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Minister for Environment
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Dear Minister,

Wildlife and Natural Environment Bill


LINK would like to once again thank you for your time in meeting with us on the 6th January 2010 to discuss this important legislation proposal. LINK members have generally welcomed and supported many of the proposals outlined in the consultation and welcome the opportunity to work with you and your team in strengthening the proposals.

The two topics we focused on in discussion were deer management planning and invasive non-native species and we welcomed the opportunity for these discussions. Although time was limited, we hope that you and your officials found our observations and comments helpful. While a month has passed since the meeting we hope this follow up, which represents the consensus among the LINK WNE group, will be of assistance

Deer Management Planning

As stated in LINKs response to the government consultation we fully support the analysis in the consultation of the current situation - that the voluntary system is ill equipped to deliver sustainable deer management. We believe sustainable deer management is crucial in delivering public objectives (in terms of biodiversity, habitat enhancement, flood prevention, carbon sequestration, climate change mitigation) over a wide swathe of Scotland.

We therefore agree with the recognition of a need for a statutory basis for deer management, but go further than the consultation in recommending a fully statutory Deer Management Planning system coordinated by SEARS. We believe this would facilitate integration of deer management planning with other rural development objectives in both the public and private interest.

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At the meeting concerns about the ability to enforce a statutory duty to deliver sustainable deer management on individuals under ECHR was raised, on the grounds of precision (who to aim it at) and proportion (reasonableness). Our belief is that these concerns could be addressed, by drafting legislation with respect to individuals who have the shooting rights (the individual) and providing a code which clearly defines what is reasonably expected.

Closed Seasons

We see the current focus on close seasons, particularly in relation to males, as an impediment to sustainable deer management. Firstly because it equates 'deer management' with the shooting of sporting stags and secondly because those shooting deer to prevent damage outwith the season are perceived as needing dispensation in the eyes of the law (i.e. a 'special case'). In fact we can see no animal welfare justification for a close season for male deer. We believe that with an effective statutory deer management planning system in place, there should be adequate safeguards in place to prevent over exploitation of male deer. Removal of the male deer close season would allow for greater flexibility of deer management without the need for authorisation. However, we would expect a safeguard to prevent an escalation in the negative impact of the open season on responsible access to the countryside. This could be achieved through insertion of a requirement to follow the advice as laid out in the Scottish Outdoor Access Code.

Invasive Non-native Species

LINK strongly supports the current Scottish Government proposal to introduce a general presumption against the release of any organism into the wild, with specified exemptions in terms of activities such as agriculture, forestry and horticulture. We urge that this principle be retained in the resultant legislation. It is the best way to ensure comprehensive legislative cover for non-native species introductions, and would position Scotland well with regard to the growing threat from INNS resulting from climate change and intensifying international trade.

Moreover it will set a useful precedent for other countries, as the principle is not yet part of legislation elsewhere in the UK or EU. We hope that the new legislation will require and induce the establishment of an effective early detection and rapid response capacity in Scotland, as a reaction to the threat from those INNS of high economic and ecological risk but which are not yet well established in Scotland. This cost-effective way of addressing new INNS requires a survey and rapid response coordination Duty on a named agency (SNH or SEPA). The duty could relate to a new schedule of the most dangerous species, with an associated mechanism for making that sufficiently responsive to new species that present novel and unforeseen threats. Alternatively, the named agency could be required under the duty to maintain and review a list of relevant species, and also to develop, coordinate and implement a programme of actions in relation to the species on that list. Either option would require a general duty on public bodies to respond to that coordinating body as required.

In addition, you asked us if there were other matters that we wished to see addressed by the bill. As we indicated, there are two key issues where, we consider, the bill will be a missed opportunity should it not address them. These are:

Non-native gamebirds:


We raised the specific issue of potential ecological damage from the unregulated release of non-native gamebirds (pheasants and red-legged partridges). We are not seeking any regulation of these releases at present, nor trying to undermine the game industry. However, we believe that Government needs to have some capacity for local regulation of releases in future incorporated into the legislation. This is a necessary safeguard: over 40 million non-native game birds are released each year in the UK, a significant proportion in Scotland - certainly several million annually. There is published and peer reviewed scientific evidence that this intensive activity can lead to negative effects such as parasite and disease transmission to native wildlife, habitat alteration through gamebird browsing, increased predation on invertebrates, increases in soil phosphate and potassium levels and changing species composition in the plant community. The conservation status of at least one Scottish SSSI has been compromised as a result of gamebird releases nearby. With a long-term and sustained increasing trend in the number of gamebirds being released, we recommend that a complete lack of regulatory capacity for gamebird releases, as is currently proposed, is most inappropriate. Ministers should have the ability to regulate releases in a geographically targeted way, should further evidence of damage come forward in future.

Biodiversity:

We warmly welcomed and supported the provisions of the Nature Conservation (Scotland) Act 2004 in relation to biodiversity - as well as the aspirations of the Scottish Biodiversity Strategy. We are also pleased to be heavily engaged in the operation of the Scottish Biodiversity Committee and its various working groups. However, this experience underlines our view (as previously expressed in discussions about the 2004 Act) that the process needs additional statutory underpinning - in order to generate more robust delivery. Our LINK and individual member body responses to the consultation suggested various means by which such underpinning might be provided and we hope that the Government will give these serious consideration.

Thank you again for the opportunity to discuss these matters and we would be very pleased to discuss any aspects further, if this would be helpful to you or your officials.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lloyd Austin', written over a horizontal line.

Lloyd Austin
Convenor LINK WNE Group.