1. RSPB Scotland is part of the RSPB, which speaks out for birds and wildlife, tackles the problems that threaten our environment and promotes the conservation of wild birds and their habitats. We are supported by nearly 90,000 members in Scotland, with a strong membership base in rural areas as well as in towns and cities. We have practical experience of managing terrestrial, aquatic and coastal habitats for conservation, farming, forestry and other enterprises, of providing advice to land managers and first hand experience of the regulatory regimes that impact on these sectors. RSPB Scotland manages more than 68,000 hectares of land, much of it in management agreements with local farmers, crofters and graziers. Our land management interests cover a wide range of habitats and geographic areas within Scotland. We undertake biological and economic research to underpin our policy analysis and advocacy. When development threatens our most important places for wildlife, we engage with developers through the planning and other regulatory systems to try and ensure damage to wildlife is avoided. We also have experience of environmental education and training for all ages. The RSPB is the BirdLife International partner in the UK.

Response to questions

Do you agree with the definition of a high hedge as set out in the Bill? If not, please provide details;

2. We recognise that high hedges can be a cause of neighbour dispute and can cause loss of amenity and distress to those affected in some instances. RSPB Scotland is primarily concerned to ensure that the Bill, if progressed, would not result in any significant adverse impact on birds or other wildlife. Hedges and trees in domestic and non-domestic settings can provide important habitats for a range of species. The current definition of a high hedge is tightly defined and would be likely to exclude the possibility of many hedges and trees of relatively higher biodiversity value being affected as a result of the Bill. This is because hedges of higher biodiversity value are often (although not exclusively) made up of deciduous species. If there were to be any change to the definition of a high hedge proposed in the Bill, it would be important to ensure that other safeguards are put in place to ensure that there are not greater impacts on biodiversity.

Do you consider that other forms of vegetation should be covered by the provisions of the Bill? If so, please specify why?

3. As explained above, RSPB Scotland’s primary concern is that the Bill does not result in adverse harm to Scotland’s biodiversity. The currently proposed, relatively tight, application of the Bill means that the risk of harm to biodiversity is minimised. If the scope of the Bill were to be extended to cover other vegetation, it would be
particularly important to ensure that this did not increase the risk of harm to biodiversity.

Any other issues relating to the Bill which you wish to bring to the attention of the Committee?

4. The risk of harm to wild birds as a result of works to trees and hedges is greatest during the nesting season for breeding birds. In addition to the direct harm to wildlife, cutting hedges during this period can be a cause of real concern to neighbours and others interested in the protection of wildlife. The RSPB recommends that hedge cutting is not carried out between March and August. If works are carried out when it is known that there is an active nest present, and that work damages or destroys the nest, it could result in an offence. It will therefore be important for Ministers to issue clear guidance on this before any provisions relating to the Bill come into force.

5. Section 1 of the Nature Conservation (Scotland) Act 2004 places a duty on “...every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.” The application of measures proposed in the Bill by public bodies would therefore also need to comply with this biodiversity duty.

6. As currently proposed, Section 6(7) of the Bill states:
   In making a decision under subsection (5)(b), the authority must have regard to all the circumstances of the case, including in particular—
   (a) the effect of the high hedge on the amenity of the area, and
   (b) whether the high hedge is of cultural or historical significance.

7. In order to ensure that the biodiversity significance of high hedges is also considered, we recommend that a specific reference to biodiversity value is added to this section. This addition would be particularly important should there be any increase in the scope of the Bill.

Aedán Smith
Head of Planning and Development
RSPB Scotland