that there was already considerable diversity in land ownership and management types across Scotland, particularly over the last twenty years and therefore questioned the need for further diversification. Some respondents also cautioned against the wholesale adoption of a ‘one size fits all’ approach, particularly given the complexity and diversity of rural Scotland.

“Potential reform of land ownership is such an important topic and Scotland is such a diverse country, both geographically and culturally, that one dimensional reforms which do not reflect the diversity of opinion in Scotland would be naïve and potentially damaging.”

(The Applecross Trust)

Other issues

3.47 A few respondents raised concerns about the potential impact of any reforms on tourism. Many of these respondents recognised the importance of investing in, and protecting our unique and distinctive landscape and cultural heritage assets, as these were critical to the success of Scotland's tourism industry.

3.48 Another individual respondent with expertise in national information management proposed that Scotland's land reform agenda should be guided by a National Land Policy framework, rather than the patchwork of land policies that exist at present. The current system makes it problematic for the various land policies to collectively align and effectively support a comprehensive vision for land governance in Scotland.

Theme 2: Community Land Ownership

Should the Community Right to Buy be amended or extended?

- 3.49 Well over half of respondents (289 - 61%) submitted views on whether the Community Right to Buy (CRtB) should be further promoted, extended or supported. Nearly half of all responses (140 - 48%) came from 'estates, farm owners, landowners, and their representatives'. Individual respondents, 'local authorities and public bodies' and the local and national voluntary sectors and 'community ownership organisations' also responded in significant numbers. The respondent groups from which fewest submissions were received on this theme were 'tenant farmers, crofters and their representatives', and 'deer management organisations'.
- 3.50 'Estates, farm owners, landowners, and their representatives' were overwhelmingly against extending the present CRtB (125 - 89%). The overall majority against extending CRtB (180 - 62%) reflects the large number of responses received from the land owner sector on this theme. By contrast, groups comprising 'community ownership organisations', 'local authority and public sector bodies' and local and national voluntary organisations were overwhelmingly in favour of extending CRtB. The views of individual respondents were much more evenly split: this seemed to reflect the background and experiences of the individuals concerned.

Support for further promotion or extension of the Community Right to Buy

- 3.51 Many 'community ownership organisations' cited the unlocking of energy, enterprise and innovation found within communities, and associated confidence building, as the justification for extending the CRtB. The examples of Gigha and Knoydart were repeatedly mentioned as relevant examples in this regard.
- 3.52 From public sector organisations, Highlands and Islands Enterprise (HIE) argued that the benefits being delivered by community ownership justified extending CRtB:
- "Community ownership is delivering positive social, economic and environmental outcomes. It can require significant investment, and huge amounts of voluntary input, but the rewards are shown to be long-lasting and transformational."
- (Highlands and Islands Enterprise)
- 3.53 Most 'national voluntary organisations and charities' supported extending the CRtB. Some highlighted the success of both estate wide land purchases in rural areas and of smaller scale initiatives in both urban and rural Scotland.
- "Land Reform is sometimes represented as an issue for the remote north west of Scotland, and characterised as a story of "whole estate buyouts", often achieved after many years of struggle against "bad" landlords.....

In terms of hectares they dominate, in terms of achievements they are inspirational: at Knoydart, Eigg and elsewhere, community ownership has brought deep and lasting change. But.....the achievements of Abriachan Forest Trust, Neilston Development Trust and literally hundreds of other groups are equally inspirational..."

(Community Woodlands Association)

- 3.54 A number of individuals also expressed their support in terms of what community ownership can achieve: "the only way to fulfil economic potential" and "one of the brightest things to have happened in recent times". Several individual respondents made reference to and supported the views expressed in "The Poor had no Lawyers" (Andy Wightman, 2010). Others made reference to work due to be published on community land ownership by the Centre for Mountain Studies at UHI.
- 3.55 Some more specific benefits suggested by community ownership organisations were to address depopulation by maximising assets and generating income, for example, through the development of local forestry and sustainable energy initiatives. Some suggested that income generated could support the development of affordable housing.
- 3.56 'National voluntary organisations and charities' supporting CRtB gave reasons including:
- encouraging young people to return to rural areas;
 - the provision of affordable housing in rural areas; and
 - providing or maintaining access to green spaces in urban areas.
- 3.57 Some further points made by individuals included assisting in providing affordable housing (linked to Rural Housing Burdens), exploiting renewable energy opportunities, and developing community woodland or small scale plots.
- 3.58 Some individuals explained their support for CRtB in terms of the shortcomings of existing private ownership. Several expressed the view that, as a point of principle, land should be controlled by local communities and should not be at the whim of a current or incoming estate owner. One individual offered a range of examples of how landowners (private and public) can frustrate local initiatives which would have benefitted communities.
- 3.59 Another individual referred to issues regarding the performance of estates which have converted to charitable trust status (and which are protected from any possible sale and hence opportunity for community ownership). Another point made was that there should be increased focus on the accountability of existing owners and their factors to local communities. If private ownership cannot add value and return a share of this to the community, they argued that perhaps there has to be a default mechanism to some kind of community ownership.

- 3.60 Some 'local authorities and public sector bodies' expressed more qualified support. Scottish Water raised some specific concerns – but these were restricted to the need to ensure that operational and strategic management of public sector assets are safeguarded.
- 3.61 Only a few 'tenant farmers, crofters and their representative bodies' expressed views on CRtB. There was a mix of arguments for and against supporting CRtB, including a concern about conflict between community landlords' interests and crofters' rights. The Scottish Tenant Farmers Association, based on a survey of its members was broadly in favour of expanded community ownership, especially where land is underused.

Current barriers

- 3.62 Many respondents described barriers which they or others have faced in realising their community ownership aspirations. Community ownership organisations themselves offered many examples, including:
- Unwilling sellers - examples given were owners pulling out during the process; the issue of estates which have become charitable trusts and which therefore do not come up for sale at all: and the difficulties accessing land from local authorities and from Forest Enterprise Scotland.
 - The complexity and inflexibility of the registration and application process.
 - Funding support - for both the organisation and the purchase.
 - Other issues raised included timescales, mapping requirements and inflexible rules on land values (including inflexible rules on local authority land sales at below market value).
- 3.63 Some voluntary organisations voiced particular concerns about unwillingness on the part of local authorities to release land. There appeared among local authorities to be a strong willingness to help local groups - but not necessarily at the expense of selling or transferring their own land. Several local authority responses suggested that local authority assets are essentially ownership by the wider community.

How to overcome these barriers

- 3.64 Respondents provided a range of ideas on how current barriers might be overcome. These covered four broad areas:
- funding and other support for community ownership;
 - simplifying and introducing more flexibility to existing procedures;
 - extending the CRtB; and
 - introducing new legislation.

Funding and other support

- 3.65 'Community ownership organisations' and a number of local authorities suggested that greater financial and other support should be available to meet the cost of preparing proposals. Some respondents proposed the creation of a new land agency to support CRtB, bringing together and building on expertise in a number of different bodies.
- 3.66 Several respondents proposed an increase of resources to the Scottish Land Fund. One local authority suggested that there should be ongoing financial support available to community ownership organisations, particularly where there are no opportunities to generate income, for instance, from renewable energy.

Simplification and greater flexibility

- 3.67 A number of respondents including the West Harris Trust, Community Land Scotland and HIE, and a number of individuals with experience of the CRtB process identified a number of ways in which existing procedures could be simplified or made to be more flexible to ease the burden on prospective purchasers. These suggestions are summarised in paragraphs 3.68 to 3.75 below.

Defining a community body

- 3.68 Several respondents argued that the obligation for a community body to incorporate as a company limited by guarantee is unduly restrictive. Alternative suggestions included Community Interest Companies, Scottish Charitable Incorporated Organisations, or joint bodies. One individual noted that Eigg was bought by three members, namely the residents, Highland Council and the Scottish Wildlife Trust which would not be permitted under the current arrangements. One respondent suggested that, for registration purposes, unincorporated associations should be eligible.
- 3.69 The normal requirement that a community be defined by post code areas was also considered onerous. Some suggested that a useful alternative would be to use a map.

Clearer notification of intended sales by landowners

- 3.70 It was suggested that sales of land and other assets which are publicly marketed should be advertised in a significant local media outlet at the same time as any wider marketing. This would put local communities on an even footing with other potential buyers without creating an undue burden on sellers. It was also proposed that a private landowner who negotiates a sale informally with no marketing should have a duty to publicise this impending sale locally for a fixed period, prior to being allowed to register the sale. This would effectively give the community the opportunity to register an interest and have a right of pre-emption on the land.

Registration of interest requirements

3.71 Ideas for easing the burden on prospective community purchasers included:

- A clear, comprehensive checklist and system for finalising applications to register a community interest in land prior to submitting a completed application. It was reported that many applications have been turned down for ‘technical’ reasons such as inaccurate or incomplete information.
- A community body which registers an interest should be able to transfer the right to purchase the land to another community body if that is deemed to be the best solution for a given community.
- The current rules on ‘late registration’ should be relaxed (specifically it was argued that the 10% threshold for community support should apply to late registrations as for timeous registrations).
- The time period for renewal of registrations should be extended beyond the current five years. One respondent stated that 10 years was an appropriate timescale. Another suggestion for simplifying the reregistration process would be to review the requirement to replicate the original registration in full.
- Prospective community purchasers should be able to register interests in more than one land holding under the same application.
- It should be permitted to delineate the land by using an OS map (as is the norm in commercial sales) rather than by a lengthy written description.

Timescales for detailed proposals

3.72 Timescales were criticised for being onerous in a number of ways:

- The 19 week period from the date the valuation is given to the community body, to the proposed date of entry should be reviewed.
- When a CRtB is triggered, the six month period available for the community body to do all the work necessary to complete purchase is very tight. One respondent suggested a nine month period would be more realistic.
- The 30 days deadline for the community to decide that they wish to proceed may put unnecessary pressure on the community body. There should be more flexibility in timescales if this is to be a genuine tool to allow communities to purchase land.

Restrictions on landowners withdrawing from proposed sales

3.73 It was also suggested that once a landowner agrees to the CRtB being activated, consideration should be given to the circumstances in which the landowner can withdraw.

Other simplification proposals

3.74 A commonly expressed view was that forms need to be made clearer and better guidance issued for all parties involved. It was also suggested that better information on current land ownership would assist the CRtB process.

- 3.75 HIE also proposed renaming CRtB as a ‘community option to buy’ to help overcome the perception that it is a hostile action.

Extending the Community Right to Buy

- 3.76 A fundamental issue raised by many respondents was the current restriction of CRtB provisions to certain rural areas. There was widespread support for providing the same opportunity across all areas, including lowland and urban.
- 3.77 Community Land Scotland argued that CRtB should be made available across Scotland and crofters should not have different rights from other communities.
- 3.78 Several respondents made specific reference to submissions to the consultation on the proposed Community Empowerment and Renewal Bill and to the ongoing work on this:

“We believe it is important to highlight the intrinsic link between the work of the Land Reform Review Group and Scottish Government plans for a Community Empowerment and Renewal Bill (CERB) which are currently under discussion....While argued in the context of the Land Reform Act provisions which are for rural communities, anything in [our] submission should be taken as applying equally in relevance to any extended right to buy to urban communities emanating from the CERB considerations.”

(Community Land Scotland)

- 3.79 A number of local and national voluntary organisations supportive of extending the CRtB across Scotland saw this as a means of:
- increasing the availability of allotments and the opportunities for community food production in urban areas;
 - improving services and amenities, including affordable housing, in rural areas; or
 - better management of heritage sites or access paths.
- 3.80 While most landowners were opposed to extending CRtB, some suggested specific areas or situations in which community ownership might be the right solution. These included crofting areas, small island communities, small scale purchases generally or in urban areas. These suggestions often came from owners of land outwith these locality types. Some of these respondents also thought that community ownership may be justified where there was evidence of neglect or bad management by an existing owner.

Introducing new legislation

- 3.81 A number of individuals stressed the view that compulsion may be needed. A straightforward community power of pre-emption over any land was suggested by more than one respondent.

- 3.82 Community Land Scotland proposed that there should be new legal provisions to secure the ability for land to be taken into community ownership when it can be shown to be in the public interest and that this should not be limited to circumstances where there is a willing seller.
- 3.83 Other respondents suggested introducing compulsory powers of acquisition as a last resort, where voluntary processes have been exhausted and where there is a demonstrable public benefit.
- 3.84 One respondent suggested that Scottish Ministers devolve their current powers in this respect to local authorities. Another proposed that there should be regulation of the 'monopolisation of land' (to restrict the extent of land holdings in any area).

A new emphasis on voluntary sales

- 3.85 A number of respondents proposed a greater emphasis on assisting voluntary sales to community ownership organisations. HIE also suggested incentives might be considered for landowners to sell outwith the legislation. HIE and Community Land Scotland both suggested providing an independent negotiation or brokering service to facilitate constructive dialogue between the parties.

Opposition to extending the current CRtB

- 3.86 'Estates, landowners, farm owners and their representatives' were overwhelmingly against extension of CRtB. This was true of those submitting responses as individuals and also as organisations. It was also true of those individual respondents we identified to be farm owners rather than estate owners or land agents.
- 3.87 There was considerable common ground among these respondents. Many responses followed a similar format (starting off with a description of the estate or farm, its activities and its engagement with local communities before turning to the issues raised in the Call for Evidence). In many cases, they outlined the contribution they made to the local economy and the benefits accruing to both communities and the environment.
- 3.88 Many argued that estate and farm owners already do a good job, both running their businesses and engaging with and providing benefits for the local community. They have the skills needed to run complex and demanding businesses. They have a track record of providing financial support and continue to invest private resources to support (and in many cases subsidise) their estates and farms. A recurrent view expressed was that the quality of land management was more important than its ownership.
- 3.89 A large proportion of these respondents suggested that there is limited, localised or (in the view of some respondents) no demand for community ownership.

“There is simply no driver for a local community to own land if they are able to have access to land locally and also are engaged in decisions about how community benefits might be derived from that land.”

(The Queensberry Estate)

- 3.90 In support of this view, several respondents referred to the Scottish Government’s overview of evidence on land reform⁴ to substantiate their view. These respondents suggested that in these circumstances, and given that there is already a mechanism in place for community ownership, there is no case for further action by Government to extend the CRtB at present.

“There is no clear evidence that ownership is a major issue or concern at all, yet it is this single issue that seems to be driving the whole reform agenda.”

(Wemyss and March Estates)

- 3.91 Many argued that there is a lack of evidence to demonstrate what community ownership has achieved in terms of tangible benefits and value for money.
- 3.92 Similar concerns were voiced by some organisations with wildlife conservation interests.

“We would like to see more longitudinal evidence gathered on the long term benefits of community ownership, including on environmental and conservation outcomes.”

(National Trust for Scotland)

- 3.93 Concerns were raised that community ownership will not be sustainable in the long term. One reason given was that, when investment is needed in future, there will be no source other than public funding (which is unlikely to be and arguably should not be made available over and above funding to support the original purchase).

“Community ownership in itself and the public investment required to secure such a structure can be wasteful...”

(The Applecross Trust)

- 3.94 A further concern raised was the sustainability of community ownership organisations themselves, given their decision making structures and reliance on local leadership and skills. A few respondents cited issues with existing community ownership organisations as evidence for this view.
- 3.95 Another recommendation from organisations with conservation interests was that in assessing any proposal, the sustainability objective should cover biodiversity conservation as well as economic growth.

⁴ Scottish Government Rural and Environment Science and Analytical Services. Overview of Evidence on Land Reform in Scotland. 2012

- 3.96 One local authority expressed concern that CRtB might be used more by articulate, better off communities and suggested that particular assistance might be needed for “lower capacity” communities. A number stressed the importance of the representativeness and longer term sustainability of the community organisations concerned. A stronger role in management may be preferable to ownership in some cases. And there was a case for encouraging good practice rather than necessarily changing legislation.
- 3.97 Some concerns about extending CRtB were also expressed: dependence on community resources and capacity; suitability more for small scale projects; and a view that the “sustaining a way of life” argument did not apply to many areas.
- 3.98 Many expressed concerns that extended CRtB provisions could introduce an element of compulsion to sell. Aside from the question of breaching the human rights of existing owners, the prospect of compulsion would risk necessary future investment in land management (or purchase), and any fragmentation of ownership would risk efficient management or farming of remaining land holdings.

“...the perceived threats around forced community ownership serve only to stifle inward investment and positive composite working practices, and this should be avoided.”

(National Farmers Union Scotland)

- 3.99 This concern also featured in the small number of responses from ‘fishery boards’ and ‘deer management groups’.

Other views

- 3.100 While nearly 90 per cent of ‘estates, farm owners, landowners and their representatives’ specifically opposed extending current CRtB measures, a small number made comments which were at first glance less critical. Several respondents supported simplification of current CRtB procedures (a view which many other respondents who were advocates of CRtB shared).
- 3.101 Some suggested that CRtB is most appropriate for small scale purchases or in crofting areas; others suggested limiting it to cases where it would achieve demonstrable community benefits. Several made clear that any support for the policy was subject to there being no element of compulsion. Only a very small number of respondents suggested that CRtB might bring positive benefits in terms of innovation and job opportunities.
- 3.102 Others expressed more qualified support:

“While there are many examples of successful community landowners in the Highlands and Islands, it is not a panacea and success is never easy, requiring a great deal of sustained effort by all stakeholders. There are instances where close partnership working between landowners and rural communities brings

significant mutual benefits, and avoids the responsibilities and costs for communities of owning the land.”

(Scotland’s Rural College)

3.103 Other points made included the need to address economic and housing issues and not focus solely on ownership; the suggestion that CRtB should apply only to abandoned land where there is a sustainable alternative plan by the community; and consideration of “communities of interest” as well as geographically defined communities.

Public sector owned land

3.104 While most responses focused on CRtB in relation to privately owned land generally in rural Scotland, a significant number of respondents also made reference to community ownership of land owned by local authorities and other public sector bodies. In some cases this was specifically flagged as an issue for urban Scotland. Points made by a number of respondents included:

- The need for public assets registers to be compiled, maintained and made easily available.
- Concern about unwillingness on the part of some public bodies to relinquish assets.
- A proposed duty therefore on public bodies to offer redundant assets to the community.

3.105 Some respondents referred specifically to Common Good assets. A number advocated wider use of schemes like the National Forest Land Scheme. It was suggested that land valuation can be an obstacle and that the regulations governing transfer at nil or below market value needed to be reformed. A number of voluntary sector organisations also noted that outright purchase was not always appropriate, and encouraged temporary use and leasing agreements.

Theme 3: Other Models

Models other than ownership which would give communities and individuals a greater stake in land management

3.106 About a quarter (123 - 26%) of all those responding to the Call for Evidence offered views on models other than ownership. Half of these responses came from 'estates, landowners, farm owners and their representatives'. Many individuals also responded, along with smaller numbers of 'local community organisations', 'national voluntary organisations, charities', 'other groups' and 'other representative groups'.

3.107 There was widespread support from all respondent groupings for the principle of greater community involvement. A minority of 'estates, landowners, farm owners and their representatives' argued against giving communities or individuals a greater say. Specific suggestions ranged from encouraging greater participation in existing structures to ways of devolving management. There was little or no apparent appetite for legislative change coming from any sector.

Better collaboration and communication

3.108 The vast majority of 'estates, landowners, farm owners and their representatives' were in favour of more community involvement. Many of these respondents talked about the role of planning in fostering community engagement. Long term forestry plans, game management plans and land use management plans were all mentioned.

“The Land Use Management Plan ... was a significant development in providing an explicit statement of the estate’s objectives, creating an inventory of “natural” assets and providing a series of agreed actions to be followed.”

(Glenfalloch Estate)

3.109 Some also referred to the statutory planning framework which involved both estates and communities and could be used to promote greater community involvement:

“We propose a further development of the planning system with the production of Community Plans to encourage greater community participation and engagement in land use decision making in their communities and to facilitate greater dialogue between all stakeholders about land use planning and decision making in and around communities.”

(Moray Estates)

“Local authorities should be tasked with ensuring that they have clear plans for encouraging and securing community involvement in the strategic and local development plan process.”

(Dunecht Estate)

- 3.110 'Estates, farm owners, landowners and their representatives' also suggested pro-active rather than simply reactive engagement; and building relationships and awareness between land agents and communities starting at school level.
- 3.111 Contributions from 'individuals', 'local community organisations', 'national voluntary organisations and charities', 'other groups' and 'other representative bodies' were overwhelmingly in favour of greater community involvement or a greater stake in land management. Most of the views expressed centred on better communication and better local partnerships.
- 3.112 Suggestions for better communication included greater involvement of Community Councils (which may in turn need to be better resourced and revitalised); establishment of Land Use Forums locally; and wider good practice sharing.

“...the development of templates for best practice to underpin collaboration within communities could provide a meaningful way forward.”

(National Farmers Union Scotland)

“Community Councils could be further empowered to be the active forum where communities can focus their knowledge of the place and their aspirations for their futures.”

(Royal Town Planning Institute Scotland)

- 3.113 A number of 'estates, farm owners and landowners' were also keen to see a greater role for Community Councils.

Alternative models for community involvement

- 3.114 One estate owner proposed “charrette style” participation in decision making. Some referred to evidence of other successful initiatives.

“[We] were one of three estates who participated in ‘Communities on the Edge’ a project run in association with the Southern Uplands Partnership (www.sup.org.uk) and the Carnegie Trust (www.carnegieuktrust.org.uk) to improve local engagement between the Estates and their local communities.”

(Douglas and Angus Estates)

“Research by the Centre for Mountain Studies ...reported in the publication ‘Working Together for Sustainable Estate Communities (2012)’, highlights the key role which rural estates can play in furthering the development of community resilience. Effective communication and collaboration are acknowledged as key to delivering benefits for estates and communities...”

(Roxburghe Estates)

- 3.115 Several respondents advocated local partnerships or joint ventures as a way of obtaining the advantages of a community stake without the outlay on land purchase. Renewable energy projects and affordable housing were given as examples of partnership initiatives.
- 3.116 Leasing of land as opposed to sale was also proposed by a number of voluntary sector organisations and individuals. Suggested land uses included allotments or small scale forestry initiatives (by community companies or individuals). A new era of “hutting” was also suggested.

“Long term use and participation in the land is significant to allotment associations. Ownership is one way to secure this however it is not the only approach. Many urban groups are not in the position to own land. The review group should consider other forms of security for allotment sites in the long term. These could include long term leases with security of tenure guaranteed by the local authority.”

(Scottish Allotments & Garden Society)

- 3.117 Among the more innovative suggestions were ‘twinning’ of urban and rural communities to improve cross fertilisation of ideas and break down barriers; and the proposal (from the Nordic Enterprise Trust) to establish a completely new co-operative framework defining roles for occupiers of, custodians of, investors in and managers of the land.

No further measures to give communities a greater say

- 3.118 A minority of ‘estates, farm owners and landowners’ - along with a handful of other respondents - argued against further community involvement in the management of their land.
- 3.119 Some of these respondents suggested that current relationships are satisfactory and that there is no evidence of a desire for change on the ground. They felt that any pressure for change is simply politically motivated.
- 3.120 Other respondents felt that giving communities a greater say in the running of farms and estates would affect business efficiency and have an adverse impact on investment decisions. The view was also expressed that it is easy to voice opinions when there are no associated responsibilities for the consequences.
- 3.121 While many land and estate owners were supportive of better collaboration and communication, few suggested anything akin to a formal stake for communities or individuals, and one estate one was explicit that:

“...models that bring community or staff interests onto the management board of estates inevitably threaten their operating efficiency by complicating and delaying decision making processes.”

(Atholl Estates)

3.122 Those responding on behalf of 'fishery boards' considered that existing management arrangements did not need to be changed and that good practices were already under way in terms of community involvement and benefit. A very small number of 'tenant farmers and crofters' responded and were not in favour of greater community involvement, seeing this as an unnecessary interference, particularly for marginal or loss making businesses.

Other issues

3.123 Some notes of caution were sounded. Communities can suffer from committee fatigue and be vulnerable to undue influence, for example, from "incomers". And the accountability of the new generation of community ownership landowners may also need to be examined.

Theme 4: Taxation

Should a land value or similar tax be introduced?

3.124 Around one fifth of respondents (101 - 21%) addressed this theme. Just over half of those who did (54 - 53%) were opposed to the introduction of a Land Value Tax (LVT), and the vast majority of those (47 – 82%) came from ‘estates, farm owners and landowners and their representatives’. Both individuals and organisations from this group were almost unanimously opposed to the LVT. Just under half (47 - 47%) of those who responded expressed support for the proposal. The majority of those were ‘other individuals’ (25 – 53%), along with some ‘national voluntary organisations and charities’.

3.125 In some cases, respondents may have had differing views on the design or consequences of an LVT. This depended on the respondent’s understanding of how an LVT would work.

Support for a Land Value Tax

3.126 Forty-seven of those who responded expressed support for the proposal. The majority of those were ‘other individuals’, along with some ‘national voluntary organisations and charities’. A significant number hoped that the tax could be used as a mechanism to change the pattern of land ownership.

“[The LVT] would penalise and therefore discourage the holding of land as an indulgence or as a novelty. Land hoarding would become expensive and pointless, and speculative values would collapse. This would break the cycle of boom and bust which is driven by the property market – it is the land which is the volatile element of that market, not the bricks and mortar. Inefficient rural estates would begin to break up and the way would open for a wider pattern of ownership, possibly in smaller parcels.”

(Individual)

3.127 The Centre for Human Ecology agreed with this and hoped that the proceeds of the LVT (from which, in their view, democratic community trusts should be exempt) would fund future community buy-outs, which would in turn “bring about the clearance” of landlordism.

3.128 Others argued that the tax should be introduced because it has the potential to raise a great deal of public money at a time of cutbacks, particularly as the tax would not be easily avoidable.

“...this is a vital and straight forward step to take right now. As well as the considerable income generation potential, land is not an asset that you can take offshore and it’s very hard to hide.”

(Individual)

3.129 Some respondents cited other countries that have already implemented similar tax systems, such as continental European countries and the United States. One respondent argued that those countries have been better able to cope with the recession. Another suggested that the tax could encourage the development of affordable housing.

“[The LVT] would make it costly for landowners to hang onto land with housing market development value because it would be taxed on its value annually.”

(Individual)

3.130 A further point, raised by a number of individuals, was the hope that the LVT could serve as a replacement for other taxes. One based this aspiration on the point that a tax on land value is directly linked to the benefits one receives from the land, which could not be said of other taxes such as income tax.

“Crucially, [the LVT could be] a huge source of *alternative* rather than additional revenue, it would enable the Government to liberate the economy from the burden of penal taxation on labour and productive enterprise. Massive cuts could be made to our present counter-productive taxes. Income taxes on labour and enterprise are unrelated to any direct benefits given to the taxpayer, whereas payment of annual land values is based on the direct benefits enjoyed (just like parking fees).”

(Individual)

3.131 A number of respondents did not wholeheartedly endorse the tax, but did not dismiss it either, recommending that the LRRG and Scottish Government consider the notion in detail and conduct more research into how it could be implemented.

Opposition to a Land Value Tax

3.132 The most common objection was the perceived risk of a loss of investment. While most of those who held this view were concerned about the impact on the rural economy, a few also considered urban areas.

“There is also no doubt in my mind that [the LVT] will completely discourage the vital investment in rural and even urban areas by owners and/or potential purchasers /investors.”

(Glenernie Estate)

3.133 Another commonly made assertion was that the tax would impose too great a financial burden on those working in the rural economy. Some argued that because estates and farms do not make a great deal of money from their land, the imposition of this tax could be very costly for them.

“It would be difficult to levy a land tax fairly. Land values often bear little relation to their earning potential so levying a tax based on capital value may place unacceptable cost burdens on rural businesses, where returns are typically low and which often operate at the lower range of margin and profitability.”

(Wemyss and March Estates)

- 3.134 The NFUS agreed, noting the significant rise in land values in recent years. In a related point that was echoed by others, NFUS went on to criticise the concept of a tax that is not directly linked to the ability to pay.

“At a time when Scottish farming faces a very challenging economic position, the notion of taxing an asset, rather than any income that might be earned from that asset, could be catastrophic.”

(NFU Scotland)

- 3.135 One individual farm owner, who did not object in principle to the LVT, expected that it would nevertheless be a considerable cost. They reported that they would have to pay £30,000 out of an annual profit of £100-150,000.
- 3.136 The Confederation of Forest Industries (Confor) expressed a similar view in relation to forestry. They asserted that because the industry depends on long term timescales to be profitable, the impact of an annual tax would be “disastrous”.
- 3.137 Some linked the LVT to the LRRG’s aim of encouraging new entrants to farming. Given that aim, they argued that there would be little logic in a tax that could potentially deter new entrants. It was felt that this would also apply to new businesses in urban areas.

“Having encouraged younger people to come into the farming profession, it is then proposed to tax them on land values, which is totally unaffordable. This is not very clever economics.”

(Individual)

- 3.138 Another concern, raised by an individual landowner, was the belief that the tax had the potential to stall environmental protection efforts by incentivising profit focused work at the expense of long term conservation.

Tax incentives and other issues

- 3.139 The issue of tax incentives and relief also arose. A number of farm owners felt that inheritance tax relief has been vital in keeping their businesses going, and should therefore be maintained. One estate hoped that VAT relief for renovations to listed buildings would be retained. However, one national voluntary organisation called for reform because the current system of incentives and relief promotes the retention of empty properties.

3.140 An individual suggested tax incentives to promote the sale of rural land at affordable rates, particularly for sale to communities, and to encourage small businesses in rural areas.

“Tax benefits for the sale of land at affordable rates in rural areas with the specific aim of community creation and support should be explored so as to encourage philanthropy. Tax benefits and / or further radical business support should be encouraged for businesses looking to operate from and in community assets.”

(Individual)

3.141 A number of ‘tenant farmers and their representatives’ also called for changes to the tax system that would discourage “in-hand” farming and encourage new tenancies.

3.142 No ‘fishery boards’, ‘local authorities or other public bodies’ expressed a view on taxation. One ‘local community organisation’ addressed the issue, expressing their support for the LVT.

Theme 5: Succession Rights

Should succession rights be amended?

- 3.143 Just over one tenth (54 – 11%) of respondents addressed this theme. Of those that did, 42 (78%) were opposed to any change in succession rights. The vast majority of those were ‘estates, farm owners and landowners and their representatives’ (35 - 83%) – both organisations and individuals – but some others such as ‘community ownership organisations’ were also opposed. Eleven (20%) respondents expressed support for amending succession rights, the majority of whom were individuals.
- 3.144 The key debate underlying the issue of succession rights was the question of whether land should be broken up into smaller parcels to promote more diverse ownership, or whether the status quo should be maintained.
- 3.145 The majority of those in favour of amending succession rights argued on the grounds that it would be an effective way to tackle the concentration of land ownership. In the main, this was seen as an end in itself, although one respondent hoped that it would lead to more land being made available for affordable housing. For some, the desire to see diversified ownership was coupled with a desire to end age and gender discrimination in inheritance law.

“The laws of inheritance, whereby a landowner can leave the whole of his estate to one person, disenfranchising his other children, has been used to keep these enormous estates intact. A change in the laws of inheritance ensuring children are not disinherited in this way would help to break the pattern, making the estates smaller and creating more numerous and diverse landowners.”

(Individual)

- 3.146 By stark contrast, the majority of those opposed to any amendments wanted to avoid exactly that fragmentation. It was felt that the resulting smaller units of land would not be economically viable because economies of scale are needed in agriculture.

“Changes in inheritance legislation, which might lead to more and more subdivision of plots down to a size where they become uneconomic and subsidy-dependent, should be resisted.”

(Highland Perthshire Communities Land Trust)

- 3.147 Atholl Estates added that an attempt to diversify ownership through changing succession rights may have the opposite effect. They suggested that smaller units, due to their lack of viability, may be bought up and eventually combined into much larger corporate units.
- 3.148 Smiths Gore was concerned that the current laws of succession can prevent talented young people from fulfilling their potential by appointing based on inheritance rather than based on merit. They also thought that those who had inherited land may adopt a complacent attitude.

“Whilst succession rights have an important and valid social contribution they also act as a potential block to young, enterprising, energetic and capable next generation agri-business owners, encouraging a degree of complacency by those who succeed ‘as of right’ rather than by enterprise and effort.”

(Smiths Gore)

3.149 However, Smiths Gore nevertheless maintained their belief in the asset owner’s right to choose who succeeds them, and suggested longer tenancies as a compromise. A number of others repeated this emphasis on landowners’ rights, framing succession as a human rights issue. In their view, the owner’s right to choose a successor to an asset or property cannot justifiably be interfered with.

“The right of landowners to appoint their successor is a fundamental right of ownership stretching back many centuries. The alternative systems, e.g. communism, have been signally unsuccessful in delivering benefit to either the local or the wider community.”

(Individual)

3.150 Some did not express an opinion on whether a change to succession rights would be desirable in principle, but did question whether it would be workable in practice.

“It’s not realistic to imagine that any change in the law would produce wider or more equal ownership of land. The problem lies not in the law but in the habits of the landed classes in favouring their eldest sons. Apart from this the use of devices such as offshore companies and trusts will always defeat the intentions of the legislator.”

(Individual)

Theme 6: Tenant Farmers and Encouraging New Entrants Should a Right to Buy be introduced for tenant farmers?

3.151 Almost two-fifths of respondents (183 – 39%) addressed this theme. Of those respondents who expressed a view in relation to introducing the RtB for tenant farmers, one fifth (34 – 19%) indicated their support. In contrast, four-fifths of respondents (133 – 73%) stated that they were opposed to the proposal to introduce the RtB for tenant farmers. A significant majority of responses came from ‘estates, farm owners, landowners and their representatives’. However, almost a quarter of responses were from ‘tenant farmers and crofters and their representatives’ (primarily individuals) and ‘other individuals’.

3.152 ‘Tenant farmers, crofters and their representatives’ (almost exclusively individuals) were strongest in their support for introducing the RtB, followed by a small number of ‘other individuals’. In contrast, ‘estates, farm owners and landowners and their representatives’ – split evenly across individuals and organisations – were strongest in their opposition, followed by ‘other individuals’.

Support for the introduction of Right to Buy

3.153 Of those respondents who expressed a view in relation to introducing the Right to Buy (RtB) for tenant farmers, one fifth (34 – 19%) indicated their support. ‘Tenant farmers, crofters and their representatives’ (almost exclusively individuals) were strongest in their support for this, followed by a small number of ‘other individuals’.

Lack of empowerment

3.154 There was strong agreement across tenant farmers that introducing the RtB would help to address the current imbalance of power between tenant farmers and landlords. A number of these respondents highlighted instances of harassment and intimidation by landlords and called for an end to what was seen to be an unfair and outdated feudal system.

3.155 Many felt that as tenants, they had little control over their land and had to defer to their landlord’s decisions. Some expressed concern that in some areas, landlords had adopted a deliberate policy of neglect, allowing houses and farm buildings to fall into disrepair, and at the same time reducing the number of farm tenancies available. This had all contributed to the demise of some rural communities. Others said that landlords sometimes stood in the way of progress and development by blocking plans for diversification and investment by tenant farmers.

Barriers to progress

3.156 A few respondents highlighted the fact that tenant farmers were unable to get loans to invest in their farms, as they have no security to offer lenders. Others expressed concern that there were no opportunities for young people, as they were unable to secure continued leases from landlords, and as a result were being forced to move away. This was seen as yet another factor that was hastening the decline of rural communities.

3.157 A number of respondents called on the LRRG to take action to ensure that that tenant farmers were able to enjoy the same benefits and rights as crofters and that legislation should be changed to support this. However, a few respondents qualified this, suggesting that the RtB should be limited to secure tenants, so that landlords did not risk losing all of their agricultural land.

More vibrant communities

3.158 Many of the respondents believed that introducing the RtB would help to create thriving and vibrant communities. It would allow farmers to invest and diversify and this would help to support the local economy and deliver significant benefits for the wider community. Some also argued that it would create new opportunities for young people, particularly new entrants to farming.

3.159 A few respondents highlighted the example of Islay to illustrate what might be possible if the RtB were to be introduced. They indicated that on Islay, one half of the island is farmed by owner occupied farmers and it is prospering, whereas the other half is farmed by tenant farmers and is in decline. The respondents therefore felt that this was proof that ownership leads to economic success.

Other issues

3.160 The Scottish Tenant Farmers Association (STFA) presented a slightly different perspective on the issue of RtB. They stated that it would not take a definite position on the issue, as support among its members was divided (61% against RtB and 31% for RtB). However, they said that the main reasons that their members were in support of the RtB tended to be out of frustration with “unsympathetic”, “disinterested” and “often absentee” landlords.

3.161 The NFUS Islay, Colonsay and Jura branch also commented that their members had mixed views on whether the RtB for tenant farmers should be introduced.

3.162 One of the few estates to offer positive comments in relation to RtB, said that it was open to considering tenants’ requests to purchase property and that it would support responsible approaches to introducing RtB.

Opposition to the Right to Buy

3.163 In contrast, four-fifths of respondents (133 – 73%) stated that they were opposed to the proposal to introduce the RtB for tenant farmers. ‘Estates, farm owners and landowners and their representatives’ – split evenly across individuals and organisations - were strongest in their opposition, followed by ‘other individuals’.

Impact on tenanted sector

- 3.164 One of the most common objections cited by these respondents against introducing the RtB was the detrimental impact that it would have on the tenanted farming sector. Many respondents asserted that this policy would be completely at odds with the Government's other stated aim of helping to create new pathways for young people into farming. Many respondents felt that overall this would be detrimental to the rural economy.
- 3.165 A significant number of respondents expressed concern that the RtB would have the effect of reducing the supply of tenanted farmland and that ultimately this would dry up, depriving young farmers from getting a foothold on the farming ladder. Many saw this as the being "death knell" of the tenanted sector.
- 3.166 To address this, a number of respondents called for the Scottish Government to create a stable platform that gave landlords confidence to let. Many commented that RtB had been on the agenda before and suggested that this had already had devastating consequences for the tenanted sector. Others referred to previous assurances that had been given by Ministers, as recently as 2008 that RtB would not be introduced and expressed surprise that this issue was back on the agenda again.
- 3.167 Some respondents expressed concern that the current uncertainty around RtB was damaging the sector. Many estates pointed out that they had been forced to go back to "in hand" farming as a result of the perceived threat of RtB. Many more said that if the RtB was to be introduced, they would completely withdraw land from the tenanted sector.

"However, a fundamental barrier to this vision [of a vibrant tenanted sector] is the threat of any absolute right to buy proposals which deters anybody who owns land be they large estate, communities or individual farm owners from letting out their land and property."

(Strutt & Parker LLP)

- 3.168 A few individual estate owners commented that they had stopped letting their land and that this was a regrettable step. However, they indicated that they had been forced down this route due to the uncertainty associated with the introduction of RtB.

Barrier to new entrants

- 3.169 There was fairly unanimous agreement across respondents opposed to the introduction of a RtB that it would act as a significant barrier to young entrants. Many highlighted the importance of a vibrant and thriving tenanted sector for providing opportunities for young farmers.

“New entrants to farming is most likely via the tenanted sector and it is absolutely vital that we foster a progressive tenanted sector that is fit for purpose and encourages modern farming businessmen. The threat of a right to buy kills this prospect stone dead. ...An absolute right to buy will have a fatal effect on the tenanted sector.”

(Wemyss and March Estates)

3.170 Some considered that the current system already worked well and should not be tampered with, particularly if the motives were political. Others felt that the current system was the only system that allowed new entrants to get a foothold on the farming ladder without a substantial level of investment. One estate owner said that it was a cost effective way for a farmer to explore this type of lifestyle without a huge amount of capital investment.

3.171 The NFUS highlighted that the majority of its members were of the view that the RtB should not be introduced, as it would act as a barrier to long term letting devices and block potential opportunities for new entrants.

3.172 This view was also shared by the Tenant Farming Forum, who added that the RtB would fundamentally alter the dynamics of the tenanted sector in Scotland.

Attack on property rights

3.173 Many respondents saw the RtB as being an extremely emotive issue. Some regarded it as a direct threat to and attack on their property rights. Others claimed that it was an infringement of their human rights. Some respondents stated that it was inequitable that one individual should enforce the right of purchase on an unwilling seller with a view to acquiring an asset. Many considered that this was completely against the principles of property ownership in Scotland.

“The introduction of the absolute right to buy would be an unjust attack on private property rights. It is fundamentally wrong in any democratic society to force one party to sell property to another against their will.”

(Dunecht Estates)

Threat to investment

3.174 Another argument put forward by some respondents centred on the impact of the RtB on investment. Many respondents felt that this would act as a disincentive to investment in both the estate and farming sectors.

3.175 In particular, Scottish Land and Estates Moorland Group and a number of other estates commented that a RtB for tenanted hill farms would render many sporting estates unmanageable and could significantly undermine confidence in the sector.

3.176 Similarly another estate owner underlined that it could have the effect of destabilising the finances of farmers and this could potentially compromise the ability of farmers to deliver the Government's food production and environmental enhancement goals at a national level.

Complex tenancy arrangements

3.177 Several respondents commented on the current system of tenancy arrangements, stating that this was more complex than some commentators recognised. Many of these respondents felt that there was scope to work within the current system to make improvements, without introducing further legislation. Although there was an acceptance by some that current lettings legislation should be reviewed and simplified. In particular, some respondents proposed that freedom of contract arrangements should be considered, as this was operating successfully in England and Wales and had the potential to free up more land for young entrants.

“A less constrained legislative basis for agricultural lettings operates in England and Wales (under the provisions of The Agricultural Tenancies Act 1995) and this has resulted in a vibrant lettings market which has been able to create space for new entrants...”

(Queensberry Estate)

3.178 A number of respondents were keen to encourage the LRRG to oppose the introduction of the RtB, and to consider alternative approaches that would assist in achieving the objectives of the 2003 Act.

Other issues

3.179 Scottish Water expressed concern at the potential impact of the RtB on public water supplies and particularly the additional cost likely to be associated with this due to piecemeal, fragmented ownership of land.

3.180 Other issues raised by respondents included the problem of fragmentation of land as a consequence of RtB, and the fact that this was likely to be uneconomic and less viable than the current system. Others felt that the RtB would destroy the trust between landlords and tenants.

Other mechanisms proposed to encourage new entrants

3.181 Just over a third of respondents (64 – 35%) who addressed this particular issue provided suggestions about other mechanisms that could encourage new entrants. A significant majority of these suggestions were made by 'estates, farm owners and landowners and their representatives' – split fairly evenly across individuals and organisations.

Overhaul of legislation

3.182 The suggestion that received greatest support from respondents was in relation to overhauling the current agricultural holdings legislation. Many respondents felt that current tenancy arrangements were overly complex and cumbersome and that there was a need to introduce arrangements that were more flexible and satisfactory to landlords and tenants alike.

- 3.183 There was significant support for the introduction of freedom of contract arrangements and many pointed to the successful use of Farm Business Tenancies (FBT) in England and Wales and the positive effect that this has had on the tenanted sector. Some respondents maintained that this would introduce a more commercial and businesslike approach. Whilst others felt that it would send out positive signals to estates and landowners and restore their confidence to let land and create opportunities for new entrants.
- 3.184 The Scottish Tenant Farmers' Association and its Islay members and a few other respondents also proposed that consideration be given to changing succession laws as it relates to the 1991 Secure Tenancy Sector, to allow succession opportunities to be extended to a wider class of relative, and even to non relatives where there was no immediate heir.
- 3.185 In particular, the NFUS and the Scottish Tenant Farmers Association proposed that consideration should be given to share or partnership farming arrangements that would allow for a transfer period between farmers wishing to retire and a new generation coming through.

Retirement incentives

- 3.186 A number of respondents highlighted that the average age of farmers was too high and that consideration needed to be given to developing a range of incentives to support and encourage farmers to retire earlier thereby freeing up opportunities for new entrants.
- 3.187 The NFUS proposed that consideration be given to introducing retirement packages for farmers who wished to leave the industry. Another respondent suggested that a scheme be developed that would allow existing farmers to retire, whilst retaining some form of pension.

More supportive fiscal regime

- 3.188 Some respondents called for changes to the current tax and subsidy regimes, as they were seen to be particularly disadvantageous to new entrants and to tenant farming more generally. For example, there was a view expressed that the tax regime was more favourable to "in hand" farming. Similarly, in relation to Common Agricultural Policy (CAP) subsidies, Single Farm Payments are not available to new entrants, although this is currently under review.
- 3.189 To reflect this, the New Entrants Group proposed that a New Entrants/ Young Farmers thematic sub programme be included within the next Scottish Rural Development Programme (2014-20).

Other issues

- 3.190 A farm owner and a few other respondents suggested that new entrants should be offered starter units. Alternatively, one estate owner proposed that the Scottish Government should acquire arable and livestock farms to provide a testing ground for new entrants.
- 3.191 Access to investment was identified as another key barrier to new entrants. Some respondents called for low cost finance to be made available through the Scottish Government to new entrants. Others proposed that the Scottish Government should act as guarantor and provide some form of central financial underwriting to cover risk as a way of enabling landowners and farm owners to take on new entrants.
- 3.192 Finally, a couple of respondents highlighted the fact that a New Entrants Advisory Panel had already been set up to advise the Scottish Government on issues affecting new entrants and should therefore be allowed to take this work forward rather than the LRRG.

Theme 7: Crofting

Is there a need to amend crofting rights or extend crofting areas?

3.193 Just over one tenth of respondents (52 – 11%) addressed this particular theme. Of these, well over half of respondents (31 – 60%) offered suggestions in relation to existing crofting areas. Whilst two-fifths of respondents (21 – 40%) provided comments on how similar rights might be applied to different areas or activities. ‘Estates, farm owners and landowners’ and ‘other individuals’ provided the bulk of views on this particular theme. Whereas ‘deer management groups’ and ‘fishery boards’ did not offer any comments.

Suggestions for existing crofting areas

3.194 The ‘estates, farm owners and landowners’ group made the most suggestions from one stakeholder group, with the balance of other suggestions being spread across the ‘other stakeholder’ groups (principally organisations).

3.195 Many of the suggestions from respondents related to Part 3 of the 2003 Act. There was a fair degree of consensus that the provisions within Part 3 were unworkable and that was why, there had been a lack of uptake of the Crofting Community Right to Buy (CCRtB). Many felt that the process was too complicated, bureaucratic and burdensome for communities to complete successfully. One community buy-out organisation suggested that a universal CCRtB would allow Part 3 to be scrapped.

“The unnecessarily onerous requirements of Part 3 of the 2003 Act should be abolished.”

(Community Land Scotland)

3.196 Highlands and Islands Enterprise noted that in the context of CCRtB, where compulsory purchase is the mechanism deployed to ‘enable’ crofting communities to purchase crofting land, this can sometimes be counter-productive to increasing community asset ownership. As an alternative, they proposed that negotiated settlement might be a simpler route, on the basis that there is a willing seller.

3.197 Similarly, the National Trust for Scotland expressed reservations about the CCRtB legislation in terms of its practical applications and suggested that greater emphasis should be placed on better management of crofting townships.

3.198 A couple of respondents offered detailed comments relating to wider crofting legislation (Crofters (Scotland) Act 1993 and the 2007 and 2010 Crofting Reform (Scotland) Acts). They noted that the CCRtB was somewhat detached from the rest of crofting law and practice and proposed that the LRRG give consideration to updating and consolidating the legislation relating to crofting and crofting reform.

3.199 Some estates owners were less than supportive of existing crofting law, as it restricted mobility and acted as a barrier to new investment. There was also a feeling among others that crofters were given preferential treatment - both in terms of their rights and also the subsidy arrangements - compared to small farms and businesses. One estate commented that the crofting system was out of date and should be abolished.

“The net effect of giving tenants the right to expropriate the assets of their landlord is that further investment in landholdings eligible for such action has all but dried up. This cannot be good for the community or the local economy. It has also had the effect of devaluing the land and its fixed assets.”

(Alvie & Dalraddy Estates)

3.200 One community ownership organisation suggested that there should be more crofts available to new or returning people and that land should be affordable. Another respondent suggested that there should be more opportunities to establish woodland crofts, and where there was a clear demand, this should be supported by local landowners.

3.201 One estate owner questioned the role of the Crofting Commission, and suggested that it might be appropriate to merge the Commission with Scottish Government’s directorate responsible for agriculture. This would allow all farming issues to be dealt with in the one place.

Applying similar rights to other areas or activities

3.202 Two-fifths of respondents (21 – 40%) commented on this particular issue. Comments were spread fairly evenly across four stakeholder groups – ‘estates, farm owners and landowners’, ‘tenant farmers and crofters’, ‘other individuals’ and ‘national voluntary organisations and charities’.

3.203 The main focus of comments from these respondents was around the extension of the CRtB. Some proposed that it should be extended to tenant farmers. Other respondents went further suggesting it be extended to cover land and property assets in rural and urban Scotland.

3.204 The Scottish Crofting Federation and a few other respondents were supportive of the crofting model being expanded across Scotland and that this would help to diversify land ownership and tenure patterns. It was proposed that the Scottish Government set a target of creating 10,000 crofts by 2030, with half of these being woodland crofts. The Woodlands Croft Partnership added that crofting had become a more varied model than it used to be, and proposed that this could also be extended to woodland crofts.

3.205 In contrast, one estate commented that CCRtB was introduced for social and historical reasons to support a way of life in the Highlands and Western Isles. The model was therefore not applicable to the rest of Scotland.

Theme 8: Access Rights

Should access rights be extended or restricted?

3.206 One quarter of respondents (120 – 25%) commented on access rights. Of these, almost half (58 – 48%) were satisfied with the status quo and over a quarter (34 – 28%) called for rights to be extended. Just under a quarter (28 – 23%) thought that rights should be restricted. ‘Estates, farm owners and landowners’ and ‘individuals’ contributed the bulk of views on this theme. The voluntary sector (both local and national) and ‘local authorities and public bodies’ were also prominent among the responses.

3.207 The group comprised of ‘estates, farm owners and landowners’ who responded generally supported existing arrangements, although a significant minority of these wanted to see some form of restriction on current access arrangements. The ‘local authority and public sector’ also tended to favour the status quo but also expressed a mix of alternative opinions covering both extension and restriction of current access provisions. Support for extending current access arrangements was strongest among ‘individuals’ and ‘local community organisations’.

Support for restricting current access rights

3.208 ‘Estates, farm owners, landowners and their representatives’ who wished to see restrictions on current access levels provided a number of reasons and, in many cases, described experiences to back this view. A few made the general point that the current access code seemed to bestow rights without responsibilities.

3.209 By far the most common concern was damage caused – to farming interests, sporting interests and the environment. Damage to farming included dogs off leash disturbing livestock, and walkers ignoring designated paths and disturbing crops. Mountain bikers and hill walkers (especially on popular Munro routes) were blamed for disrupting deer-stalking and grouse shooting. And damage to paths themselves caused by mountain-bikers and horse-riders particularly on wetter ground was cited. Several respondents also referred to problems with wild camping; and repeated fire damage was also reportedly caused by canoeists in one estate.

3.210 Most other organisations and individuals who supported restrictions to current access rights did so because of abuses – in virtually all cases either by dog-owners or as a result of wild camping. Those representing angling interests also argued that their rights had been infringed by the access now given to other conflicting users.

The wild camping issue

3.211 The case for better defining wild camping was also argued by the Loch Lomond and The Trossachs National Park Authority, who reported in some detail on their experiences to date, both where new by-laws have been introduced and where these have not yet been considered necessary.

“The National Park Authority would like to see the very general definition of wild camping in the Scottish Outdoor Access Code replaced by a ‘Norwegian’ rule. This would involve a zoning approach with people not being allowed to camp within a certain distance of a public road whilst allowing specific camping areas to be designated within the zones by the Access Authority. This would resolve the issue of unmanaged informal camping at roadsides and would still protect the right to responsibly wild camp in the vast majority of Scotland.”

(Loch Lomond & the Trossachs National Park Authority)

3.212 Highland Council also cited wild camping as one of the major difficulties still facing the access authority and landowners.

3.213 One estate highlighted the additional powers public bodies have at their disposal compared to private ones.

“It is interesting to note that the Loch Lomond and Trossachs National Park have resorted to by-laws to manage informal camping. This method of management is not available to the private land occupier.”

(Alvie and Dalraddy Estates)

River angling interests

3.214 Another interest group which expressed considerable concern about the operation of the 2003 Act was that representing river angling. In this case the criticism was focused on the 2003 Act itself.

“...unintended consequences of including water in the definition of “land” in the 2003 legislation. Unrestricted access to water by canoe, raft and other means, as part of the land reform process, is jeopardising the future of angling clubs which have taken on ownership or long-term leases of fishing and it discourages those which may have that opportunity in the future. These are community-based organisations.”

(Scottish Anglers National Association)

3.215 Some of these respondents suggested that the 2003 Act in this respect may contravene human rights legislation.

3.216 The Scottish Anglers National Association went on to suggest that:

“a radically different balance needs to be struck between the long established recreational use of rivers, [that is] angling, which has generated employment and recreational opportunities for locals and visitors, and the commercial use of the same assets by companies who have no ownership rights and generate few if any employment opportunities for local people.”

(Scottish Anglers National Association)

3.217 Scope for practical solutions achieved voluntarily was also noted – as recently achieved on the Upper Tay. This was also referred to in contributions from fishery boards.

Urban issues

3.218 While comments generally focused on access issues in rural areas, it was suggested by a local authority in one urban area that it needed improved powers to restrict access to core paths where temporary closure is required for maintenance or construction work. One estate owner also reported particular problems with fly tipping in urban fringes. And a number of individuals and ‘local community organisations’ cited the problem of dog fouling.

Support for extending/improving current access

3.219 The majority of ‘individuals’ who addressed this theme were in favour of extending access or at least making current access provisions more effective for users. ‘Local community organisations’ and some ‘national voluntary organisations and charities’ also backed extending provisions for access.

Horse-riders

3.220 Horse-riders were particularly critical of the workings of the 2003 Act and listed many instances of locked gates, cattle grids without alternatives and the use of boulders to debar access even on designated Core Paths and established routes. Some suggested that the 2003 Act had made access worse for horse-riders, and several respondents also felt that there were insufficient (or underfunded) means of challenge or redress.

3.221 Signing paths that are also available to horse-riders only as ‘cycle routes’ was felt to exacerbate tensions between these user groups, and discouragement by aggressive behaviour on the part of landowners was also cited as an issue.

Other issues of blocked access

3.222 Unnecessary or illegal blocking of access using locked gates, barbed wire and electric fences was also reported by other access users. A number of respondents raised concerns on behalf of people with disabilities. On the one hand, the problems of locked gates, cattle grids and boulders which prevented access for horse-riders could also be real obstacles for older or less able walkers (or cyclists). On the other hand, the needs of the younger generation of fit but disabled people for wheeled/motorised access should also be considered. Another issue raised by Highland Council was of unnecessary restrictions of access under the guise of Health and Safety.

Improved access routes

3.223 Several ‘national voluntary organisations and charities’ pointed to measures needed at improve access routes.

“Much time and effort goes into the preparation of plans for potential cycle routes and it causes significant frustration when they are blocked by one party, even though in many cases the plans have widespread local public support. By changing the

legislation around compulsory purchase powers, to make path building on a par with road building in terms of setting a direct and convenient route, this situation could be avoided in the future.”

(Sustrans Scotland)

“...it may be necessary to strengthen some measures, particularly the powers of the Access Forums, in view of access problems experienced by those walking and visiting lower ground in the glens and valleys where the land may be more intensively managed for farming or forestry.”

(John Muir Trust)

3.224 A number of estate owners also suggested improving access routes – for example, improved cycle routes to link with existing access areas, and extensions to the core path network. Comments from individual respondents included the need for more paths – but also better maintenance and signage of existing routes.

Support for the status quo

3.225 Nearly half of those who responded (58 – 48%) on this issue were in favour of working with the existing legislation - while tackling some of the implementation issues which have arisen. Support came from ‘national voluntary organisations and charities’, ‘local authorities and public bodies’ and ‘other organisations’.

3.226 Although some ‘estates, farm owners and landowners’ were unhappy with the current access provision or its abuse, the majority (28 – 78%) who expressed a view were satisfied with the way Part 1 of the 2003 Act is working. The degree of enthusiasm ranged from “no significant problems” to “working well”. Some estates felt that, as they had always provided reasonable access, the Act had not made much difference. Others referred to responsible behaviour by users – and one respondent was pleased to report increased public participation in and enjoyment of the countryside.

3.227 A few respondents qualified their views. One reported some friction over gates locked for deer management reasons and another felt that the lack of problems in his estate was down to there being “no Munros there”. Several respondents indicated that given broadly satisfactory experience to date there was no need for further measures or legislation on access.

“[We] agree with the findings in the Overview of Evidence on Land Reform in Scotland that the overall effect of the Scottish Outdoor Access Code has improved responsible access to land.”

(Islay Estates Company).

3.228 Some ‘local community organisations’, while acknowledging the kind of implementation issues described earlier, were nevertheless satisfied that the 2003 Act was working well so far.

“Scotland’s access legislation sets a standard for other countries to follow. In the main, it has worked very well. A small problem has emerged in that off road cyclists sometimes use footpaths or cycle across open land. This causes both erosion and conflict with walkers. Nevertheless this would seem best addressed by guidance rather than alteration in what is sound legislation.”

(North East Mountain Trust)

3.229 ‘National voluntary organisations and charities’ who responded in many cases represented particular access user groups. The general view was that the 2003 legislation was good and that any review should focus on implementation issues:

“Our members believe that the introduction of statutory rights of access in Scotland has been extremely successful, and overall, no significant changes are desired or required. There are a number of problems still being encountered by canoeists and kayakers and these are mainly due to ineffective implementation and management of Scottish access rights.”

(Scottish Canoe Association)

“...we feel that the main emphasis should be on an examination of how well the Act has been implemented and whether this needs some relatively minor adjustments to improve the effectiveness of implementation.”

(Ramblers Scotland)

3.230 Finally, ‘local authorities, public bodies and their representatives’ reported generally positive views on how the 2003 Act is working, although some referred to significant ongoing implementation issues:

“...[we] consider that the access legislation is by and large working well.”

(Scottish Natural Heritage)

“While the Council recognises the improvements delivered by the access provisions, particularly in terms of freedom of responsible access and the heightened awareness of access takers in respect of their responsibilities, the Council feels that there remain major difficulties that cause concern for the access authority, access takers and landowners.”

(Highland Council)

Legislative changes

3.231 The general thrust of responses supported the status quo, with many respondents recommending specifically that no further legislation was required at present. However a relatively small number of respondents suggested the legislative changes detailed below.

- 3.232 A small number of landowners and one local authority sought a clearer definition of what constitutes 'reasonable' access.
- 3.233 A number of landowners also wanted to have more effective remedies available to them where access takers are considered to be "unreasonable". On the other hand, some 'other' respondents wanted to see more effective redress against landowners where access is "unreasonably" denied. Highland Council suggested legislation be streamlined so that local authorities can resolve disputes more easily
- 3.234 Other detailed points made regarding existing legislation related to:
- Dogs – could 'under control' be adapted to state specifically that dogs must be on a leash in any field with livestock?
 - Local Access Forums – a suggestion from John Muir Trust that their powers may need to be strengthened to address difficulties faced by those visiting areas where more intensive management is in place.
 - Water – a concern from the Scottish Anglers' Association that by including water in the 2003 Act the existing legal rights of anglers had been infringed, by denying them peaceful enjoyment of their right to fish.

Theme 9: Forestry Ownership and Management

Is there a need to diversify the ownership and management of existing forests?

- 3.235 Under one tenth of respondents (36 – 8%) addressed this particular theme, with three-quarters of responses (27 – 75%) coming from ‘estates, farm owners, landowners and their representatives’ (primarily individuals) and ‘other individuals’.
- 3.236 Respondents were fairly evenly balanced in their views in relation to the issue of diversification of forestry ownership. The ‘estates, farm owners and landowners’ group was least supportive of further diversification, whereas ‘other individuals’, ‘national voluntary organisations and charities’ showed more support for this.

Opposition to diversification

- 3.237 One of the main arguments given by respondents against diversification was on the grounds of economic sustainability. Many of these respondents questioned how fragmentation of forest ownership could be economically viable and sustainable in the longer term. Some stated that in the current climate, it was already difficult for forest enterprises to cover their costs. One estate owner commented that the Forestry Commission itself was a loss making organisation.
- 3.238 Many of these respondents also felt that communities lacked the expertise to manage Forestry Commission land assets, and that it would be better if this was transferred to the private sector.
- 3.239 Another estate owner added that fragmentation might also inhibit public access and even harm wildlife habitats.
- 3.240 RIO Tinto Alcan expressed concern that if land assets were to be transferred to community groups at less than market value, this could distort land values and lead to unfair competition. Whilst a few other respondents felt that the lack of clarity around future ownership was creating uncertainty within the sector and this could deter investment.

“Forestry is a long term business, which requires long term stability and confidence for owners that a level playing field will exist – politically, administratively and fiscally. Casting doubt on ownership of the underlying land asset will undermine the industry.”

(Confor)

Support for diversification

- 3.241 In contrast, those respondents who were in favour of diversification of forestry ownership, believed that this would help to stimulate and sustain local economies and also breathe new life into communities. It was suggested that a focus on micro forestry would deliver a wider range of benefits for local

communities that are not currently being delivered by larger commercial forestry operations.

“The FPG believes that forestry has tremendous potential in Scotland but that the current model of development and expansion is not delivering the kinds of benefits that would be possible with a more ambitious programme of land reform.”

(Forest Policy Group)

3.242 A few respondents proposed that the Forestry Commission should be allowed to sell of land assets to communities to enable them to get involved in woodland management.

“A greater diversity of ownership could be achieved by accelerating the existing Forestry Commission repositioning policy.”

(UPM Tilhill)

3.243 The Woodlands Croft Partnership and a few other respondents were keen to promote the development of the woodland crofts model to enable greater diversification of forestry land assets. It believed that this model would help to create new opportunities for housing, employment and business development within local communities.

3.244 The Scottish Woodlot Association also suggested that consideration be given to the use of woodlot licences. It stated that unlike community crofts, this model was not subject to crofting legislation and had the potential to be applied in a variety of different situations, regardless of whether land was in public or private sector ownership.

3.245 Aigas Community Forest highlighted that State Aid was a major potential barrier to the transfer of assets to community groups and that this issue needed to be clarified and resolved.

Forestry Commission

3.246 In addition, respondents made a number of more general comments about the Forestry Commission. Some respondents believed that there was a need for wholesale reform to make it more accountable at the local level and that this was possibly more important than the issue of ownership itself.

3.247 Others commented that the Forestry Commission should not be allowed to buy up productive farm units for forestry, as this was taking farmland out of the system and denying people opportunities to get into farming. Another respondent commented that there should be a requirement for the Forestry Commission to support local businesses, rather than focusing on major industrial timber companies.

Theme 10: Water Resources Ownership and Management

Is there a need to change the way in which fresh water resources are owned and managed?

3.248 Under one tenth of respondents (35 – 7%) commented on diversifying ownership of water resources, and the majority of those came from ‘estates, farm owners and landowners’ (20 – 57%). Among those who commented, a debate emerged over whether communities should or should not have access to water resources.

Support for diversifying ownership

3.249 Just under one third of those who responded (10 – 29%) believed that communities should be able to have control of water resources. One, an individual estate manager, felt that the need for community ownership was “desperate” because coastal communities would be otherwise unable to improve their economic circumstances.

“There is really no chance of isolated coastal communities, often living at the very edge of the economic spectrum, taking control of their economic affairs without having real control of the foreshore and inland seabed/coastal licences and associated income.”

(Individual)

3.250 Many of those respondents had linked the issue to the Crown Estate. One community ownership organisation claimed that there is a lack of “accountability and transparency” from the Estate, and that the LRRG should therefore consider community ownership. Another, an individual, argued that the Estate “urgently needs democratising”. One respondent, a landowner who generally doubted communities’ ability and interest in ownership, did acknowledge that Crown Estate property may be of value to community groups.

3.251 Another respondent, from a landowning organisation, suggested that allowing public access could result in “greater clarity” on water management.

3.252 There was considerably more opposition to the proposal, with almost half of those who responded (17 – 49%) arguing that ownership should not be diversified. Most of those were ‘estates, farm owners and landowners’ – both individuals and organisations. Some argued that communities already benefit economically from the current system of ownership, so any change would be counter-productive.

“[If a water] resource is an integral part of the surrounding land, it is difficult to see this as anything other than another attempt to lower the productivity of the landholding, thereby making it even harder to support its community.”

(Individual)

3.253 Others made more general comments against the proposal, saying that it may be “politically alluring” but unworkable, or that the notion of transferring ownership amounts to “outright confiscation”.

3.254 Two more estate owners were concerned that the fragmentation of ownership would result in difficulties, particularly in relation to salmon fishing.

“With ownership and salmon rights held by a relatively small number of proprietors it was possible to achieve near full consensus on stock conservation measures in a short space of time. We question if this would have happened had the ownership been fragmented.”

(Dunecht Estates)

Access and other issues

3.255 Some respondents (again, primarily ‘estates, farm owners and landowners’) discussed the issue of water resources in terms of access rights under the 2003 Act. All who did objected, with some suggesting that small inland lochs would be “decimated” if access was not restricted. Another estate owner, questioned whether ‘wider community benefit’ should be taken to mean unrestricted access to fishing waters, free of charge. If so, in their view, this was not advisable as it would undermine the tourist industry’s ability to make a profit.

3.256 One estate owner called for the privatisation of Scottish Water, arguing that this would encourage investment.

Theme 11: Affordable Housing

Proposals to improve the supply of affordable housing

3.257 One tenth of respondents (48 – 10%) commented on the issue of affordable housing. The majority of those were ‘estates, farm owners and landowners’ (34 – 71%), although responses also came from ‘local community organisations’, ‘tenant farmers and their representatives’, ‘national voluntary organisations and charities’, and ‘other individuals’.

3.258 Many ‘estates, farm owners and landowners’ – both organisations and individuals – related the lack of affordable housing to what they perceived as an overly restrictive planning system. A significant number felt that this was the most important barrier to the provision of affordable housing, as opposed to a lack of available land or landowners’ reluctance to develop.

“...it is planning constraints and not the intransigence of owners of land that constructs the supply of affordable housing.”

(Individual)

3.259 Some who expressed this view went on to argue that a review of planning law would be more worthwhile than any attempt at land reform.

“[The lack of affordable housing] is a big problem and the result of an insufficient amount of land being released for development. This is directly dependent on Government and Local Authority Planning Policy, not on Land Reform.”

(Individual)

3.260 However, some national voluntary organisations disagreed with this, stressing the importance of a lack of land. The Rural Housing Service gave the rural central belt as an example. In this region, they claimed, limited available land leads to very high prices, which in turn acts as a barrier to development. Another national charity echoed these views, arguing that “concentrated forms of ownership amplify problems of land availability”, and called for a more “pluralistic” structure of land ownership.

3.261 Many also emphasised the fact that affordable housing is already provided by private landowners in rural areas, and called for the Scottish Government to do more to encourage this. Scottish Land & Estates (SLE) conducted a survey and found that their respondents let around 9,000 homes. Based on this figure, they estimated that over 15,000 homes are let by their total membership. SLE went on to call for more support and fewer “impediments” such as inheritance tax and capital gains tax, and expressed concern that the Scottish Government had an attitude of “obstruction and antipathy” towards the private rented sector. They felt that the sector should instead be “nurtured and encouraged”.

“The private rented sector in Scotland has proved that it can use taxpayers’ funds more effectively than Housing Associations in providing affordable rural rented housing. Despite this, the Scottish Government has chosen to direct taxpayers’ money on funding the more expensive option, thus delivering fewer houses than they could have done if they’d involved the private rented sector.”

(Scottish Land & Estates)

- 3.262 SLE also called for the reintroduction of the Rural Homes for Rent and Rural Empty Homes grant schemes, a point on which many others agreed. One landowning organisation argued that this would enable owners to renovate empty properties, bringing them up to a high enough standard to be put on the market as affordable homes. SLE’s point on the private sector’s greater capacity was also echoed by these respondents.
- 3.263 A related point was the desire to see landowners involved in the development of local affordable housing. One landowning organisation hoped that efforts to create more housing could be done in a way that “proactively” involves communities, local authorities and landowners from the early stages.
- 3.264 One individual, from a ‘local community organisation’, felt that use of rural housing for second homes was holding back availability. Another individual agreed, adding that planning law should be amended to restrict the development of second homes.
- 3.265 Community ownership was offered as a solution by a number of respondents, primarily from ‘community ownership organisations’, ‘national voluntary organisations’ and ‘local community organisations’, but also from ‘individual’ respondents.

“There is considerable potential for land reform to facilitate the acquisition of land for affordable housing through giving local communities the right to acquire land... This right could be exercised through purchase at affordable housing land value or through long term leasing.”

(Rural Housing Service)

- 3.266 Some cited existing community ownership projects, such as those in Knoydart and Gigha, which had taken over assets to provide affordable housing. Ownership was described as “the key factor” in allowing these communities to renovate properties and make them available for use at affordable prices. They argued that expanding community ownership would result in more housing of this type.

- 3.267 However, some estates and landowners felt that further measures to allow local communities to have a stake in the ownership and management of their land beyond those currently available was not an appropriate measure to increase the supply of affordable housing.
- 3.268 Two respondents related their entire response to affordable housing. One – a national voluntary organisation – linked the lack of affordable housing to the concentration of land ownership, and advocated a range of policies to tackle this. It was argued that the land value tax, for example, would address high and volatile land prices, while reform of tenure would keep ownership affordable for prospective buyers. Another – an individual respondent – referred to Rural Housing Burdens (RHBs). RHBs were designed to remove the risk of landowners selling properties for less than market value, only to have the next owner sell them on at a considerable profit. Since the recession, however, mortgage lenders have been reluctant to lend on properties with these burdens attached. In response, the respondent suggested that the LRRG look into options for RHBs' continued use. Other suggestions included tax incentives for developers and the sale of publically owned land to communities at very low or nil value.
- 3.269 One local authority highlighted the increasing difficulties faced by community based housing associations in urban areas. They suggested that as private finance becomes more expensive, community providers will see rising costs. And they highlighted that grant subsidy is becoming scarce, while cuts to housing benefit will lead to a reduction in rental income.
- 3.270 In rural areas, renewable energy was suggested as an alternative source of income. One community ownership organisation, for example, expressed their wish to purchase a wind turbine and sell on the energy produced in order to raise funds.

Theme 12: Other relevant themes raised by respondents

Broadband

3.271 The most common other issue raised was the need for improved broadband in rural areas. These responses came primarily from ‘estates, farm owners and landowners and their representatives’, but some ‘local community organisations’ and ‘other individuals’ also made similar comments. According to one respondent, this would be “the greatest driver for community enhancement”. It was strongly felt that poor connection speeds hamper development and discourage investment, with one respondent citing an international business which had moved away from rural Scotland for this reason.

State Aid

3.272 Another frequently raised point was the issue of State Aid in relation to the CRtB. Respondents – primarily ‘local authorities and public bodies’ and ‘national voluntary organisations and charities’ – were concerned that State Aid regulations may be violated when funding is provided for community enterprise. The Community Woodlands Association suggested one solution may be a block exemption for non-profit community groups. All those who referred to State Aid hoped that clarification could be provided, with many asking for published guidance.

3.273 Some ‘community ownership organisations’, also referred to State Aid, expressing concern that the regulation may act as a block to community ownership.

“...the Scottish Government have become ‘nervous’ about providing grants in the forestry and agriculture sector which may contravene State Aid regulations and so HIE confirmed that a grant to Aigas Community Forest would be subject to State Aid limits. This means that an application to the SLF would only get a maximum of 20% of the purchase price leaving in the region of £550k+ to find. This is a non-starter for the community.”

(Aigas Community Forest)

Wind Farms

3.274 Renewable energy was another prominent issue across the respondent groups. Some individuals and organisations, specifically ‘tenant farmers and crofters’, ‘estates, farm owners and landowners’, and ‘other individuals’, took issue with the proliferation of wind farms in rural areas. One tenant farmer felt that his community had been “inundated” with new developments, while a community organisation referred to the perceived “loss of amenity” as a result.

- 3.275 Related to this was the view that landowners benefit disproportionately from wind farms. One organisation cited a *Guardian* report that claimed that landowners stand to gain £100 million per year, following the installation of an expected 13GW of energy by 2020. This, the respondent argued, could exacerbate economic inequality by transferring income from consumers (many of whom, it is noted, live in fuel poverty) to landowners. In light of this, it was suggested that the LRRG address the lack of data on incomes derived from wind power in Scotland.
- 3.276 A number of suggestions were made relating to how these issues could be addressed. The North East Mountain Trust suggested zones in which wind farms cannot be built, while another community organisation argued that landowners should give one hectare of land for every megawatt generated to the community. Another suggestion, made by an estate, was the introduction of a specific wind farm tax. It was hoped that money raised could go to repopulation efforts, the improvement of housing stock and the improvement of broadband.
- 3.277 Community ownership of wind turbines was a popular alternative to private ownership, with many of its advocates seeking a more equitable distribution of benefits. One individual who suggested this asserted that the evidence of community ownership's benefits was particularly strong in relation to renewable energy. However, some estates and landowners questioned communities' ability to deliver energy effectively and sustainably. One emphasised the importance of scale in energy production, and doubted whether communities would be able to achieve that scale.

Common Agricultural Policy

- 3.278 Four respondents – three individuals and one national voluntary organisation – highlighted issues with the European Union Common Agricultural Policy (CAP). All objected to the fact that CAP subsidy payments are linked to land ownership, which was thought to inflate land values. Instead, it was suggested that CAP payments should be linked to agricultural output or channelled into community development projects.

“Most smallholders and crofters receive very low levels of farm subsidy per hectare and per farmer. By contrast, the 4,500 large farms which cover 76% of the agricultural land receive the lion's share of the CAP subsidies, with much higher rates of subsidy per hectare and per farmer...Shift as much Common Agricultural Policy money as possible away from historic channels which benefit larger, wealthier farms and towards rural development, encouraging rural enterprise and repopulation and effective support for genuine new entrants.”

(Nourish Scotland)

Scottish Rural Development Programme

3.279 Another three respondents – two estates and one other individual – referred to the Scottish Rural Development Programme (SRDP). One felt it should be used for rural development projects such as tourism, another called for it to be focused on environmental work, and a third simply asked for clarification of what impact land reform would have on the SRDP and the associated Single Farm Payment Scheme.

Common Good Assets

3.280 There were three references to common good assets, two from ‘individuals’ and one from an ‘other representative body’. Both individuals called for a national common good assets register, while one wanted “a statutory right to take back title to common good land and assets”. The representative body felt that the legalities of common good transfers should be simplified.

Regulation

3.281 Some ‘estates, farm owners and landowners’ also objected to what they perceived as an overabundance of regulation. They called for a reduction in this “red tape” in order to promote enterprise and development.

Other issues

3.282 A number of respondents raised other issues. One landowner felt that over-borrowing against land value is a serious problem in agriculture, while another argued that the planning system was designed with urban areas in mind, and therefore acted as a barrier to rural community ownership. An individual objected to the fact that large estates are not expected to pay business rates while small businesses are, while another thought that deer should be culled because the present population is unsustainable.

Annex one – List of Respondents

The following respondents agreed to their response being published.

Community ownership organisations and their representative bodies

Aigas Community Forest
Community Land Scotland
Eadha Enterprises
Highland Perthshire Communities Land Trust
North Harris Trust
West Harris Trust

Deer management groups and their representative bodies

Association of Deer Management Groups
Mid West Association of Highland Estates Deer Management Group
Northern Deer Management Group (NDMG)

Estate, farm owner, landowners and their representatives

Achentoul Estate Company Ltd & Achentoul Farms Ltd
Allargue Estate
Alvie & Dalraddy Estates
Atholl Estates
Balnarnoon Farm
Bell Ingram Limited
Bidwells
Bowhill & Dalkeith Estates of Buccleuch Estates
Centre for Rural Development
Comrie Croft
Cove Harbour Conservation
Douglas & Angus Estates
Druidaig Estate
Drummuir Estate
Dunecht Estates
Earlstoun Estate
Glenernie Estate
Glenfalloch Estate
Greens Chartered Surveyors
Islay Estates Company
Lochcarron Estate
Moray Estates
Queensberry Estate
Rio Tinto Alcan
Roxburghe Estate
Scottish Land & Estates Moorland Group
Seafield and Strathspey Estates
Scottish Land & Estates
Smiths Gore
Strutt & Parker LLP
The Applecross Trust
The Crown Estate

Torwoodlee and Buckholm Estate
Trustees of Cawdor Maintenance Trust Cawdor Estate
Wemyss and March Estates
Wemyss Estates Trustees

Local authorities, public bodies and their representative bodies

East Ayrshire Council
HIE Highlands & Islands Enterprise
Highland Council
Loch Lomond & the Trossachs National Park
Orkney Islands Council
Scottish Borders Council
Scottish Natural Heritage
Scottish Water
Society of Local Government Lawyers and Administrators in Scotland (SOLAR)
Stirling Council & Stirling Areas Local Access Forum

Local community organisations

Argyll and Bute Local Access Forum
Blair Atholl & Struan Community Council
Cromar Community Council
Leith Community Crops in Pots
North East Mountain Trust
Shared Voices Group
Sideactivity

National voluntary organisation and charities

Association for the Protection of Rural Scotland (APRS)
Big Lottery Fund
Big Pond Scotland
Scottish Canoe Association (SCA)
Caledonia Centre for Social Development
Carnegie UK Trust
Centre for Human Ecology
CTC Scotland - National Cycling Charity
John Muir Trust
Nourish Scotland
Planning Aid for Scotland
Ramblers Scotland
Royal Society for the Protection of Birds Scotland (RSPB Scotland)
Rural Housing Service
Scottish Allotments and Gardens Society
Scottish Anglers National Association
Scottish Rights of Way and Access Society (ScotWays)
Scottish Woodlot Association
Scottish Council for Voluntary Organisations (SCVO)
Sustrans Scotland
The National Trust for Scotland
Urban Greenspace
Women's Land Reform Group
Woodland Crofts Partnership

Tenant farmers, crofter and their representatives

Scottish Crofting Federation

Scottish Tenant Farmers Association (STFA)

Scottish Tenant Farmers Association Islay Members (STFA Islay Members)

Tenant Farming Forum

Other representative bodies

Arran Centre for Strategic Land Use

Confederation of Forest Industries (CONFOR)

Forest Policy Group - Forestry reform

Forest Policy Group - Wild deer management

National Farmers Union Scotland (NFU Scotland)

Royal Town Planning Institute Scotland (RTPI Scotland)

Scottish Agricultural Arbiters & Valuers Association (SAAVA)

Scottish Sports Association

The Mountaineering Council of Scotland

Others

Ekklesia

Historic Houses Association (HHA)

James Hutton Institute

Nordic Enterprise Trust

Scotland's Rural College (SRUC)

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