

ANGUS COUNCIL**POLICY AND RESOURCES COMMITTEE****27 OCTOBER 1998****SUBJECT: LAND REFORM POLICY GROUP
IDENTIFYING THE SOLUTIONS - CONSULTATION DOCUMENT****REPORT BY DIRECTOR OF PLANNING AND TRANSPORT****Abstract: This Report summarises and comments on the consultation document "Identifying the Solutions to Land Reform" published by the Scottish Office.****1 RECOMMENDATION**

It is recommended that the Committee -

1. note the publication of the second Consultation Document of the Land Reform Policy Group identifying and assessing possible options for action;
2. agree the broad terms of the Council's response to this Consultation Document, including any comments on the various provisional views of the Land Reform Policy Group on Delivering the Vision.

2 INTRODUCTION

- 2.1 The Planning and Transport Policy Committee, at its meeting on 30 April 1998, considered Report No. 432/98 on the initial report of the Land Reform Policy Group. The Committee welcomed the publication of the initial report and generally endorsed the need for a major and comprehensive review of land reform issues leading to early and sustained action to address deficiencies arising from the present system of land ownership and management in rural Scotland.
- 2.2 The Scottish Office have now published the second consultation paper by the Land Reform Policy Group entitled "Identifying the Solutions". Comments on the vision and various options set out in the document are requested by 30 November 1998.
- 2.3 A copy of the full document, together with copies of a published summary document, have been placed in the Members' Lounge, The Cross, Forfar.

3 SCOPE AND CONTENT OF CONSULTATION DOCUMENT

- 3.1 The full Consultation Document is presented in 11 main sections covering:-
 - Introduction;
 - Outcome of the Group's first consultation;
 - Land Reform : Vision for the Future;
 - Delivering the Vision : Land Ownership;
 - Delivering the Vision : Law Reform;

- Delivering the Vision : Information about Land;
- Delivering the Vision : Land Use;
- Delivering the Vision : Landlord and Tenant;
- Delivering the Vision : Crofting;
- Summary of Options;
- What do you Think?

3.2 The Document addresses two broad themes:-

- Vision for the Future - this includes increased diversity in the way land is owned and used together with increased community involvement in the way land is owned and used. The vision is detailed via 26 bullet points. (Summarised in Appendix 1 to this Report);
- Identifying the Solutions - this includes identifying and assessing possible options for action, considering what would be achieved by the proposed change; the legislative implications; the administrative implications; and the cost. (Delivering the Vision is summarised in Appendix 2 to this Report).

4 DISCUSSION

- 4.1 COSLA's Task Group on land reform, which includes representation at elected member and officer level from Angus Council, will be meeting before the consultation deadline to consider any broad issues which are of common concern across rural Scotland and to put together a submission from COSLA on this consultation paper. COSLA have also requested any issues which Councils would like the Task Group to include in an overall submission.
- 4.2 The Consultation Document is wide ranging raising issues across many related matters of concern affecting land ownership. The Committee may wish to highlight particular issues of interest or concern which arise in Angus. In this context members may wish to indicate whether they agree with the provisional view of the Land Reform Policy Group as set out alongside various possible legislation and other action summarised in Appendix 2 to this Report.
- 4.3 The Director of Housing notes that Land Ownership points LO3 and LO10 regarding compulsory purchase powers are of interest. Scottish Homes refer to their own such powers in their recently published Rural Policy document, but there is no indication of how these would be co-ordinated with the powers of the Local Authorities. The Director of Housing also welcomes point LO8 regarding community ownership and management of local land. Current funding initiatives such as New Housing Partnerships are biased towards urban authorities relying on large scale stock transfer with tenant and community involvement. This is more difficult to achieve in dispersed rural communities, and an initiative to support integrated community ownership or management is therefore of interest.
- 4.4 In considering responses the Committee will wish to take account of various existing policy documents approved by the Council, together with emerging initiatives. For example, in considering actions on land use the Council's Rural Strategy Member/Officer Group Report and Draft Angus Local Plan provide a broad

background. Similarly, the opportunities to develop community planning (Report 956/98 to Policy and Resources Committee, 8 September 1998 refers) and rural strategy (Report 1056/98 refers) alongside consideration of land reform is particularly timely in addressing the over-riding objectives of land reform to remove the land-based barriers to the sustainable development of rural communities.

5 FINANCIAL IMPLICATIONS

5.1 There are no financial implications arising from this report.

6 CONSULTATION

6.1 All officers of the Chief Officers Management Team have been consulted in the preparation of this Report.

7 CONCLUSION

7.1 The second Consultation Paper of the Land Reform Policy Group develops an emerging, integrated vision of the changes in the pattern of land use and ownership which the Group would like to see in the future. The vision explores various options focusing on Land Ownership; Law Reform; Information about Land; Land Use; Landlord and Tenant; Crofting.

7.2 The Consultation Paper highlights the provisional view of the Land Reform Policy Group on what are considered by the Group as the best options for legislation and other action (Appendix 2 to this Report). It is therefore suggested that the Committee may wish to consider the extent to which it agrees with the views of the Group and which options should be included for early legislation on land reform by the Scottish Parliament.

NOTE

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

- land Reform Policy Group - Identifying the Solutions (published by the Scottish Office, September 1998).
- Land Reform Policy Group - Identifying the Solutions - A Summary (published by the Scottish Office, September 1998).

AA/CGR/KW/IAL
14 October 1998

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Director of Planning and Transport

VISION FOR THE FUTURE



In the light of all contributions received, the Group has developed the vision set out below for the pattern of land ownership and use which they would like to see in the future. Its key themes are:

- ◆ increased **diversity** in the way land is owned and used, as the best way of dealing with damage to the local community or environment which can result from monopoly ownership, and of encouraging the fullest possible exploitation of rural development opportunities; and
- ◆ increased **community involvement** in the way land is owned and used, so as to ensure that local people are not excluded from decisions which affect their lives and the lives of their communities.

Here is the vision:

- ◆ more local involvement, greater commitment and accountability by private landowners in rural Scotland;
- ◆ more scope for community ownership and management of local land where this can be sustainable;
- ◆ more scope for releasing land for housing and local development where this is sustainable and secures the retention and if possible the expansion of fragile rural communities;
- ◆ more scope for smallholdings supporting a wide range of land-based and other economic activity where this is sustainable and secures the retention and if possible the expansion of fragile rural communities;
- ◆ about the same level of ownership by public bodies, but with more local involvement and accountability and more employment of local people;
- ◆ more local involvement and accountability and more employment of local people by non-Governmental organisations who own land in rural Scotland;
- ◆ outdated and unfair feudal arrangements swept away;
- ◆ conditionality of land ownership where appropriate to reflect modern circumstances;

- ◆ a more constructive approach to problem cases, including those relating to the foreshore and the seabed;
- ◆ more definitive information readily available about land ownership;
- ◆ more broad-brush information readily available about land ownership;
- ◆ more information readily available about beneficial owners;
- ◆ more information readily available about public support relating to land;
- ◆ better integration of policy for rural land use at national level;
- ◆ more integrated planning of rural land use at local level;
- ◆ more community involvement in decisions about rural land use;
- ◆ more public access on a responsible basis;
- ◆ more scope for diversity of agricultural tenancy arrangements;
- ◆ simpler and cheaper arrangements for resolution of disputes between agricultural tenants and their landlords;
- ◆ wider opportunities for tenant farmers to diversify;
- ◆ greater protection for those who own property built on leased land;
- ◆ more sustainable crofting communities;
- ◆ more local involvement in and accountability for crofting administration;
- ◆ much simplified crofting legislation and administration;
- ◆ more (or at least not fewer) active crofters;
- ◆ undertaking a wider range of land-based and other economic activity rather than predominantly agriculture.



Do you agree with this vision?

DELIVERING THE VISION



The next stage is to identify solutions which will help deliver this vision. The Group has reviewed possible options for legislation and other action, and considered in each case: what would be achieved by the proposed change; the legislative implications; the administrative implications; and the cost. The details of this analysis are set out in the full version of the second consultation paper, which is available on request. The Group will not make recommendations as to which options should be pursued until the responses to this second consultation paper have been taken into account. However, here is a summary of its provisional views on the feasibility of each option.

LAND OWNERSHIP

Vision for the future	Possible legislation and other action to achieve this	Provisional view
Private landowners in rural Scotland with more local involvement, greater commitment and accountability	LO1 Encourage private owners to be more locally accountable and to be available or have accessible local representation	<i>Probably yes</i>
	LO2 Introduce time for the assessment of the public interest in strategic sales	<i>Probably yes</i>
	LO3 Make more explicit Government support for use of compulsory purchase powers as a last resort to acquire land where this will assist implementation of local plans or other strategies	<i>Probably yes</i>
	LO4 Regulate all (or major) land sales	<i>Probably not</i>
	LO5 Abolish national non-domestic rate relief on sporting estates	<i>Maybe</i>
	LO6 Reduce or abolish national non-domestic rate relief on agriculture and forestry	<i>Maybe but not yet</i>
	LO7 Introduce land value taxation	<i>Maybe but not yet</i>

LAND OWNERSHIP (Continued)

Vision for the future	Possible legislation and other action to achieve this	Provisional view
More scope for community ownership and management of local land where this can be sustainable	LO8 Provide advice and support (including an enhanced Land Fund) for those considering community ownership or management LO9 Introduce community right to buy at market value	<i>Probably yes</i> <i>Probably yes</i>
More scope for releasing land for housing and local development where this is sustainable and secures the retention and if possible the expansion of fragile rural communities	LO10 Streamline compulsory purchase powers to make acquisition of key sites as a last resort more effective where this will assist implementation of local plans or other strategies	<i>Probably yes following review</i>
More scope for smallholdings supporting a wide range of land-based and other economic activity where this is sustainable and secures the retention and if possible the expansion of fragile rural communities	LO11 Buy land on the open market for transfer to smallholders LO12 Introduce compulsory leasing of land	<i>Probably yes</i> <i>Probably not</i>
About the same level of ownership by public bodies, but with more local involvement and accountability and more employment of local people	LO13 Issue guidance letters from Ministers to public bodies to require community involvement in management of all public estates and to maximise employment of local people LO14 Encourage increased Crown Estate accountability in Scotland	<i>Probably yes</i> <i>Probably yes</i>
More local involvement and accountability and more employment of local people by non-Governmental organisations who own land in rural Scotland	LO15 Encourage non-Governmental organisations to secure community involvement and employment of local people	<i>Probably yes</i>

LAW REFORM

Vision for the future	Possible legislation and other action to achieve this
Outdated and unfair feudal arrangements swept away	<p>Scottish Law Commission will bring forward proposals for feudal reform</p> <p>Scottish Law Commission has brought forward proposals for leasehold casualty reform</p>
Conditionality of land ownership where appropriate to reflect modern circumstances	Scottish Law Commission will bring forward proposals for reform of real burdens
A more constructive approach to problem cases, including those relating to the foreshore and the seabed	Scottish Law Commission to be invited to review and revise law of the foreshore and seabed

INFORMATION ABOUT LAND

Vision for the future	Possible legislation and other action to achieve this	Provisional view
More definitive information readily available about land ownership	<p>INF1 Require all holdings above given size to be registered in the Land Register, regardless of change in ownership</p> <p>INF2 Provide incentives for voluntary registration</p> <p>INF3 Make access to public assistance conditional on registration</p>	<p><i>Probably yes in the longer term</i></p> <p><i>Maybe but not yet</i></p> <p><i>Probably yes but not yet</i></p>
More broad-brush information readily available about land ownership	<p>INF4 Produce map-based (non-authoritative) information on land holdings based on information from the Register of Sasines, by combining and publishing all existing data held by public bodies, including relevant public utilities (unless of particular sensitivity), and encouraging rural landowners to assist by providing information about their holdings</p> <p>INF5 Extend current ScotLIS (Scottish Land Information Service) project to include all public body datasets including those of relevant public utilities</p>	<p><i>Probably yes</i></p> <p><i>Probably yes if pilot successful</i></p>
More information readily available about beneficial owners	<p>INF6 Introduce a power to investigate beneficial ownership of land</p>	<p><i>Maybe</i></p>
More information readily available about public support relating to land	<p>INF7 Make existing information on recipients of public assistance available</p> <p>INF8 Make provision of public assistance conditional on agreement for information on such assistance to be made public</p>	<p><i>Probably yes so far as possible</i></p> <p><i>Probably yes so far as possible</i></p>

LAND USE

Vision for the future	Possible legislation and other action to achieve this	Provisional view
Better integration of policy for rural land use at national level	<p>LU1 Improve co-ordination of activity between public bodies responsible for conservation of the natural and cultural heritage, environmental, agricultural and other land use matters</p> <p>LU2 Clarify and streamline public assistance and its objectives to achieve desirable land use</p> <p>LU3 Make existing public assistance supporting land uses such as agriculture, forestry and conservation more user-friendly</p> <p>LU4 Introduce a code of practice on rural land use</p> <p>LU5 Make provision of public assistance conditional on land uses such as agriculture, forestry, sporting and conservation being consistent with the code of practice</p>	<p><i>Probably yes</i></p> <p><i>Probably yes so far as possible</i></p> <p><i>Probably yes so far as possible</i></p> <p><i>Probably yes</i></p> <p><i>Probably yes so far as possible</i></p>
More integrated planning of rural land use at local level	<p>LU6 Use rural development strategies to deal with rural land use on an integrated basis</p> <p>LU7 Regulate local land use through local land councils</p> <p>LU8 Make provision of public assistance conditional on rural land use being consistent with rural development strategies</p> <p>LU9 Extend planning control to agricultural, forestry, sporting and conservation-related developments</p> <p>LU10 Provide for stronger enforcement of deer control measures</p>	<p><i>Probably yes</i></p> <p><i>Probably not</i></p> <p><i>Probably yes so far as possible</i></p> <p><i>Probably yes: consider scope and definition</i></p> <p><i>Probably yes</i></p>

LAND USE (Continued)

Vision for the future	Possible legislation and other action to achieve this	Provisional view
More community involvement in decisions about rural land use	<p>LU11 Require all public land owners to develop land management plans in consultation with the local community</p> <p>LU12 Make provision of public assistance to landowners/tenants conditional on them consulting the community about the activities for which they are seeking assistance</p>	<p><i>Probably yes</i></p> <p><i>Probably yes so far as possible</i></p>
More public access on a responsible basis	Scottish Natural Heritage will bring forward proposals for reform	

LANDLORD AND TENANT

Vision for the future	Possible legislation and other action to achieve this	Provisional view
More scope for diversity of agricultural tenancy arrangements	<p>LT1 Introduce farm business tenancies as in the Agricultural Tenancies Act 1995 in England and Wales</p> <p>LT2 Abolish the Agricultural Holdings (Scotland) Act 1991 for new tenancies</p> <p>LT3 Amend the 1991 Act to provide for limited duration tenancies, to include specific provisions to control the use of limited partnerships, and to reduce the restrictions on using short-term lets</p> <p>LT4 Introduce a right for secure tenants to buy their farms, including a provision to enable smallholders or tenants to acquire ownership of their farm buildings, and a right of pre-emptive purchase by the tenant when sale by the landowner is in prospect</p>	<p><i>Probably not</i></p> <p><i>Probably not</i></p> <p><i>Probably yes</i></p> <p><i>Maybe in particular circumstances</i></p>
Simpler and cheaper arrangements for resolution of disputes between agricultural tenants and their landlords	<p>LT5 Simplify the arbitration procedures, introducing stricter controls over the cost of arbitrations, and appointing a smaller, more experienced arbiters' panel, with more training and general guidance</p> <p>LT6 Extend the role of the Scottish Land Court (SLC) to cover appointment of arbiters, providing for all stated cases to go to the SLC, and introduce stricter time limits</p>	<p><i>Probably yes</i></p> <p><i>Probably yes</i></p>

LANDLORD AND TENANT (Continued)

Vision for the future	Possible legislation and other action to achieve this	Provisional view
<p>Wider opportunities for tenant farmers to diversify</p>	<p>LT7 Introduce a statutory provision into new leases to permit wider diversification, and provide model forms of agreement for tenants to obtain landowners' consent</p>	<p><i>Probably yes</i></p>
	<p>LT8 Amend the existing provisions for resumption and efficient farming to permit operation on a part-time basis</p>	<p><i>Probably yes</i></p>
	<p>LT9 Provide greater protection for tenants against resumption by landlords for non-agricultural land uses by restricting the operation of notices to quit and amending the rules of relevant public assistance schemes</p>	<p><i>Probably yes</i></p>
	<p>LT10 Introduce rights for tenants/crofters to plant trees, to cut and sell timber, and to derive income from farm woodlands, and provide a clear and fair framework for payment of compensation at waygo</p>	<p><i>Probably yes</i></p>
	<p>LT11 Amend the statutory rules of good husbandry to encourage management for nature conservation</p>	<p><i>Probably yes</i></p>
	<p>LT12 Introduce a pre-emption right for agricultural tenants to acquire vacant sporting leases</p>	<p><i>Maybe in particular circumstances</i></p>
	<p>LT13 Strengthen farm tenants' rights to compensation for game damage and in respect of mineral developments</p>	<p><i>Probably yes</i></p>
	<p>LT14 Introduce provision for landlords and tenants to share the royalties in respect of mineral developments</p>	<p><i>Maybe</i></p>
<p>Greater protection for those who own property built on leased land</p>	<p>LT15 Introduce legislation to provide security of tenure and rights of access plus mechanism for setting rents and for settling other disputes</p>	<p><i>Maybe</i></p>

CROFTING

Vision for the future	Possible legislation and other action to achieve this	Provisional view
More sustainable crofting communities	CR1 Give all crofting communities the right to take control of the land CR2 Encourage more community management of croft land CR3 Ensure there is no bias against newcomers in crofting administration CR4 Create new crofts CR5 Extend crofting tenure to other parts of Scotland	<i>Probably yes</i> <i>Probably yes</i> <i>Probably yes</i> <i>Maybe in particular circumstances</i> <i>Maybe in particular circumstances</i>
More local involvement in and accountability for crofting administration	CR6 Transfer responsibility for crofting regulation to local authorities CR7 Devolve significant crofting regulation responsibilities to local communities	<i>Maybe</i> <i>Maybe</i>
Much simplified crofting legislation and administration	CR8 End control over subdivision CR9 Simplify controls over subletting CR10 Simplify control over most assignments and reduce control over relets CR11 Reduce Crofters Commission involvement in succession matters	<i>Probably yes</i> <i>Probably yes</i> <i>Maybe</i> <i>Probably yes</i>
More (or at least not fewer) active crofters	CR12 More rigorous action on absenteeism by Crofters Commission CR13 Restrict the size of multiple tenancy holdings CR14 Reduce scope for resumption and decrofting of croft land CR15 End or modify right to buy croft or croft house and garden ground	<i>Probably yes</i> <i>Probably not</i> <i>Probably yes</i> <i>Probably not</i>
Undertaking a wider range of land-based and other economic activity rather than predominantly agriculture	CR16 Decouple link between crofting grants and agricultural production	<i>Probably yes</i>



What options should be included in recommendations for early legislation by the Scottish Parliament on land reform?

