

A LAND USE STRATEGY FOR SCOTLAND: a response to the Scottish Government draft

Summary

- *Land use is a complex issue and development of a Strategy to cope with present and future requirements is a formidable task. Scotland's land resource and its proper stewardship are fundamental to the wellbeing of the country. The Scottish Government is congratulated on taking the first steps in this difficult task.*
- *As yet however, the Strategy fails to convert laudable high level aspirations into useable reality for land owners, users, and decision makers. A comprehensive, integrated approach is required that is not driven by single sectoral interests, reduces conflicts between different land uses, and permits multiple public benefits. It must recognise the role of the land in providing a wide range of publicly beneficial goods and services. It must clearly articulate a realistic role for government at national and local levels, achieve a proportionate balance between government responsibilities and the operation of the market and create a further balance between the rights of land owners and those who enjoy access and public benefits from land. It must make an explicit contribution to regional and global social, economic and environmental need, recognise the variability and diversity of land use and its drivers in different areas of Scotland, have clear and measurable targets, specific implementation measures and ensure that statutory and other regulatory requirements can be met.*
- *The Strategy's principles for sustainable land use decision-making need therefore to be more comprehensive. We recommend that its overarching purpose should be to deliver multiple public benefits in an integrated manner, including food and fibre production for home consumption and export, biosecurity, biodiversity, landscape conservation, climate change adaptation and mitigation, and water management and recreational access objectives.*
- *The draft Strategy fails to recognise what is implied by optimising land use in decision-making, policy formation, and implementation. Policies, regulations and incentives have to be integrated within a broader national framework if the decisions that need to be taken at all levels are to achieve the desired outcomes.*
- *A major failing of the draft Strategy is the lack of recognition of the competing uses for land and the need for an explicit process to resolve conflicts. Without this, important decisions will continue to be delayed, fail to create synergy of use and be based on unsatisfactory ad hoc processes. The Scottish Government should play a more active role in developing approaches to conflict resolution through integrated policies, new guidelines and, where possible, devolution of decision making to the local level. New and innovative mechanisms that are beyond the highly divisive processes of the Town and Country Planning legislation are required.*
- *A national overview of the opportunities and constraints for all land use activities, rather than a sectoral approach, is essential.*
- *The availability of detailed assessments of the many attributes of the land, and of sophisticated Geographical Information Systems (GIS) to interrogate data provide a sound basis for analysing conflicts and identifying different options. None of this is referred to in the consultation document.*
- *Clarity is needed about implementation, including the scale of decision making, the role of Government and stakeholders, the arrangements and supporting criteria for decision making and how the policy instruments and regulatory and incentive measures can be used and integrated to facilitate desired outcomes.*
- *The draft Strategy does not consider Scotland's land in the context of its UK, European or global setting. This lack of appreciation of a wider business context is a significant limitation. Most of the land-based businesses referred to have a very substantial reliance on non-Scottish markets, either through the export of goods and services or through customers (as tourists, for example) travelling to Scotland to make their purchases.*
- *There are many complex issues for modern government where the knowledge resources within government are inevitably inadequate to the tasks that good government requires. Land use is one such issue. It is vital that the undoubted research strengths of Scottish universities and research institutes in agriculture, forestry, land use and environmental sciences are creatively enlisted in supporting the development of public policy in this domain.*
- *The Land Use Strategy could usefully learn from the structures that have been put in place for the regulation, conservation, exploitation and management of the marine environment around Scotland. Whilst these structures are not perfect, they do address some of the important issues of integration and could usefully inform ongoing development of the Land Use Strategy.*

Introduction

- 1 The Royal Society of Edinburgh (RSE) commends the intention of the Scottish Government to develop a Land Use Strategy. The land is a crucial resource for Scotland and for the wider world of which we are part. The pressure of economic growth will ensure that this remains true. Land use is a complex subject with tensions between different regulations, policies, aspirations, the practices of landowners and the operation of the market. We do not underestimate the task of developing a Strategy, for which we made many recommendations in our report on *The Future of Scotland's Hills and Islands*¹. A strategic overview is timely and essential. The statutory provision set out in s.57 of the Climate Change (Scotland) Act 2009 provides an opportunity to move forward and the deadline of 31 March 2011 to lay the Strategy before the Scottish Parliament demands urgency.
- 2 We welcome the opportunity to respond to the consultation. The RSE is uniquely placed to offer informed, independent comment in view of its recent comprehensive report on *The Future of Scotland's Hills and Islands* and the wide range and depth of expertise within its Fellowship in all relevant aspects of land use. We understand that a number of workshop sessions were held to develop the draft Strategy for consultation. We welcome this approach. Further workshops involving participants from across the land use spectrum before the Strategy is laid before the Scottish Parliament would be helpful. The RSE, as Scotland's National Academy, has a key role to play in participating in the further development of the Strategy, informing the Scottish Parliament's scrutiny of it, and assisting in the development of implementation mechanisms and acting as a facilitator with the various stakeholder interests. We would be pleased to discuss further any of the issues raised in this paper with the Scottish Government's Land Use Strategy Team.
- 3 A Land Use Strategy needs to be comprehensive, provide a basis for effective resolution of the many conflicts, be capable of implementation and have clear measures for determining achievement. We are concerned that the draft for consultation has not been adequately developed for parliamentary scrutiny. The draft Strategy contains many laudable aspirations, but there are significant omissions and a lack of the strategic detail and analysis that is needed if it is to be practically useful. A strategy should naturally lead to a series of recommendations to form the basis of an 'action plan'. Unless these issues are addressed, the Strategy will fail to fulfil its stated purpose, or adequately meet its statutory obligations. In our response, we set out our reasons for these comments and make recommendations for improving the draft prior to it being laid before the Scottish Parliament.

- 4 We do not consider that leaving the development of the Strategy until the 5-year review point is defensible. There are many urgent issues which require resolution at a strategic level and many local issues that require guidance about effective practices.
- 5 We offer the following comments and recommendations for development of the Strategy prior to it being laid before the Scottish Parliament by 31 March 2011.

Developing a coherent and comprehensive strategy

- 6 The Strategy is not yet complete. Its laudable high level aspirations need to be translated so that they are relevant to the operational reality that land owners, other land users and decision makers have to deal with. There are no outcome statements and no means are described for measuring performance against the vision and objectives. The vision is skewed, the objectives not adequately developed and the principles for both government policy making and land-use decision making fall far short of the need.
- 7 We recommend the following as the necessary components of the Strategy:
 - a comprehensive and integrated approach which overcomes sectoral interests, reduces conflicts between different land uses, and achieves multiple public benefits;
 - explicit recognition of the role of land in providing a wide range of publicly beneficial goods and services, notably food security, timber and other fibre production, biodiversity and landscape conservation, ecosystem services, water management, carbon sequestration and storage and other aspects of climate change mitigation and adaptation, and recreational use;
 - a clearly articulated and realistic role for government at national and local levels;
 - achieving a proportionate balance between government responsibilities and the operation of the market;
 - achieving a balance between the rights of land owners and those who enjoy access and public benefits from land;
 - an explicit contribution to regional and global social, economic and environmental needs;
 - recognition of the variability and diversity of land use and its drivers in different areas of Scotland;
 - clear and measurable targets;
 - specific implementation measures; and
 - recognition of the need to meet statutory and other regulatory requirements.

¹ The Future of Scotland's Hills and Islands (2008) http://www.royalsoed.org.uk/enquiries/hill_and_island_areas/index.htm

- 8 The draft Strategy does not provide a clear statement of the outcomes that are sought in achieving its vision of a *prosperous and sustainable low-carbon economy*. The vision encompasses several components without indicating whether any one or other of the components should be a priority, or, alternatively how the trade-offs between them might be assessed and used to determine a way forward. The same argument applies to the Strategy's three objectives of successful land-based businesses contributing to Scotland's prosperity and wellbeing, flourishing natural environments delivering the widest range of benefits to Scotland, and vibrant, sustainable communities in urban and rural areas.
- 9 The **principles for government policy making** should recognise the need to comply with international, EU and national obligations. For the removal of doubt, these requirements should be listed in an annex to the Strategy. More fundamentally, we strongly recommend that an additional principle should be *the reduction in conflict between different land uses*.
- 10 The stated strategic direction of 'better consideration of the natural environment' is too weak and we recommend that this should be strengthened by adopting a statement along the lines of '*Embracing the highest levels of environmental stewardship*'.
- 11 The Strategy's **principles for sustainable land use decision-making** are not dissimilar to those adopted in the RSE Hills and Islands Report, and should be supported in the generality. We welcome the recognition in the consultation document, particularly in the principles for land use decision-making, of the importance of Scotland's ecosystems and the ecosystem services that they provide. The principles would, however, benefit from being more comprehensive and we recommend that the overarching purpose should be to deliver multiple public benefits: integrated delivery of food and fibre, biosecurity, biodiversity and landscape conservation, climate change adaptation and mitigation, water management and recreational access objectives.
- 12 The reference to 'a primary use' at 1.1(c) of the consultation document is not fully articulated and could lead to further conflict when the reduction of conflicts is the basic requirement. In addition, therefore, we recommend that an additional principle should be '**in cases of conflict between land uses, a Land Stewardship Proofing test should be used**' as recommended in the RSE report. This recognised that there needed to be a hierarchy of determining criteria against which land use decisions should be made that satisfied the principles, reduced competition and conflict, achieved greater synergies and maximised the benefits on a number of fronts at the same time. Where conflicts of land use arise, the land use that best meets agreed sustainability criteria and delivers most public benefit should prevail.
- 13 Land use is dynamic and the Land Use Strategy must take account of, and be explicit about the need to respond to change over time. Change can result from new understanding, new knowledge and new technologies, and in the values that society determines in deciding what is ethically tolerable and what is sustainable. Some of these changes will be abrupt, while others are likely to be more progressive.
- 14 The draft Strategy does not consider Scotland's land as an entity in a UK, European or global setting. This lack of a wider appreciation of Scotland's business context is a significant limitation. As is well known, most of the land-based businesses referred to in the consultation document have a very substantial reliance on non-Scottish markets, either through goods and services being exported outwards or customers (in tourism, for example) travelling to Scotland to make their purchases.
- 15 There is no explicit reference to tourism and the importance of that industry to the overall land-based and rural economies. We prefer explicit statements about the delivery of a countryside that is attractive in terms of landscape, wildlife and recreational accessibility, which is dependent upon all land-based industries. The link between these industries and the tourist industry *per se* is basic to the future. This may be an example of a continued lack of understanding of the interactive links between different land based activities and between land-based industries and the wider economy.
- 16 When considering the further development of the Land Use Strategy, the Scottish Government could usefully learn lessons from the structures that have been put in place for the regulation, conservation, exploitation and management of the marine environment around Scotland. The role of Marine Scotland (the Marine Management Organisation (MMO)) is to integrate core marine functions involving scientific research, compliance, monitoring, policy and management of Scotland's seas. There is an emphasis on alignment of activities; interaction between the MMO and other parts of government to facilitate joined-up government; links with the marine science community beyond the MMO; and an emphasis on breaking down barriers and promoting communication between different groups who often talk in very different terms, but who often have much to teach one another. Whilst these structures are in no way perfect, they are instructive and could usefully inform the ongoing development of the Land Use Strategy.

Optimising land use

17 The draft Strategy fails to recognise what is implied by optimising land use (section 2.4 of the consultation document) in decision-making, policy formation, and implementation. Optimising land use requires that policies, regulations and incentives have to be integrated within some broader national framework. The draft Strategy recognises this in principle 1.1 (a) which refers to a coherent and predictable policy framework and in Action 3.3 (a) on the alignment of land use regulations and incentives, but there is little else in the document to suggest that there will be any significant drive by government to make it happen, other than to point out that there are various forms of guidance that could be used to integrate local decision-making (see section 6.1.5 of the consultation document).

18 We are not convinced that the ultimate ‘ownership’ of decision-making should be in the hands of a ‘local’ community (however that is defined) as there are many legitimate national and international interests to be considered; in other words ‘a wider community of interests’. These communities will require unequivocal criteria against which they can make decisions and at the same time meet nationally agreed objectives. The Scottish Government should commit to integrating its policies, regulations and incentives to make it possible to abide by the Principles of the Strategy and accordingly make decisions at all levels that achieve required outcomes. This will become even more important when attempting to use ‘objectives for sustainable land use’ (3.3(c)) in considering the recommendations from the Final Report of the Inquiry into Future for Agriculture in Scotland² post-2013.

19 At present, the lack of any overarching strategy linking the government’s policies and actions on the use and management of land means that the delivery of public policy and its funding is less efficient than it should be. This is a source of considerable frustration for those directly engaged in land-based activities.

Resolving Land Use Conflicts

20 A major failing of the draft Strategy is lack of recognition of the many competing uses for land. It appears to assume that stakeholders are all agreed on the priorities and are moving forward together. This is not the case in many situations and unlikely to be the case in the future, and to assume otherwise is naïve. The result is that the Strategy fails to provide any explicit means of resolving conflicts.

21 It is clear to us, that there have been many conflicts between different land uses over recent decades. The principal ones have been between afforestation and biodiversity conservation, between landscape diversity protection and afforestation, between food production in the uplands and afforestation, and between food production and biodiversity. Some of these conflicts have been resolved through the development of semi-formal strategies, for forestry

in the form of Indicative Forestry Strategies, and by the negotiation of Management Agreements between owners of land and Scottish Natural Heritage.

22 More recently, a number of other land use conflicts have arisen. Most significant has been and continues to be the conflict between development of onshore wind turbines, as a contribution to renewable electricity generation, and their impact on the landscape, on biodiversity, and on the loss of land from agriculture and forestry. These conflicts have been dealt with through the Town and Country Planning system. We consider that this mechanism is quite inadequate to use to safeguard Scotland’s biodiversity and landscape diversity, to provide food security domestically and continuing opportunities for export, to provide timber production for domestic consumption, and to help the achievement of Scotland’s ambitious targets for electricity generation from renewable sources. A more sophisticated and less unilateral approach is needed.

23 Future conflicts are likely to be multidimensional and hence more difficult to resolve through reliance on existing mechanisms. We envisage a continuation of existing conflicts and the development of others as a result of new policy imperatives. The most likely areas of conflict are expected to arise from the following demands:

- land for renewable electricity production to meet new and demanding Scottish and EU targets;
- land for afforestation to meet the target of 25 per cent cover by 2050;
- land for food production to meet domestic demand and the development of local food niches for local and wider markets;
- land for safeguarding areas for potential food production in response to increases in world demand for meat products;
- land for maintaining and, where appropriate, enhancing landscape quality given the importance this has for the tourism industry and for local residents;
- land for biodiversity conservation to meet international, EU, UK and Scottish targets on reducing the loss of biodiversity;
- land to maintain the quality of the historic environment and landscape in recognition of its importance to Scottish culture and to enable future generations of experts to investigate new ideas and approaches; and
- land to make a full contribution both to the mitigation of climate change and for adaptation to the changes that will continue to occur.

24 It is most surprising that these issues are not recognised in the draft Strategy. A more coherent and unified approach is essential; this should include reviewing existing single issue or single sector policies which have not been subjected to scrutiny in terms of their effects on other legitimate areas of public policy.

² Brian Pack Inquiry: The Road Ahead For Scotland: Final Report of the Inquiry Into Future Support For Agriculture In Scotland (November 2010).

- 25 In the past, these conflicts have been largely left to the operation of the market, but we are not convinced that with the competition for the same land for different uses, a market solution alone is likely to achieve all of the public benefits sought. Without an effective framework for making decisions to resolve conflict, and to identify where there is potential synergy of use, important decisions will continue to be delayed, or reached on an *ad hoc* basis. It is essential that the Scottish Government takes a more active role in developing approaches to resolve conflicts in land resource use through the development of integrated policies, new guidelines and, where possible, devolution of decision making to the local level. There is an urgent need for land use strategies that balance demands for different public goods and services in a more effective way. This means that a national overview of opportunities and constraints for all activities, rather than a sectoral approach, is essential. While the draft Strategy indicates that the time is right for a more integrated approach to land use, it does not, with the desired degree of clarity, explain how outcomes can be delivered, except in an *ad hoc* fashion. It is also surprising that so little reference is made to other, existing Scottish Government Strategies, for example the Food and Drink Strategy.
- 26 At section 2.6 of the consultation document the suggestion is that the National Planning Framework (NPF2) together with the Strategy will address these issues. However, the NPF2 can only prescribe strategies for those activities that are within the Town and Country Planning system. Without a national strategic approach, there will continue to be a waste of public, private and charitable resources through continuing use of the Public Inquiry process under Town and Country Planning legislation for resolving competing uses of the land.
- 27 Appropriate balances between activities can be struck if land use is regarded as being multifunctional rather than single purpose and sectoral. For example, there are a number of patently evident synergies as follows:
- Linkage between amelioration of climate change and land management;
 - Linkage between land management and maintenance of healthy populations of species and habitats; and
 - Linkage between landscape protection and development of the tourist industry.
- 28 More sophisticated approaches to the analysis of land attributes and land resource use are now available and it is surprising that these are ignored in the draft Strategy, especially as most of the data sets are in the ownership of government and its agencies. The availability of detailed assessments of the many attributes of the land: soil type, productivity of the land for agriculture and for forestry, landscape character, species and habitat quality, carbon storage and sequestration potential, wind velocity etc, and the availability of sophisticated Geographical Information Systems (GIS) to interrogate data together provide a sound basis for analysing conflicts and identifying different possibilities. Using the data sets at regional and local scales would readily allow identification of areas of actual and potential conflict as well as areas where multiple objectives could be achieved. Some illustrative examples in the revised version of the Strategy would be helpful. For example, how the data sets and GIS can identify the land resource opportunities and constraints where there is currently an impasse, as for example in the uplands of Galloway between the continuance of livestock farming, and the demands for afforestation and for wind turbine installations.
- 29 The development of matrices to ensure that all of the factors are considered and their interrelationships fully understood will substantially improve decision making towards conflict resolution. One element is to consider the interactions between competing uses of the land. This was illustrated in *Table 13*, reproduced here, from the RSE Hills and Islands Report. This seeks to summarise land uses and their interaction in a qualitative manner. The key point is that the use of the land is no longer entirely about production as the only outcome, but about the delivery of a wide range of other public and private benefits.

TABLE 13 MATRIX OF NOTIONAL IMPACT ANALYSIS OF LAND USE ON VALUED ATTRIBUTES
(TAKING INTO ACCOUNT AREA UNDER EACH OF THE LAND USES)

	Carbon Balance	Landscape/natural heritage	Cultural Heritage	Socio-Economic Well-being	Health & Quality of Life for All	Recreational Access	Tourism
Agriculture	++/- -	++++/- -	++	++++	+++	++	+++
Forestry/woodland	+++	+++/-	+	+++	++	++++	++
Water Gathering	+	+/-		+	+	+	+/-
Heritage Management	++	++	+	++	++	++	++
Renewable Energy Production	+	--		++	+		-
Sporting Estates	++	++/- -	++	+		++	+

+ Indirect impacts through tourism and recreational access

Note: the number of + indicate the size of the positive attributes, and the number of - indicate the size of the negative attributes

- 30** In addition, assessments should be carried out for each public policy objective (defined as environmental quality, health and quality of life, sustainable economic growth etc) against the functionality of the land (for water retention, carbon storage, soil formation, biodiversity and landscape quality, food and fibre production), and against regulatory and other statutory requirements (international, EU, UK and Scottish).
- 31** Consideration may need to be given to whether or not high quality farmland requires greater protection to contribute to food security objectives. This could be achieved through applying the land classification system, which is based on the identification of relative land productivity. This was a method used until the late 1980s (when it was quietly dropped by the then government) to safeguard the best agricultural land from building development.
- 32** It is essential that the Scottish Government develops a transparent mechanism for decision making, especially in those contentious circumstances where land use conflicts exist or where they are inevitable. The Strategy should consider the development of new and innovative mechanisms to resolve conflicts that are well beyond the highly divisive processes under the Town and Country Planning legislation. Informal mediation processes are now well tried and tested, for example for the resolution of disagreements under Management Agreements for protected nature conservation sites, and more formal processes, for example through the Scottish Land Court and the advent of Community Planning Partnerships, have been used effectively. In addition, new statutory approaches may be required and certainly should not be ruled out; this approach would be entirely compatible with the ground breaking statutory duty to produce a Land Use Strategy. All of these approaches and others should be fully explored in the Strategy and recommendations made for new approaches.
- 33** From our reading of section 5.2.4 in particular, there is a sense that the draft Strategy obfuscates the role of government in determining land use decisions. While stating that the Strategy sets the national strategic direction, there is then an assumption that the ‘majority of land-use decisions should continue to be made at a local level; that is, by those closest to the land.’ While this is the reality in relation to land based businesses that operate in the realm of regulation and incentives, there is a lack of clarity about the extent of intended Government intervention (regulation or incentives) to achieve preferred outcomes at this level of decision-making within an overall national context.
- 34** There needs to be recognition that the implementation of the Strategy will require decision-making at various levels – government (national), regions, local communities and properties – and a need therefore to be explicit as to how the Strategy will be integrated across these various levels. The Strategy needs to develop policies, regulation and incentives that operate together at these different scales and enable the delivery of desired outcomes.

Well informed decision-making

- 36** We welcome the statement in section 6.1.2 of the consultation document in relation to drawing upon the science base in land use decision-making. There are many complex issues for modern government where the knowledge resources within government are inevitably inadequate to the tasks that good government requires. Land use is one such issue. It is vital that the undoubted research strengths of Scottish universities and research institutes in agriculture, forestry, land use and environmental science are creatively enlisted in supporting the development of public policy in this domain. Additionally, the RSE has a wealth of expertise on land and land use amongst its Fellowship.

Implementing the Land Use Strategy

- 33** The challenge for the Scottish Government is to address the issue of ‘implementation’ in a meaningful way. There now needs to be clarity on:
- a. the scale at which decision making has to take place,
 - b. the role of Government, and the role of stakeholders,
 - c. the arrangements and supporting criteria at each of these scales on which to base decisions, and
 - d. how the policy instruments and regulatory and incentive measures can be used and integrated to determine desired outcomes.

Additional Information and References

Advice Papers are produced on behalf of RSE Council by an appropriately diverse working group in whose expertise and judgement the Council has confidence. This Advice Paper has been signed off by the General Secretary.

In responding to this call for evidence the Society would like to draw attention to the following Royal Society of Edinburgh publication which is relevant to this subject:

- The Royal Society of Edinburgh's Report, *The Future of Scotland's Hills and Islands* (September 2008)

Any enquiries about this submission and others should be addressed to the RSE's Consultations Officer, Mr William Hardie (Email: evidenceadvice@royalsoced.org.uk)

Responses are published on the RSE website (www.royalsoced.org.uk).

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