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Edward Mountain MSP
Convener, Rural Economy & Connectivity
Committee
Scottish Parliament

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20 September 2017

Dear Edward,

FORESTRY AND LAND MANAGEMENT (SCOTLAND) BILL

Further to my evidence to the Committee on 13th September I am pleased to provide follow-up information set out below to assist Members in consideration and development of the Committee's stage 1 report.

I am listening carefully to stakeholder feedback about the drafting of the Bill and definitions contained within it. As I indicated in my oral evidence, I can confirm that officials are examining whether drafting changes might usefully be made to sections 9-12 (management of forestry land) to provide greater clarity on which land is to be managed for the purposes of Sustainable Forest Management. The definition of felling at section 22 is being examined as many stakeholders have correctly identified that it does not capture all of the activity that needs to be regulated.

Officials are also considering the definition of community body in section 19 in the context of reviewing how sections 18-20 align with other community empowerment legislation. Further to John Finnie MSP's question on 13th, I can confirm this will include the point made in written evidence by Jon Hollingdale of Community Woodlands Association regarding potential unintended consequences for communities in terms of how the Bill, as presently drafted, may interact with the requirements of Part 5 of the Community Empowerment (Scotland) Act 2015.

I will also take this opportunity to follow up on the discussion relating to Part 4, Chapter 6, which sets out Ministers' ability to register 'notices to comply' containing conditions on felling permission or directions and their associated conditions.

While I acknowledge that having information available in a standalone register might be a viable option if transparency was our only goal, I must reiterate that this chapter is primarily about enforcement. The ability to register requirements placed on an owner allows for those

requirements to be passed on to any new owners in a way that is fair and robust. Fair, because this makes no assumption regarding the level of knowledge of the buyer. Any buyer, regardless of whether the land in question is currently afforested or whether they are in receipt of advice from someone with knowledge of forestry, will understand what requirements are in place as the notice to comply will appear on the searches carried out by the solicitor acting for the buyer. Robust, because the Bill underpins this with an offence (S36) of failing to comply with a registered notice to comply and no new owner could claim ignorance of the requirements if they were registered.

As we discussed on 13th, many of the new owners we are referring to are buying a forest in order to manage a forest, but a notice to comply can also refer to the requirements of a direction, enabling Ministers to ensure that requirements put in place following illegal felling can also be enforced. I do not envisage every permission and direction to result in a notice to comply and I have asked my officials to develop models for the proportionate use of such a power.

I am copying this letter to the Conveners of the Environment, Climate Change and Land Reform; Finance and Constitution; and Delegated Powers and Law Reform Committees given their interest in the Bill.

Yours sincerely,

A handwritten signature in black ink that reads "Fergus Ewing". The signature is written in a cursive style with a large loop at the end of the word "Ewing".

FERGUS EWING