

Scottish Land & Estates (SLE) is a membership organisation representing landowners and land-based businesses across Scotland. Our vision is to have the true value and contribution of rural, land-based businesses recognised both publicly and privately. Our members are committed to playing their part to ensure rural Scotland thrives.

We welcome the opportunity to provide comments on this motion ahead of the debate in Chamber on Thursday 21<sup>st</sup> March. We also welcome the opportunity to provide initial comments on the recently published Scottish Land Commission report on its review of scale and concentrated land ownership.

The motion states that:

*That the Parliament agrees that land is one of Scotland's most important assets; recognises the value of the Scottish Land Rights and Responsibilities Statement in providing a framework for land decisions and land management in Scotland; recognises the close relationship between land ownership and land use; agrees that community ownership of land should be the norm and not simply a response to market failure or disputes with landowners; recognises the importance of the Scottish Land Fund in supporting community land and asset buyouts; recognises that the work of the Scottish Land Commission is making a positive contribution to delivering the Scottish Government's land reform agenda, and agrees the importance of ensuring that land reform continues to be a key policy priority to change the entrenched and inequitable pattern of land ownership in Scotland so that everyone can benefit from land.*

### **Land is one of Scotland's most important assets**

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We absolutely agree that land is one of Scotland's most important assets. Our members operate as modern businesses involved in a range of sectors such as agriculture, forestry, energy, leisure and tourism and pursuing innovation, economic prosperity and employment opportunities. Our members are actively involved in delivering Scottish Government policy objectives in key areas such as forestry, farming, renewable energy and housing. For example, more than 9,000 rural homes are let by private land-based businesses and Scotland's new towns at Chapelton and Tornagain are being developed by private landowners. Scale and concentration of ownership has been a major factor in the ability to deliver these projects.

Our members contribute not just to the economic success of Scotland but also to environmental goals such as increasing biodiversity, improving water quality and addressing climate change.

In Morayshire, Scotland's largest solar farm is currently in development at Innes Estate which, when completed, will supply 50MW of clean and affordable electricity powering up to 15,000 Scottish homes or 19,000 electric vehicles annually.

At Luss Estates, beside Loch Lomond, they are undertaking a programme to protect and improve the native Scottish woodland on the estate, which is supporting biodiversity and providing a natural habitat for other native plants and animals.

Our Helping it Happen campaign provides a platform for the many stories of rural success from throughout Scotland. Examples of collaboration, business innovation, inspiring and supporting our young people, enhancing and protecting our natural environment and providing homes and community facilities. We would like the Scottish Government and the Scottish Land Commission to

work with us and others to raise awareness of the rural success stories. We believe that more can be gained by showing people what can be achieved in our rural areas than through intervention in the property market or focusing on policy and regulation.

We therefore fully support this element of the Cabinet Secretary's motion.

### **Scottish Land Rights and Responsibilities Statement**

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The Land Rights and Responsibilities Statement aligns with many aspects of Scottish Land & Estates' own Landowners' Commitment which was published in 2014.

Our Landowners' Commitment, published three years prior to the Scottish Land Commission's Land Rights and Responsibilities Statement, outlined our clear undertaking to be open, inclusive, enabling and responsible. The Land Rights and Responsibilities Statement reflects some of the themes we identified at this point and sets out many aspects of good land stewardship which is practiced across Scotland.

As an organisation SLE has been working with the Scottish Land Commission (SLC) and other stakeholders as well as with our own members in implementing the LRRS. The initial focus has been around Principle 6 – There should be greater collaboration and community engagement in decisions about land. We have worked closely with SLC to develop a Protocol for community engagement which looks to provide practical advice on how landowners, land managers and communities can work together when making decisions about land use. This will help deliver Principle 6.

The Protocol was published in January 2019 and SLE has already begun working with members to help them understand how they can use it to fit their own circumstances. We continue to work with SLC by giving them opportunities to meet with our members and explore the issues around community engagement as well as promoting examples of best practice that others can learn from so that they become the norm. SLE will continue to play a constructive role in helping to develop subsequent protocols which focus on implementing the rest of the LRRS.

We therefore support this element of the motion, and also confirm our willingness to work with the SLC and others in relation to their recommendations for practice in relation to the LRRS. However, we believe that responsible and productive land management goes beyond the principles of the LRRS and will work with the Scottish Government to ensure that land managers and land-based businesses are central to delivering the wide range of local and national economic, social and environmental objectives. These will include those identified by the National Council of Rural Advisers, Scottish Rural Action, the Recharging Rural project as well as the Government's own plans and strategies.

We also suggest that work is done to explain the LRRS to all parts of society. As well as having implications for Scottish Government and for landowners (of all types) the LRRS is also relevant to everyone in Scotland. The LRRS document states that its third aim is "to encourage all of us to recognise our responsibilities as well as our rights in relation to land. Decisions that we take as individuals, families, businesses and other groups can have a significant impact on the land and the rights of others who make use of land for legitimate reasons such as business or recreational purposes." We would like to see this element given equal prominence by the Scottish Government and the SLC.

## The relationship between land ownership and land use

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Whilst we fully recognise that there is of course a relationship between land ownership and land use, many of the issues raised during continued land reform discussions and referenced in the anecdotal evidence gathered by SLC, can be attributed to land use or land management approaches.

Whilst it is undeniable that an owner of land and property can make decisions about their land or property, significant decisions such as development or material change in land use very rarely take place without some form of process which often includes engagement or formal consultation. Owners looking to increase tree planting in line with Scottish Government aims all too often struggle to get local communities to engage with their forestry plans despite efforts to involve them. The planning system provides a number of opportunities to influence development – from shaping development plans and policy for an area to formal consultation on individual applications.

Owners who carry out activity such as farming, moorland management, housing, tourism and other activities on their land operate under a myriad of regulations, guidance and good practice – these are all examples of management and use, and are distinct from ownership.

The recent SLC report *‘Investigation into the issues associated with Large Scale and Concentrated Land Ownership in Scotland’* references a number of themes: local economic opportunities; agriculture; local housing needs; community and social cohesion; natural and built environment; and land management. It then goes on to state that although issues around land management account for 13% of total advantages and disadvantages they do not explore them in the report. They go on to state that ‘while closely connected, management of land is distinct from ownership, and it is experiences of the latter that this report seeks to understand’. However, looking at the themes identified it seems clear that many of the advantages and disadvantages relate to what the owner does with the land i.e. how it is used and managed.

We believe that it is important not to see use and ownership as distinct issues in terms of increasing the economic, social and environmental benefits from our land; nor are they distinct when considering how to increase a community’s ability to influence land use decision making.

The Scottish Government’s own research in 2016 stated that “while it may be tempting to conclude that different local outcomes were related to land ownership factors, the research findings confirm that interactions of other factors have a strong bearing on local development – these included planning, local decision making, local authorities, community councils, infrastructure, connectivity and other issues.’ (The impact of diversity of ownership scale on social, economic and environmental outcomes, Thomson et al for Scottish Government, 2016)

We fully accept that there are ownership issues surrounding transparency. This issue, which is fundamentally about ownership and not use or management, is one that we are working with Registers of Scotland and the Scottish Government to address. We fully support the call for increased transparency and visibility of land and property ownership.

We are pleased that the SLC report recognises the benefits which can be delivered from large scale land ownership, and that it makes the distinction between scale and concentration. If you own the only acre in an East Lothian village suitable for housing development, then this would be an issue of concentration of ownership. However, we believe that the SLC is wrong to suggest that further formal mechanisms need to be put in place to address this – local authorities are able to step in and either CPO the land or remove the land from the local plan and approve an alternative; and communities will be able to use the sustainable measures contained within the 2016 Land Reform

Act once they are enacted. In extreme circumstances, communities can use the abandoned and neglected land provisions contained in the Community Empowerment (Scotland) Act 2015. We would suggest that the SLC should focus on increasing awareness of these existing Powers, and progress the introduction of the sustainable development provisions rather than looking to bring in additional powers at this time.

Given that the SLC report repeatedly states that the issues raised by those who reported negative issues with ownership related to ownership rather than scale, we question why the second recommendation for a land management plan is purely related to scale of holding.

We encourage members to be visible about their long-term management plans – and many are through their websites, newsletters, social media or regular updates to community councils. In addition, we have developed a land management statement which we will be encouraging members to complete and make available as part of their demonstration of responsible land ownership management in line with our membership commitment.

The SLC's first recommendation in relation to the introduction of a public interest test requires further detailed consideration given the subjectivity of the definition of significant. Scale is listed as one of the criteria to consider as well as value and proposed land use. These are much wider than the concentration issue which the SLC has identified as the issue it wants to address.

### **Community ownership**

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We agree that opportunities for community ownership should be part of longer-term planning, rather than a reaction to events and circumstances. Community ownership of land and property can deliver positive outcomes for rural areas and forms part of the mix of ownership that is necessary to help communities thrive.

But there should be a recognition that community ownership, sitting alongside private and public sector ownership, should be seen as a means of delivering social and economic progress, rather than an end itself.

We firmly believe that community ownership is more likely to be successful where there are constructive discussions, negotiated sales of specific assets and where all those with a stake or interest work together towards a shared vision for their local area.

There are many unpublicised examples of land and property being transferred into community ownership, and of community influence and decision making over land and properties being increased without the need for ownership to be transferred. We believe that more work should be done to highlight these positive examples.

### **The Scottish Land Commission**

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We and our members have been working constructively with the SLC across many areas of their work plan, particularly on community engagement and agricultural holdings issues.

We believe that the Commission has a very important role to play in providing an evidence-based approach to land reform issues. Anecdotal and self-selecting surveys have a place to play in the development of any evidence-based approach but we must be aware of their limitations when drawing policy conclusions and recommendations for policy or legislative change. We also believe that as well as looking at previous research on ownership, the findings of this report should be

considered alongside the work of the National Council of Rural Advisers, the Agriculture Champions, Scottish Rural Action, SRUC's Rural Scotland in Focus and others. We need to have a holistic approach to rural land use to deliver our shared vision of a thriving rural Scotland.

With specific regard to the SLC's report, in addition to the points raised above, we would like to make a few key points:

We welcome the fact that the report has found there is no direct link between large scale landownership and poor rural development - something the Scottish Government's own research has confirmed. It is clear that work still needs to be done to help communities make better use of the many frameworks and opportunities to influence land use that already exist through planning, forestry strategies, local government plans to name just a few.

We also note that criticism of landownership is applied to all types of ownership including public, private, NGO and charitable. This also applies to the benefits delivered by large scale and concentrated ownership – a fact which should not be overlooked.

We support the call for attracting alternative sources of capital to support rural development, and members of all types and sizes across Scotland are looking at ways in which this can be done. This includes providing land and property for new micro businesses to operate from, as well as looking at ways to use land differently and more productively. The report highlights that many of the responses submitted to the call for evidence demonstrated the transformative effect that private capital can have on rural communities, supporting employment and physical regeneration that would not otherwise exist.

The report refers to a discomfort about certain land uses and makes a link to agriculture, forestry and renewable energy. It is disappointing that landowners and managers who are farming productively, planting trees and developing renewable energy projects in line with Scottish Government policy and targets are viewed negatively. Even with positive engagement and inclusive and transparent decision making in place, there will be land-use changes which not everyone favours.

The report recommendations to Scottish Ministers revert to talking about the desire for diversity of ownership as the driver for change. Given the findings in relation to scale, we question the evidence for continuing to pursue this. In addition, the report refers to addressing the unfairness of the current pattern of landownership. In relation to the public interest test and recommendation 2.1 in relation to policy options to encourage a more diverse pattern of private land ownership and investment, we would contend that this should be based on outcomes and delivery of tangible benefits to rural communities rather than on a feeling of unfairness.

We believe that the report should be considered alongside other research as well as emerging changes in approach to inform future thinking rather than being the basis of any immediate policy or legislative changes.

We look forward to discussing the research report and policy recommendations in detail with the SLC, Scottish Government and others.

### **Scottish Government's land reform agenda**

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Landowners and communities are at the start of a new era as a result of the last Land Reform Act passed in 2016. Some of its provisions are still to come into effect and will give communities

unprecedented rights and opportunities to acquire land. These provisions should be allowed to take shape before further measures are considered.

Landowners have embraced many of the aims of the Scottish Government on land reform, including increasing the transparency of ownership through completion of the Land Register and enhancing engagement with communities.

Our members see themselves as being part of the solution and believe that a more collaborative approach would serve the wider interests of rural Scotland better.

We question the last statement in the motion – given the evidence of the increase in community ownership and the clear change in behaviour and attitude over the last few years, we do not agree with the portrayal of ownership as entrenched. This is clearly evident from sale of land and property by some of Scotland’s largest landowners to tenants, communities and new owners. We share the Government’s view that everyone should benefit from land – but this may be at a national or even global level through mitigating climate change or contributing to the economy rather than individual communities receiving direct benefits from every acre of Scotland. We think that this can best be achieved by moving to a more collaborative approach to delivering a shared vision for Scotland.

We therefore support the Edward Mountain’s amendment to the Scottish Government’s amendment.

We believe that the Scottish Land Commission’s recommendations require further consideration – alongside other policy recommendations – and therefore do not support the amendments lodged by Andy Wightman and Claudia Beamish.

**For more detailed information:**

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