

Land Reform Review Group: Call for Evidence

Submission by ROBIN MCLAREN

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INTRODUCTION

I am a director of Know Edge Ltd an Edinburgh based, independent management consulting company that supports organisations to innovate and generate business benefits from their land information. I am recognised as a world expert in Land Information Management and have worked extensively with the United Nations, EU and World Bank on land policy / land reform programmes to strengthen security of tenure and support economic reforms in Eastern and Central Europe, Africa, Middle-East and the Far-East. I am currently supporting the Iraq and Kuwait governments in the formulation and implementation of their National Land Policies. I am an advocate of good land governance (1) that facilitate the allocation of rights to use the land in a way that ensures sustainable development, providing optimum social and economic benefit, not only for the present but also for future generations, without damaging the environment.

LAND REFORM REVIEW GROUP – CALL FOR EVIDENCE

I welcome the opportunity to submit evidence to assist the work of the Land Reform Review Group. My comments are all aimed at policy and institutional frameworks to support and guide the land reform process.

Issues with Current Situation of Administering and Managing Land in Scotland

Fragmented Land Policies - There is no single source of land policy or National Land Policy – rather, the policies on land in Scotland are located in numerous sources such as national development policies, land use strategies, laws and regulations and even as the result of administrative practices. Also, there are numerous policies across the government directorates and agencies that touch on land, such as policies on housing, education, natural heritage, economic development, etc. This patchwork of land policies makes it problematic for these land policies to collectively align and effectively support the vision for Scotland and ensure that land effectively supports Scotland's future needs.

Weak Land Governance - the governance arrangements of land are weak – there is no recognised champion of the sector and no cross cutting government body of senior officials, such as a Land Commission, to co-ordinate land activities. This has resulted in weaknesses in two crucial areas: there is no overall National Land Policy, neither in general nor on the state and public lands in particular, providing a consistent policy framework of all the ministries managing land; and the lack of efficient co-ordination across the ministries involved in land administration and management significantly delays or stops the implementation of land initiatives, including land reform.

Inconsistent Management of Land - the institutional arrangements for administering and managing land are highly fragmented across Scottish public sector custodians and there is neither regulatory nor executive oversight body. This results in inconsistent and inefficient approaches to land management.

Inefficient Land Information Management – information about land is captured, maintained and managed independently by the custodians of land without the adoption of national data and procedural standards. This has resulted in land information being incomplete, inconsistent, inaccessible and not shared and used across Government and beyond. For example, there is no definitive inventory of state and public land and the geographic access to land ownership is limited to land within the Land Register.

Insufficient Capacity in Land Management – although the directorates and agencies involved in land have good skills within their particular land disciplines, the government is missing resources that have a wider perspective of land administration and management and can understand the wider land policy issues. This just serves to compound the fragmented and un-coordinated management of land in Scotland.

Way Forward

Scotland's land reform agenda has to be guided by a National Land Policy framework, be informed through open, comprehensive land information, be administered and regulated through strong governance and be implemented with sufficient capacity. These proposals are discussed below:

1. Open access to land information

Transparency is a fundamental characteristic of good land governance that encourages engagement with citizens over land issues and is proven to reduce corruption and the mis-use of land. I believe that all government organisations involved with land, including the Registers of Scotland, should be totally transparent and expose, free of charge, as much of their land information to the public as possible.

I would also recommend that this land information become an integral part of the wider 'open data' initiative being advocated by open government. The opening up of governmental data, free for re-use, is being justified on economic grounds (2) (3) (4) since access to these data will have major benefits for citizens, businesses, and society and for the governments themselves. Some of the benefits include:

- **New businesses can be built on the back of this data:** Data is an essential raw material and can be integrated into a wide range of new information products and services, which build on new possibilities to analyse and visualise data from different sources. Opportunities for re-use have multiplied in recent years as technological developments have spurred advances in data production as well as data analysis, processing and exploitation. Facilitating re-use of this raw data will create jobs and thus stimulate growth.
- **Greater Transparency:** Open data is a powerful instrument to increase transparency in public administration, improving the visibility of previously inaccessible information, informing citizens and business about policies, public spending and outcomes.
- **Evidence-based policy making and administrative efficiency:** the availability of robust public data will lead to better evidence-based policy making at all levels of government, resulting in better public services.

A National Land Policy and associated Land Reform Policy must be evidence based. This will only happen if Scotland creates a National Land Information Service that provides ease of access to a holistic set of interoperable land information about Scotland.

2. Need for national land policy framework

Land Administration Systems provide the infrastructure for implementing land policies and land

management strategies in support of sustainable development. This infrastructure includes the institutional arrangements, a legal framework, processes, standards, land information, management and dissemination systems, and technologies required to support allocation, land markets, valuation, control of uses, and development of interests in land. Land Administration Systems are dynamic and evolve to reflect the people-to-land relationships, to adopt new technologies and to manage a wider and richer set of land information. The Registers of Scotland provide the land tenure element of Scotland’s Land Administration System.

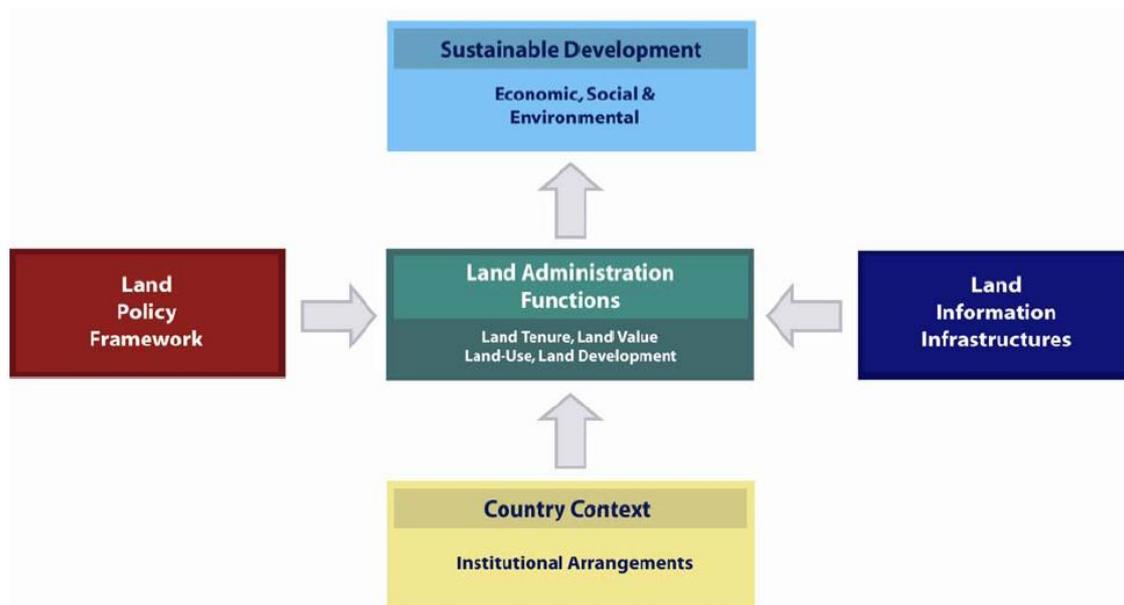


Figure 1: The land management paradigm (5)

Land management underpins the distribution and management of a key asset of any society namely its land. For western democracies, with their highly geared economies, land management is a key activity of both government and the private sector. Land management, and especially the central land administration component, aim to deliver efficient land markets and effective management of the use of land in support of economic, social, and environmental sustainability. The land management paradigm, as illustrated in Figure 1, allows everyone to understand the role of the land administration functions (land tenure, land value, land use, and land development) and how land administration institutions relate to the historical circumstances of a country and its policy decisions. The Land Administration System is the fundamental infrastructure that underpins and integrates the land tenure, land value, land use and land development functions of land administration to support an efficient land market that fully demonstrates sustainable development.

Land Administration Systems are just a means of implementing land policies. However, Scotland does not have a National Land Policy to provide a holistic framework to guide the land tenure, land value, land use and land development functions of land administration. It is recommended that Scotland creates a National Land Policy to guide the future of Scottish land institutions, including the land reform agenda. An example framework for a National Land Policy is detailed in Appendix A.

3. Institutional Reform

Land administration and management in Scotland is characterised by the fragmentation of responsibilities across a wide range of land custodians with little monitoring and regulation of their land activities. This *laissez faire* custodian approach is contrary to international good practice that is increasingly integrating and regulating the management of state and public land. For example,

Singapore has formed a Singapore Land Authority that integrates land registration and cadastre, state land management, geospatial and land information management, corporate services and regulation. It is therefore recommended that land institutional arrangements in Scotland are incrementally integrated over the following transitional steps.

a) Land Coordination Committee

The first step change in strengthening the governance of land in Scotland would be to create a Land Coordination Committee, reporting to a Minister, composed of senior officials from the key directorates and agencies managing and administering land. This Land Coordination Committee would have responsibilities at both the policy and operational levels. A key activity will be to create improved access to integrated land information.

b) Land Commission

Once the Land Coordination Committee is operating effectively, then the land governance could be further strengthened by transforming the Land Coordination Committee (based purely on cooperation) into a Land Commission with formalised executive roles and responsibilities. As well as continuing the role of coordinating land activities, a key responsibility for the Land Commission would be formulating and maintaining a National Land Policy and monitoring that the individual directorates' and agencies' policies are aligned and implementing the National Land Policy. This will ensure the allocation of rights to use the land delivers sustainable development and provides optimum social and economic benefits.

c) Land Authority

In the medium term institutional reform in the land sector should go further and consolidate many of the current land administration and management activities of the diverse directorates and agencies, including mapping and geospatial information management, into a single Land Authority. This would be similar to the institutional solutions introduced into New Zealand (<http://www.linz.govt.nz/>) and Singapore (<http://www.sla.gov.sg/>).

4. Land Sector Capacity Building

Scottish public sector professionals tend to be specialists in narrow fields in the land sector and are missing the wider land management perspective and understanding. This reduces the professionals' interest and involvement in wider land policy issues and coordination of land activities across directorates and agencies. It is recommended that capacity building programmes be identified and designed, e.g. continued professional development training programmes, establish a post-graduate educational program on land management in cooperation with Scottish Universities. Capacity building programmes are a continuous process and should be activated as soon as possible to ensure that the resources are available to underpin the recommended improvements in land administration and management in Scotland.

APPENDIX A: WHAT IS A NATIONAL LAND POLICY?

The aim of a National Land Policy is to secure the rights of all land users and serve the multiple goals of equity, poverty reduction, income growth, economic efficiency and sustainable environmental management. The outline of an example National Land Policy document is provided below:

1. Introduction

- Summary of the issue, challenges and opportunities
- Vision of policy
- Mission and objectives of policy

- Policy formulation process
2. The Land Question
 - Country background
 - Origins of the land question (political, economic, legal....)
 - Impacts of the land question
 3. Land Policy Framework
 - Constitutional issues
 - Governance arrangements
 - Land tenure issues (categories of land / land rights /)
 - Land management issues (planning / development control / sustainability / environmental management, public and state land
 - Land administration issues
 - Land issues requiring special intervention (resolution of historical injustices)
 - Co-ordination or harmonization with other sectors and cross-cutting policies
 4. Institutional Framework
 - Framework for Land Administration and Management institutions and supporting agencies (central and local)
 - Role of the private sector
 5. Implementation Framework
 - Transition to new institutional arrangements
 - Capacity building (human and institutional capacities)
 - Financing arrangements
 - Legal arrangements
 - Engagement with civil society
 - Land Information Management
 6. Monitoring

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