

**REVIEW OF SCALE AND CONCENTRATION OF LAND OWNERSHIP:
LINK RESPONSE TO SCOTTISH LAND COMMISSION REPORT**

by the Scottish Environment LINK Land Group

13 June 2019



1. Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society. LINK provides a forum for these organisations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment. LINK works mainly through groups of members working together on topics of mutual interest, exploring issues and developing advocacy to promote sustainable development respecting environmental limits.
2. This response represents the collective view of a range of LINK bodies, listed at the end of this document. Some own and manage land in their own right, in pursuit of their charitable purposes. Some manage land directly in partnership with community land owners. Some do so in landscape scale partnerships with community, private, public and other eNGO land owners. A number of bodies operate in all these ways. Others have an interest – also founded in their formal objectives – in the way that land is used and managed. All subscribe to the principles of environmentally sustainable development. LINK members see these principles as fundamental to securing the long-term well-being of Scotland and its people and wish to see them firmly and consistently applied in the stewardship of the country's land.
3. LINK bodies' land holdings, although amounting in total to only a couple of percent of its land area, in themselves contribute to the diversity of landownership in Scotland. Importantly, they also reflect in their management the wishes and objectives of the bodies' often very large and diverse memberships. Some of these people live on or in the vicinity of the land concerned. The vast majority, however, live elsewhere. They nonetheless have, through their membership, a direct stake in the future of the land holdings concerned, which make a disproportionate contribution to achieving desired environmental outcomes across the country. These communities of interest deserve equal recognition with those of place in any consideration of land reform.
4. We recognise that land reform discussions are taking place within a wider framework of public interests. These include our commitment to meeting the United Nations Sustainable Development Goals, with their targets for improved environmental performance and ecosystems-based land management, our commitment to meeting the Aichi targets on biodiversity, and the National Performance Framework targets for quality of place. Land reform and how we use and manage land will also be central to meeting new, ambitious targets to reach net zero greenhouse gas emissions by 2045. Our domestic planning system also incorporates many public interest tests, including on access to housing, employment, and greenspace, as well as conservation of natural heritage, cultural heritage and landscapes.
5. That said, we still see a need for Scotland to develop and articulate a comprehensive, shared definition of the public interest as it relates to land. The "defined public interest criteria" for which the report

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rightly calls should be designed to capture all aspects of this interest, including the full spectrum of environmental, amenity and recreational interests as they apply at all scales from the local to the global. They should be drawn up through a thorough-going process of stakeholder engagement. Such an agreed definition would not only provide a vital starting point in the assessment of the performance of a landowner of any type but would – even more importantly – signal to all landowners the kind of behaviour that was expected of them, thus minimising the potential for conflict as to what was reasonable in this regard. Codes of Practice of the sort envisaged under Recommendation 1.3 could be very valuable in so defining land managers’ responsibilities and we would draw attention to the success of the Scottish Outdoor Access Code (SOAC) in establishing almost universally respected ground rules in the realm of public access.

Overall comment

6. The LINK organisations which are signatories to this response welcome this report as a valuable and thought-provoking contribution to the debate about how Scotland can get the best from its land. This is a question that is becoming ever more pressing in the current context, both environmental and political.
7. From a political perspective it is understandable that the report focuses primarily on the relationship between local communities and the land that surrounds them. This is undoubtedly a very important issue and a proactive and sustained dialogue between land managers and other local residents, designed to enhance mutual understanding and foster co-operation, is key to its satisfactory resolution. LINK bodies accordingly welcome the guidance on the matter that the Scottish Government has issued, both in its Land Rights and Responsibilities Statement (LRRS) and in its Guidance on Engaging Communities in Decisions Relating to Land, as well as SLC’s own Protocol on community engagement.
8. LINK bodies that own and manage land are committed to following best practice in this regard. We believe that in this field the track record of environmental NGOs has, in general, been consistent with what is now proposed. We were, therefore, concerned to find that in the report summarising the evidence presented to the Commission a disproportionate number of the examples of bad practice cited appeared to involve voluntary body landowners. The necessary anonymity of the complaints makes it difficult to check out the validity or otherwise of the complaints concerned. But LINK landowning bodies do not consider that the picture that emerges represents a fair reflection of the sector’s performance in discharging its responsibilities as a landowner, which all the bodies involved take very seriously. They would accordingly welcome an opportunity to discuss the matter further.
9. More broadly, however, LINK bodies wholeheartedly endorse the proposition underlying the report that establishing and maintaining the right relationship between people and land is absolutely fundamental to Scotland’s long-term well-being. The current climate emergency only serves to underline the importance of creating an appropriate framework to guide the use that we all collectively make of this most basic resource. Whether described in the modern terminology of safeguarding natural capital and maintaining ecosystem services or the more traditional language of responsible stewardship, it is central to the task of making development genuinely sustainable.
10. Viewed thus, it is vital to recognise that the relationship between people and land is not solely about that between those who own and manage it and others in the immediate locality – crucial though that is. Human society at all levels from the local to the global has a stake in the care and intelligence that is brought to the management of our natural resources. Even within Scotland communities from the smallest crofting township to that of the nation as a whole can properly claim an interest in how they

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are treated, whether in their basic roles of sustaining life and providing sustenance or in their less tangible contributions as sources of recreational opportunities and psychological uplift.

11. As LINK bodies see it, the land reform agenda should very much be about making a reality of this ambition. To this end it should give practical effect to the principles set out in the Land Use Strategy (LUS), which articulates just such a vision for Scotland's land and freshwater, seeking to integrate and harmonise the many benefits that these can provide and to ensure that they are available to all. In this respect the world-leading access provisions of the 2003 Land Reform (Scotland) Act provide a shining example of what can be achieved; the aim should be to blaze a similar trail in relation to the overall stewardship of land and the equitable sharing of its many fruits.
12. To attain this goal there has to be an inclusive, systematic process for identifying public interests in the use of land and for working out how to reconcile these with the legitimate private objectives of those who own and manage it. LINK bodies therefore welcome the report's strong support for the preparation of Regional Land Use Frameworks, designed to give practical expression at an appropriate geographical scale to the aspirations embodied in the LUS. This was first developed almost a decade ago and its implementation urgently requires more momentum, backed by the collective political and institutional commitment needed to make a more collaborative approach to land use a reality.
13. We believe that the pilot exercises conducted in Aberdeenshire and especially the Scottish Borders were a valuable first step in exploring the practicalities of such an approach. They now need to be built upon in ways that will lay the foundations for a future land use advice and support regime that concentrates upon maximising the public benefits from the use of land – from those of global significance, such as carbon sequestration, to those which are essentially local, such as community facilities and business and leisure opportunities.
14. Finally, we agree with the authors that public incentives need to be considered alongside regulation. The current pattern of rural land use and land ownership in Scotland has been driven in large part by the subsidy regime for agriculture and forestry. LINK already has a [clear view](#), set out in our paper 'Renewing Scotland's Rural Areas: The Future of Farming and Rural Land' as to how public subsidies could be recast to deliver clearer, and greater, public benefits.

Comments on specific recommendations

15. As set out below, there are a number of the report's recommendations that the LINK signatories to this response would unequivocally support, so long as they are sensibly and sensitively implemented. These are:

Recommendation 1.2 Requirement for a management plan

16. This recommendation also makes sense from a LINK body perspective, so long as the processes involved, especially in engaging communities, do not become too prescriptive and burdensome. Environmental NGOs already as a matter of course prepare management plans for their holdings and consult with local communities on them, which of course reflect the public environmental interests reflected in their charitable purposes.

Recommendation 1.4 Community Right to Buy Land to Further Sustainable Development

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17. We concur with the underlying objective of making compliance with the requirements of responsible stewardship, as reflected in the Land Rights and Responsibilities Statement, a test in establishing whether the provisions of Part 5 of the Land Reform (Scotland) Act 2016 can be invoked.

Recommendation 2.2 Engagement in land use change

18. Of all the recommendations in the report, this is the one that LINK bodies would most strongly endorse. As indicated earlier in this response, they see effective mechanisms for identifying and spelling out the public interest in the use of land, and for engaging the full range of relevant stakeholders in doing so, as absolutely fundamental to the objective of securing that interest and maximising the benefits to society at large – at scales from the local to the planetary. We are therefore very keen to see and to participate in initiatives of the sort proposed in the final paragraph of this recommendation.

Recommendation 3.1 Land Rights and Responsibilities Reviews

19. We agree that the LRRS provides a useful starting point for any review of the extent to which the management of an individual land holding is respecting and contributing to wider public interests. It thus seems to us entirely reasonable to expect those managing large areas of land to undertake voluntary reviews of the kind proposed. Once again, however, it will be vital if the wider public interest is to be upheld to recognise that in the environmental sphere (and indeed potentially in others) the local community interest will not necessarily exactly coincide with it. These wider interests will often be signalled through existing mechanisms such as statutory designations. But they are not always flagged up in this way, especially when the interests concerned are more complex and multi-faceted or less tangible. This consideration makes all the more desirable the initiation of systematic processes such as those advocated in Recommendation 2.3 for identifying the full range, extent, nature and relative priority in any one place of the multifarious public interests in land.

Recommendation 3.2 Land Rights and Responsibilities Good Practice

20. We strongly support the proposal that the Scottish Land Commission seeks actively to promote good practice in land management in accordance with the LRRS and all other sources of relevant guidance, including the SOAC and that provided by statutory bodies such as SEPA and SNH. LINK bodies welcome and would in principle be happy to take up the offer made in the report to co-operate in this task, subject to the caveat that their capacity to do so is, regrettably, constrained by their very limited resources. We would be happy to discuss further with the Commission what might be practically possible.

Remaining Recommendations

21. The remaining three recommendations (1.1, 1.3 and 2.1) are, as we see them, more complex and require careful consideration as to how they would be implemented and enforced. We look forward to engaging with the Scottish Land Commission and Scottish Government on these and giving our views as the proposals are further developed. Crucial throughout the process will be the fact that from an environmental standpoint it is the way that land is used and managed, rather than its ownership, which is fundamental to the public interest.

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This response was compiled on behalf of the LINK Land Group and is supported by:

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Scottish Campaign for National Parks

Scottish Wild Land Group

Scottish Wildlife Trust

Trees for Life

Woodland Trust Scotland

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