



The Scottish Parliament  
Pàrlamaid na h-Alba

**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**

**AGENDA**

**17th Meeting, 2014 (Session 4)**

**Wednesday 4 June 2014**

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Land Reform Review Group final report:** The Committee will take evidence from—

Peter Peacock, Policy Director, Community Land Scotland;

Sarah-jane Laing, Director of Policy and Parliamentary Affairs, Scottish Land and Estates;

Alan Laidlaw, Rural and Coastal Portfolio Manager, Scotland, The Crown Estate;

Andy Wightman, independent researcher;

Dr Calum Macleod, Rural and Regional Development Consultant;

Derek Logie, Chief Executive, Rural Housing Scotland;

Willie McGhee, Founder member and Management Committee member, Forest Policy Group;

Patrick Krause, Chief Executive, Scottish Crofting Federation;

Nigel Miller, President, National Farmers Union Scotland;

Angus McCall, Executive Director, Scottish Tenant Farmers' Association.

**RACCE/S4/14/17/A**

Lynn Tullis  
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The papers for this meeting are as follows—

**Agenda item 1**

Note by the Clerk

RACCE/S4/14/17/1

PRIVATE PAPER

RACCE/S4/14/17/2

## The Land Reform Review Group

### Background

1. In Session 3, the previous Rural Affairs and Environment Committee commissioned a report<sup>1</sup> from the Centre for Mountain Studies on all parts of the Land Reform (Scotland) Act 2003; access, community right-to-buy, and crofting community right-to-buy.
2. The current Rural Affairs, Climate Change and Environment Committee subsequently held an evidence session<sup>2</sup>, on 21 September 2011, with the authors of the resulting final report. Following this session, the Committee sent a letter<sup>3</sup> to the Scottish Government summarising its views on these matters. The Scottish Government responded<sup>4</sup> to the Committee's letter, and indicated that it intended to carry out a review of the 2003 Act, which would be carried out by a working group to be established in 2012.

### Establishment of the Land Reform Review Group

3. On 24 July 2012 the Scottish Government announced that it was setting up a Land Reform Review Group that it said "will oversee a wide ranging review of land reform in Scotland." The group was initially chaired by Dr Alison Elliot, with Professor James Hunter and Dr Sarah Skerratt as vice-chairs. A further ten advisers<sup>5</sup> were also appointed.

4. The Scottish Government outlined the group as follows—

"It is anticipated that the Land Reform Review Group will report in a series of stages to Scottish Ministers, providing consideration of what the outcomes of land reform should be and what reforms are required. By the end of 2013 the Scottish Government would expect a report on any legislative changes that are required to allow this to be taken forward."

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<sup>1</sup> Centre for Mountain Studies (September 2010) Post Legislative Scrutiny of the Land Reform (Scotland) Act 2003 Final Report. Available at:

<http://archive.scottish.parliament.uk/s3/committees/rae/documents/Inquiryplanningsheet.pdf>.

<sup>2</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee, *Official Report, 21 September 2011*. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6679&mode=pdf>.

<sup>3</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee, letter to the Scottish Government. Available at:

[http://www.scottish.parliament.uk/S4\\_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/Letter to Scottish Government re Ag Tenancy issues 2012\\_09\\_20\(1\).pdf](http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/Letter%20to%20Scottish%20Government%20re%20Ag%20Tenancy%20issues%202012%2009%2020(1).pdf).

<sup>4</sup> Scottish Government response to the Rural Affairs, Climate Change and Environment Committee. Available at:

[http://www.scottish.parliament.uk/S4\\_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/Letter to RACCE Committee - Imple of the Land Reform \(S\) Act 2003. 2012\\_03\\_06.pdf](http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/Letter%20to%20RACCE%20Committee%20-%20Imple%20of%20the%20Land%20Reform%20(S)%20Act%202003.%202012%2003%2006.pdf).

<sup>5</sup> Land Reform Review Advisers. Available at: <http://www.scotland.gov.uk/About/Review/land-reform/Advisors>.

## RACCE scrutiny of the Land Reform Review Group

5. In agreeing its forward work programme at its meeting on 12 September 2012, the Committee agreed to monitor the work of the Land Reform Review Group, and invite its Chair and Vice-Chairs to give evidence to the Committee on progress at appropriate times. The Committee also sent the Group a copy of its work to date on land reform issues.

6. The first of these sessions, which was an initial session on the remit of the group, took place on 26 September 2012. Chair, Dr Alison Elliot and one of the then two Vice Chairs, Professor James Hunter, gave evidence to the Committee outlining progress on the establishment of the Group, its remit, and its programme of operation.

7. The two original Vice-Chairs of the Group resigned – Professor James Hunter and Dr Sarah Skerratt. Three new Vice-Chairs were appointed: Ian Cooke, Dr John Watt, and Pip Tabor. Robin Callander was also added to the Group as a special adviser.

8. At its meeting on 26 June 2013<sup>6</sup>, the Committee held its second evidence session with the Group, taking evidence from the Chair, Dr Alison Elliot, and special adviser, Robin Callander.

9. On 20 May 2013, the Group published its Interim Report<sup>7</sup>, along with an analysis of consultation responses received. The Group published its final report<sup>8</sup> on Friday 23rd May 2014. The report contains 62 recommendations, which are reproduced at the **Annexe A**.

10. The Chair and Vice-Chairs of the Group gave evidence to the Committee on the final report on 28 May 2014. Following this session, the Group submitted supplementary written evidence, which can be found at **Annexe B**.

11. On 4 June the Committee will take evidence from a roundtable of stakeholders. The Committee will then hear from the Minister for Environment and Climate Change on 11 June 2014. Written evidence submitted to the Committee to date is attached at **Annexe C**.

12. The Committee will then consider a draft letter to the Scottish Government giving any initial views on the report at its meetings on 18 and 25 June, before publishing its letter before the start of the summer recess 2014.

### Clerks and SPICe

### Rural Affairs, Climate Change and Environment Committee

<sup>6</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee, *Official Report*, 26 June 2013. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=8362&mode=pdf>.

<sup>7</sup> Land Reform Review Group. Interim Report and analysis of consultation responses.

Available at:

<http://www.scotland.gov.uk/About/Review/landreform/CallforEvidence/InterimReportLRRG>.

<sup>8</sup> The Land Reform Review Group final report – *The Land of Scotland and the Common Good*. Available at:

<http://www.scotland.gov.uk/Resource/0045/00451087.pdf>.

**Annexe A**

**Recommendations made by the Land Reform Review Group**

**Section 34 - Recommendations**

**Part Two – The Ownership of Land**

**SECTION 4 - LAND REGISTRATION**

- 32 The Review Group considers the limited progress to date in the coverage of Scotland's Land Register is a major issue. Given the economic and wider public benefits this will deliver, the Group recommends that the Scottish Government should be doing more to increase the rate of registrations to complete the Land Register, including a Government target date for completion of the Register, a planned programme to register public lands and additional triggers to induce the first registration of other lands.

**SECTION 5 - OWNERS OF LAND**

- 11 The Review Group recommends that the Scottish Government should make it incompetent for any legal entity not registered in a member state of the European Union to register title to land in the Land Register of Scotland, to improve traceability and accountability in the public interest.

**SECTION 6 - SUCCESSION LAW**

- 20 The Review Group recommends that the Scottish Government should, in the interests of social justice, develop proposals in consultation with the Scottish Law Commission for legislation to end the distinction between immovable and moveable property in Scotland's laws of succession.

**SECTION 7 - OWNERLESS LAND**

- 11 The Review Group considers that the expansion of land registration is likely to result in surviving examples of common land and commonties coming to light. The Group recommends that these distinctive forms of land tenure should be identified and safeguarded as part of modernising Scotland's system of land ownership.

**SECTION 8 - COMPULSORY PURCHASE**

- 14 The Review Group considers there is a clear need to update Scotland's system of compulsory purchase. The Group recommends that the Scottish Government should take forward the modernisation and reform of Scotland's compulsory purchase legislation, with a clear timetable for introducing a Bill to achieve this into the Scottish Parliament.

- 18 The Review Group recommends that the Scottish Government and local authorities should have a right to register a statutory right of pre-emption over land, where that is in the public interest.

### **Part Three – Public Land Ownership**

#### **SECTION 9 – EXTENT OF PUBLIC LAND**

- 28 The Review Group considers that information on the properties in Scotland owned by the Scottish Government, local authorities and other public bodies, should be more readily available. The Group recommends that the Scottish Government, local authorities and other public bodies in Scotland should publish online property registers that are publicly accessible.

#### **SECTION 11 – CROWN PROPERTY RIGHTS**

- 31 The Review Group considers that ending the Crown Estate Commissioners' involvement in Scotland would deliver wide ranging and important benefits to Scotland. The Group recommends that the Crown Estate Commissioners' statutory responsibilities in Scotland, under the Crown Estate Act 1961, should be devolved to the Scottish Parliament.
- 40 The Review Group considers that, following the abolition of feudal tenure, there should be further significant reductions in types of Crown property rights in Scotland. The Group recommends that the Scottish Government reviews the current Crown property rights in Scots law and brings forward proposals for the abolition of these rights or their replacement statutory provisions, as appropriate in the public interest.

#### **SECTION 12 – HISTORIC NATIONAL PROPERTIES**

- 6 The Review Group recommends that the Scottish Government should ensure that the two reservations inserted by the Crown Estate Commissioners into the titles to Edinburgh Castle and other former Crown properties now owned by Scottish Ministers are removed.

#### **SECTION 13 – NATIONAL FOREST ESTATE**

- 21 The Review Group considers that the size and composition of the National Forest Estate should continue to evolve to meet changing circumstances. The Group recommends that the Scottish Government and Forestry Commission Scotland should develop a more integrated and ambitious programme of land acquisitions in rural Scotland, as part of delivering multiple public interest policy objectives.

#### **SECTION 14 – COMMON GOOD LANDS**

- 21 The Review Group considers that the position over Common Good lands should be improved to ensure they are adequately safeguarded and appropriately managed. The Group recommends that a new statutory

framework should be developed to modernise the arrangements governing Common Good property.

## **Part Four – Local Community Land Ownership**

### **SECTION 15 - LOCAL COMMUNITIES**

- 28 The Group considers that while there should be an agreed set of criteria which defines an ‘appropriate community body’, the Government should be flexible in terms of which legal structures are eligible. The Review Group recommends that there should be a clear focus in public policy on supporting appropriate local community bodies that are owned and managed by local communities acting on their own behalves.

### **SECTION 16 - LAND AND COMMUNITY DEVELOPMENT**

- 15 The Review Group recognises that there is now a wide range of types of property owned by communities and also types of community owners. Given the target of one million acres in community ownership by 2020, set by the First Minister, the Group recommends that the Scottish Government sets up a short life working group whose task would be to improve information on the numbers and types of community land owners and the land that they own, and to develop a strategy for achieving this target.
- 23 The Review Group considers that Trust Ports and other forms of local community control over harbours, piers, slipways and similar coastal assets should be encouraged as a form of community land ownership. The Group recommends that the Scottish Government should develop specific initiatives to assist this process.
- 38 The Review Group recognises that significant progress has been made in the growth of community owned land. The Group recommends that the Scottish Government, using the evidence and recommendations for change presented in this report, should develop a policy statement, with clear direction to all parts of Government and its agencies, on the objective of diversified land ownership in Scotland, and a strategic framework to promote the continued growth of local community land ownership.

### **SECTION 17 - LOCAL COMMUNITY LAND RIGHTS**

- 11 The Review Group considers that the Scottish Government’s planned Community Empowerment (Scotland) Bill provides a crucial opportunity to improve Part 2 of the Land Reform (Scotland) Act 2003. The Group recommends that improvements to Part 2 of the Act should include widening its scope to cover urban areas; enabling appropriate community bodies to be constituted as SCIOs; allowing communities to define their area by a boundary on a map; increasing the period of registration to ten years and decreasing the requirements of re-registration; and more

generally to make the legislation more straightforward and less onerous for local communities to use.

- 27 The Review Group concludes that local communities, acting through appropriate community bodies, should have the opportunity to use a range of statutory land rights which are defined to suit different needs and circumstances. The Group recommends that the statutory land rights of local communities should include a right to register an interest in land, the existing right of pre-emption over land and a right to buy land, as well as rights to request the purchase of public land and to request Scottish Ministers to implement a Compulsory Purchase Order.
- 33 The Review Group recommends that Local Authorities should have the right to exercise a Compulsory Sale Order over an area of vacant or derelict land, and also that Community Councils, or appropriate community bodies, should have the right to request a local authority to exercise a Compulsory Sale Order.

## SECTION 18 - COMMUNITY ACQUISITION COSTS

- 18 The Review Group concludes that while funding packages for community land acquisitions and development are becoming more diversified, public funding remains critical. The Group recommends that the Scottish Government should ensure that there is an integrated legislative and financial support structure to help local communities in urban and rural Scotland buy and develop land and buildings. The Group further recommends that an adequate level of funding should be made available to meet an expected increase in demand for local community land ownership.
- 28 The Review Group considers that current interpretation of State Aid regulations in Scotland is inhibiting the further growth and development of community land ownership. The Group recommends that the Scottish Government should publish new Guidance on State Aid to ensure public bodies take a more solution-focused and less risk-averse approach to their interpretation of the Rules. The Group further recommends that the Government should enter into dialogue with the European Commission to improve the scope for public assistance to non-profit distributing appropriate local community bodies.
- 43 The Review Group concludes that the Scottish Public Finance Manual need not prohibit the transfer of public land at less than market value. The Group recommends that the Scottish Government should have a clear policy framework for the disposal of public property to appropriate local community bodies by the Government and associated public bodies, including a more integrated and focused approach to disposals for less than open market value where that is in the public interest.
- 48 The Review Group considers that there is significant potential community benefit in the transfer of selected local authorities' assets to communities. The Group recommends that all local authorities should have a

‘Community Assets Transfer Scheme’ to encourage greater local community land ownership, and that the arrangements in these Schemes should all follow the same consistently high standard of best practice.

## SECTION 19 - COMMUNITY SUPPORT SERVICES

- 14 The Review Group concludes that communities embarking on land and property ownership and management requires considerable support. The Group recommends that the types of support services provided in the Highlands and Islands should be made available to local communities in the rest of Scotland and that the Scottish Government should take a more integrated and focused approach to encouraging and supporting the growth of local community land ownership.
- 20 The Review Group concludes that communities require a wide range of support and advice in seeking to acquire and manage land. The Group recommends that the Scottish Government should establish a Community Land Agency, within Government, with a range of powers, particularly in facilitating negotiation between land owners and communities, to promote, support and deliver a significant increase in local community land ownership in Scotland.

## **Part Five – Land Development and Housing**

### SECTION 20 - URBAN RENEWAL

- 32 The Review Group considers that further mechanisms are required to address the persistent challenge of vacant and derelict land in urban areas. The Group recommends giving local authorities a new power of Compulsory Sale Order.
- 40 The Review Group considers that additional policy tools are required to more effectively enable land assembly for urban renewal purposes. The Group recommends that the Scottish Government explores the feasibility of introducing a Majority Land Assembly measure.
- 49 The Review Group considers that the well-established international practice of property land readjustment or land-pooling provides another effective means of addressing fragmented or multiple ownership of land. The Group recommends that the Scottish Government investigates the potential of introducing an Urban Partnership Zone mechanism in Scotland.
- 59 The Review Group notes the greater public interest outcomes from public interest led development processes and considers this to be a necessary requirement for most effectively addressing urban renewal challenges in Scotland. The Group recommends that the Scottish Government should encourage and support a greater emphasis on public interest led development.

## SECTION 21 - NEW HOUSING

- 21 The Review Group considers that a strong self-build sector is a key factor in the efficient use of land and in encouraging different forms of home ownership. The Group recommends that encouraging and supporting the development of a vibrant self-build sector should be an explicit aim of a housing strategy in Scotland.
- 36 The Review Group considers that existing mechanisms are unlikely to deliver national housebuilding targets, in a manner compatible with Scottish Government place-making aspirations. The Group recommends the establishment of a Housing Land Corporation, a new national body charged with the acquisition and development of sufficient land to fully achieve these objectives.
- 50 The Review Group considers that specific attention requires to be focused on the housing needs of rural communities. The Group recommends that, in these areas, the Housing Land Corporation should have explicit performance targets that recognise the specific needs of small rural communities and an extended operational role to enable these to be addressed.

## SECTION 22 - EXISTING HOUSING

- 8 The Review Group recognises that it is now 10 years since the Abolition of Feudal Tenure etc (Scotland) Act, 2000, the Title Conditions (Scotland) Act 2003 and the Tenements (Scotland) Act 2004 were introduced. The Group recommends that the Scottish Government introduces a more comprehensive legal framework for common property, which clarifies and modernises the rights and responsibilities of both the individual ownership and the collective governance of such property.
- 24 The Review Group considers that, to address housing need and the changing nature of the private rented sector, a change is required in the nature of tenancy arrangements within the sector. The Group recommends that the Scottish Government introduces longer and more secure tenancies in the private rented sector.

## **Part Six – Land Ownership and Use**

### SECTION 23 - RURAL LAND USE

- 12 The Review Group recognises that the Scottish Government's Land Use Strategy is an important development to encourage the use of Scotland's rural land in ways which contribute more to the public interest. The Group recommends that the Government should make rapid progress in implementing the Strategy across the rest of Scotland beyond the two pilot areas.
- 17 The Review Group considers that information on the pattern of land ownership should be an integral component of developing and

implementing the Scottish Government's Land Use Strategy. The Group recommends that the Scottish Government should produce indicative maps of the patterns of land ownership in the Land Use Strategy's current two pilot areas, and in other areas as the implementation of the Strategy develops.

- 30 The Review Group anticipates that the implementation of the Scottish Government's Land Use Strategy process will lead to reductions in the current flexibility in rural land owners' choices over how they use their land. The Group recommends that the Government ensures that the necessary mechanisms are in place for the successful implementation of the Land Use Strategy in the public interest.
- 38 The Review Group considers that the patterns of land ownership in rural Scotland are an important factor in delivering the Land Use Strategy's community objective, because of the control that ownership gives over land use decisions and benefits. The Group recommends that the Scottish Government should map and monitor the patterns of land ownership in rural Scotland as part of implementing its Land Use Strategy.

#### SECTION 24 - PATTERN OF RURAL LAND OWNERSHIP

- 17 The Review Group considers that the assembling of relevant statistical information and research is crucial to our understanding of patterns of land ownership in rural Scotland, and how they can evolve. The Group recommends that the Government should compile improved information on land ownership and undertake or commission more research into patterns of land ownership.
- 29 The Review Group considers that there should be an upper limit on the total amount of land in Scotland that can be held by a private land owner or single beneficial interest. The Group recommends that the Scottish Government should develop proposals to establish such a limit in law.
- 36 The Review Group supports the Scottish Government's aim of "*a fairer, or wider and more equitable, distribution of land in Scotland...with greater diversity of land ownership*". The Group believes that this requires an integrated approach to developing measures which help deliver this ambition. The Group recommends that the Government should develop a National Land Policy for Scotland, taking full account of international experience and best practice.

#### SECTION 25 – LAND TAXATION, PAYMENTS & MARKETS

- 12 The Review Group considers that there is no clear public interest case in maintaining the current universal exemption of agriculture, forestry and other land based businesses from non-domestic rates. The Group recommends that the Scottish Government should review this historic exemption, with a view to the phased introduction of non-domestic rates for these land based businesses.

- 20 The Review Group considers that ‘sporting rates’ could be tailored to each of the species involved and have the potential to be one of the tools available to help deliver the Scottish Government’s Land Use Strategy and other rural objectives. The Group recommends that the Government should review the current exemptions from sporting rates and introduce a reformed rates system as appropriate in the public interest.
- 25 The Review Group considers that local government taxation in Scotland needs to be modernised and that Land Value Taxation should be given serious consideration as an option. The Group recommends that there should be a detailed study of the scope and practicalities of introducing Land Value Taxation.
- 43 The Review Group considers that there is a lack of clarity over the public costs and public benefits that result from the current exemptions and reliefs for agriculture and forestry land in national and local taxation. The Group recommends that each of the exemptions and reliefs should be reviewed and reformed as necessary, to ensure that there is a clear and transparent public interest justification for the public expenditure through revenue foregone.
- 48 The Review Group considers that the current fiscal regime for land ownership and use plays an important part in maintaining the concentrated pattern of large scale, private land ownership in rural Scotland. The Group recommends that changes to the current fiscal regime should include structuring them to encourage an increase in the number of land owners in rural Scotland, in the public interest.

## **Part Seven – Agricultural Land Holdings**

### **SECTION 26 - CROFTS**

- 26 The Review Group recommends that developing a modern and robust statutory framework for crofting should be a priority for the Scottish Government. The Group considers that the crofting community should be at the heart of any such process, and have a clearly defined role within it. The Group further recommends that reducing the complexity of crofting legislation should be an underpinning principle of any such process.
- 36 The Review Group considers that the provisions in the Land Reform (Scotland) Act Part 3 impose unnecessary burdens on the crofting community in exercising the right to buy and that the ambiguities in the requirements that they have to fulfil can be exploited in the form of unwarranted challenges to the exercising of the right. The Group recommends that the provisions of the Act should be amended to reduce these unnecessary burdens, to reduce the risk of unwarranted challenges and to make other improvements to the provisions.
- 55 The Review Group recommends that crofting trusts or crofting community owners should be able to purchase Scottish Government crofting estates at less than open market value. The Group recommends that Ministers

direct the Scottish Government to make provision for this to happen and to clarify the circumstances under which this can occur. The Group also recommends that the Government should take a more pro-active approach to facilitating and supporting such transfers.

#### SECTION 27 - SMALL LANDHOLDINGS

- 15 The Review Group's view is that there should be major improvements in the position of tenants under the Small Landholders (Scotland) Act 1911. The Group recommends that these tenants should, like crofters, have a statutory right to buy their holdings.

#### SECTION 28 - TENANT FARMS

- 18 The Review Group's view is that the requirement for registration is an unwarranted constraint on the right of pre-emption of secure 1991 tenants under the Agricultural Holdings (Scotland) Act 2003. The Group recommends that the legislation should be amended to remove this requirement and to provide that all these tenants have first option on buying any part of their tenanted holding which their landlord decides to sell.
- 47 The Review Group considers that the position of secure 1991 tenant farmers and their families as part Scotland's rural communities, should be an important consideration in the Scottish Government's current review of Scotland's agricultural holdings legislation. The Group recommends that the Government should take full account of social and local community factors in determining whether the introduction of a conditional right to buy for tenants with secure tenancies under the Agricultural Holdings (Scotland) Act 1991, would be warranted in the public interest.

### **Part Eight – Common Property Resources**

#### SECTION 29 - PUBLIC ACCESS

- 15 The Review Group's view is that Part 1 of the Land Reform (Scotland) Act 2003 has delivered a progressive statutory framework for improved public access over land in Scotland, and that the main challenges involve continuing improvements in implementation. The Group recommends that Scottish Ministers should as part of that, update the Guidance provided to access authorities under Section 27 of the 2003 Act.
- 22 The Review Group recommends that Scotland's current common law public rights over the foreshore, inland water and seabed should be replaced by statutory public rights that are integrated with the public's statutory access rights over land under Part 1 of the Land Reform (Scotland) Act 2003.

## SECTION 30 - WATER RESOURCES

- 13 The Review Group recommends that, following the reform by the Scottish Parliament of the arrangements governing the management and use of Scotland's fresh water resources, the riparian rights still attributed to adjacent and surrounding land owners in Scots property law should be reviewed and reformed to reflect the public interest in these resources as now defined.

## SECTION 31 - FRESHWATER FISH

- 30 The Review Group considers that the current system of District Salmon Fishing Boards based on property rights is no longer appropriate or adequate as part of the statutory arrangements governing freshwater fishing and fisheries. The Group recommends that District Salmon Fishing Boards should be abolished as part of putting in place a new improved statutory framework to ensure the sustainable management of Scotland's wild freshwater fish populations in the public interest.
- 35 The Review Group recommends that the presumptive Crown property right in Scotland to salmon fishings should be abolished or at least not exercised by the Crown Estate Commissioners until it can be. The Group also recommends that the coastal and freshwater salmon fishings held as ancient possessions by the Crown should be conveyed by the Crown Estate Commissioners to Scottish Ministers.
- 39 The Review Group recommends that the capacity in Scots law to create new ownerships of salmon fishing rights separate from the land over which the rights exist, should be ended.
- 43 The Review Group recommends that the Scottish Government develops a clear policy framework and associated arrangements to deliver improved opportunities for members of the public to fish for wild freshwater fish in Scotland.

## SECTION 32 - WILD DEER

- 32 The Review Group considers that Scotland's populations of native red and roe deer are important national assets that should be sustainably managed in the public interest. The Group recommends that improvements should be made to the current statutory framework governing the hunting of deer in Scotland to ensure appropriate culls are carried out to adequately safeguard public interests.

## **Part Nine – Way Forward**

### SECTION 33 – LAND REFORM, COMMON GOOD AND THE PUBLIC INTEREST

- 15 The Review Group considers that significant changes are required to make Scotland's system of land ownership a more efficient and effective

system for delivering the public interest. The Group recommends that the Scottish Government should have an integrated programme of land reform measures to take forward the changes required to modernise and reform Scotland's system of land ownership.

- 21 The Review Group considers that there is a need for a single body with responsibility for understanding and monitoring the system governing the ownership and management of Scotland's land, and recommending changes in the public interest. The Group recommends that the Scottish Government should establish a Scottish Land and Property Commission.

## **Annexe B**

### **Supplementary written evidence from the Land Reform Review Group, received 30 May 2014**

I would like to thank you on behalf of the Land Reform Review Group for the opportunity to give evidence to the Rural Affairs and Climate Change Committee on 28<sup>th</sup> May. I trust the Committee found the Group's evidence helpful.

You asked the Group if you can have additional written material during the course of the meeting.

The two papers referred to by Dr John Watt during the evidence session which the Committee requested were created as a way to frame their thoughts during the course of compiling the final report. They were only intended to be Group internal papers, and therefore I'm afraid I would not be comfortable with these papers being placed in the public domain, lest they be taken out of context.

As for copies of, or links to, the research papers referred to by the LRRG during the meeting, and used by the Group in preparing its report are concerned, these are freely available in the public domain. It would take some considerable length of time to compile these separately and, since the Review Group is no longer in existence, this would fall to individuals to do in their own time. I'm afraid that I cannot ask any member of the Group to undertake this, so I apologise, but I must also refuse this request.

However, turning to consultation activity, Phase 1 of the Group's work saw extensive consultation carried out, including open public meetings, targeted visits and meetings, analysis of research papers in the public domain, discussions with the Group's Advisers, and the 484 submissions received during the Call for Evidence.

The Group frequently referred to the Phase 1 evidence gathered during their Phase 2 work.

During Phase 2 any meetings that the Group had were at the Group's instigation rather than as a response to any invitations. Their purpose was to get further, specific information with a view to writing the final report.

The Group spoke to the following;

- Discussions with Scottish Government and other Public Sector officials (e.g. Marine Scotland)
- Individual discussions with Advisers
- Research of papers in the public domain
- Meeting with Access authorities
- Meeting with Crown Estate Commissioners
- Participation in a Rural Housing seminar
- Participation in Community Land Scotland's Human Rights seminar
- Meeting with the Agricultural Holdings Legislation Review Group
- Meeting with several Advisers and the Chief Planning Officer, Dundee City Council
- Meeting with Shelter
- Meeting with Highlands and Island Enterprise
- Periodic Advisers' meetings.

## **Annexe C**

### **Written evidence from the Association of Deer Management Groups (ADMG)**

ADMG has now had an opportunity to give initial consideration to the Report published by the Land Reform Review Group on May 23rd. Our comments below are limited to the Section in the Report on Deer Management, (Section 32).

The Report sets out in considerable detail the background to the current voluntary principle arrangements for the management of wild deer in Scotland. It is a matter of some surprise to ADMG that, other than an approach to use our published Deer Management Groups map, which has been included in the Report, the Association received no request for information or invitation to meet with the Review Group, despite our offer to do so. We are equally surprised that the Report makes little more than passing reference to the Review carried out by the RACCE Committee in 2013, particularly as the findings and recommendations of the Committee and the Response from the Environment Minister have now become central to the current context of deer management.

ADMG was pleased to have an opportunity to submit written and verbal evidence to the Committee in relation to the 2013 Review. We were glad to be able to inform Committee Members as to the operation of Deer Management Groups and of the steps being taken to increase their capacity. We accept the recommendations of the Committee and in particular we accept the need to develop our thinking on how deer management relates to the public interest. In practical terms our role is mainly to assist member DMGs in developing effective Deer Management Plans which will meet the requirements of both public and private interests through collaboration between all relevant parties. We consider the timescale for this process, requiring demonstrable and significant progress by the end of 2016, to be realistic and achievable.

ADMG has developed a “DMG Benchmark” which, after consultation with our Members, is due to be published shortly but which is already proving of value to Deer Management Groups. The Benchmark is intended to be a non prescriptive but comprehensive specification of the criteria and actions which define an effective DMG. A copy of the final draft is attached. It is targeted mainly at upland DMGs but will also be of some value in guiding deer management in lowland and near urban situations. Deer management varies greatly across Scotland and, as stated in our evidence to the Committee in November last, a one-size-fits-all approach would not be appropriate or practicable. The Benchmark therefore requires local interpretation and application. We do not envisage Deer Management Groups being measured against a fixed point of achievement at any future time but they will continue to develop and we believe the Benchmark will provide helpful guidance for that purpose.

ADMG also produced our “Principles of Collaboration” early in 2013. This is intended to assist DMGs in reconciling potentially conflicting management objectives within a DMG. It is proving useful and it was pleasing to have it acknowledged during the Committee Evidence sessions.

Following the Committee Review Scottish Natural Heritage has made a number of changes to increase the allocation of wildlife staff resources to support deer management. ADMG welcomes this and both organisations are working together on a joint Collaborative Deer Management Project. This comprises a number of elements including the DMG Benchmark, the development of a computer programme for collating and analysing data gathered by DMGs, and a self assessment framework to enable DMGs to measure their progress in achieving the Benchmark criteria, specifically the development and implementation of an effective Deer Management Plan.

In summary ADMG considers that the RACCE Review has been beneficial in creating guidance as to the public interest aspects of deer management and increasing support to DMGs in going forward. We consider that Deer Management Groups are making steady progress and that they will continue to do so. Of particular note is the number of DMGs which are progressing the development of their Deer Management Plans and giving consideration as to how best to develop their approaches to local communication to ensure openness and transparency.

The LRRG Report recommends further change to deer legislation. It proposes the creation of a statutory requirement for landowners to control deer on their land, with backup powers to SNH to take this on and recover costs in the event of failure to do so. It also recommends a statutory requirement for landowners to seek consent from SNH to cull deer based on a culling target to be agreed by SNH. This is, in effect, a recommendation for a regulated basis for wild deer management in Scotland. As the RACCE Committee concluded that additional time should be allowed to test the effectiveness of the voluntary approach to deer management, this being endorsed by the Minister, we can see no value in additional legislation at this stage prior to further review in or after 2016. We also question incidentally why the Report makes recommendations in relation to deer while not

considering the impact of other wild herbivores, such as rabbits, hares and goats, on the environment and other aspects of the public interest.

The commitment of ADMG is to demonstrate that the voluntary system of deer management can deliver both public accountability and the environmental, economic and social sustainability which are precepts of the Scottish Government Rural Strategy. The mechanisms proposed by the LRRG would be cumbersome and would impose a considerable further burden on both deer managers and also SNH. They would also lack the flexibility required to reflect local circumstances. In addition they would be costly and the suggestion that this cost could be demitted to deer managers through the reintroduction of sporting rates would simply reduce the private funding available to fund the necessary management of wild deer in Scotland.

ADMG will be pleased to expand on any of the above points and is available to give verbal evidence to the Committee if required.

## Appendix 1

### THE DMG BENCHMARK

**The DMG Benchmark sets out the criteria whereby a Deer Management Group or Sub-Group can assess and demonstrate its effectiveness in relation to the Code of Practice on Deer Management to meet a range of management objectives and deliver the public interest.**

**The application of the Benchmark criteria will vary to reflect the circumstances of individual DMGs. The Benchmark is not intended as an absolute standard but all DMGs should use it as a measure of progress towards sustainable collaborative deer management.**

**Deer Management Groups are voluntary bodies and The DMG Benchmark is therefore issued as guidance with the strong recommendation of the Association of Deer Management Groups.**

### Membership

- All property owners within a deer range should be members of a DMG, including private and public land owners; also, where possible, agricultural occupiers, foresters, crofters and others on adjoining land where deer may be present. In some cases this may extend to householders with private gardens.

### Meetings

- DMGs should meet regularly. Two formal meetings per year is the norm but more frequent interaction between members, between meetings, should be encouraged.
- For effective collaborative management to take place it is important that all DMG Members should attend every meeting or be represented by someone authorised to make appropriate decisions on their behalf.

- In addition to landholding Members, including public sector owners, public agencies such as SNH and Forestry Commission Scotland should be in attendance and other relevant authorities such as Police Scotland may be invited to attend DMG meetings.
- Meetings should operate to an agenda and be accurately minuted. Attendees should be encouraged to participate and agreed actions and decisions should be recorded.

### **Constitution**

- All DMGs should have a Constitution which defines the area of the Group, sets out its purpose, its operating principles, membership and procedures, in addition to providing for appointing office bearers, voting, raising subscriptions and maintaining financial records

### **Deer Management Planning**

- All DMGs should have an up to date, effective and forward looking Deer Management Plan (DMP).
- The DMP should record all the land management objectives within the DMG area.
- The DMP should identify the public interest aspects of deer management
- It should include a list of actions that deliver the collective objectives of DMG Members as well as public interest objectives. These actions should be updated annually.
- It is important that all DMG Members should play a full part in the planning process and in the implementation of agreed actions
- The DMP may identify potential conflicts and how they can be prevented or addressed to ensure an equitable approach to the shared deer population.
- Relevant local interests should be consulted on new DMPs and advised of any changes as they come forward.
- DMPs should be publicly available.

Deer Management Plans can be commissioned using external specialists or can be prepared by DMG Members. In some cases grants may be obtainable. Wild Deer Best Practice (WDBP) provides guidance on deer management planning

### **Code of Practice on Deer Management**

The SNH Code is now the foundation document for sustainable deer management. It asserts both the private interest and the public interest in deer management and defines sustainable deer management in economic, environmental and social terms.

- The Code should be endorsed by all DMGs and referenced in both the Constitution and Deer Management Plan of every Group. The terms

of the Code should be delivered through the Group Deer Management Plan.

### **ADMG Principles of Collaboration**

The Principles [www.deer-management.co.uk/aboutus/publications](http://www.deer-management.co.uk/aboutus/publications) have been devised by the Association of Deer Management Groups to assist DMGs in reaching a consensus on deer management matters and in working together in a neighbourly and collaborative manner which recognises and respects the equal legitimacy of all deer management objectives which comply with the Code. ADMG can assist DMGs in negotiation and mediation processes where necessary to reach consensus.

- The Principles of Collaboration should be incorporated into all DMG Constitutions and Deer Management Plans.

The Principles of Collaboration are attached to the benchmark as an appendix [1].

### **Best Practice**

The Best Practice Guides (WDBP) represent in detailed form the collective knowledge, wisdom and experience of deer managers as to how to carry out all practical tasks safely so as to ensure their own safety, public safety, deer welfare and food safety.

- All deer management should be carried out in accordance with Best Practice.
- All Deer Management Plans should reference and follow WDBP which will continue to evolve.

### **Data and evidence gathering – counts, culls and habitat monitoring**

Deer management decision making should be based on evidence which is collated in the DMP and updated regularly. Data gathered by DMGs will include deer count data, culls, and reproductive information from larder records and recruitment counts; in addition regular habitat impact assessments (HIA) should be carried out and resultant information be gathered and collated in a consistent manner. Other relevant data may relate to deer/vehicle collisions, deer welfare etc. DMGs should have access to and should use evidence gathered by Government bodies and research organisations. DMGs should make Group data publicly available through the DMP.

### **Deer counts**

- Accurate deer counting forms the basis of population modelling.
- As publicly funded aerial counts are now exceptional, DMGs should aim to carry out a regular well planned coordinated foot count of the whole open range deer population. The norm is to count annually.

- Sample counts should also be carried out systematically so that the population can be accurately categorised and adjusted for post count losses.
- Recruitment and mortality counts are also essential for population modelling.
- Where there are insufficient personnel to carry out a full foot count assistance may be secured from a neighbouring DMG or elsewhere.
- Other census methods may be required in some circumstances, eg dung counting in woodland or other concealing habitats or on adjoining open ground.

## **Culls**

Population modelling will determine the age and sex structure of the deer population and the required culls of male and female deer.

- All DMGs should agree a target deer population or density which meets the collective requirements of Members without detriment to the public interest.
- The cull should be apportioned among Members to deliver the objectives of the DMP and individual management objectives while maintaining the agreed target population and favourable environmental condition.
- The Group cull target should be reviewed and, if necessary, adjusted annually.

## **Habitat Monitoring**

The welfare and condition of wild deer is dependent on the availability of food and shelter throughout the year, particularly over the winter months and in the spring. Good environmental condition is of public as well as of private value. Habitat monitoring is intended to confirm that grazing offtake is at a level where habitat condition is either maintained or improved. Habitat Impact Assessment training is available.

- DMGs should carry out habitat monitoring. Habitat Impact Assessments (HIA) measure progress towards agreed habitat condition targets on both designated sites and the wider deer range.
- HIAs should be carried out on a systematic and regular basis. A three year cycle is the norm but many find annual monitoring useful.
- Data is required on other herbivores present and their impact on the habitat.

DMPs should include a section on habitat monitoring methods and procedures and record annual results so as to measure change and record trends.

## **Competence**

The deer sector is self regulating in terms of training and competence. 'Competence' has been defined as Deer Stalking Certificate (DSC) 1 or

equivalent qualification. A Fit and Competent Register is administered by SNH and registration is required for deer managers or contractors who may need to carry out work under statutory Authorisation. DSC 2 is generally required for inclusion on the Competence Register.

- It is recommended that in addition to DSC 1 deer managers should also attain DSC 2 or equivalent.
- Deer managers supplying venison for public consumption are required to certify carcasses as fit for human consumption to demonstrate due diligence. "Trained Hunter" status is required for carcass certification.

### **Training**

- All DMGs should have a training policy and incorporate it in the DMP.
- All DMG Members or those acting on their behalf should undergo the necessary training to demonstrate Competence.
- The training policy should promote and record continuing professional development through Best Practice Guidance.
- The training policy should also cover health and safety, including lone working, as well as relevant specialist training relating to firearms and other equipment, vehicles and machinery.
- Employers within the DMG should ensure that employed deer management staff receive relevant training.

### **Venison Marketing**

The supply of venison of the highest standard into the food chain should be a prerequisite for a DMG and its members. Membership of the Scottish Quality Wild Venison scheme is recommended by ADMG, as is collaborative marketing where appropriate.

### **Communications**

The Code directs that DMGs should operate in an open and transparent manner.

- DMGs should include a Communications Policy in their DMP. External communication should be directed at parties not directly involved but with an interest in deer management including individuals, local bodies such as community councils, local authorities, local media and other specialist interests.
- An annual communication programme suitable to local circumstances is advised. This might include a DMG website or a page on [www.deer-management.co.uk](http://www.deer-management.co.uk), an annual Newsletter, annual open meeting, or attending local meetings by invitation.
- A Deer Management Plan should be accessible and local consultation during its development is advised.

## Written evidence from Rural Housing Scotland

Rural Housing Scotland welcomes the focus given to rural housing within the LRRG Report. We are pleased that the report recognises the extent of rural housing need and the crucial role of housing in sustaining and regenerating our rural communities. RHS supports communities across rural Scotland to tackle housing problems and we are pleased that the report identifies the potential of community led initiatives to meet rural housing needs. We appreciate the LRRG's recognition of the role of RHS and welcome the prospect of working with the Scottish Government, local and national partners and rural community groups in helping achieve the goals of land reform.

### Community Land Rights

In our evidence to the LRRG we highlighted several locations where community land ownership has enabled affordable housing development and we called for communities to have the right to buy land where required to meet a demonstrable need for affordable housing. We are therefore pleased to see the range of statutory land rights and the community right to buy land as key recommendations of the LRRG (p.101).

The community right to buy land and the proposed right of pre-emption for local housing bodies (p.140) will facilitate land for housing in areas where planning is more relaxed and land values lower. In rural areas where land for housing is restricted through planning and land values higher these rights will be of limited use unless Local Development Plans recognise rural housing needs and are sufficiently responsive to enable land use where housing need is demonstrated.

We are encouraged by the recognition of the need for "more effort to identify and address very localised, specific housing need" with this information being used to zone land for housing within Local Development Plans (p.140 para.45). We would also highlight the value of rural exception site<sup>9</sup> policies to enable development on land that is not zoned for housing and available at lower values.

### Housing Land Corporation

We welcome the promise of the Housing Land Corporation to enable a more strategic approach to land assembly ensuring land is available to facilitate housing where it is needed rather than the sometime approach of making the case for housing where land is available. This strategic approach is particularly welcome in rural Scotland where through planning and high land values land is not always available where it is required and rural housing need is sometimes *addressed* by building in the nearest town.

We particularly welcome the commitment that the HLC should have "explicit performance targets that recognise the needs of rural...communities" and that

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<sup>9</sup> Rural exceptions site policies enable the development of affordable housing, where need can be demonstrated, on land that would not otherwise be released for housing development. As mostly agricultural land it has a lower value.

their responses to increasing housing supply include “bottom up solutions capable of renewing our villages and small communities” (p.140 para.44) and “an extended operational role to enable these to be addressed”(p141 para.50). This extended operational role should include community profiling and local housing needs analyses to ensure a detailed understanding of rural housing needs, to help shape planning and housing investment decision making.

We would hope to see the HLC working with rural communities to acquire land where housing need had been demonstrated and are pleased to see the suggestion that communities may form joint venture partnerships with the HLC (p.136 para.30)

The rural performance targets of the HLC depend to large extent on their securing land for housing in rural areas and will therefore depend on their relationship with planning authorities in ensuring that Local Development Plans take full cognisance of rural housing needs. With this in mind the LRRG should ensure that their recommendations are fed into the review of SPP before this is completed in June.

### **Empty Homes**

We support the suggested introduction of a Housing Re-Use Power to tackle the problem of empty homes through compulsory leasing or purchase by a local authority, and would also like to see this being used by local communities.

### **Private Rented Sector**

The private rented sector is a significant provider of housing in rural Scotland, and is more likely to be a provider of a long term home than in larger settlements. In our experience security of tenure is a significant issue for rural tenants with many seeking alternative housing due to insecurity - real or perceived. There can be a reluctance to put down deep roots in a community where you have no security of tenure in your home, and where there a few alternatives to move to if you are asked to leave. We therefore welcome the LRRG recommendation that the Scottish Government introduces longer and more secure tenancies in the private rented sector. (p.145 para.24)

Overall we believe that the recommendations of the LRRG to enhance community land rights, establish a Housing Land Corporation (with rural targets) and address empty homes will significantly enhance the ability of communities and affordable rural housing providers to meet local housing needs.

## Written evidence from the Scottish Moorland Group (SMG)

### Introduction

The Scottish Moorland Group (SMG) is part of Scottish Land & Estates (SL&E) and echoes all the comments made by SL&E in respect of the wider aspects of the LRRG report. This briefing is an initial response to those parts of the LRRG report relating specifically to managed moorland (Part Six, pages 151 – 172).

The Scottish Moorland Group welcomes the focus on sporting estates and in particular grouse moors. They are an important part of the Scottish upland environment, economy and culture. Grouse moors cover between 1 million and 1.5 million hectares, equivalent to 12-19% of Scotland's land mass. They ensure 2640 full time equivalent jobs and bring in around £30 million pa to the Scottish economy. They generate significant capital investment in housing and infrastructure in fragile remote areas and are recognised by Visit Scotland as bringing in valuable tourism revenue from the UK and abroad. Grouse shooting is a unique sport, highly valued around the world.

Scotland's grouse moors are seeking a clear indication of support from the Government to give confidence for future investment and employment in the upland economy, and SMG is working with Government, its agencies and other stakeholders to achieve that supportive legislative framework.

SMG recognises that the LRRG remit was to suggest a menu of radical ideas for Government to develop in years to come, and the clear acknowledgement (page 17 paragraphs 17 and 18) that issues cannot be covered in any detail and the LRRG is not an expert group.

Therefore, it is a real concern that the overall tone of the LRRG report is negative about traditional land management such as grouse moors, and that it appears to go beyond its expertise by proposing very specific land use changes.

### Flexibility

Part Six of the report leads with the idea that landowners have "*considerable flexibility in how they choose to use their land*" implying that land use decisions are made on a personal whim and could easily be switched. However, especially in remote parts of Scotland, options for viable use of any particular area of land are strictly limited by altitude, terrain, soil and climate. The LRRG report does not make the case convincingly either that grouse moor is an inappropriate use or that forestry is somehow more appropriate.

Current moorland uses have developed organically over centuries; they have been honed by successive generations of farmer and keepers, developed local markets and shaped communities. Upland land uses will continue to evolve as circumstances change, but there would be massive repercussions if a centralised policy was to force dramatic change.

Grouse management does not need subsidy because it has a strong international market, but any move away from that will mean that more public funding would be needed for management of the land and provision of public benefits, and private investment would be lost.

Many of the ideas in the LRRG report will struggle to stand up to serious scrutiny but we are nevertheless keen to engage with the LRRG agenda to identify those which will enhance the public interest. As the LRRG have stated clearly themselves, this is meant to be a report to stimulate discussion and not to provide answers and so we will welcome that discussion. It should be added that we have not been consulted at all in the preparation of this report, either directly, or through the cross sector Moorland Forum and we consider that to be a significant weakness of this report and its approach.

### **Land Use Strategy**

SMG agrees with the thrust of the report about the Land Use Strategy (LUS) giving a public policy framework for land use decisions, and look forward to working with other stakeholders as it develops.

Grouse moors are highly compatible with the three main objectives of LUS:

- Land-based businesses working with nature to contribute more to Scotland's prosperity
- Responsible stewardship of Scotland's natural resources delivering more benefits to Scotland's people
- Urban and rural communities better connected to the land, with more people enjoying the land and positively influencing land use

Grouse moor management also scores well on nearly all of the ten indicators set out in the Land Use Strategy Progress Statement June 2013:

- LULUCF Land use, land use change and forestry GHG emissions
- Gross Value Added GVA in agriculture and forestry
- Scottish tourism visits
- High nature value farming and forestry
- Natural capital asset index NCAI
- Water ecological status
- Terrestrial breeding birds
- Volunteering in nature
- Visits to the outdoors
- Community inclusion in land use decision making

We note that one of the core principles of the LUS is that it is a high level strategy and "*does not set out to provide a blueprint for how individual fields, hills or plots of land should be used*". However, in Section Six paragraphs 23-28 the LRRG report attempts to use LUS as justification for specific proposals to replace grouse moor with forestry. The reasoning put forward is that forestry is more in the public interest, when the reality is the other way around.

## **Public interest**

Grouse moor management is strongly in the public interest in many respects. It provides habitat for a wide range of important birds which is recognised in SSSI and SPA designations.

Grouse moors score highly on the objective of multi-purpose management. A typical grouse moor will have two significant economic enterprises on the same land – grouse shooting and low density stock farming, which will provide the core income, employment and management capability. When managed well they are highly compatible – it is a resilient management model.

In addition, legal predator control protects a wide range of other wildlife, much of it rare and declining elsewhere. Grouse moors are bastions for breeding waders such as curlew, lapwing, golden plover dotterel and redshank, and other declining birds such as ring ouzel. This is a hugely important public benefit, proven by science and well recognised by all bird conservation bodies. Predator control also protects mammals such as the Mountain hare which breed prolifically on many grouse moors because of the predator control.

The process of rotational muirburn prevents the build-up of high fuel loads which cause damage to peat if there is a wildfire. Moorland estates provide a free resource to help with firefighting, something well recognised and appreciated by the Fire and Rescue Service (FRS) in Scotland. Rotational muirburn provides a mosaic of different aged heather which keeps a healthy purple landscape, unique and highly valued by visitors to Scotland. The management of sheep, deer and hares controls the amount of tick which are becoming an increasing human health issue with Lyme Disease. Roads on moorland managed for grouse and agriculture are often used for public access, especially by less able people and mountain bikes.

There is an implication in the report that if an owner chooses a non-subsidised land use such as grouse shooting, he can somehow escape having to conform to the public interests which would otherwise be enforced by the conditions of a subsidy. In fact, public interests are already tightly woven into the whole process of grouse moor management, backed up by extensive legislation, regulation and codes of practice and administered by Government agencies such as SGRPID, SNH and SEPA.

## **Ecosystem services**

The ability of the underlying peatland to lock up carbon, provide clean water and regulate flooding is carefully preserved on a well managed grouse moor. There is emerging science that points to some negatives of careless muirburn as mentioned in LRRG, but that applies when the peat layer is damaged. That only happens at any significant scale where there is catastrophic wildfire, and is very definitely not in the interests of grouse moor management either. Burning regimes can be adapted if the science becomes more clear, and will be covered by the current Muirburn Code review being carried out by the Moorland Forum, and in which moorland managers are closely involved.

These risks are relatively low and manageable compared with the much greater risk to ecosystems if the land was to be used for intensive grazing which is one of the few alternative options. Viable grouse moor management effectively guarantees that the land will not be used for other purposes which can seriously damage those ecosystem services, such as commercial forestry or wind farms. In the north of England grouse moor owners have blocked up over 2000 km of ditches to re-wet moorlands which had been drained after WW2 and that process is under way in Scotland too

SMG believes that grouse moor management is highly compatible with LUS and support that process. Therefore the Land Use Strategy cannot be used as an excuse for widespread afforestation on grouse moors in the east of Scotland; one of the explicit proposals in LRRG, which would be highly damaging for Scotland's moorland. It must be remembered that open heather moorland, with its unique assemblage of birds is very rare in the rest of the world. The UK holds 75% of the entire world resource and most of that is found in Scotland. Therefore we have a duty to look after it.

### **Forestry on high value grouse moors**

The LRRG report suggests that forestry delivers more in the public interest than the management of moorland for grouse shooting, arguing that it would help deliver the woodland creation target of 10,000 hectares a year to 2022. Such a view is, however, to create a black and white picture which fails to acknowledge the multiple benefits delivered by grouse moors.

We suggest that a much more sophisticated understanding of upland management is needed. The simple replacement of open moorland with forestry would result in the direct loss of many rare birds and a precious habitat, with a knock on effects all around forests due to increased fox and corvid predation. Bird conservation bodies make this argument too and it was all set out in the responses to the Woodland Expansion Advisory Group. It is therefore extraordinary that it is now such a central proposal of the Land Reform Review Group.

The climate change argument is used to justify forestry expansion, because trees lock up carbon, but in fact there is significant damage to the underlying peat from the drainage, roading and drying out associated with new planting. Moreover, most timber grown on land currently used for grouse moors would be low grade, likely to be used for wood chips, pulp or external uses – all of which result in the carbon locked up in the wood being released again. Therefore, there is only a temporary lock up of carbon anyway.

The lessons must be learnt from the last time when there was a massive policy swing towards forestry, particularly in the 1960s, 1970s and 1980s. In order to meet Government targets many plantations were planted in the wrong place – too high, too exposed to wind, unstable soils and poor vehicle access – in fact just the sort of ground occupied by grouse moors. The proposals of the LRRG would be to repeat all those mistakes; therefore we would very much welcome a better understanding of the evidence and assessment criteria they have used to formulate their specific

recommendations in this area. For commercially viable forestry, the ground needs to be of higher quality and lower down the hill.

So, to plant moorland, which in many cases supports an important economic activity in grouse shooting, with low grade Sitka spruce forestry would be a highly controversial policy. This is not to say, however, that there is no place for woodland in the uplands and the planting or regeneration of native non-commercial woodlands on the moorland edge is a more realistic objective and already being done in strategic places on many grouse moors.

### **Sporting rates**

The LRRG makes a proposal to review the exemption of “shootings” from sporting rates. That would encompass all types of shoot – lowland, rough shooting, driven and walked up shoots, but it attempts to justify this policy by pointing to grouse moors only. The report tries justify this position by stating that that control of wildfires on grouse moors is a significant public cost.

The reality is that the vast majority of wildfires which the Fire and Rescue Service (FRS) have to deal with are around built up areas, tourist hotspots and in recent years the massive fires started by muirburn have been overwhelmingly in the far north and west of Scotland, well away from grouse moors. It is true that muirburn can get out of control on grouse moors, but there is a highly effective system in grouse shooting areas of estates helping each other. They have the right equipment, keepers are experienced in fighting wildfire and are able to get there quickly. In fact moorland estate staff and equipment is an important fire fighting resource much valued by FRS which is often used to help them with wildfires with other causes. If that private sector contribution was quantified and charged for, it could be a significant public cost. It is however something that grouse moor estates are happy to provide as a public benefit.

Further detail is provided in the Appendix [2] to this statement - a summary of the wildfire position in the Grampians (the specific example quoted in LRRG) from the Chairman of the South Grampian Fire Group.

If the cost of fighting wildfires is the reasoning behind re-imposition of sporting rates on grouse moors, then it would not appear to be a robust argument. In addition, the introduction of these rates will have an impact on the ability for businesses to deliver unfunded environmental benefits and more generally will impact on the ability to deliver the aims of the Land Use Strategy. SMG is a willing partner in the delivery of LUS but imposition of additional costs without justification would undoubtedly reduce the ability of estates to provide public benefits.

### **Appendix 2**

It is misleading and destructive to suggest that muirburn only creates problems for Fire and Rescue Services as suggested in the land reform review. Wildfires have many causes, Landowners give significant assistance to Fire and Rescue Services, and muirburn also helps to prevent even more dangerous and damaging wildfires occurring.

Grampian, the area given as an example in the review is a case in point. Grampian Fire & Rescue Service (GFRS) received substantial assistance suppressing those fires from estates, and also the other 2/3rds of fires, which had other causes. This assistance was often an organised and effective response, through the estate's mutual assistance organisations, the South Grampian Wildfire Group (SGWG) and the North Grampian Forest Fire Protection Group working in support of GFRS.

The assistance included All Terrain Vehicles with specialist fire fogging units, helicopters paid for by the landowner, radios, four-wheel drive vehicles for off-road transport and collectively hundreds of skilled staff. All of these resources were operating within procedures agreed with the fire service in advance.

Indeed several of the fires in the 2011 – 2013 period were largely extinguished by the efforts of the private estates, because the equipment deployed was fit for purpose and the estate staff had the necessary skills and experience to extinguish this type of fire. Also the estates assisted the fire service with incident command and were on hand to receive control of areas shortly after knockdown, thus relieving the fire service of further responsibility and cost at the earliest stage.

An example is the response to the fire on Balmoral Estate in 2011, which was started by members of the public lighting a campfire, which burnt 120 ha (300 acres) in very inaccessible, steep and rugged terrain and lasted 3 days. GFRS made a limited response in terms of numbers but a crucial response in terms of Incident Command. Local estates including Balmoral Estate and other members of the South Grampian Wildfire Group provided over 60 staff, x4 ATV/fogging units, and the helicopter. Control of the fire was handed-over to Balmoral Estate after initial knockdown at the end of the first day. The fire re-ignited on the second day and was extinguished again by estate fire group members. Balmoral Estate then continued mopping up on the third day and fire patrols continued for several days afterwards.

Another example of the positive engagement of landowners and grouse moor managers on behalf of the community occurred in 2012 where there was a wildfire on Birse Community Trust (BCT) land. This fire started at around 4pm on a Friday evening, probably caused by a dropped cigarette, was spotted by neighbours. Ballogie Estate, a neighbour, organised the fire group call-out. GFRS were in attendance but it was largely put out by large numbers of neighbouring private estate staff, mostly Gamekeepers from nearby Grouse Moors with ATV/fogging units.

Michael Bruce Chairman of SGWG said "I was the senior land manager on-site at the fire on BCT land and had to co-ordinate the response from several different estates. The fire was largely put out by estate owned and operated ATV/fogging units, with some assistance from the fire service, especially with Incident Command. Once knockdown had been achieved control of the fire was handed over to land managers. I then organised the crucial mop-up and patrol phases. I was unable to contact any of the trustees or managers of the Trust but was really pleased that estate workers, who had just spent hours working extremely hard putting out this fire on community land, then

volunteered to take shifts through the night to make sure that this fire was really out. They tackled a number of hotspots and smouldering areas. It could easily have re-ignited and become a major problem.”

This practical, common sense, mutual assistance arrangement between the estates and the fire service in Grampian has been in place in for over 15 years. Estates across Scotland have shown willingness to develop similar arrangements with the new Scottish Fire and Rescue Service and estates representatives are active participants on the Scottish Wildfire Forum. The sharing of resources has minimised risks to the public, the environment, and costs to the public purse.

A recent example of this co-operation in Grampian has been the development of a common digital fire mapping system, where crucial estate level information, such as the location of fire ponds or HGV passable tracks was collected, digitised and is then being lodged on the fire service control room maps. This has been achieved through partnership including SFRS, CNPA, SGWG and four local estates who contributed both some of the projects funding and the staff time to provide the information. The intention is now to roll this system out nationally.

Estates are also involved in many aspects of fire prevention at a variety of levels. At a local level in periods of high fire danger estate staff patrol known high risk areas and make sure inappropriate campfires and BBQs are extinguished. At a strategic level estates are involved through the Scottish Wildfire Forum developing national initiatives. It should be noted that there have been far fewer wildfires in 2014. The situation is improving.

Each tool or technique used for the suppression of wildfires is limited with the length of flames, the fire intensity, it can deal with. This even includes helicopters which can only cope with flames that are a maximum of 4m high. There are several examples of fires in the period 2011 – 2013 that had high fire intensities, were not caused by muirburn and were only able to be extinguished when the fire reached areas of previous muirburn with less fuel, where the flame height dropped sufficiently to become controllable.

This means that one of the biggest public benefits from muirburn is that it reduces fuel load hazards over wide areas. With less fuel to burn muirburn helps to reduce the intensity of fires and therefore make them easier to control in the future. Fuel hazard reduction using prescribed burning is a well-known fire prevention or reduction technique used by fire managers around the world. Carrying out prescribed burning is also acknowledged as being one of the best training opportunities for wildfire suppression.

The vast majority of muirburn is carried out successfully with no problems at no cost to the public purse. Improvements in technique can be made. Fire prevention activities, including muirburn, can be improved through the work of the Scottish Wildfire Forum, a revised Muirburn Code and training. The recently announced Scottish Government “Wildfire Operations Guidance” gives a clear indication of the importance the Scottish Government and the fire service give to working with land management partners.

The imposition of shooting rates on all estates, for the express purpose of paying for Fire & Rescue Service costs would appear to be a collective punishment that will have unintended consequences. Other countries, such as New Zealand have adopted different and far more positive solutions, for example providing a publicly available Fire Danger Rating System that helps prevent unwanted wildfires occurring in the first place.

Notes:

- Michael Bruce is owner of Glen Tanar Estate in Aberdeenshire, he has been a registered Lantra Awards trainer for forest and moorland fire fighting since 1997. He is also currently Chairman of the South Grampian Wildfire Group, Vice-Chairman of the Scottish Wildfire Forum and has been a member of the team of Forest Fire Experts of the United Nations ECE FAO since 2003.
- The South Grampian Wildfire Group was established in 1997. In 2013 the resources available to support GFRS/SFRS was as follows:

<b>SGWG RESOURCES 2013</b>	<b>No.</b>
Number of Estates / Agencies	64
Personnel	253
<b>Fire Suppression Equipment</b>	
Fire fogging systems (ATV mounted)	23
Fire fogging systems (trailer mounted)	4
Fire Beaters (in fire sheds)	1000+
Small pumps	21
Foam Systems (medium expansion & fogging lance)	4
Knapsack sprayers	17
Portable dams	9
Trailer tankers & Slurry tankers	12
Back-burning kits (heather burners & drip torches)	45
Tractor driven chain swipes (cutters)	7
Chainsaws (operated by competent person)	17
<b>Transport</b>	
4WD Vehicles, (Land-Rovers, Pickups & Jeeps)	123
All Terrain Cycles (Quad bikes & 6 wheel bikes)	23
4WD Tractors	44
<b>Radios (with emergency frequency)</b>	<b>153</b>