Written submission from Scottish Wildlife Trust

The Scottish Wildlife Trust welcomes the opportunity to submit evidence to the Rural Affairs, Climate Change and Environment Committee regarding the Land Reform Bill.

The Trust owns or manages 119 reserves for wildlife covering c. 20,000 ha of land in Scotland in accordance with the Trust’s charitable purpose:

to advance the conservation of Scotland’s biodiversity for the benefit of present and future generations

The purpose of the Trust’s wildlife reserves is to provide a network of sites to safeguard a broad representation of wildlife found throughout Scotland, to act as exemplars to other site managers and to deliver public benefits through the provision of ecosystem services including: recreation and education, health and wellbeing, mitigating and adapting to climate change, improving water quality and regulating water flow, carbon storage and sequestration, soil protection and, of course, biodiversity conservation and restoration.

The Trust’s position on the Land Reform Bill is considered in the context of achieving positive outcomes to sustain and enhance Scotland’s natural capital, and to benefit both wildlife and the people of Scotland. Our response to the Land Reform Consultation outlined our general position on the proposals contained therein.

We wish the Committee to also note that the Trust has contributed to Scottish Environment LINK’s evidence and where LINK’s evidence covers the Trust’s position entirely for brevity, we refer the Committee to SE LINK’s evidence.

Part 1 Land Rights and Responsibilities Statement

Section 1 Land Rights and Responsibilities Statement

The Trust supports the Scottish Government’s ambition to have a land rights and responsibilities statement. This policy will be key to the continued evolution of land reform and will be the reference point for the Scottish Land Reform Commission’s work.

The Trust is of the view that land ownership and usage are inextricably linked to responsibilities.

The Trust is primarily concerned with how land is used and managed in order to maximise public benefits such as biodiversity, carbon sequestration, improved water and air quality, and flood prevention, as opposed to who owns the land per se. However, the Trust is of the opinion that the historic pattern of land ownership in Scotland has often tended to encourage monocultural patterns of land use which have focused on management for one or very few private benefits, sometimes to the

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1 Natural capital is the stock of natural assets which includes geology, soil, air, water and biodiversity. It is from this natural capital that humans derive a wide range of services, often called ecosystem services, which makes human life possible.

2 http://scottishwildlifetrust.org.uk/docs/002_057_consultationresponseonthefutureoflandreforminscotland_feb2015_1423559774.pdf
detriment of the public benefits which result from healthy ecosystems. Indeed, large scale land management practices common on many (but by no means all) of the larger estates are amongst the main drivers of biodiversity loss in upland Scotland.\textsuperscript{3,4,5,6,7} Examples include damage from burning and suppression of woodland/scrub regeneration on intensively managed grouse moors, and overgrazing by deer kept at artificially high numbers in some areas due to a lack of appropriate culling levels. Stocking densities for sheep have also been very high in the past, and this is still the case in some areas today.

Historic monoculturalism has also been evident on land held by Scottish Ministers and other public bodies; most obviously where the Forestry Commission have created large monocultures of non-native forestry, sometimes on highly inappropriate habitats such as blanket peatlands.

Whilst the Trust’s primary focus is on ensuring land use has the right balance of rights and responsibilities to ensure genuinely sustainable land use, the Trust is also of the view that the pattern of land ownership, and the culture associated with ‘traditional’ management, has exacerbated the loss of biodiversity. To be clear, the Trust is not calling for such traditional practices to cease entirely, or necessarily, a fundamental change in patterns of land ownership. Instead we wish to see rights over land linked with clearer responsibilities and, in particular, a move away from intensive monocultures towards more naturalised ecosystems that deliver both public and private benefits. These objectives are wholly in line with the Scottish Government’s vision, objectives and principles set out in the Land Use Strategy (LUS) and the ecosystems approach to land use.

As the Government has already set out the principles that should govern land use choices in the Land Use Strategy (LUS), the Trust believes a strong connection should be made between the LUS and the proposed Land Rights and Responsibilities Policy Statement.

The Trust believes the principles set out in the LUS and Land Rights and Responsibilities should be applied by all landowners and managers and, all those with land rights should be working towards achieving the LUS vision of:

\textit{A Scotland where we fully recognise understand and value the importance of our land resources, and where our plans and decisions about land use deliver improved and enduring benefits, enhancing the wellbeing of our nation.}

We support Scottish Environment’s LINK’s position: that it is important that the land rights and responsibilities statement should be specifically legislatively linked to the statutory Land Use Strategy, established under the Climate Change (Scotland) Act

\textsuperscript{3} Brown et al (2014). The Effects of Moorland Burning on the Ecohydrology of River basins. Key findings from the EMBER project. Leeds University

\textsuperscript{4} Forestry Commission Scotland (2014). Scotland Native Woodlands – Results from the Native Woodland Survey of Scotland. Written by Gordon Patterson, Derek Nelson, Patrick Robertson and John Tullis


\textsuperscript{7} LINK Deer Task Force evidence to the RACCE Committee of the Scottish Parliament Deer and Natural Heritage Impacts
2009. The Bill might be amended to ensure that the statement and the strategy are reviewed and consulted upon at the same time within the proposed 5 year cycle.

The Trust also believes that Ecosystem Health Indicators would be a useful tool under the five year review, to measure how land reform and the land use strategy are delivering public benefits.

It would be helpful during Stage 1 of the Bill to clarify the Government’s view on how the LRRS links to the Land Use Strategy and how the five year review of both will measure progress towards: land delivering greater public benefits.

We note that the LRRS is not on the face of the Bill and there is no provision in the Bill under Section 1 regarding a public consultation process. The Trust seeks clarification on how the Government intends to develop and consult on the policy and would like to see a provision in the Bill regarding public consultation.

**Part 2 The Scottish Land Commission**

Please refer to Scottish Environment’s LINK’s evidence which accords with the Trust’s position on the role of the Scottish Land Commission.

**Part 3 Information about Control of Land etc.**

The Trust supports the proposals for increased transparency concerning persons in control of land. Concerning our own reserves, this will enable better communication with our neighbours relating to Trust management objectives; enable better coordinated conservation activities at the landscape scale such as eradicating invasive non-native species, dealing with pollution and enhancing the ecological network.

With regard to identifying the culprits of wildlife crime, having a transparent system of land ownership will make it easier to hold to account those who have committed the offence of criminal vicarious liability.

Registration of land will incur a cost to the Trust; we acknowledge that the registration cost itself is relatively small, but we have been advised by our lawyers that legal costs may be higher, if legal research is required and where there are legal challenges to boundaries. We estimate that this would run to thousands of pounds.

**Part 4 Engaging Communities in Decisions relating to Land**

37 Guidance on engaging communities in decisions relating to land

Sub section (2) states that Scottish Ministers must have regard to achieving sustainable development in decisions relating to land. Because of this, and Part 5 of the Bill – Right to buy land to further sustainable development, it is important that a nationally and internationally recognised definition of sustainable development (SD)
is used, rather than the version given in the Policy Memorandum. This would align with the Government’s commitment to SD.\textsuperscript{9,10}

Therefore, it would be helpful at Stage 1 of the Bill for the Government to clarify the term sustainable development.

As a land owner and manager, the Trust carries out activities on its reserves in accordance with its charitable purpose and as a charity we act in the public interest, by safeguarding and enhancing the environment. In carrying out our charitable purpose we are already committed to the ecosystem approach which in essence is about community engagement and working at the ecosystem scale (landscape) scale regarding conservation decisions relating to the land. Examples of the Trust’s commitment to community engagement include:

- **Eigg**: The Isle of Eigg Heritage Trust (IEHT) bought Eigg in 1997. The Trust was integral to the buyout having successfully campaigned to raise the purchase price. The IEHT is managed by a board\textsuperscript{11} who guide development on the island. The Trust has supported environmental management of Eigg most notably by increasing the woodland value and providing a ranger service - though we have also covered every other aspect of natural heritage. We have also supplied agri-environment advice to the two farmers and the crofting community to good effect. (Further details of the Trust’s involvement in the Eigg community can be supplied if required).

- **Coigach-Assynt Living Landscape**\textsuperscript{12} which is a unique community partnership\textsuperscript{13} project which aims to bring environmental and economic benefits to the Coigach and Assynt region of north west Scotland.

- The drafting of the Cumbernauld Greenspaces Long-term Forest Plan which covers four Trust urban wildlife reserves in North Lanarkshire. Engagement inviting comments on the draft proposals for the future management of the woodlands involved inter alia: key stakeholders including local community contacts and individuals with a recognised interest in any or all of the four reserves and two public events for local residents in the vicinities of the four sites.

The Trust has management plans and / or statements for its 119 wildlife reserves which are reviewed every ten years. We would seek clarity at Stage 1 as what is a proportionate level of engagement for future draft plans and what defines a community.

For example, through our network of reserves across Scotland, we are part of the local community where we have reserves, but we are also a community of interest regarding decisions relating to land outwith our land holdings which impact on Scotland’s natural capital - e.g. deer management; afforestation; intensive agriculture; intensively managed grouse moors. As such, we would like the

\textsuperscript{9} Response to PQ S3W-38670
\textsuperscript{10} The Government continues to support the 2005 UK shared framework on SD (One Future - Different Paths), and was one of the first countries to adopt the UN Sustainable Development Goals.
\textsuperscript{11} Composed of The Trust (1), Highland Council (1), Isle of Eigg Residents Assoc – 4 (all islanders have membership and voting rights on IERA) and an independent chair
\textsuperscript{12} Details of CALL can be found at: [http://coigach-assynt.org/about-the-project/](http://coigach-assynt.org/about-the-project/)
\textsuperscript{13} Partners include: landowners, NGO landowners, community land owners, interest groups and private enterprise
opportunity where appropriate to engage in land management decisions that affect Scotland’s natural capital. It would be helpful to clarify if communities of interest will be included in the guidance.

We also seek clarity at Stage 1 concerning who Scottish Ministers intend to consult when drawing up the guidance (it is stated in the Bill that Ministers must consult with persons as they consider appropriate).

We note from the Policy Memorandum that the guidance will include all land owners. It would be helpful to clarify what types of management decisions by the agricultural sector would require community engagement e.g. pesticide spraying, livestock movement and distribution, changes to agricultural uses and practices – such activities impact on local communities.

The Policy Memorandum outlines actions to be taken where guidance [on community engagement] is not being followed; it is stated there would be further consequences for charities. We seek clarity from the Government on why charities alone are targeted as opposed to accountability applying to all landowners.

**Part 5 Right to buy land to further Sustainable Development**

Please refer to previous section regarding using an internationally recognised definition of sustainable development.

It would be helpful at Stage 1 to know the Government’s views regarding the inclusion of communities of interest in the right to buy land to further SD.

Whilst the Trust is supportive of land being appropriated to advance SD, indeed we believe all land should be managed to further sustainable development (which is the objective of the Land Use Strategy), we seek clarity regarding the Government’s approach to the three pillars of sustainable development which seek to achieve, in a balanced manner, economic development, social development and environmental protection.

For example, are there circumstances in the Government’s view, when economic development would override environmental protection? This was the case regarding the Government’s decision to grant planning permission to Trump International Golf Links Scotland Limited to develop a golf course on one of the most spectacular shifting dune habitats in Scotland and Europe, Foveran Links (SSSI), a site specially designated due to its national importance. In this instance, economic development within the SSSI- which has permanently destroyed some of the sand dune system was considered more important than its environmental protection.14

Clarity would be helpful on the Government’s approach to decisions regarding sustainable development as well as defining what is meant by the public interest (which will be taken into account in Ministers’ decision on application). Although it may be assumed that citizens know what is meant by this term, this is not always the

14 SWT briefing on background to planning decision: https://scottishwildlifetrust.org.uk/docs/027__104__special_interest_leaflets__Trump_development__background_to_our_objection__1304775981.pdf
case. See for example SNH’s recent support of deer management groups where the Government agency has had to explain this term.

56 Assessment of value of land etc.

With respect to assessing the value of land, the Trust is of the view that it would be timely to explore how rural land is valued in Scotland. The present valuation system may have encouraged patterns of land use which have focused on management for mainly private benefits, sometimes to the detriment of the public interest. For example, number of stags culled is a consideration in rural land value estimations: the higher the number of stag returns, the higher the land value (because this is an indicator of the sports earnings accrued). Although the landowner does not own the deer, there is a private interest in maintaining high deer densities (both hinds and stags), sometimes beyond that which the local environment can support, which does not serve the public interest. Nevertheless the land valuation system encourages this perverse incentive which in some circumstances is contrary to sustainable deer management and the Code of Practice on Deer Management.

Intensively managed grouse moors for driven grouse shooting which support high grouse numbers also have high land valuations (because of sports earnings accrued). But it has been shown that the management needed to maintain high grouse numbers for the practice of driven grouse shooting including burning heather on deep peat (>1m) is not in the public interest because of the negative impacts on the environment including: damage to peat function including less Sphagnum growth, lowering of the water table and drying out of peat and a lowering of diversity in aquatic invertebrates in the burned catchment. Mountain hare culling, hill track construction and very high levels of ‘wildlife management’ are also associated with grouse moorland management.

Indeed, the Trust is of the view that current approach to land valuation acts as a disincentive to land managers or communities seeking to buy land (outwith agricultural and forestry systems) to enhance the natural capital value, and hence serve the public interest. This is despite the fact that healthy ecosystems deliver public benefits such as storing carbon, improving air, water and soil quality and slowing water movement in a catchment.

Therefore the Trust seeks clarity concerning the Government’s future plans regarding the Land Reform process to explore how land is valued in order to promote maintenance and restoration of Scotland’s natural capital assets.

Part 6 Entry in valuation roll of shooting and deer forests

66 Repeal of exclusion of shooting and deer forests from valuation roll

The Trust agrees in principle that the business rate exception for shooting and deer forests should be ended to align with other local businesses. The Trust also supports the Land Reform Review Group’s recommendation of a fiscal incentive to promote sustainable land use:

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A revised rate on deer shooting could, for example, be based on the level of deer cull required to protect public interests and then only be charged when an owner or occupier was not achieving adequate culls.

With regard to grouse shooting, we note the Land Reform Review Group’s findings that grouse estates may rely on public services, such as local fire services, which they do not support financially.

As we have already stated in the previous section, land managed for private sporting and game interests may have negative impacts on the environment. The findings of Professor Poustie’s report for the Government (which has yet to be published) on the review of hunting regulations would be an appropriate point to examine how game interests, such as driven grouse moors, are regulated to serve the public interest. It would be helpful to know if the Government intends to address this issue in the future as part of the Land Reform process.

Part 8 Deer Management

69 Functions of Deer Panels

We support the provision which is intended to engender community engagement. This would accord with Part 4 of the Bill - Engaging Communities in Decisions relating to Land. We seek clarity from the Government concerning deer management groups being covered in the Government guidance on engaging communities.

70 Deer Management Plans

The Trust is of the view that whilst light grazing by wild deer is generally beneficial to natural heritage, uncontrolled and excessive grazing by deer is currently one of the most significant threats to the health, natural functioning and connectivity of ecosystems in Scotland, particularly in parts of the uplands. Land owners who encourage or maintain high deer densities for private interests, beyond which the environment can support, are not delivering the public interest.

The Trust supports deer management measures which aim to stabilise deer numbers at ecologically acceptable and sustainable levels which would be well below current levels in many areas.\(^\text{17}\)

The Trust welcomes the provision in the Bill to enable SNH to be provided with powers to require owners/occupiers to develop/agree and implement a deer management plan. This would support the delivery of the public interest, particularly if deer management plans have explicit ecological outcomes. As this additional power ensures that approved measures (which would include adhering to cull targets) must be carried out, it encourages active management rather than a ‘paper’ management plan.

We note that this provision will only be brought into force via a parliamentary instrument subject to the conclusions of the review that will take place at the end of

\(^{17}\) For further information on the Trust’s wild deer policy and impacts of high deer densities on natural heritage see: [http://scottishwildlifetrust.org.uk/docs/002_057_publications_policies_Wild_Deer_policy_August_2012_1346425925.pdf](http://scottishwildlifetrust.org.uk/docs/002_057_publications_policies_Wild_Deer_policy_August_2012_1346425925.pdf)
2016. It is also intended as an interim measure if it is decided from the review that more stringent measures are required.

The Trust is of the view that changes are required now and are indeed well overdue; this accords with the recommendations of the Land Reform Review Group, which stated in its report that:

*The Group considers that the Scottish Government should be examining potential improvements to the statutory arrangements governing the management of wild deer in Scotland now, rather than waiting to the end of 2016. The Group considers changes are required independent of the degree to which the performance of DMGs improves in the coming years.*

The Trust believes that bringing the provision into force now will ensure that deer management plans are active plans. Where plans are not acted upon, SNH will have the power to move to a voluntary Section 7 agreement and then to a Section 8 if required. This provision accords with the Land Reform policy objective of: *land delivering greater public benefits.*

This provision will not have a negative impact on those deer management groups who have plans in place/ are acting on plans/or are working towards a plan to deliver the public interest. It will impact on those groups who have been reluctant to draw up plans and/or those deer management groups who are not acting on the plan to deliver the public interest. The review at the end of 2016 would then determine if a further step change is required regarding the statutory management of deer to deliver the public interest.

Because this provision accords with the Land Reform policy objective of: *land delivering greater public benefits,* the Trust would find it helpful for the Government to explain what the disadvantages are of bringing the provision into force in the current Bill.

The Trust also agrees with the LRRG’s two recommendations to deliver the public interest that:

- SNH should determine the appropriate cull levels in different locations to ensure that public interests are adequately safeguarded\(^\text{18}\)

- Land owners who intend to cull wild deer on their land should apply to SNH for a consent for the number of deer they plan to cull\(^\text{19}\)

It would be helpful at Stage 1 of the Bill to clarify if the Government intends to include these recommendations in the Deer Management Plan provision.

\(^{18}\) See section 22 page 232 of LRRG report

\(^{19}\) See sections 24 and 25 of LRRG report