

Thank you for giving Scottish Environment LINK bodies the opportunity to comment on an advanced draft of this document, which addresses an issue which all that have commented to date regard as of crucial importance to Scotland's future well-being. In the limited time available it has not been possible to consult in depth around the network, so what follows necessarily represents an initial reaction, based upon a relatively limited appraisal. From that perspective particularly, but also as a matter of general principle, we welcome the Commission's stated intention to keep the protocol under review. This approach has to be right when the topic itself is so far-reaching in its scope and so profound in its implications. We also very much welcome the Commission's invitation to LINK bodies to nominate a representative to sit on its Good Practice Advisory Group, an invitation that we shall gladly take up. We hope to let you have a name shortly.

As to the draft itself, it contains as we see it much useful practical guidance on the approach to be followed by landowners and managers when reaching decisions about the use of their land, and especially when they are contemplating significant changes in such use. There is little in that advice from which we would dissent, although later in this letter we highlight a few specific points where we would like to see some alterations and re-wording. We strongly support, in particular, the overarching message about the need for good stewardship and the emphasis on thinking long-term and holistically (taking account of social, cultural, environmental and economic considerations) when taking decisions about land use. We also very much welcome the protocol's endorsement of initiatives and processes designed to help identify and secure the public interest in the management of land, such as Regional Land Use Partnerships and Local Development Plans, and the encouragement given to landowners and managers to engage constructively in them.

Our main reservations about the draft relate to what we see as failure to articulate clearly and accurately just what is meant by the good stewardship of land and to bring out the fundamentally environmental basis of the concept. Too much of the guidance is focused on the need to pay adequate regard to the interests of other groups and sectors, without underlining sufficiently the overriding obligation to care for the resource itself. In saying this, we are not demanding that the protocol should explicitly acknowledge the intrinsic value of nature, although this is obviously an important principle for most if not all of our members. Rather, we look for a recognition of the fact that the population at large – both now and in the future – depends for its very existence, and certainly for its welfare, on the maintenance of soundly functioning ecosystems. As the current biodiversity crisis reveals, many of these – including our soils themselves – are under threat from present and past land management practices. There is thus indisputably an overwhelming public interest in curbing such environmentally destructive behaviour and replacing it with forms of truly sustainable stewardship that will safeguard the land's capacity to provide the full range of ecosystem services for the foreseeable future.

The definition of good stewardship offered in Section 4 of the draft protocol does not to our minds convey this fundamental message clearly and firmly enough. Another reason that it becomes blurred is that the term "public good" is defined and deployed in ways that extend its scope well beyond the non-marketable commodities and benefits that are recognised as such by economists. This is reflected, for example, in the use of the term in the third paragraph of Section 2, as well as in the definition in Section 4. Many of the benefits listed would be more accurately described as private goods, the sufficient provision of which is regarded as a desirable public policy objective. This would allow the term "public good" to be used to direct attention much more precisely to the services that the land

provides that land managers can all too easily overlook because they do not provide an obvious financial return to them.

An explicit identification and recognition of these last, non-marketable outputs is all the more necessary because it has a bearing on the interpretation in practice of the term “productive use” as also set out in Section 4. This is all too often – if understandably – construed from a purely economic standpoint. Commendably, the definition offered in the draft protocol allows for a wider interpretation. It is, however, too vague to hammer home the point that a use that is “productive” (ie. valuable) from a public interest perspective may not be remunerative from the land manager’s. This conundrum clearly begs questions well beyond the scope of this document as to how the two interests are best brought into alignment. But if genuinely good stewardship is to be fostered, there should be no pretence that the divergence does not sometimes exist.

Another area where we have some concern is the position of this document within the nexus of relevant public policies, as helpfully set out in the cover paper. We quite understand why the Commission views it primarily as an adjunct to the Land Rights and Responsibilities Statement (LRRS) and we have no problem with that relationship. From our perspective, however, the relationship of both documents to the Land Use Strategy (LUS) is even more critical. If the latter, as Section 1 of the draft explains, “promotes the responsible stewardship of Scotland’s resources to deliver more benefits to Scotland’s people” that surely represents the goal to which the whole land reform agenda should be directed. We are disappointed, therefore, that the draft protocol represents the LUS as essentially a parallel document to the LRRS, rather than as an overarching framework.

More generally, we would very much like to see a reference to the Scottish Government’s Environment Strategy in the protocol itself, as well as in the cover paper. Reflecting the approach set out in that document, we would hope that the document could also underline the need for land owners and managers to adopt measures and practices designed to address the biodiversity crisis as well as the climate emergency. An explicit expectation to that effect, equivalent to that currently included at 5(e), would be most welcome and could provide the platform for further dialogue and guidance.

As indicated previously, we found most of the Specific Expectations set out in Section 5 to be unexceptional and generally worthwhile, although we would have liked some of the conditions listed – most notably 5(c) - to be expressed as “should”, rather than as “recommends”. Specific comments are that:

- 5(c) is an opportunity to highlight the need for land to be managed within its biophysical capacity to sustain the environmental, social and economic benefits it provides. Management which increases this capacity and resilience can allow land to provide more and/or greater benefits sustainably;
- the crucial 5(d) is far from clear as drafted and actually appears rather “back to front” if the intention (as we would very much hope) is to encourage multi-benefit land use, something which ideally we would like to see emerge more strongly throughout the document; and
- the reference to “allowing access” in 5(f) is very unfortunate, as at face value it is at odds with the general right of responsible access under the 2003 Land Reform Act. If, as we suspect, the intention is to refer to private spaces exempt from that legislation, such as city-centre gardens, could that please be made clear.



In conclusion, we would like to reiterate that despite the reservations expressed above, LINK bodies see this draft as initiating what we believe is potentially a very fruitful dialogue about what constitutes genuinely responsible land stewardship and just how, in the pursuit of it, rights and responsibilities break down between landowners and managers and the rest of society. We regard this as a process which began in the development of the Scottish Outdoor Access Code and which we would now like to see extended much more broadly. We hope that the Land Commission will be prepared to take the lead in kicking off such a dialogue and are keen to participate in it, both through the Good Practice Advisory Group and in any other relevant forums.

**This response represents the collective view of LINK's [Land Use and Land Reform Group](#). Members may also respond individually in order to raise more detailed issues that are important to their particular organisation.**

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

**For more information contact:**

**John Thomson** Convener of the Land Use and Land Reform LINK Group,  
who can be reached via:

**Vhairi Tollan**  
LINK Advocacy Manager  
[vhairi@scotlink.org](mailto:vhairi@scotlink.org)  
07512 828 004