

**CONSULTATION: Delivering Scotland's River Basin Management Plans:
Improving the Physical Condition of Scotland's Water
Environment**

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Introduction

Scottish Land & Estates welcomes the opportunity to respond to the "Improving the physical condition of Scotland's water environment" consultation. Scottish Land & Estates represents land owners, managers and rural businesses across Scotland, including many that are likely to be affected by the proposals set out in the consultation document. As such this consultation is of considerable relevance to us.

General Comments

In general terms we are content with the overarching key steps set out in the consultation document, i.e.

- using scoping studies at the water body or catchment scale to provide a firm basis for identifying where improvements may be needed and developing proportionate improvement plans;
- increasing efforts to encourage and develop partnerships to take forward voluntary restoration projects; and
- increasing emphasis on remediation at the site of artificial structures where there are significant impacts and/or fish passage is impeded.

In particular we are pleased to see that it is intended to put in place robust processes for identifying where improvements may be needed and that subsequent improvement plans will be implemented in a proportionate way. We note the proposed delivery framework seeks to ensure that the scale of achievable benefits clearly demonstrates the value of making such improvements. We would point out that this is important not just in terms of value for money for the public purse, but also that it is a reasonable and proportionate action to take in terms of its impact on private rural business interests.

We are also pleased to see that there is an emphasis placed on encouraging partnerships to facilitate voluntary restoration. We believe this type of approach is extremely important in delivering good outcomes from restoration projects.

The change from the more opportunistic approach taken in the 2012 Plan to the proposed strategic approach which will be targeted at securing the greatest environmental improvements is understandable. We would however point out the importance of how the strategy will be implemented. We would emphasise how successful the enabling approach taken by SEPA to tackling diffuse pollution has been, whereby the legislative framework was very much a final step, resorted to only after farm visits aimed at helping farmers understand water quality issues and giving advice on how improvements could be made, had failed to bring about action. Scottish Land & Estates hope that the same approach will be taken here and we would welcome any reassurance that can be given in this regard.

Strengthening the Delivery Framework

As noted above we are keen to see that when considering the value of making improvements that this is not only in terms of value to the public purse but also takes into account impacts on private land-based businesses. The classification of some water bodies as “Heavily Modified” (HMWB) is welcome in this respect, as is recognition that food production on our most productive land should be given priority when considering rural river restoration projects.

It is also worth remembering that the value to the landowner of a particular area of ground can be dependent on the context of the farming (or other land use) unit and not just on its productivity classification. For example, in terms of upland farming, one or two low-ground fields may be vital for providing winter fodder such as hay. The loss of part of that ground may disproportionately impact the farming business. Each case should therefore be assessed on its own merits, taking into account such impacts.

Financial Support

The continuation of the Water Environment Fund and the provision of support under the SRDP are both welcome. We are also pleased to see that compensation will be paid for loss or damage

incurred during works.

Scottish Land & Estates is concerned however about the “income foregone post-restoration” aspect of the compensation provisions. In particular, we do not believe that five-years is a sufficiently long enough period to base a compensation payment on in situations where land is lost to, for example, a re-meandering project.

The re-profiling of a water course will mean that the productive capacity of the land taken by such a project is lost on a permanent basis not just for five-years. Landowners in the main purchase land for the annual return it can provide, i.e. it represents their annual income over the long-term.

Basing payment on the five-year commitment of the SRDP seems inappropriate in these circumstances. The SRDP five-year commitment is just that, a commitment to carry out a particular activity for a five-year period. In some instances a landowner will continue to carry out an activity beyond the commitment period, but in some cases they find that without payment for income foregone they cannot afford to continue with the activity on an unfunded basis. The option therefore exists for the farmer to revert to previous use or find a new alternative use that generates an income. This option does not exist once a water body has been re-profiled.

Five-years compensation where income potential is lost permanently seems to us very unlikely to be an attractive proposal. We would suggest that this aspect of the proposal is re-considered, since under a voluntary approach progress will only be made if the compensation offer appears to the farmer to be worth considering. Either the amount paid over a 5-year period needs to increase or the payment period needs to be longer.

Legislative Provisions

Scottish Land & Estates is pleased to note that within the proposed Statutory Instrument the term “appropriate person” will be further constrained to responsible authorities as set out in the 2011 Order, as well as to Transport Scotland (effectively Scottish Ministers) and Network Rail.

Since this statutory instrument will therefore not impact private landowners, we have no comment to make on it.