



Land reform for a Wellbeing Economy

WEAll Scotland's response to the Scottish Government's consultation on 'Land Reform in a Net Zero Nation' - October 2022

WEAll Scotland is the Scottish Hub of the Wellbeing Economy Alliance, a collaboration of organisations and individuals working to reprogramme our economy so it puts people and planet first. Such a Wellbeing Economy economy would be designed to deliver good lives for all on a healthy planet by delivering five key Wellbeing Economy Needs:

- **Dignity:** Everyone has enough to live in comfort, safety and happiness.
- **Participation:** People are empowered to take part in making the decisions that affect them.
- **Nature:** The natural world is restored and safe for all life.
- **Purpose:** Institutions serve the common good and provide real value.
- **Fairness:** Justice in all its dimensions is at the heart of economic system.

The Scottish Government has committed to delivering a Wellbeing Economy. In our response we offer our assessment in how far the proposals for the Land Reform Bill can contribute to building such an economy in Scotland.

Key Messages
Key Message 1: Overall the proposals are a small step in the right direction but are not bold enough to achieve the vision of a Wellbeing Economy.
Key Message 2: Requirements to manage land responsibly and in line with public priorities should be strengthened and aligned with wider policy efforts through a Wellbeing Framework.
Key Message 3: We encourage the government to make land in Scotland more affordable and create a more diverse pattern of ownership, including the use of devolved powers over local taxes.
Key Message 4: Measures are needed to prevent tokenistic nature restoration and regulate Scotland's carbon markets.

Key Message 1: Overall the proposals are a small step in the right direction but are not bold enough to achieve the vision of a Wellbeing Economy.

We welcome the ambition of the Scottish government proposal's to 'address the impact of scale and concentration of land ownership' (p. i) in Scotland. Land is key to achieving a Wellbeing Economy. It is quite literally the basis for meeting the Wellbeing Economy needs, for producing energy and food, for providing housing and community spaces and for restoring and connecting with nature. Land in Scotland will have to play a crucial role in addressing our climate emergency and making our economy more resilient against rising cost of living pressures.

But the large scale and concentration of land ownership, as well as the way that land is currently being managed, prevent land in Scotland to be used in a way that best serves the collective wellbeing of people and nature in Scotland. Building a Wellbeing Economy therefore requires transformational change in the way land is owned and managed in Scotland.

We welcome the proposals put forward by the Scottish Government. They present an important, albeit small, steps in the right direction and can contribute to tackling the scale and concentration of land ownership in Scotland. In particular, we welcome the proposals for: a Public Interest Test, Compulsory Land Management Plans, and the strengthening of the Land Rights Responsibilities Statement. However, we are very concerned that the proposals do not go far enough to ensure transformational change towards an economy that manages its land in the interest of the collective wellbeing of people and nature in Scotland as captured by the five Wellbeing Economy needs. We urge the Scottish Government to be bolder in its plans for land reform - our future depends on it.

Key Message 2: Requirements to manage land responsibly and in line with public priorities should be strengthened and aligned with wider policy efforts through a Wellbeing Framework.

Building a Wellbeing Economy in Scotland will require land to be managed for the purpose of serving the collective wellbeing of people and nature. The Scottish Government has an important responsibility to set the direction, incentives and support for landowners to embed that purpose into the management of their land. The proposals for the Land Rights and Responsibilities Statement (LRRS), Compulsory Land Management Plans (CLMPs) and the Public Interest Test (PIT) are important tools for this.

We welcome the suggestion to strengthen the Land Rights and Responsibility Statement and place 'a legal duty on owners of large-scale landholdings to comply' with it, combined with an associated 'statutory process to adjudicate complaints and non-compliance', resulting in a fine or prevention from accessing public funding (p. 11). This would take a step in the right direction to ensure that land in Scotland is managed responsibly for the purpose of collective wellbeing of people and nature. The proposals for Compulsory Land Management Plans for large landowners are an important complement to the LRRS to increase transparency and accountability of how land is managed. It is suggested in the consultation that the requirements to publish a CLMP could be enforced by cross compliance mechanisms, such as a prerequisite to receive public funding. Public funding should not be used to support land management that does not empower

local communities and does not restore our biodiversity, in line with the Wellbeing Economy need for fairness and nature.

We welcome the proposal for a Public Interest Test (PIT), which ‘would determine whether significant land transfers or acquisitions are in the public interest’ (p. 3), by testing ‘whether there is a risk arising from the creation or continuation of a situation in which excessive power acts against the public interest’ (p. 18). If ‘there is sufficiently strong public interest in reducing the scale/concentration that the sale can only proceed subject to specific conditions’ (p. 19), such as dividing the land into lots to be sold separately. The PIT would also include a ‘pre-emption in favour of community buy-out where the public interest test applies (p. 18), where community groups would be given prior notice to sell (p. 22). Such a PIT can set a strong incentive for landowners to manage their land responsibility in line with societal needs. Similarly, we welcome the option for the land to be sold to a local constituted community body, in the event that there is sufficient public interest. This contributes towards meeting the Wellbeing Economy need for participation by giving communities an avenue to acquire land, thus reducing barriers for communities to get involved in and have a say over their local economies.

While we welcome these proposals as a step in the right direction, we are concerned that they do not go far enough to achieve the transformation needed for a Wellbeing Economy and are not sufficiently aligned with wider policy efforts.

Firstly, it is important that land reforms are consistent with policy efforts in other areas, in order to avoid adding unnecessary complexity that could hinder meaningful change. New legislation should therefore be framed in an overarching policy framework for collective wellbeing which works towards achieving multiple policy agendas, such as the National Performance Framework. The Land Rights and Responsibility Statement and the Public Interest Test should be aligned with that framework and the compulsory land management plans should be required to demonstrate how they contribute to the outcomes of the National Performance Framework.

Secondly, stronger options for a last resort response are needed. The plans for specific bodies to be able to raise a complaint if a land owner fails to meet their obligations under their LRRS, as well as the potential to set incentives via public funding and fines are welcome. But we are concerned that such mechanisms might not be sufficient in the case of landowners that continuously fail to care for the land responsibly. The current plans for the PIT apply only at the point of sale, but large estates are sold infrequently and some never come to market. A PIT might even be counterproductive if the requirements for a PIT at point of sale prevents land from being sold on the market. We urge the Scottish Government to strengthen the proposal for the PIT by developing ways in which it can be applied by to existing significant land holdings to ensure the public interest is being considered regardless if it will be sold or not, as recommended by research published by Community Land Scotland.¹ Such a more widely applied PIT could be backed up with extended powers for Compulsory Sales Orders, as a last resort in case a

¹ Community Wealth Building and a Just Transition to Net Zero, Community Land Scotland 2022. <https://www.communitylandscotland.org.uk/wp-content/uploads/2022/08/Report-2022-Community-Wealth-Building-and-a-Just-Transition-to-Net-Zero.pdf>

landowner fails to meet the PIT. We would encourage the Scottish Government to investigate if such powers could be held by local authorities to work towards decentralising land governance and ensuring that the needs of local communities are at the forefront of such decision making.²

Thirdly, the proposals for land reform should be applied to a wider set of land holdings, not only large ones. The current proposals are only aimed at large estates, with the following criteria proposed.

(p. 7):

- a) A fixed threshold of 3,000 hectares
- b) Land that accounts for more than 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, through our six-fold urban/rural classification scheme
- c) Land that accounts for more than a specified minimum proportion of a permanently inhabited island

However, many of issues around land ownership and management in Scotland, such as the affordability of land for housing, are not restricted to such large land holdings and are very prevalent across Scotland, including urban areas. We therefore urge the Scottish Government to widen the scope of land reform proposals to include a much wider set of land holdings. Otherwise, the current system of land ownership in Scotland will continue to hinder any efforts to build a Wellbeing Economy and support community wealth building.

Key Message 3: We encourage the government to make land in Scotland more affordable and create a more diverse pattern of ownership, including the use of devolved powers over local taxes.

The proposals presented by the Scottish Government aim to tackle the impacts of scale and concentration of land ownership. While they include some welcome proposals to incentivise land owners to manage their land responsibly, the proposals do not include sufficient measures to reduce the scale and concentration of land ownership in Scotland. Building a Wellbeing Economy in Scotland will require a more diverse pattern of land ownership, with a bigger share of land owned and managed by communities, public institutions, and social enterprises. For example, recent research suggests that the model of land ownership most likely to achieve the objectives of community wealth building is the ownership by the communities themselves¹.

High and rising land prices are one of the key barriers for achieving a more diverse pattern of land ownership and securing Wellbeing Economy outcomes in Scotland. High land prices hamper efforts to provide the much-needed expansion of affordable and socially owned housing, especially in Highland and Island communities, high land prices are a key barrier for the establishment of social and community enterprises throughout Scotland, and high land prices

² <https://andywightman.scot/archives/category/land-reform-bill-2023>

drive increasing levels of wealth inequality. While the proposal for community groups to be given 'prior notice to sell' is welcome, it will have little impact if communities are unable to acquire the funds to purchase the land, or do not have a desire to purchase the land if it is left in bad condition and need of further investment.

High land prices often reflect a considerable share of value that is not related to any productive investments or improvements by the landowner. Instead, a large share of land value is conferred through public infrastructure (e.g. granting of planning permission and provision of transport links), through services provided by nature for free (e.g. ecosystem functioning and natural beauty) and through the inherent characteristics of land (e.g. limited supply and non-reproducibility).³ Such characteristics can lead to cases where the price of the land does not reflect its condition and the investment required to restore it. Building a Wellbeing Economy in Scotland will require stronger measures to capture a bigger share of land value and use it for delivering benefits to communities and the wider Scottish society, in order to deliver the Wellbeing Economy Needs of fairness and participation.

Appropriately designed taxes can be a powerful tool for capturing public shares of land value and reducing land prices. Both the Scottish Land Commission⁴ and Community Land Scotland⁵ have recommended for the Scottish Government to use local tax powers with respect to land and property to achieve its land reform goals. For example, short-term options for the Scottish Government include the application of non-domestic rates to wooded lands or reforms to the Land and Buildings Transaction Tax. In the medium-term the Scottish Government should work towards establishing a land value tax. A prerequisite for introducing such tax measures are efforts for the inclusion of all land on the valuation roll and the establishment of a comprehensive system of land registration.

Ultimately, diversifying land ownership in Scotland will require increasing public investment to bring more land into public ownership or support community institutions to buy land. Revenue to support such investments can be raised through appropriate land-related taxes, as suggested above, and complemented with low-interest loans through the Scottish National Investment Bank.

³ *Rethinking the Economics of Land and Housing* by Josh Ryan-Collins, Toby Lloyd and Laurie Macfarlane, 2017. Zed Books:London

⁴ *Land Reform and Taxation: Advice to Scottish Ministers* by Scottish Land Commission 2022
https://www.landcommission.gov.scot/downloads/61efa506191e2_Land%20Reform%20and%20Taxation%20-%20Advice%20to%20Scottish%20Ministers.pdf

⁵ *Community Wealth Building and a Just Transition to Net Zero*, Community Land Scotland 2022.
<https://www.communitylandscotland.org.uk/wp-content/uploads/2022/08/Report-2022-Community-Wealth-Building-and-a-Just-Transition-to-Net-Zero.pdf>

Key Message 4: Measures are needed to prevent tokenistic nature restoration and regulate Scotland's carbon markets.

It is encouraging to see that the Scottish Government is framing the land reform within the Net Zero agenda, given the scale and urgency of the nature emergency that we are facing and the big role that nature restoration will play in shaping land use in Scotland in the coming decades.

It is outlined in the consultation that CLMP must demonstrate how they will “contribute to net zero and nature restoration goals” (p.14). However, there is a risk that this may become superficial and inappropriate, if nature restoration goals are not clearly and comprehensively defined. For example, landowners may plant non-native trees and call it nature restoration. The provisions in the CLMPs and LRRS provide a useful starting point, but need to be strengthened in the face of the climate and nature emergencies.

A key area of action is the regulation of carbon offsetting, with the drive for net zero combined with Scotland's rich natural capital driving up land prices. If done right, natural restoration for carbon offsetting can make an important contribution to achieving Scotland's climate and nature targets and provide jobs and income opportunities for local communities. But, if not done right, it can also impede climate change mitigation efforts by acting as an excuse not to reduce emissions, exacerbate inequalities and reduce the participation of communities over decisions affecting the land surrounding them. Overall, carbon offsetting can only make a limited contribution to climate reduction efforts. Offsetting opportunities in Scotland should therefore be restricted for the small share of carbon emissions that are the most difficult to reduce. These difficult carbon emissions are not necessarily generated by those organisations that are able to pay the most for carbon offsetting opportunities in Scotland. Currently, fossil fuel companies like Shell are using land in Scotland to generate carbon credits, whilst continuing to be one of the largest global polluters.

The proposals mention carbon offsetting in the context of the CLMPs, which ‘could be required to contain information on land to be used for purposes that would generate revenue from carbon offsetting/carbon credits’ (p. 14). The Scottish Government's ‘Interim Principles for Responsible Investment in Natural Capital’⁶ are welcome in expressing important principles.

But voluntary principles and scheme will not be enough for ensuring that Scotland's carbon markets will contribute to tackling the climate emergency and ensure that it is done in way that is fair to communities. We therefore urge the Scottish Government to introduce strict and comprehensive regulation of Scottish carbon markets, for example through a mandatory system for certification of carbon credits for both the seller and the buyer.

⁶ <https://www.gov.scot/publications/interim-principles-for-responsible-investment-in-natural-capital/>

Summary

We welcome the Scottish Government for their ambition to tackle the impacts of the scale and concentration of land ownership in Scotland. We particularly welcome the introduction of a Public Interest Test, Compulsory Land Management Plans and strengthening of the Land Rights and Responsibility Statement. These are steps in the right direction. However, these proposals do not go far enough to achieve the ambition set out in the proposals or the needs of a Wellbeing Economy. To strengthen the proposals we would urge the Scottish Government to ensure that the proposals are aligned with a wider Wellbeing Framework, such as the National Performance Framework, to develop further measures to diversify land ownership and reduce land prices, including the use of devolved tax powers, and to effectively regulate emerging carbon markets.

This consultation response was prepared by Gemma Sandie and Lukas Bunse for the Wellbeing Economy Alliance Scotland. If you have any questions, please get in touch with Lukas at lukas@scotland.weall.org.

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