

## Land Reform in a Net Zero Nation: Analysis of responses to the consultation exercise | Overview

Find document here: <https://www.gov.scot/publications/land-reform-net-zero-nation-consultation-paper/>

### Introduction

The Scottish Government Land Reform Consultation analysis offers a comprehensive breakdown of 537 responses received during the consultation on a range of proposals for the Land Reform Bill (Scotland) 2023. The Bill aims to ensure land's positive contribution to the public good, support sustainable development, and aid Scotland in accomplishing its net-zero carbon targets. The consultation ran for 3 months, from the 4th of July to the 30th of October 2022 and engaged a diverse cross-section of the public, with 375 responses from individual citizens and 162 from various groups or organisations. The participating groups included 22 community or local organisations and their representative bodies, 19 Government and NDPB organisations, 34 landowners, 17 private sector organisations, 30 representative bodies, institutions, associations, or unions, and 39 third sector or campaign groups.

### Headline findings:

- **Over 70% of respondents wanted Public Interest Tests on large-scale landholdings**
- **Over 70% of respondents wanted a more robust Land Rights and Responsibilities Statement and rigorous Land Management Plans**
- **Over 70% of respondents wanted the enshrinement of the Land Rights and Responsibility Statement into law**
- **Clear consensus for lower threshold criteria than 3,000ha for defining large-scale landholdings.**

This overview of the consultation analysis is divided into sections, each focusing on a specific proposal or theme, and further subdivided into sub-topics that delve into the details of the proposals, the views of respondents, and the implications for land reform in Scotland. The overview is intended for CLS members, but extracts may be used publicly.

### Criteria for Large-Scale Holdings

#### Overview of Criteria and Their Purpose

The Scottish Government proposed three criteria for defining large-scale landholdings. These criteria are essential for identifying which landholdings would be subject to various land reform measures. The criteria include a fixed threshold of 3,000 hectares, land accounting for a fixed percentage of a data zone (or adjacent data zones) or local authority ward(s) designated as an accessible rural area or remote rural area, and land accounting for a minimum proportion of a permanently inhabited island. These criteria aim to ensure that land reform measures are targeted at landholdings that have a significant impact on communities and the environment.



## Proposal for Defining Large-Scale Landholdings

The government sought feedback on the three criteria to define large-scale landholdings. The consultation asked respondents whether they agreed with the proposed criteria and invited suggestions for alternative approaches.

### Respondents' Support and Concerns

Responses were relatively evenly divided, with 55% disagreeing with the use of a fixed threshold of 3,000 hectares. However, **a large proportion of those respondents desired the use of a fixed threshold and instead offered alternative approaches.**

34% of respondents agreed to the reforms as presented. However, others raised concerns about the focus on large-scale landholdings, arguing they contribute positively to conservation management, employment, business opportunities, and housing provision. It should be noted that this referred to a Scottish Land and Estates report from 2014.

It is worth considering the ambiguity within both the phrasing of question 1 in the consultation and the analysis undertaken by the Scottish Government. There should have been a more specific breakdown of which respondents (stating agree or disagree to the proposal) also suggested an alternative hectare threshold.

### Suggestions for Alternative Approaches

**A majority of respondents who suggested an alternative threshold proposed a lower figure of either 1,000 or 500.** It is important to note that these 'in principle' approvals often came hand-in-hand with apprehensions about the narrow scale and limited impact of the current proposals. This apprehension frequently correlated with a worry that the definition of a large-scale landholding might be so constricted that the legislation would focus only on a few estates.

Furthermore, there was a general sentiment amongst the respondents for a more precise definition of 'landholdings' and a clear indication whether the threshold would apply to singular or aggregated holdings. Several respondents also recommended that the criteria should not simply measure the size, but also take into consideration the quality and productivity of the land.

## Impact of Large-Scale Landholdings on Communities and the Environment

### Respondents' Views on the Impact of Large-Scale Landholdings

Respondents provided diverse views on the impact of large-scale landholdings. A small number of respondents raised concerns over the direction of the reforms, highlighting potential benefits of large-scale landholdings, concepts such as economies of scale, conservation management, and employment opportunities. In contrast, a larger number of respondents who agreed with the 3,000-hectare proposition as well as those who wanted a smaller hectare limit raised concerns about the concentration of power and wealth, and the potential for large-scale landholdings to hinder community development and environmental sustainability.



## Calls for Research and Evidence

There were calls among respondents for more research and evidence on the impacts of large-scale landholdings. Some respondents suggested that policy decisions should be evidence-based and that there is a need for robust data on the social, economic, and environmental implications of large-scale land ownership.

## Recommendations for Addressing Negative Impacts

Recommendations included promoting diverse ownership patterns, ensuring community involvement in decision-making, and implementing regulations to mitigate negative environmental impacts. Some respondents also called for measures to address the financial motivations behind large-scale land ownership and to ensure that land contributes to the common good.

## Strengthening the Land Rights and Responsibilities Statement (LRRS)

### Overview of the LRRS and its Purpose

The Land Rights and Responsibilities Statement (LRRS) is a set of principles that outline the responsibilities and rights of landowners in Scotland. It aims to promote responsible practices in land ownership and use, and to ensure that land contributes positively to the collective wellbeing of the people of Scotland.

### Proposal for Strengthening the LRRS

The consultation proposed placing a duty on large-scale landowners to comply with the LRRS and its associated protocols. This proposal aims to ensure that large-scale landowners adhere to best practices and consider the wider societal and environmental impacts of their land management decisions.

### Respondents' Support and Rationale

**There was strong support (75%) for this proposal.** Respondents believed that compliance with the LRRS would benefit local communities by ensuring that landowners act responsibly and consider the social, economic, and environmental impacts of their decisions. Many respondents viewed this as a necessary step in ensuring that land contributes to the common good.

### Concerns and Alternative Suggestions

While there was strong support, some respondents argued for a voluntary, guidance-led approach, believing that this could be more effective in encouraging responsible land management. There were also suggestions that the LRRS should be strengthened by including specific responsibilities regarding environmental sustainability and community engagement. Some respondents also called for clear mechanisms for monitoring and enforcing compliance with the LRRS.

## Compulsory Land Management Plans

### Introduction to Land Management Plans

Land Management Plans are comprehensive documents that outline how landowners intend to manage and utilize their land. These plans typically include information on land use objectives, conservation efforts, community engagement, and monitoring and evaluation processes. They are essential tools for ensuring sustainable land management practices.



## Proposal for Compulsory Land Management Plans

The Scottish Government proposed introducing a duty on large-scale landowners to publish Land Management Plans. This proposal aims to ensure that landowners have clear objectives and strategies for managing their land sustainably and responsibly. The consultation sought views on the frequency and content of these plans, as well as how they should be made available to the public.

## Frequency and Content of Management Plans

A majority of respondents suggested that Management Plans should be published every five years. There was also a call for these plans to be made easily accessible to the public and to include clear objectives, actions, and monitoring arrangements. Respondents emphasized the importance of including environmental conservation and community engagement objectives in the plans. Some also suggested that the plans should be subject to public consultation and feedback.

## Respondents' Views and Suggestions

**77% of respondents supported the introduction of Compulsory Land Management Plans.** They viewed these plans as essential tools for promoting sustainable land management practices and ensuring that landowners are accountable to the public. Some respondents emphasized the importance of community engagement in the development of these plans. Others sought clarity on what the plans should entail and called for robust monitoring and enforcement mechanisms to ensure compliance.

## Public Interest Test in Large-Scale Land Transfers

### Concept of Public Interest Test

The Public Interest Test is a mechanism to evaluate whether transactions involving large-scale landholdings serve the public interest. This involves assessing the potential social, economic, and environmental impacts of land transactions and ensuring that they align with broader public policy objectives.

### Proposal for Applying Public Interest Test to Large-Scale Land Transfers

The Scottish Government proposed applying a Public Interest Test to transactions involving large-scale landholdings. This proposal aims to ensure that such transactions contribute positively to communities and the environment and align with Scotland's broader policy objectives, including achieving net-zero carbon emissions.

## Respondents' Support and Concerns

**72% of respondents agreed with the application of a Public Interest Test.** However, some expressed concerns about the proposed threshold for large-scale landholdings and potential interference with landowner rights. They argued that the test should be fair, transparent, and based on clear criteria. Some respondents were also concerned that the test could create uncertainty and deter investment in rural areas.

## Suggestions for Implementation

Respondents suggested that the test should be applied in a transparent and consistent manner, with clear criteria for assessing public interest. **There were also calls for the threshold for large-scale**



**landholdings to be lowered, and for the test to consider a range of factors, including environmental sustainability, community wellbeing, and economic development.**

## Conditions on Receipt of Public Funding for Land-Based Activity

### Overview of Public Funding for Land-Based Activity

Public funding for land-based activity in Scotland is provided to support a range of initiatives, including agricultural development, conservation efforts, and rural community development. This funding is crucial for promoting sustainable land management practices and achieving broader policy objectives.

### Proposed Conditions for Eligibility

The Scottish Government proposed introducing new conditions for landowners to be eligible to receive public funding. These conditions include the requirement that all land, regardless of size, must be registered in the Land Register of Scotland. Additionally, large-scale landowners would need to demonstrate compliance with the LRRS and have an up-to-date Land Management Plan in place.

### Respondents' Views on Linking Funding to Land Registration

**79% of respondents agreed with linking eligibility for public funding to land registration.** They believed that this requirement would promote transparency and accountability in land ownership and management. Respondents also viewed land registration as a fundamental step in ensuring that public funding is used effectively and aligns with broader policy objectives.

### Additional Suggestions for Conditions

**Some respondents suggested that public funding should be more closely linked to the delivery of public benefits.** They proposed that funding should be contingent on landowners demonstrating how their activities contribute to environmental conservation, community development, and other public goods. There was also a call for clear criteria for assessing eligibility and for robust monitoring and evaluation mechanisms to ensure that funding is used effectively.

## Land Use Tenancy

### *Introduction to Land Use Tenancy Concept*

Land Use Tenancy refers to a form of land lease that allows individuals or entities to undertake a range of land management activities. This concept is aimed at promoting more diverse and sustainable land use by providing greater flexibility in how leased land can be utilized.

### Proposal for Introducing Land Use Tenancy

The Scottish Government proposed introducing a Land Use Tenancy to allow for greater flexibility in the way let land can be used. The proposal aims to focus on activities that contribute to a just transition to net zero, climate adaptation, biodiversity recovery, and nature restoration.

### Respondents' Support and Rationale

71% of respondents supported the introduction of a Land Use Tenancy. They believed that this form of tenancy would empower more individuals and communities to engage in sustainable land management practices. Respondents viewed Land Use Tenancy as a tool for promoting diversity in land use and for ensuring that land contributes positively to environmental and social objectives.



## Concerns and Recommendations for Implementation

While there was strong support for the introduction of Land Use Tenancy, some respondents expressed concerns about the potential implications for landowners and tenants. They called for provisions to ensure security of tenure and fair rents. There were also calls for clear guidelines on the types of activities permitted under Land Use Tenancy and for mechanisms to resolve disputes between landowners and tenants.

## Transparency in Land Ownership

### Importance of Transparency in Land Ownership

Transparency in land ownership is fundamental for ensuring accountability, informed decision-making, and public trust. It enables stakeholders, including communities and policymakers, to understand who owns land, how it is being used, and the implications for social, economic, and environmental objectives.

### Proposals for Increasing Transparency

The Scottish Government sought views on measures to increase transparency in land ownership. One proposal explored in the consultation was requiring landowners to provide more information about the beneficial ownership and control of land. This information would help to shed light on the underlying interests and decision-makers behind land ownership.

### Respondents' Views on Beneficial Ownership Disclosure

**There was general support among respondents for increased transparency through the disclosure of beneficial ownership information.** Respondents viewed this as a critical step in ensuring accountability and enabling informed decision-making regarding land use and management. They believed that transparency could help to address issues related to the concentration of land ownership and its implications for communities and the environment.

### Recommendations for Enhancing Transparency

Some respondents suggested creating a public register that includes information on the beneficial owners of land. They called for this register to be easily accessible and regularly updated. There were also calls for robust enforcement mechanisms to ensure compliance with disclosure requirements, and for education and awareness-raising initiatives to help stakeholders understand and utilize ownership information.

## Other Land Related Reforms

A number of other land related reforms were sought by the Scottish government for inclusion in the Land Reform Bill.

### Taxation

Some respondents suggest that tax breaks and incentives should be linked to the value of natural capital and ecosystem services. They propose taxation of carbon credits and mechanisms to redistribute profits to local communities. There are also suggestions for tax incentives to support





specific interventions such as housing improvement, community wealth building, support for new entrants in agriculture, and support for communities acquiring land.

### Community Benefit and Natural Capital

**Respondents emphasised the importance of maximizing community interests and supporting stronger communities and local economies.** Respondents from across a range of respondent types expressed support for a focus on alternative models of land ownership in securing community benefits including specific reference to community ownership. Respondents also suggested that community-based initiatives utilising natural capital could enhance sustainability, climate and biodiversity adaption and increase funding for community ownership.

### Land Management

The report also noted issues relating to the following:

- amending existing community rights to buy provisions
- amending community asset transfer provisions
- setting an upper limit on private land ownership
- taking action on housing (such as regulating second homes and improving transparency on land ownership)
- addressing land values through market regulation
- clarifying access rights
- maintaining consistency with other policy areas

### Crofting

The report also highlights the importance of addressing issues specific to crofting, such as simplifying community right to buy legislation, expanding crofting areas, and improving valuation processes.

### Other Suggestions

Proposals included reforming inheritance law, creating a National Land Policy, reforming charity law, ensuring regulation of off-market sales, and encouraging productive lending by banks, residency requirements for landowners, community ownership of the foreshore, community training programs, extended planning rights, support for agroecological farming, and preserving traditional construction materials. Queries were raised about the role of local authorities and Regional Land Use Partnerships (RLUPs) in land reform and the commencement of specific sections of the Land Reform (Scotland) Act 2016.

### Concluding Remarks and Next Steps

The document concludes by summarizing the range of views expressed in the consultation and acknowledging the complexity of land reform in Scotland. It emphasizes the Scottish Government's commitment to ensuring that land is owned and used in ways that contribute to the public good, support sustainable development, and help Scotland achieve its net-zero carbon targets. The responses will inform the development of the Land Reform Bill and other policy initiatives. The Government will continue to engage with stakeholders and communities as it develops its approach



to land reform in the context of a net-zero nation. The Government also acknowledges the need for ongoing monitoring and evaluation of the impacts of land reform policies.

## Conclusion

It is evident in the consultation responses that there is a desire for ambitious reform. This appetite is characterized by the overwhelming support - consistently surpassing 70% - for stronger Public Interest Tests, a more robust Land Rights and Responsibilities Statement (LRRS), and rigorous Land Management Plans as well as the overwhelming consensus over the need for a lower threshold when defining large landholdings.

Community Land Scotland

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