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Gillian Martin MSP  
Convener, Environment, Climate Change and  
Land Reform Committee  
c/o Clerk to the Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
EH99 1SP

12 July 2019

Dear Gillian

Thank you for your letter of 27 June in which you asked a number of questions about the Scottish Government's response to the Scottish Land Commission's report on scale and concentration of ownership, including in the context of the Land Use Strategy and the Land Rights and Responsibilities Statement.

Our response to the report will be multi-faceted and draw on various policy areas across a number of Ministerial portfolios. As such, I have not necessarily answered each of your questions in turn, but I hope my response provides a comprehensive overview of how I intend to develop and implement the report's recommendations and answers your questions.

As you know the Land Commission made a series of recommendations to address issues caused by the scale and concentration of land ownership in rural Scotland. Some of these recommendations can be addressed through culture change, while others are likely to need primary legislation. Given the scope and complexity of the recommendations, particularly in the way they interact with each other and other policy areas, my officials are currently considering how they can best be implemented. Officials are working closely with the Land Commission to do this, as well as with other Scottish Government policy officials.

Increasing the diversity of land ownership is one of the 6 principles set out in the Scottish Land Rights and Responsibilities Statement, and it is a cornerstone of my land reform agenda. The various community rights to buy are the most obvious way in which we are enabling the diversification of land ownership. We introduced the new Part 3A right to buy land that is abandoned, neglected or detrimental in June 2018 and are currently consulting on proposals for the Part 5 right to buy for sustainable development.

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As well as increasing the number of communities who own land, we are beginning to see a greater diversity in those communities. The broadening of right to buy brought about by the Community Empowerment (Scotland) Act 2015 has allowed urban communities to purchase land and assets in areas that were never considered when right to buy was first introduced.

I know that community right to buy processes are sometimes considered to be overly complex. In November 2018 the Land Commission made recommendations to improve community ownership mechanisms, and my officials are taking those forward. A new multi-agency group has been established to provide strategic oversight of this process, and I hope that it will lead to more straightforward processes and even greater community ownership. Officials are also reviewing the existing community right to buy guidance so that it is easy to understand and as useful as possible, and they continue to offer communities high-quality advice on the various rights to buy.

We continue to promote community ownership. In August 2018 we held the first ever Community Land Week, which showcased the many and diverse ways that 15 different communities had benefited from owning their own land. This year's event runs from 10 – 18 August, with around 50 communities expected to take part. As well as demonstrating the range of purposes to which community owned land can be put, this is an excellent opportunity for communities aspiring to own their own land to learn from the experience of those who already do. The Community Land Team is also conducting a series of roadshows to explain how community right to buy works.

All of this activity will help to encourage and support greater and more diverse community ownership. The Scottish Land Fund remains crucial to this outcome, and I have announced that we will continue to provide £10m per year until 2021. I am pleased that the Land Fund remains heavily subscribed, a clear sign that interest in community ownership remains high.

If is, of course, necessary for more land to be available if we are to enable more diverse ownership. The Land Commission's report on scale and concentration of ownership identifies the kinds of issues that can prevent land becoming available, as well as the wider problem of preventing influence over how land is used and managed. Tackling these entrenched problems is necessary if we are to diversify the ownership of land.

In the Scottish Parliament's land reform debate on 21 March, I noted that some of the recommendations can be implemented relatively quickly, while others will need longer. Some will require primary legislation. Both the Land Commission and my officials are considering how best to give effect to the various recommendations.

The Land Commission is currently undertaking a programme of stakeholder engagement to gather feedback and views on the recommendations. This will inform the development of more detailed proposals and how and when they might be implemented. For example, the Land Commission recommended a public interest test in relation to particular sales. I support this recommendation, but more thinking is needed to agree the circumstances in which a public interest test should be used and to ensure that such a test would not have any unintended consequences.

Officials are discussing the recommendations with a range of Scottish Government policy colleagues to build a coherent cross-cutting approach. This initial consideration will conclude by the autumn when the Land Commission and officials will consider how best to develop and implement the recommendations. It is important that a wide range of interests

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are involved in this process. The Land Commission is already engaging with various stakeholders, and I expect this to continue as the recommendations are further developed and implemented.

The Land Rights and Responsibilities Statement is central to ensuring that landowners respect and nurture communities and emphasise sustainability and community benefit in key decision-making processes. The Statement sets out my vision for how land should be managed and used so that it benefits everyone. Its six principles recognise the value of human rights, a diverse pattern of ownership, greater community ownership, high-quality stewardship of land, greater transparency about land ownership and improved community engagement in decisions about land.

In addition to the Scottish Government's own guidance on engaging communities in decisions about land, the Land Commission has also issued its own protocol to help land owners engage meaningfully with communities. Both the Scottish Government's guidance and the Land Commission's protocol are rooted in the principles of the Statement. Together we are working to ensure that the principles are the foundation of how we think and act about land.

My officials continue to promote the Statement and our guidance, and the Land Commission is tireless in its engagement with land owners and communities to help make the principles of the Statement a reality. This will involve culture change, and that is necessarily an ongoing process, but I am pleased at the progress that has been made so far.

Human rights are at the heart of my approach to land reform. In March's land reform debate I said that land is not just a commodity but a human right. The Land Rights and Responsibilities Statement is rooted in a human rights approach, and its vision and principles, together with the framework of the Land Use Strategy, will underpin the development of detailed proposals to implement the Land Commission's recommendations. One of the Land Commission's first discussion papers was on human rights in land reform, and my officials continue to work with Dr Kirsteen Shields, the author of that report, to ensure that human rights are giving meaningful effect in our land reform activity.

Given this, I have no plans at the moment to update the Statement. I said during the land reform debate that the statement is an ambitious encapsulation of land reform, and that remains true. I believe the Statement provides us with the tools we need to bring about meaningful and long-lasting change in how we think about land and the contribution it makes to life in Scotland. It is a requirement of the Land Reform (Scotland) Act 2016 that the Statement is reviewed within 5 years of it being published, which is September 2022. Nonetheless, both my officials and the Land Commission keep the Statement under regular review, and if it becomes apparent that it needs to be changed in light of these recommendations I will consider best how to do that.

You asked how the Scottish Government plans to safeguard the rights of tenants seeking to set up new rural enterprises and ensure that they have access to a range of financial options to support this. The Scottish Government is committed to developing opportunities for new entrants to agriculture. One way we do this is through the work of our Farming Opportunities for New Entrants (FONE) Group, which aims, among other things, to maximise the amount of public land available to farmers of the future.

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In addition, Scotland's Farm Advisory Service includes a dedicated programme providing advice on how to effectively enter and thrive in the industry, the skills required and the support measures available. It also includes a mentoring programme that gives New Entrants access to an experienced mentor, matched to specific needs and providing guidance through the vital set-up and early growth years of a business. Agricultural holdings legislation safeguards the rights of both tenants and landlords where the tenant wishes to diversify their activities.

I am very alert to the need to support positive and objective relationships between tenants and landowners. This extends to ensuring that tenants are not penalised if they choose to complain about landowners or factors. A thriving and prosperous tenant farming sector relies on a strong and constructive relationship between tenants and landlords and a positive and professional approach by intermediaries acting on behalf of landlords and tenants. Such relationships need to be based on mutual respect and shared values and a common approach to fairness and reasonableness.

Research undertaken by the Scottish Land Commission for the Review of the Conduct of Agents of Agricultural Landlords and Tenants in 2018 highlights that the majority of landlords and their tenant farmers are content with their respective relationships (88% and 82% respectively). However, this still leaves a minority who have a poor relationship, which may lead to difficulties.

The Tenant Farming Commissioner has a key role to play in encouraging good relations between landlords and tenants through the delivery of specific functions. The Commissioner has produced a series of well-received Codes of Practice, designed to encourage and promote good practice in the conduct of landlord tenant relationships, and guidance on topical issues, including dispute resolution and the conduct of agents. He can also provide advice on individual cases to try and find a solution, and has done so successfully on a number of occasions.

The Land Rights and Responsibilities Statement and the Guidance on Engaging Communities in Decisions Relating to Land also apply to tenant farming, and I would expect landowners and factors to ensure that these are embedded in their relationships with tenants. Ultimately, in cases where there has been a breach of legislation, tenants and landlords also have recourse to the Land Court.

You asked how the Scottish Government will encourage landowners to maximise opportunities for those within the agricultural sector, including young farmers moving on from starter farms. As part of our commitment to develop opportunities for new entrants, the Farming Opportunities for New Entrants (FONE) group continues to deliver a programme of work that, among other things, aims to maximise the amount of public land made available to farmers of the future. To date, this has helped provide over 90 individual land opportunities across over 6,500 hectares, allowing over 60 new entrants to gain a foothold on the agricultural ladder.

FONE has already achieved a great deal, but it is important to note that activity is not restricted to facilitating the release of publicly owned land. FONE will continue to work with all landowners to demonstrate the benefits of releasing land to provide young people with a foothold on the farming and crofting ladder. This includes promoting the potential around joint venture arrangements and a brokerage service to match people to opportunities.

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Agricultural holdings legislation seeks to balance the rights of landlords and tenants, to create a healthy and vibrant tenanted sector. We work closely with organisations on both sides to understand and respond to the issues that they face. It is important that we are alert to the changes happening across agriculture and the rural economy, to ensure the tenant farming sector can react flexibly going forward. The Tenant Farming Commissioner also has a key role in engaging the tenanted sector in discussions about future requirements.

The changes which Part 10 of the Land Reform (Scotland) Act 2016 sets out were requested by the sector and follow the extensive and substantial work of the Agricultural Holdings Legislation Review Group, which reported in 2014. It will take time for the full effect of changes in legislation to become apparent, as we saw with the Agricultural Holdings (Scotland) Act 2003, and therefore it is important that we allow time for changes to embed properly to understand their impact.

You also asked how the Scottish Government will ensure that fiscal incentives relating to agriculture, forestry and renewable energy are directed towards the most appropriate recipient and contribute to community empowerment, rural development and land reform.

The Scottish Government's Forestry Strategy, published in February, underlined the importance of developing the rural economy and of engaging more people, communities and businesses in the creation, management and use of forests and woodlands are among the priorities for forestry. The Strategy set out a number of ways in which these priorities are already being taken forward – noting for example the recent growth in community ownership of woodlands: around 200 community groups own and manage forests and woodland in Scotland. The Strategy underlined the need to provide more opportunities for urban and rural communities to influence the decisions affecting their local forests and woodlands, including through increased community ownership. Ministers have committed to publishing an implementation plan for the Strategy by April 2020.

The Scottish Government offers a range of funding (both grants and loans) to support the development of renewable energy projects across Scotland, including rural areas where the natural resources are particularly advantageous towards renewable energy. Part of the Land Commission's work includes examining options for diversifying private ownership of land, including the use of fiscal incentives, and it will report its findings to me in due course. The stakeholder engagement outlined above will help inform this.

The Land Commission's various reports offer a clear path for how land reform might develop, and my officials are considering how we can give effect to the recommendations made in these reports. We are continuing to develop our Register of Persons Holding a Controlled Interest in Land. Good progress is being made in revising the draft regulations in light of our public consultation, the Committee's examination and our ongoing discussions with stakeholders. We expect to lay the revised draft regulations for the second time by the end of this year as scheduled. My officials will liaise with your committee clerks on precise timings when these become clear.

Finally, a consultation on the community right-to-buy for sustainable development was launched on 26 June and will run until 18 September. This will be a key opportunity to test our thinking on this new right-to-buy, and I look forward to seeing the results of the consultation. We currently plan to lay draft regulations in the early part of 2020.

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I hope that this provides a helpful response to your questions, as well as offering a clear sense of my aspirations for land reform.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Roseanna', enclosed within a thin black rectangular border.

**ROSEANNA CUNNINGHAM**

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