

Investigation into the Issues Associated with Large Scale and Concentrated Land Ownership in Scotland

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Acknowledgements: In spring 2018 the Scottish Land Commission issued a call for evidence in which anyone with experience of living and/or working in parts of Scotland where most of the land is owned by a small number of people was invited to share their experience of the issues associated with this pattern of ownership. More than 400 people responded to the call for evidence and this report is based on the information they provided. The Land Commission is very grateful to everyone who responded without whom this report would not have been possible.

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Executive Summary

Concern about who owns Scotland, and how much of it they own, has been central to the land reform debate for decades. While many people are utterly convinced that landownership is a key determinant of rural development outcomes, others insist it is irrelevant, and what is important is how land is managed. The Scottish Government wants to create a more diverse pattern of land ownership and asked the Scottish Land Commission to investigate the issues associated with large scale and concentrated land ownership. In early 2018 the Commission did this by inviting people with experience of living and working in such areas to share their experiences.

The Call for Evidence

This was the first time such an exercise had been undertaken and the response was huge: more than 400 people took part. They were all asked the same questions: whether there are any benefits/disadvantages of land being owned by a very small number of people and whether they had experience of these benefits/disadvantages.

Most of the evidence provided related to one of six broad themes:

- Local economic opportunities
- Community and social cohesion
- The natural and built environment
- Local housing needs
- Agriculture
- Land management*

*The issues raised under this theme are not addressed in this report but will be returned to in the future.

Local Economic Opportunities

The most frequently identified issues (40% of issues raised) related to the link between how land is owned and the ability of rural communities to realise their economic potential.

Most of the advantages identified related either to the value of private investment or economies of scale but the evidence to support these benefits was not clear cut. While private capital can (and does) play a transformative role in rural economies, the link between private capital and large-scale landownership is not automatic: recognising the value of the former does not imply acceptance of the inevitability of the latter. The evidence also suggested that outwith agriculture, economies of scale often appear to be more theoretical than real and more likely to benefit landowners than communities.

The economic disadvantages identified related mainly to landowner's ability to restrict availability of land for business development. An environment in which businesses can access land for expansion and business owners have the confidence to invest is crucial to rural economic development. In areas of concentrated land ownership, landowners have the power to control this environment, deciding whether and on what terms to make land available. The extent of this control can have significant adverse consequences.

Community and Social Cohesion

The second most frequent theme within the evidence related to community and social cohesion. All of these issues related to negative experiences and more than half related to poor engagement between landowners and communities. Another significant issue was the imbalance in professional support available to many landowners compared to most communities and a feeling that landowners sometimes use this to gain an unfair advantage in negotiations. Similar concerns were raised about the ability of landowners to leverage influential personal networks to support their position.

Perhaps most worrying however, was the fear of repercussions from “going against the landowner” expressed by some people. This fear was rooted firmly in the concentration of power in some communities and the perceived ability of landowners to inflict consequences such as eviction or blacklisting for employment/contracts on residents should they so wish. Such fear is a clear impediment to innovation and sustainable development and has no place in a progressive and inclusive Scotland.

Natural and Built Environment

The ability to work at a landscape scale was the main environmental advantage associated with large-scale land ownership but the logic of this connection was found to be weak because, while there may be administrative efficiencies, large scale land ownership is not a prerequisite for delivering landscape scale environmental initiatives. The main disadvantages identified related to the perceived unilateral approach to decision making adopted by some landowners (often NGOs) and perceptions of poor land management practices that can arise from this.

Local Housing Needs

Around a quarter of respondents felt that Scotland’s current pattern of land ownership has a negative impact on the ability to meet local housing needs. These experiences were all connected by a common narrative in which the power of a dominant landowner to control the supply of housing was a key driver of depopulation and economic decline. While the direction of causality in this relationship is not clear cut and many landowners do appear to exercise their power responsibly, this is not always the case.

However, the housing related disadvantages identified were not solely related to land ownership. By helping to shape landowner expectations of land value the planning system also plays a key role in determining the nature and timing of residential development. This implies that solving the housing related issues identified through this research is likely to require changes to the planning system as well as land ownership.

The housing related advantages identified generally related to the role that some rural landowners play in providing privately rented residential accommodation. While such provision is recognised as an important component of some rural housing markets, it is not intrinsically linked to the current pattern of landownership.

Agriculture

The agricultural advantages identified mainly related to land ownership scale, where commercial viability was found to be closely connected to size. The disadvantages identified related largely to how changes in land use (particularly from farming to forestry) are managed and the ability of rural communities to influence and benefit from this change. These issues were particularly emotive and highlighted the strong attachment many rural residents feel to farming as a cornerstone of community life.

Conclusions and Policy Implications

Most of the advantages associated with Scotland's current pattern of land ownership related to the size of landholdings and most of the disadvantages related to the concentration of social, economic and decision-making power. Scale and concentration are distinct concepts, and this has important implications for policy. The disadvantages identified were underpinned by concerns about the extent to which local people can influence decisions about how land is used and a belief that they often derive little benefit from these decisions. These conclusions echo the academic literature, which has emphasised the importance of the closely related themes of **participation and power**.

Scale Vs Concentration

There is no automatic link between *large scale* landholdings and poor rural development outcomes but there is convincing evidence that highly *concentrated* landownership, can have a detrimental effect on rural development outcomes. These effects arise because landowners have the power to decide who can access land, when, for what purpose and at what price. This power is created by the current system of private property rights and is therefore linked directly to landownership.

In some parts of Scotland concentrated landownership appears to be causing significant and long term damage to the communities affected. In the corporate world the risks of excessive market power are well recognised and mechanisms are in place to protect consumers. (The Competition and Markets Authority for example can intervene if a proposed merger is found to be a threat to competition.) In contrast, concentrated power in land markets is largely unregulated and few sanctions are available for irresponsible behaviour. It seems perverse that the kind of protection available to consumers across the UK is not currently extended to residents of some of the most fragile communities in Scotland. The policy implication flowing from this is that:

There is an urgent need for formal mechanisms to be put in place that would enable harmful land monopolies to be identified and changes in either ownership and/or management practice to be implemented that would protect fragile rural communities from the irresponsible exercise of power.

The abuse of power is a consequence of individual behaviour, so behaviour change should be an important policy focus – but this is unlikely to be sufficient. While decisions about how to use power are made by individuals, the *ability* to misuse power is created by the system in which they operate. As such, mechanisms to alter the ownership of land are likely to be required in addition to policies to encourage good management.

This report has illustrated that the socially corrosive effects of land monopoly occur not only because of what a landowner has (or has not) done – but because of what they *could* do. This points to a need for systemic change that goes beyond mitigating the effects of established concentrations of power and aims instead to bring about greater diversity in Scotland's pattern of landownership. This implies that:

Policies should be developed and implemented to encourage greater diversity in land ownership and avoid new harmful land monopolies being created.

Land-Use Decision Making

Although land ownership has an important influence on rural development, it does not fully explain all of the issues raised through the call for evidence. Dissatisfaction with land-use decision making processes was also of central importance. This discontent was particularly apparent in communities that had been recently affected by major land-use change and was underpinned by two important factors. The first was the perception that there are not enough opportunities for local people to influence decisions about major land-use change and the second was a strong sense of injustice that while land-use change often has significant adverse consequences for communities they generally receive little or no benefits in return. The policy implications of this are that:

Improvements are required to land-use planning and decision making processes to ensure that rural communities can influence significant land-use change in their local area, that any adverse effects arising from such changes are effectively mitigated and ensure that any potential benefits are maximised.

The discomfort expressed about land-use change was often compounded by frustration that the land-use in question was being subsidised by fiscal incentives paid for from the public purse. There was a strong sense that the fiscal environment surrounding agriculture, forestry, and renewable energy in particular can incentivise behaviour contrary to Scotland's land reform objectives. The policy implication of this is that:

Fiscal incentives relating to agriculture, forestry, and renewable energy should be reviewed to ensure that they are consistent with the policy objectives of community empowerment, rural development, and land reform.

Dimensions of Landholding Vs Types of Landowner

Concern about Scotland's pattern of landownership is often equated with hostility toward private ownership but the two issues are quite distinct. The problems identified through this research were not associated exclusively with any particular type of landowner. The transformative effect that private capital can have on rural communities is undeniable but the assumption that large scale landownership is required to attract such investment is flawed. The two concepts are logically distinct and recognising the value of the former does not imply acceptance of the inevitability of the latter. The implication of this is that:

New mechanisms are required for attracting alternative sources of capital to support rural development, particularly smaller scale private ownership.

A Fairer and More Productive Future

Most of the issues identified through this research can ultimately be attributed either to imbalances of power created by Scotland's unusually concentrated pattern of landownership or to a deficit in participation created by inadequate or poorly understood land-use decision making processes. These themes are connected by a common thread of unfairness. Many of those who participated in the research were motivated by a strong sense that it is fundamentally unfair that so much of Scotland is owned by so few people and that so many people have so little influence over the land on which they live.

What this research has done is to make a clear connection between this perceived unfairness and sub-optimal rural development outcomes - but this conclusion should not be surprising. There is a strong body of international evidence¹ connecting inequality with sub-par economic performance. What is more surprising is that the relevance of this literature to Scotland's pattern of landownership is not more widely recognised.

Rural areas currently account for 27%² of Scotland's economy so improving economic performance in rural Scotland could make a significant contribution to Scotland's overall economic performance. The overarching conclusion of this report is that increasing the diversity of rural landownership and enabling more effective participation in rural land-use decision making could make a major contribution to realising this potential.

The focus of this research has necessarily been on rural Scotland but the potential relevance of the conclusions to urban Scotland should not be overlooked. The opportunities to share learning on land reform between urban and rural Scotland are significant and could bring significant rewards for the whole of Scotland.

¹ See for example: Stiglitz J, (2012), *The Price of Inequality*.

² Based on figures included in Scottish Government (February 2018), *Understanding the Scottish Rural Economy*

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1 Introduction

Concern about Scotland's unusually concentrated pattern of landownership has been at the heart of the land reform debate in Scotland for decades. Yet, despite the strength and duration of the debate, no clear consensus has emerged: while many people are utterly convinced that landownership is a key determinant of rural development outcomes, others insist that ownership is irrelevant, and the important factor is how land is managed. This report presents new evidence to help to move this debate forward.

1.1 Background

In early 2016 the Scottish Government published research on the impact of diversity of ownership scale on social, economic and environmental outcomes. The research set out to address the hypothesis that greater diversity in the scale of landownership would deliver better outcomes, but the findings were ambiguous with the study concluding that:

"Landownership scale is one of a myriad of factors that influence the economic, social and environmental development of rural communities. The complexity of ownership motivations, societal, policy and economic interactions in driving community development means that it is too simplistic to conclude that scale of landownership is a significant factor in the sustainable development of communities."

This explanation did not settle the debate and voices across rural Scotland continued to insist on the decisive role of landownership as a determinant of local development outcomes. In 2017 the Scottish Government responded to this concern by asking the (then) newly created Scottish Land Commission to look at the issue again.

Not wishing to simply repeat previous research the Commission decided to take a different approach. Rather than trying to attribute particular effects to Scotland's current pattern of landownership, the objective was simply to identify and explain the issues associated with it. The rationale behind this was that if the issues could be identified and then resolved then the debate about their underlying causes might become less important. The approach was pragmatic rather than theoretical: focused on resolving problems rather than analysing them.

To do this the research team set out to answer three broad questions:

- What are the issues associated with scale and concentration of landownership?
- What underpins these issues?
- What implications does this have for policy?

1.2 Approach

From the outset it was recognised that the best way of understanding the issues associated with large scale and concentrated landownership was to speak to the people directly involved. Unfortunately there is no convenient database from which to draw a sample of such individuals so it was necessary to create one.

To do this the Land Commission issued a public call for evidence in which people with experience of living and working in communities where most of the land is owned by a very small number of individuals or organisations were invited to share their experience. Evidence was gathered primarily via a simple on-line survey but responses were also received via the telephone and in writing to ensure that anyone who wished to participate had the opportunity to do so. In parallel with the public call for evidence researchers from Scotland's Rural College were also commissioned to review existing research and empirical evidence to help provide a framework to guide the subsequent analysis.

The call for evidence asked two very simple questions. Firstly, respondents were asked whether they believed there were any benefits/disadvantages of land being owned by a very small number of people and then they were asked whether they had any experience of such benefits/disadvantages. Respondents were also asked various questions about who they were and where they lived to help the research team to select a broadly representative sample of respondents to invite to participate in follow-up interviews.

The call for evidence was widely publicised via social media, in the press and via various face-to-face events. Letters were also sent to several community councils in areas where landownership is known to be concentrated. The call was open between March and July 2018 and generated a total of 407 responses.

The responses were then used to identify a sample of respondents with whom to undertake more in-depth interviews. Efforts were made to ensure that this sample was broadly representative of those who had responded by selecting a good balance of respondents from different parts of Scotland who were likely to have different perspectives. In particular, broadly similar numbers of people who identified as residents of communities in areas of concentrated landownership and people who identified as landowners or land-managers were selected.

The research team then undertook a thematic analysis of the responses provided to identify the main issues identified (see section 3) and the sub-themes within these. These themes and sub-themes were then used to develop a simple topic guide for the subsequent interviews and have also been used to guide the structure of this report.

A total of 29 loosely structured follow-up interviews were undertaken, each lasting between 40-60 minutes. All but one interview was undertaken over the phone (one was undertaken face-to-face). Each interview was then discussed by the research team to identify relevant quotes and anecdotes that could be used to illustrate the issues raised.

1.3 Report Structure

The remainder of this report is structured as follows:

- Chapter 2 presents a summary of the review of previous research and empirical evidence undertaken to support this research. It also describes the analytical framework used to guide the analysis. (The full review has been published separately and can be downloaded via the Land Commission's website: landcommission.gov.scot/publications-consultations-research).
- Chapter 3 provides a profile of those who responded to the call for evidence and summarises the six macro themes raised: local economic opportunities, community and social cohesion, the natural and historic environment, local housing needs, agricultural productivity, and land management.

Chapters 4 - 8 of the report describe the issues raised through the call for evidence and assess their relationship with the scale and/or concentration of landownership.

- Chapter 4 considers the issues relating to local economic opportunities, in particular the importance of landowner's attitudes to economic development, business development and enterprise support and the role of private capital.
- Chapter 5 looks at issues relating to community and social cohesion, in particular the imbalance of power relations in some rural communities, the willingness and ability of some rural landowners to undertake non-market investment in activities that may benefit the community and the retention of control over land by some landowners after disposal.
- Chapter 6 considers issues relating to the natural and built environment, in particular the importance of being able to implement public policy at a landscape scale and the role of private investment and good land management.
- Chapter 7 looks at the housing related issues raised through the call for evidence, particularly the relationship between housing and local development, the value of housing land, the role of the planning system and the relationship between landownership and the private rental market.
- Chapter 8 discusses issues relating to the agricultural sector, in particular the relationship between scale in landholdings and agricultural capacity, the availability of agricultural land and the wider social and cultural importance of agriculture within rural communities.
- Chapter 9 summarises the conclusions of the analysis and presents the recommendations for public policy that arise from these.
- Chapter 0 contains a list of references used in this report.

2 Current Knowledge and Evidence

This section provides a brief critical review of contemporary research related to concentrated landownership, both in Scotland and in other countries. The review is organised according to five themes, which have dominated academic and policy literature in recent decades. A more detailed literature review (Glass et al., 2018a), which was commissioned to accompany the call for evidence, can be found on the Scottish Land Commission website³.

2.1 Policy Context

With Scottish policy toward land increasingly rooted in concerns about fairness, equality and the fulfilment of human rights (Peacock, 2018), Principle 2 of the Land Rights and Responsibilities Statement⁴ (LRRS) states that ‘there should be a more diverse pattern of landownership and tenure, with more opportunities for citizens to own, lease and have access to land’. This is mirrored in one of the three strategic objectives of the work of the Scottish Land Commission: to encourage a more diverse pattern of landownership with the benefits of land spread more inclusively. This objective is accompanied by the long term outcome of a fall in concentration of landownership⁵.

2.2 Scotland’s Concentrated Pattern of Rural Landownership

The concentrated pattern of landownership in rural Scotland continues to attract academic scrutiny, particularly the well-documented observation that ‘a relatively small number of landowners with large properties own the majority of Scotland’s land area’ (Land Reform Review Group, 2014, p.159).

From the 17th century, into the late 1800s, there was an increasing concentration of landownership into fewer and fewer private estates (Callander, 1987; LRRG, 2014). Although the majority of public land was acquired during the first half of the 20th century and there was a growth in the number of owner-occupied farms in some lowland areas, particularly during the 1920s and 1930s, private ownership of large properties continues to dominate (LRRG, 2014; Thomson et al., 2016). In the last 40 years, the proportion of public landownership as compared to private landownership has remained broadly similar (Wightman, 2013).

³ www.landcommission.gov.scot/publications-consultations-research

⁴ <https://beta.gov.scot/publications/scottish-land-rights-responsibilities-statement/>

⁵ Scottish Land Commission Strategic Plan (2018-2021): <https://landcommission.gov.scot/wp-content/uploads/2017/09/Scottish-Land-Commission-Strategic-Plan-2018-21-ENGLISH.pdf>

Research by Hindle et al. (2014) has continued to explore the pattern of landownership, with their findings resonating closely with the estimation made by Wightman (2013) that 1,252 owners hold 67% of privately owned rural land. Hindle et al. estimated the size and characteristics of the ‘estate’ sector, using available databases and other information⁶, reaching the conclusion that 1,125 owners hold 4.1 million hectares (70% of Scotland’s rural land⁷). Of the estates held by these owners, 87 are estimated to be larger than 10,000ha (67 of these are in the Highlands), 667 are 1,000-10,000ha, and 371 are smaller than 1,000ha.

2.3 Types of Owners and Continuity of Ownership

Scotland’s rural land is also owned by public bodies, as well as by communities and by environmental organisations. Table 2.1 shows the relative size of total landholdings under these four types of tenure, illustrating the dominance of private landownership. The rural land not accounted for in the table includes farms and smaller estates that do not match the multifunctional ‘estates’ description by Hindle et al. (2014).

Figure 2-1: Extent of Rural Landholdings Under Different Types of Tenure

Type of owner	Extent of landholdings (ha)	Percentage of all rural land (7,247,400ha)
Private ‘estates’	4,140,460 ¹	57.1%
Public bodies (including the National Forest Estate, MOD land)	914,000 ²	12.6%
Community	227,526 ³	3.1%
Environmental organisations (e.g. National Trust for Scotland)	182,438 ⁴	2.5%
Total	5,464,424	75.4%

Sources: ¹ Hindle et al., 2014; ² LRRG, 2014; ³ Scottish Government, 2017; ⁴ Mc Morran et al, 2013

It is widely documented that there is a long term pattern of low turnover in the estate land market, which is ‘unlikely to change in the near future’ (e.g. Thomson et al., 2016, p.19). In 2012, only 23 estates were sold in Scotland, double the number that were sold in 2009 (Bell Ingram, 2013). Of the 222 private estates which took part in the Hindle et

⁶ They noted the difficulties inherent in conducting this exercise as the datasets they used are not comprehensive in geographic coverage, may have inaccuracies, and do not fully differentiate ‘estates’ (defined as landholdings with a range of interests) from other types of landholding.

⁷ The total area of Scotland is 7.71 million ha, with rural land covering 94% of the total (7.247 million ha).

al. (2014) survey, 50% had been in ownership for up to 50 years, 17% between 50 and 100 years, 27% between 100 and 500 years and 5% for more than 500 years. These figures do not, however, reveal the extent of positive or negative impacts this continuity of ownership has on local communities.

Motivations for owning land vary across different types of owners and different types of holdings (Thomson et al., 2016; Mc Morran, 2016). In recent years, the profile of rural landowners has shifted, with family farmers and life-style buyers joined by a range of institutional investors. The relative level of engagement of these investment owners with the land varies from being direct and active to being indirect, passive and concerned solely with the extraction of financial income (Gallent et al., 2018).

2.4 Local Impacts of Estates

Recent research suggests has shown that private estates have a number of local economic impacts, including job creation, direct spend in the local economy and indirect economic impacts (Hindle et al., 2014). There is also some benefit in the diversity of activity, in land management at a landscape scale, with scale and size leading to greater total outputs and impacts (although lower per hectare impacts are prevalent on large estates due to the large areas of unproductive land) (Hindle et al., 2014). Nonetheless, negative impacts related to the control exerted by landowners continue to be documented by researchers. Most recently, Fischer and McKee (2017) described how community capacity was depleted via the gradual diminishing of community and other resources by the landowner.

An in-depth study of the local impacts of differing scales of rural landownership, conducted by Thomson et al (2016), found that landownership scale is one of many factors that influence the economic, social and environmental development of rural communities. The study compared parishes⁸ dominated by one or more large landowners and a nearby comparator parish historically dominated in a similar manner (but ownership is now fragmented/broken up). The study was unable to conclude that scale of landownership is a significant factor in the sustainable development of communities, although research participants noted that the estates studied in the research still had an important influence over the local area, particularly in relation to housing development and second/holiday homes.

⁸ Crofting and community ownership were not within the remit of this study, which excluded most areas in the Highlands and Islands where negative impacts related to scale and concentration of landownership have been widely reported.

2.5 Local Control and Decision-Making

Rural estates have been described as local power bases, which historically have had considerable influence on rural communities and economies (McKee et al., 2013; McMorran, 2016). Ownership gives control over land use decisions and benefits, with decisions generally reflecting the interest of the owners of land. While this leads to limited accountability of land use choices and has been described as a ‘monopoly effect’ (LRRG, 2014; Peacock, 2018), evidence has also pointed to the key role landowners can play in contributing to building community resilience, with partnership working a key element of that (Glass et al., 2012; McKee, 2015). In many cases, effective engagement and negotiation between community and landowner (both public and private) can ensure that community needs are met (Roberts and McKee, 2015).

2.6 International Concentration of Ownership

Recent research conducted for the Scottish Land Commission noted that many other countries impose interventions that restrict who can own land (Glass et al., 2018b). A range of motivations underpin those interventions and include (among others): maintaining resident populations; preventing land banking for investment; avoiding corporate control of land; and keeping farmland available for citizens. Ownership of agricultural land is becoming increasingly concentrated in Europe, with one percent of agricultural businesses controlling 20% of agricultural land in the EU and three per cent controlling 50%. Conversely, 80% of agricultural businesses control only 14.5% of agricultural land (European Economic and Social Committee, 2015). With this knowledge, the European Parliament adopted a resolution on the state of play of farmland concentration in the EU in 2017. Beyond Europe, several studies have documented the negative impacts of concentrated landownership and large scale land acquisitions on economic development, food security, education and housing provision (e.g. Falkinger and Grossman, 2013; Davis et al., 2014; Faguet et al., 2016).

2.7 Framework for Analysis

The call for evidence asked respondents to contribute examples and experience of positive and negative issues related to concentrated landownership. In the evidence reviewed above, from both Scottish and international perspectives, two important themes emerged: *power* and *participation* in relation to landownership and land use decision-making. These themes provide a ‘frame’ for analysing the responses submitted to the call for evidence and emphasise the gap in our understanding of the contemporary ‘lived experiences’ of concentrated landownership.

2.7.1 Power

Internationally, rights over land and the concentration of ownership observed historically across the world can be conceptualised as outgrowths of power relationships. The oft-

voiced concerns regarding Scotland's rural landownership pattern centre on the high level of power that landowners hold when making decisions about how rural assets are used and how these decisions affect communities. As MacGregor and Stockdale (1994) explained, private landowners in Scotland play a central role in rural planning, even if this role is an informal one. It is for this reason that the accountability of private landowners in Scotland has been found to be a critical factor in overcoming barriers to community land-based activities (e.g. McKee and Roberts, 2016).

Linked with the general concept of the power that landowners hold is the more specific concern related to the negative consequences of 'monopoly power' (e.g. Peacock, 2018). While the concept of monopoly is usually associated with markets for consumer goods and services, it can, in principle, equally apply to land, particularly in a scenario where the landowner controls access to an area's resources/assets.

2.7.2 Participation

Where land is owned by either a single individual or organisation, or a very small number of individuals or organisations (regardless of the scale of the holding), the ability for communities to participate in decisions regarding how the aforementioned power is exerted is also a concern highlighted in the numerous studies reviewed above.

It is difficult to separate a discussion about participation from that of power as the two are closely linked, although there has been a marked shift in thinking in recent research and policy towards the advocacy and support of engagement and partnership-working between landowners and communities to resolve power-related barriers to the delivery of local sustainable development outcomes and empower communities (e.g. Glass et al., 2012; Roberts and McKee, 2015; McKee and Roberts, 2016).

The inherent aspiration is that participation should take place in a manner that demonstrates two-way communication and an amount of power and control resting with the affected community. This kind of approach is also useful for exposing and challenging existing power relations (an approach advocated by Allmendinger, 2009). Most recently, the Scottish Government Guidance on Engaging Communities in Decisions Relating to Land⁹, emphasise the importance of two-way communication, through the greater collaboration and engagement that Scottish Ministers expect between those who make decisions about land and the local communities that are affected by those decisions.

⁹ <https://beta.gov.scot/publications/guidance-engaging-communities-decisions-relating-land/>

3 Responses to the Call for Evidence

This chapter describes the volume of responses received to the call for evidence, where and what type of landowner these related to. It also summarises the key issues raised in the submissions.

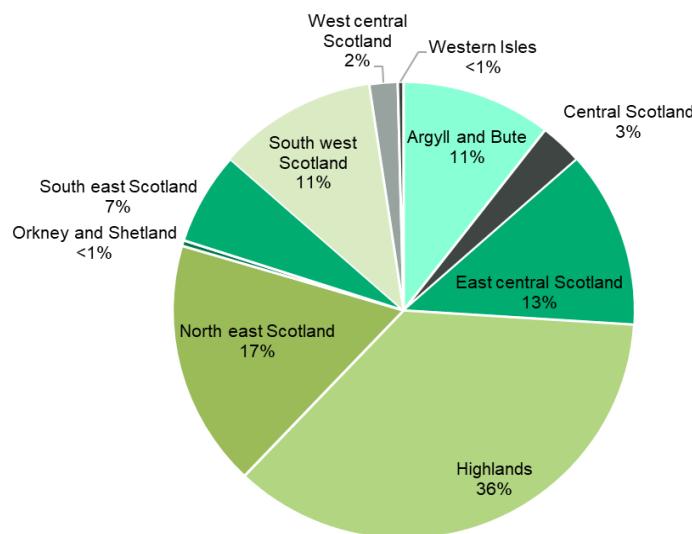
3.1 Summary of Responses

The online call for evidence generated 364 responses of which 299 contained detailed qualitative information. A further 14 telephone responses and 29 written submissions were also received, giving a total of 407 responses. After the initial call for evidence closed Land Commission staff then conducted a further 29 in-depth interviews with people who had responded to the initial call.

3.1.1 Geographical Areas of Experience

Respondents were asked to identify where in Scotland their experience related to. The highest amount of experiences related to the Highlands (36%) and the second highest area related to the North East of Scotland (17%). Although the sample was not necessarily strictly representative in a statistical sense the volume of responses did provide a reasonable representation from across Scotland. See Figure 3-1.

Figure 3-1 – Where Did Respondent's Experience Relate To?



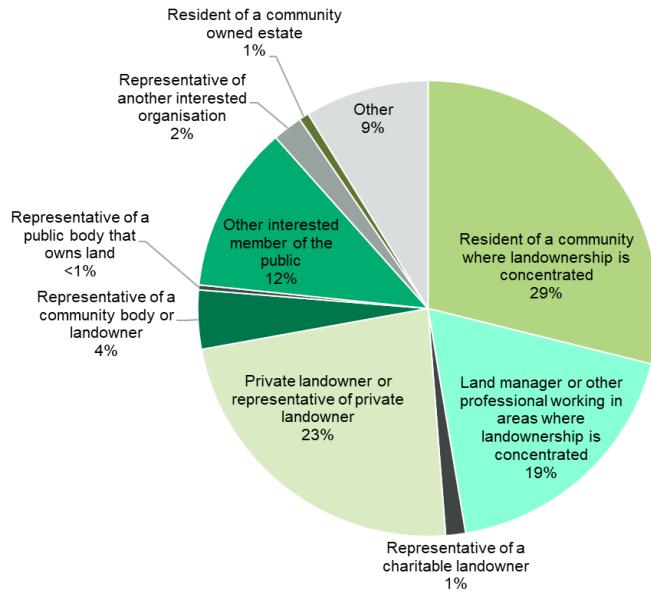
Source: Scottish Land Commission Call for Evidence Survey Responses

3.1.2 Respondents' Identity

Respondents were asked to select the most accurate description for themselves from a list. Approximately a third of respondents did not select an answer and of those who did, 29% indicated that they were residents of communities where landownership is concentrated, almost a quarter said they were private landowners or representatives of

private landowners. A total of 19% of respondents who answered this question identified as land managers or other professionals and 4% said they were representatives of a community body. See Figure 3-2.

Figure 3-2 – Who responded?

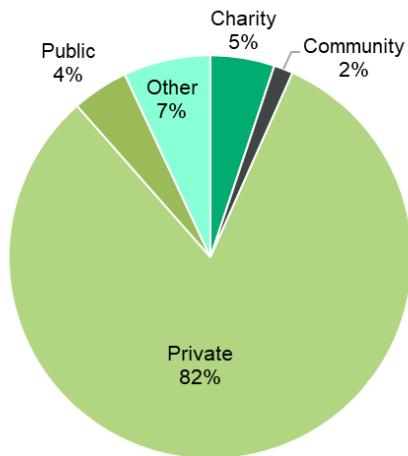


Source: Scottish Land Commission Call for Evidence Survey Responses

3.1.3 Landowner Experience

Respondents were asked whether their experiences related to a particular type of landowner. Of those who answered this question, a significant majority (82%) attributed their experiences to a private individual or business. Overall 2% said that their experiences related to a community landowner, 5% of experiences related to a charitable landowner and 4% to land owned by a public body. See Figure 3-3.

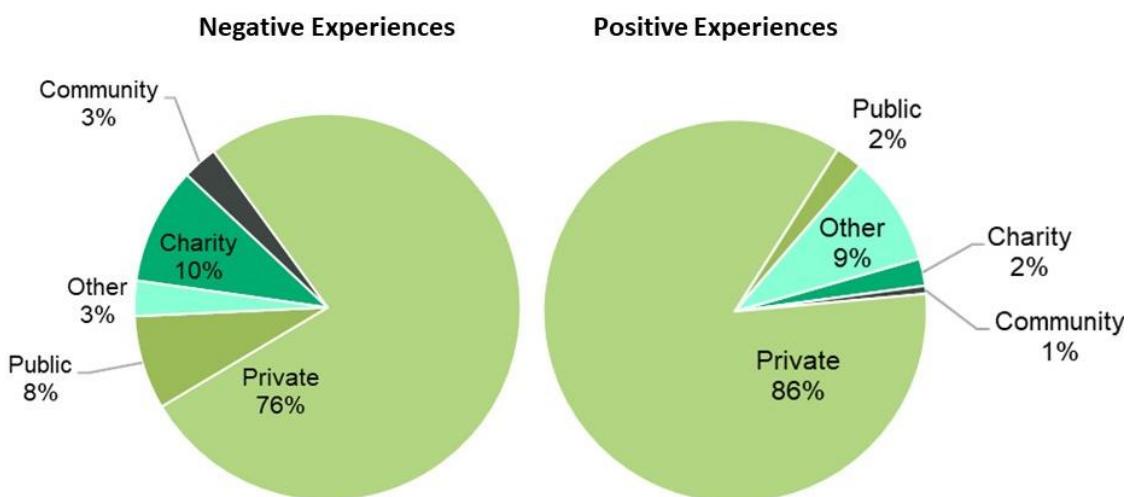
Figure 3-3 - Experience of Different Types of Landowners



Source: Scottish Land Commission Call for Evidence Survey Responses

A breakdown of positive and negative experiences by landowner type is provided in Figure 3-4. This shows that the vast majority of both positive (86%) and negative (76%) experiences related to private landowners, reflecting the fact that the overall number of responses received related to private landowners. At face value this suggests that experience of private landowners tends to be somewhat more positive than experience of other landowners but this result must be interpreted with caution because the survey sample may not be statistically robust. It does however illustrate that the issues associated with Scotland's current pattern of landownership are not necessarily associated with any particular model of landownership.

Figure 3-4- Positive and Negative Experience by Landowner Type



Source: Scottish Land Commission Call for Evidence Survey Responses

3.2 Macro Themes from the Evidence

In some parts of Scotland most of the land is owned and controlled by a very small number of people. Those who responded to the call for evidence were asked two simple questions about this. First, they were asked to whether they believed are any benefits associated with this pattern of ownership and then they were asked whether they could identify any disadvantages. All respondents were then asked to provide examples from their personal experience to illustrate the advantages and disadvantages they identified.

The call for evidence generated a massive volume of information. The online call alone generated over 150 pages of information and a further 110 pages of were supplied as written responses. In addition to this the research team undertook more than 40¹⁰ in-depth telephone interviews, each of which lasted anything up to an hour. Before starting to make sense of all this information it was first necessary to find a way of summarising the data. This was done by reviewing the responses provided and identifying a core set of “macro themes”. These macro themes included:

- **local economic opportunities** - including issues relating to jobs and employment, investment and support for local enterprise;
- **agriculture** – including issues related to the agricultural capability of Scotland’s land and challenges facing new entrants to agriculture;
- **local housing needs** – including the role of large landowners in providing access to rented accommodation and the availability of land for housing development, abandoned residential property and depopulation in rural areas;
- **community and social cohesion** – including issues relating to power and control, community engagement and support;
- **natural and built environment** – including issues relating to conservation and land management; and
- **land management** – including issues around absenteeism, opacity in decision making processes, and concentration of power in the hands of land managers.

Although issues around land management accounted for 13% of total advantages and disadvantages, these issues are not explored in their own right within this report. While closely connected, management of land is distinct from ownership of land, and it is experiences of the latter that this report seeks to understand. The Land Commission does however expect to return to these issues in subsequent work.

The macro themes are not mutually exclusive and the dividing lines between them are often blurred, but nevertheless they provide a helpful framework for summarising the results.

¹⁰ This includes 14 responses received via the telephone and 29 follow-up telephone interviews described at the start of this chapter.

Table 3-1 summarises the main types of advantages and disadvantages identified. Overall local economic opportunities were the single most common type of issues raised, accounting for almost 40% of the total themes identified.

Local economic opportunities were a particularly prominent theme amongst those who identified advantages associated with Scotland's current pattern of landownership, accounting for more than half of all the advantages identified. The second most common theme referred to by these respondents, accounting for 20% of the advantages identified, related to the natural and built environment.

The pattern of responses amongst those who identified disadvantages was somewhat more balanced with 25% of the disadvantages identified relating to local economic opportunities and a further 25% relating to community and social cohesion. A summary of the key themes is provided in Table 3-1.

Table 3-1: Summary of Macro Themes Identified in the Call for Evidence

Macro-theme	Disadvantages		Advantages		Total	
Local Economic Opportunities	187	25%	377	52%	564	39%
Agriculture	34	5%	34	5%	68	5%
Local Housing Needs	93	13%	50	7%	143	10%
Community and Social Cohesion	182	25%	88	12%	270	18%
Natural and Built Environment	77	10%	144	20%	221	15%
Land Management	168	23%	27	4%	195	13%
Total¹¹	741	100%	720	100%	1,461	100%

Source: Scottish Land Commission

3.3 Summary

The call for evidence generated a huge volume of information, highlighting how important these issues are to many people in Scotland. With a total of 407 responses, there was a rich amount of data to analyse.

The survey data reflected a wide geographical spread across Scotland, with the highest percentage of experiences relating to the Highlands (37%). While the survey data related to a range of different types of landowners, a significant majority of responses (82%) related to land owned by a private individual or business.

Six macro themes were identified within the evidence. The most frequently raised theme, which accounted for 40% of all the themes raised, were local economic opportunities. The following chapters explore each of the issues identified further and assesses their relationship to scale and/or concentration of landownership.

¹¹ Totals may not appear to add up to 100% due to rounding.

4 Local Economic Opportunities

With fully three quarters of those who responded to the call for evidence referring to local economic opportunities within their response it is clear that local economic development is at the very heart of issues relating to Scotland's pattern of landownership.

Beliefs about the nature of this relationship differed widely: while there was a strong view from many respondents that Scotland's current pattern of landownership is a barrier to rural economic development, there was an equally strong view amongst other respondents that it generates wealth and employment that would not otherwise exist in fragile rural areas. This section explores the logic behind these differing perspectives.

4.1 Attitude Toward Economic Development

Just over a quarter of the disadvantages identified in the responses indicated that Scotland's current pattern of landownership frustrates economic development within fragile rural communities. Most of these responses were very general in nature but the overall perception was that because landowners have a very high degree of control over decisions about how land is used, they also have the capacity to either help or hinder economic development. The implication of this is that where local economic development is not regarded as a priority by the landowner, then it will not happen.

There are many reasons why economic development may not be regarded a priority and understanding wider estate objectives and motivations for ownership is key to understanding this (a point highlighted in Roberts and McKee, 2015). A common perception for example was that landowners with a strong focus on environmental protection often regard economic development as incompatible with primary estate objectives. As one respondent explained:

"[various environmental organisations] all have conservation agendas that directly negatively impact on their neighbours and the local economies. Often this is because they either remove some of the few sustainable activities available e.g. commercial forestry and deer stalking or they object to development i.e. wind farms, fish farms, forestry expansion, hydro schemes. These organisations do not allow the land to be used to develop the local communities rather they want the land to be preserved for the benefits of mostly people from outwith these local communities who only visit for a very short time. Local communities and their wishes are generally ignored."

In other cases it was alleged that the anti-development stance of some landowners was motivated by a desire to preserve land as a "**playground for very wealthy people**", with one respondent claiming that "**the people who live here play second fiddle to whatever is best for the pheasant.**"

Whatever the motivations, the common theme within these responses was a sense of powerlessness and frustration about being unable to influence decisions about how land

within and around communities is used. Underpinning this is the idea that landowners are under no obligation to take decisions in a way that supports the sustainable development of rural communities.

Rural development is of course determined by a multitude of different factors and the ability to influence decisions about land-use would not provide any guarantee that development outcomes would be realised. To better understand the relationship between landownership and development outcomes it is therefore helpful to consider specific examples how landownership is believed to hinder economic opportunities.

4.2 Business Development and Enterprise Support

One of the ways this was reported to occur was as a result of large landowners obstructing the development of local businesses. Sometimes this was simply a matter of landowners restricting the supply of land for business development (see Figure 4-1)

Figure 4-1 – Land for Business Development

A respondent in the southern Scotland described how the business that they worked for had been forced to close because the owner had been unable to secure any land in the local area on which to expand or relocate. After the business went into administration the respondent bought the remaining stock from their former employer and used it to start their own business. Despite some initial success this business also subsequently folded due to high rents and an inability to secure land for expansion. The business has since relocated to another site but is reliant on expensive imported materials because the landowner has refused permission to build facilities for production on the site, compromising long term viability.

Source: SLC Interviews with respondents to call for evidence

More often however these issues related to the terms under which land is sometimes made available and the lack of security this provides. A typical example of this is provided in Figure 4-3.

Figure 4-2 – Risks for Rural Business Investment

One respondent from a small village described how their local hotel business is privately owned but built on land owned by a large estate. The hotel is performing well and an extension to the car park is now required to accommodate growing demand, but the landowner is unwilling to sell the land required to do this. This has left the hotel owner with the difficult choice of either investing in an asset over which they have no financial stake to secure the future of their business or allowing business growth to stagnate.

Source: SLC Interviews with respondents to call for evidence

Similar scenarios were described by several respondents from different locations across Scotland, but the underlying concern in each instance was the same: why invest in a business if you have no assurance that you will be able to reap the rewards? In many cases, like the example of the hotel described above, the business owner involved did opt to take the risk of investing in their business, but it appears that these risks do not always pay off. The potential consequences when this happens are well illustrated by the example below.

Figure 4-3 – Consequences of a Lack of Financial Security

One respondent described the situation facing a successful charitable enterprise, which provides support and therapy through a dedicated centre to local clients with a variety of physical, mental, educational or behavioural needs. The centre is located on privately owned land and had a twenty five year lease. The previous owners had been very supportive of the operation and the centre had been led to believe that the land would eventually be gifted to them. This understanding gave them the confidence to invest significantly in a variety of custom-built facilities, but it was never formalised. The land has now passed on to the next generation who have decided neither to gift the land nor renew the lease. The centre is now facing the prospect of either trying to start from scratch at a new location or disbanding entirely.

Source: SLC Interviews with respondents to call for evidence

In both these cases (and others like them) it was claimed that the inability of local businesses to acquire relatively small amounts of land to support business development was acting as a barrier to development for the entire community. At face value this would appear to be a supply problem in that some landowners are simply unwilling to sell land (or make land available) to support business development. This becomes a problem where a single landowner owns all or most of the land within a particular locality because of the lack of alternatives available to the business owner concerned.

4.2.1 Rural Enterprise Support

To conclude that this is a simple issue of land supply would however risk overlooking the valuable and important role that landowners can and do sometimes play in supporting the establishment and growth of local enterprises. The experience of one resident of a privately owned estate in rural Perthshire is particularly instructive in this regard (see Figure 4-4).

Figure 4-4 – Supporting Local Business Development

One former resident of a privately-owned estate in rural Perthshire described how he and his wife had been able to establish and develop a successful horticultural business with the active support of the landowner. In 1980 the landowner offered the couple the use of an old walled garden and a house that were in need of maintenance for a peppercorn rent. The initial agreement was for a period of five years, which gave the couple a chance to establish the business before starting to pay rent at a commercial level. During this time the estate actively supported the business, at one stage paying to demolish part of a wall to allow HGV access to the garden. The business continued to grow, supporting local jobs, until the couple eventually moved on to bigger premises.

Source: SLC Interviews with respondents to call for evidence

In this example, by accepting a nominal rent for an initial period, the landowner involved effectively took on some of the financial risk associated with the start-up phase and enabled a successful new enterprise to become established. This approach is standard practice in other sectors, with enterprise agencies often providing incubator facilities to support new businesses through the risky start-up phase. In principle there is no reason why a private landowner should not play this role. Where this seems to go wrong is when there is no effective “exit strategy” at the outset.

When enterprise support agencies provide incubator space for enterprises this is typically time-limited and provided on a clear understanding that once the initial lease has expired the business will move on to larger facilities elsewhere – often in “grow on” space provided by the same agency. This allows the business to continue to grow and the agency to begin providing support to other new businesses. Similarly, universities often take a financial stake in spin-out companies that is then sold once the business has become established. In both cases the agency involved has an exit strategy in mind that is clearly understood by both parties at the outset.

From the evidence submitted it would appear that this clarity and mutual understanding is often absent from the relationships between landowners and their commercial tenants. Indeed, a common feature amongst these respondents was the lack of formality underpinning what were often very long term business arrangements. In these scenarios problems often seemed to arise when there was a change of ownership and informal arrangements – “gentlemen’s agreements” – that had served well under the old landowner were not recognised by the incoming landowner.

4.2.2 Gentlemen’s Agreements and Rent Seeking Behaviour

Informal “gentlemen’s agreements” between landowners and their tenants were referred to by several respondents and appear have been a factor in many of the most emotive responses received. A typical example, which was described by a number of different respondents, is provided in Figure 4-5 below.

Figure 4-5 – A Gentlemen’s Agreement Gone Wrong

Several years ago, a resident of a particularly remote rural community was keen to establish a small business. To do this he required a small amount of land. As all of the suitable land was owned by a single estate he approached the local landowner for permission to use a suitable site. Fortunately the landowner was amenable to the proposal and agreed to allow the resident to use the land at no cost on an informal basis.

Over time the business developed into a small but successful operation, providing employment for the business owner and supporting economic activity within the community, but a formal lease for the land was never agreed.

Eventually the owner of the business decided it was time to move on and entered into negotiations to sell the business. By this time the old landowner with whom the original agreement had been made had passed away and ownership of the estate had passed to the next generation, whose approach was much less supportive.

Negotiations with the prospective purchaser initially progressed well but then suddenly collapsed when the new landowner unexpectedly raised the issue of back payment for rent for the land. Concerned with the prospect of being presented with a large bill at the outset of a new venture the prospective purchaser decided to pull out.

Source: SLC Interviews with respondents to call for evidence

In this example the absence of a formal lease and the unhelpful approach of the landowner led to the breakdown of negotiations. It would be easy to attribute this simply to the behaviour of a single individual but the responses received suggest that this

experience is actually a symptom of a much more fundamental problem with Scotland's current pattern of landownership.

In a competitive market the price of a factor of production (in this case land) should reflect the cost to its provider of bringing it into use. At the outset of the scenario described above the piece of land in question was unused and there was no demand from anyone else to use it. Allowing the business owner to use the land therefore cost the landowner nothing and this was reflected in the lack of a formal lease.

Over time, as the business grew, the land became more valuable to the business owner but, the cost to the landowner of allowing him to use it did not change. This was because there was still no one else interested in using the land so the landowner was not forgoing any opportunities to lease or sell it to someone else who might have been willing to pay more. In a competitive market the cost of leasing the land would therefore have remained negligible.

Instead, the landowner in this scenario tried to use the sale of the business as an opportunity to claim a share of the value created by the business owner by making a claim for historic rent. The landowner was able to do this because they knew that the business owner had no choice but to accept the landowners terms because of the lack of alternative premises. In economics this kind of behaviour it is described as "rent seeking" and it is a hallmark of monopoly power.

4.3 Jobs, Investment and the Role of Private Capital

When describing the advantages associated with Scotland's current pattern of landownership, a third of such responses referred in some way to the jobs created and employment supported by privately owned estates. Indeed, this benefit was mentioned more frequently than any other. A quarter of such responses also referred to the investment made by private landowners in their properties and the benefits that this brought to fragile local communities. Two factors underpinned most of these comments. One was the perceived value of private investment to the rural economy and the second were arguments about economies of scale.

4.3.1 The Importance of Private Capital

For many respondents Scotland's pattern of landownership was synonymous with large scale private landownership. These respondents tended to regard major private investment as necessary for "subsidising" fragile rural areas that would otherwise struggle to thrive economically and to see the figure of a benevolent private landowner as an important feature of Scotland's current pattern of landownership.

"There are large tracts of Scotland where there is very little income derived from owning the land... A reasonable number of these units are owned by wealthy individuals who are happy to 'subsidise' these units from income generated elsewhere. They also provide employment to local people to manage the land."

The implicit assumption underpinning this type of statement is that because large areas of Scotland currently generate little wealth, they are incapable of doing so and that some kind of subsidy will therefore always be necessary to support them (an assumption well-documented in academic literature, e.g. McKee et al., 2013). Many of those who held this view suggested that if a subsidy is required, it is better that this is provided through private benevolence rather than the public purse.

This argument is therefore one about the model of ownership (public vs private) rather than scale or concentration. This was a point of confusion that emerged repeatedly in the responses provided to the call for evidence with many respondents equating concern about the scale and concentration of landownership in Scotland with hostility toward private ownership. The two issues are of course logically distinct.

This distinction is important because it invites the question of whether a large number of small private landowners, each investing relatively modest amounts of capital, could generate similar (or even greater) benefits to large scale investment by a single large landowner. The answer to this question merits further investigation.

4.3.2 Economies of Scale

Behind many of the comments related to the value of private investment was the idea that the quality of much of Scotland's land is such that productive use is only financially viable when undertaken at scale. This notion of economies of scale takes the simple argument that large scale private landownership creates jobs and investment a stage further by suggesting that the jobs and investment created in this way are somehow better than would be possible under a more diverse ownership structure.

Some landowners were able to provide clear examples of why this could be the case. At least one landowner explained how they were able to justify employing staff with specialist skills because the size of their landholding meant that these skills could be fully utilised in a way that would not be possible on a smaller estate. Another said that the size of their landholding enabled them to provide more secure jobs because they could temporarily cross-subsidise activities if necessary (e.g. by using income from holiday lets to help pay a gamekeeper's salary during a poor shooting season).

Other landowners argued that large landholdings can be beneficial because they make it easier for landowners to deliver large scale development projects. As one landowner described: ***"scale can often be a beneficial thing. It has allowed this estate to promote [three large scale development projects]. All of these require the sort of patient capital and co-ordination of significant areas of land that the success of these projects often depends on – singular ownership to allow them to succeed."***

These arguments have strong theoretical foundations but what is less clear is how often these benefits are realised in practice and who the main beneficiaries are.

Overall, economic disadvantages identified in the call for evidence related to local employment were cited in 15% of responses, and in 24% relating to lack of investment by the landowner. Some respondents were of the view that the jobs supported by the estates with which they were familiar added little value to the local economy because they tended to be poorly paid, insecure and seasonal. As a crofting tenant in one privately owned estate put it: “***the estate no longer employs anyone other than a cleaner of a holiday house on change over days***”. Other respondents raised the issue of who benefits from investment of private capital, with a resident of one Highland estate claiming that the owner of the land on which they live “***simply does not want any form of development to happen which is not directly controlled by the estate and which benefits the estate alone.***” This would seem to suggest that the economic benefits said to derive from scale of landownership may not be realised as often as they could be and where they are tend to benefit landowners more than communities.

4.4 Summary

Two factors underpin most of the economic advantages associated with Scotland’s current pattern of landownership. One is the value of private investment to the rural economy and the second are arguments about economies of scale.

While private capital can (and does) play an important and sometimes transformative role in the development of rural economies there is no automatic link between private capital and large scale landownership. The two concepts are logically distinct and recognising the value of the former does not imply acceptance of the inevitability of the latter. Similarly, while there is a strong theoretical basis for arguments that large scale landownership can enable landowners to realise economies of scale, this does not necessarily imply that large scale landholdings generate economic benefits for the surrounding communities. Decoupling the perceived link between economies of scale, community benefit and the value of private capital is of primary importance to this analysis.

There also appear to be two key factors underpinning the economic disadvantages discussed in this chapter. The first relates to the ability of communities to participate in decisions about how land is used and managed and the second relates to the power of some landowners to restrict the availability of land for business development. These themes are consistent with the academic literature considered in chapter 2 and reflect the framework for analysis presented in section 2.7.

An environment in which businesses can access land for expansion and business owners have the confidence to invest in their businesses is clearly crucial to rural economic development. In areas where landownership is concentrated landowners have the power to directly control this environment by deciding whether and on what conditions to make land available for business development. The evidence considered

in this section suggests that, while some landowners appear to exercise this power positively, others seem to misuse it in ways that restrict business development.

It would be easy to conclude that addressing this could be achieved by focusing on improving individual behaviour, but this would miss the point. As many of the examples described above have illustrated, it is often not what a particular landowner may (or may not) have done that is important – but rather their ability to do it and (even more importantly) the inability of those affected to do anything about it – and that is a systemic failure.

5 Community and Social Cohesion

Issues around community and social cohesion relating to the current pattern of landownership were the second highest identified theme overall, accounting for 18% of all comments. In contrast with many of the other themes identified in this research these comments predominantly related to negative experiences, with more than twice as many responses citing disadvantages as advantages.

In broad terms three main categories of experiences were identified: issues around imbalance of power in decision making processes, landowner retention of control over land assets after disposal (“residual control”); and the impact of non-market investment. These issues are examined in turn below.

5.1 Imbalance of Power in Decision Making Processes

Underlying many of the social disadvantages identified by respondents was the very significant imbalance of power that often exists between landowners and communities in relation to decision making. These issues encompassed all landowner types, and often resulted in individuals and communities feeling that they lack control over the most basic aspects of their lives.

5.1.1 Community Engagement

Numerous respondents provided examples of landowners acting without consideration of the needs of the community when taking decisions relating to land holdings. Several respondents also described instances of residents and communities attempting to engage with landowners, but being unable to make any progress because the landowner was either unwilling to engage in a meaningful or reasonable manner, or in extreme cases was opposed to engagement. Overall comments relating to poor community engagement accounted for 58% of the disadvantages identified within this theme.

However, it should not be supposed that poor community engagement was a universal characteristic of Scotland’s current pattern of landownership. There was clear evidence suggesting that some landowners are keen to engage with residents and communities on a level playing field and with full respect (this is similar to the findings of McKee, 2015 and Glass et al., 2012).

This issue can be directly related to the concentration of decision making power and lack of effective community engagement in decisions in some communities.

5.1.2 Access to Professional Support

One of the clearest manifestations of the imbalance of power between landowners and communities – specifically the landowners greater economic power – was in the professional resources available to many landowners. Respondents often reported that landowners could afford the best solicitors, land managers, accountants, and business

and professional advisors – often on a permanent basis – where this was simply not possible for the resident or community.

It was reported that this often enabled landowners to secure more favourable outcomes in negotiations than might have occurred were engagement more balanced. It was also reported that such landowners (particularly absentee owners) often avoided direct engagement with communities by using professional intermediaries, with some respondents suggesting that some landowners have a tendency to “**hide behind**” their agents.

One land manager from south west Scotland for example reported that one “**landlord would never sit down and meet in person. They would never email or write a letter without taking advice. This takes a long time and is not a good way of doing things. The landlord should have to sit with local groups. There's an element of hiding behind their solicitor or land agent in areas of concentrated ownership.**”

Not all landowners exploit their advantage through use of agents however, as one respondent from the Central Highlands noted that their local “**estate do not employ factors or land agents. The owner fights everything and then settles everything by paying at the door of court. There's no mediator and when you contact the landowner with an issue, there's an effect on the whole estate. He has no respect for the tenants.**”

While it may be an option for a few residents or communities to take their landowner to the doors of the court to resolve an issue as noted above, for the large majority this appears to be out of reach because of limited resources. The reported behaviour of some landowners suggested that this is something they know and count on.

Even where some landowners seem to be willing to engage, circumstances may not always be straightforward or appear fair, and the exercise of an advantage in economic power is evident. One crofter who responded to the call for evidence for example described her experience how the estate she lives on had sent their factor to have an informal discussion with her about her proposals to purchase her croft. During this discussion the factor informed her that she would be required to pay his fees and the cost of this was likely to amount to at least £2,000.

Examples of communities or residents of communities being expected to pay expensive professional fees in order to negotiate with landowners were not uncommon as Figure 5-1 below illustrates.

Figure 5-1 – Community Asked to Pay Landowner’s Fees

One respondent reported that a landowner in the Highlands had been in negotiation with the local community body to sell a plot of land for business and housing development. Negotiations had taken several years and seen various changes to the proposals with the landowner apparently moving from enthusiasm for the project to outright hostility.

Eventually the landowner agreed to take the proposal forward on the condition that further negotiations would be conducted through the landowner’s agent in Inverness. Two community members travelled to meet the agent; a not insignificant journey.

The respondent reported that the meeting was unsatisfactory for two key reasons. Firstly, the agent did not show much understanding of negotiating small land sales. Secondly, at the end of the meeting the agent stated that the landowner wanted the agent’s costs to be covered by the community body, with the steps in the process and the amount of work to be done to be determined by the agent. The agent estimated this would cost in the region of £10,000.

This was unacceptable to the community body because it would effectively take away any community control over the process and the funds required would be beyond the community body’s ability, with hardly a hint – far less a guarantee – of success.

A community body representative contacted the landowner explaining the difficulty this would cause and asking for a better approach. The landowner did not reply.

The community body has since prepared a revised offer for the site with a view to putting it directly to the landowner for consideration. However, at the time of writing there was no indication as to whether the process might be successful.

Source: Written response to SLC to call for evidence

5.1.3 Networks and Connections

The issue of personal networks and connections was a common theme within the evidence with several respondents noting that their local landowner was well connected at a variety of levels and could enjoy support from extensive personal and business networks that residents and communities do not have access to. Commonly highlighted connections included parliamentarians and local councillors; senior local authority officers; senior police officers; members of the legal profession including solicitors, advocates, QCs, sheriffs, and judges; accountants; prominent local and national business people and chambers of commerce; business and professional organisations.

Several respondents expressed the belief that landowners were able to draw on these personal connections to quietly influence decisions without recourse to official channels. There was a strong feeling amongst these respondents that such landowners were able to draw on traditional sources of social power that were simply not available to “**ordinary people**”, with more than one respondent alluding to a “**them and us**” culture. An example of this type of behaviour is described in Figure 5-2 below.

Figure 5-2 – A Well-connected Landowner

One respondent reported what appeared to amount to a long catalogue of abusive behaviour toward himself and other residents by a local landowner. Although the landowner in question no longer owned the respondent's home, it was reported that he continued to own a very substantial proportion of the land in the local community and behaved in a way that would suggest he had strong sense of his continuing entitlement to control numerous aspects of life within the community.

The respondent recounted numerous instances of altercations between the landowner and different members of the community. In one example reporting that he had made a complaint to the police after the landowner had entered his property uninvited and verbally attacked him.

The respondent went on to describe how the community had been unable to stand up to the landowner because they felt they could not rely on the support of senior public figures within the police and local authority, who were alleged to have close personal connections with the landowner. The respondent provided various examples to illustrate this point including an allegation that the local authority had on one occasion taken what would appear to be unnecessary and disproportionate enforcement action against a local resident who had acted against the landowner's wishes. The respondent contended that this action was prompted because a local councillor was a personal friend of the landowner.

The respondent believed that the landowner's status and connections have protected him, describing how he had no expectation that his complaint to the police would result in action "***because he's a titled gentleman, a landowner - given all that - I thought I didn't have a leg to stand on. This man is bomb proof. His status as a multi-millionaire landowner and part of the gentry means he thinks he can treat people around here as serfs.***"

Source: SLC Interviews with respondents to call for evidence

No attempt was made to verify the allegations made in Figure 5-2 and it is not known to what extent the incidents reported reflect genuine attempts at intimidation. To simply dismiss these concerns as the result of personal animosity between individuals would however be to miss the point. Regardless of the truth behind the allegations, the respondent in this example firmly believed that he could expect no protection from public authorities and that the landowner was beyond reproach simply by virtue of his position in society.

Although the strength of feeling highlighted in Figure 5-2 was rare within the evidence, the acknowledgement that landowners tended to have access to wider networks, especially those that gave them advantages, and show willingness to use connections where that would prove advantageous, was common.

This ability to access networks such as these provides clear advantages to landowners who choose to exploit them, and is a clear indicator not just of the imbalance of power in landowner – resident/community relationships, but also of a wider concentration of power in a relatively small number of hands. There was no indication within the evidence that residents or communities could access such networks.

5.1.4 De Facto Planning Authority

One manifestation of landowner's local influence that was highlighted by several respondents related to the land-use planning processes. Several responses highlighted

instances of landowners acting as a “de facto planning authority”, exercising a significant amount of influence over planning decisions up to the point where some respondents suggest that they have greater control over the planning processes than the local authority. This phenomenon has also been noted in academic research such as Mc Morran, (2016) and McKee et al., (2013).

Often this issue arose because of the combined use of economic power, access to networks, and an unwillingness to engage meaningfully with the community. In some cases it was reported that landowners had used their power and influence to promote their own development proposals, and intimidate potential objectors into remaining silent, leading to an unwillingness to participate in the democratic planning process.

This issue was raised by a number of respondents but particularly compelling evidence was provided by a professional respondent with many years’ experience of operating within the land-use planning system. This individual provided details of five separate cases with which they were personally familiar of individuals and communities who had felt unable to participate in the land-use planning system for fear of potential repercussions by the landowner. The respondent went on to report that the examples provided had been selected as examples from a much longer list of similar experiences.

A typical example of the type of behaviour highlighted by one of these respondents who raised these issues is provided in Figure 5-3.

Figure 5-3 – Residents Intimidated by Estate Factor at Public Meeting

One respondent described how a public meeting had been arranged to discuss a particularly controversial planning application being promoted by the local landowner. The event was well attended and several of those present had previously voiced concerns about the proposed development, so the respondent anticipated a lively discussion.

Shortly before the event began the estate factor entered the hall and sat down to one side of the audience, near the front of the room looking back toward the audience and was clearly seen taking notes during proceedings.

As the meeting progressed, some of those who had previously voiced concerns about the proposal remained silent. After the meeting the respondent was told that the factor’s presence had deterred some of these individuals from speaking up because they feared potential repercussions for themselves or relatives.

“While it would be conjecture to conclude that the factor had deliberately set out to intimidate, there is no doubt that this was the effect that his presence and demeanour had on some people.”

Source: Written response to SLC to call for evidence

Similarly, while none of these cases provide categorical evidence that landowners have deliberately set out to use their power to intimidate or silence opposition to developments, or prevent residents and communities from participating in the planning process, there is a very clear feeling among such respondents that opposing the landowners’ plans would lead to serious individual or community consequences.

5.1.5 Fear of Repercussions

It was clear from the evidence that some respondents felt a very strong fear of the repercussions that could arise if they were seen to oppose the wishes of their local landowner. The types of repercussions reported ranged from tradesmen being “**black-listed**” or people having employment contracts terminated through to acts of physical intimidation and vandalism such as stock fences being cut or car tyres being slashed. While it is important to be clear that no attempt was made to verify such claims, the evidence presented was very compelling and the fear and emotional distress expressed by those who reported them was palpable.

In areas where a dominant landowner provides a significant proportion of local jobs or owns a significant proportion local housing, offending that landowner was regarded as a real risk due to the lack of alternative employment prospects/housing options available. The fear of repercussions can thus be seen to be directly proportionate to the landowner’s ability to inflict such repercussions, which is in turn rooted in the concentration of economic power within the communities concerned.

The important point here is that the fear of repercussions is not necessarily related to how a landowner may have behaved in the past (although this can be important) but rather to how they *could* behave in the future. It is not difficult to see how detrimental living with such an culture of fear would be to the long-term development prospects of a community.

On the other hand there is no evidence to suggest that landowners experience any concerns or difficulties objecting to residents or community plans. Indeed, while some landowners may appear to be less subtle in the application of their power to achieve their desired outcome, other landowners take a different approach, relying on their ability to draw on much greater resources to frustrate plans they oppose, and wear down the resolve of applicants – see Figure 6-3.

5.1.6 Frustrating Community Development

A number of responses highlighted scenarios where landowners had impeded community development. Similar to the experiences outlined in Chapter 4, this type of behaviour is only possible where power is concentrated in the hands of the landowner.

What was clear within the evidence is that this type of negative experience is disproportionately associated with charitable landowners.

Figure 5-4 – Charitable Landowner Opposes Children’s Play Park

One respondent reported that as a community representative they worked with local groups to try to provide a small play area and playing field for the local primary school. This would have involved acquiring a small parcel of land from the landowner and installing play equipment.

However, the community’s efforts were constantly thwarted by the landowner raising spurious points and refusing to release the land for the purpose.

The community eventually gave up after three years of negotiating, by which point the local authority had become involved in negotiations, however the Council backed the landowners position, which was very demotivating for community.

The respondent stressed that this is particularly frustrating as the landowner has charitable status and is supposed to be community minded.

Source: SLC Interviews with respondents to call for evidence

Sometimes landowners may also frustrate community development to take advantage of good ideas themselves, as one respondent reported: “**The Community explored the possibility of putting a community-owned wind turbine up in local area. This would have provided a sustainable revenue stream. The landowner refused to sanction the project, saying at the time that he did not like the look of wind turbines. He subsequently installed a 100kW wind turbine of his own close to the main estate house.**”

While there is evidence of private and public sector landowners frustrating community development, the reason behind the particular frustration with charitable landowners is the perception that they are supposed to be acting in the public interest, whereas respondents generally accepted that other landowners will follow their own priorities.

Regardless of landowner type, the ability to frustrate community development clearly arises from the concentration of resources in the hands of the landowner. In some cases this may also include the capacity and willingness to wear down and wait out proposals, and where charitable owners are involved, use of a very narrow interpretation of their charitable duties and definition of “best value”.

5.1.7 Changes in Ownership

Another area highlighted by a number of respondents was the lack of control, and often a feeling of helplessness when changes in ownership occurred. Whether this change occurs through sale of the holding or succession within the owning family, many respondents felt shut out of the change and particularly for those dependent on the landholding for employment, housing, community support or other factors this can be a very disempowering experience.

The evidence presents mixed experience from respondents of both positive and negative impacts from a change of landowner. One respondent from Argyll described how they had been affected by a change in ownership:

"In the 1970s the landowner was progressive, open to ideas, and generally supportive of community and enterprise. The community was vibrant, and gave moral and physical support. But the current landowner (son of the previous) has a 'Trumpian' attitude which impedes his thinking - he's hard-nosed and personally difficult, not interested in enabling and encouraging people, and fails to understand that this would be good for the local economy and future."

Conversely one respondent and community councillor in the North East described their experience of working with the local landowning family in very positive terms, emphasising the fact that the family lived locally and "**will attend Community Council meetings if requested.**" They were also very comfortable with the landowners succession plans.

While succession within a family may provide relative stability in ownership, regardless of other impacts, there are cases where holdings transition through a number of owners in relatively quick succession which from the evidence appears to be negative.

Figure 5-5 – A Bleak Future

A crofter on a West Highland estate detailed the history of various owners from the end of the first world war to the present. Immediately after the war the estate invested in forestry which was good at the time, but subsequently was never replanted. This provided no long term benefits to the locality, and the ground that had been planted and subsequently harvested is now a "**wasteland**". The opportunity for local forestry enterprises has been squandered.

Further ownership changes over 20th century were perceived to have resulted in a confused land use strategy, biodiversity loss, and no consistent planning.

The current owner is an absentee who relies on factors, shows no real interest in the estate or community, and only turns up a couple of times a year to shoot/stalk. Everything else is secondary to stalking considerations. The respondent alleged that croft fences had been cut to enable easier stalking.

The respondent believed that around 70% of local houses were holiday and 2nd homes – with the owners "in cahoots" with the landowner to stifle development and preserve the "**wilderness**" aesthetic. There was a strong perception that the landowner had no real interest in the local community as they were only there a couple of weeks at a time.

The respondent reported that the landowner had control over the common grazings, alleging that "the grazings committees are in his pocket", and that the landowner allegedly gives "**gifts**" and "**rewards**" to committee members for compliance.

The respondent stated that the community felt beholden to the landowner, with most being unwilling to "**rock the boat**" as the landowner actively blocks development of new business, using a range of tactics to exert control over land to hold locals back. The respondent reported that the landowner appeared not to want anyone else "**making a go of it**".

Source: SLC Interviews with respondents to call for evidence

It was clear from the evidence that there is significant frustration within some communities about the lack of influence residents and communities feel they have when this change occurs. This feeling arises from the fact that one individual or entity has significant control or influence across many aspects of individual and community life, and that it can be a bit of a lottery as to whether life will improve or deteriorate under the new regime.

5.2 Residual Control

A small number of respondents reported situations where landowners have sold land, but certain rights have been retained by the landowner (usually access and sporting rights), and occasionally included other clauses in the settlement such as a clawback or right of first refusal should the new owner wish to develop or sell on.

Figure 5-6 – Landowner Retains Croft Sporting and Access Rights

Prompted by a change in estate ownership one respondent entered negotiations to buy their croft. They noted that their neighbour had done so a number of years earlier with some success and had hoped to come to an arrangement on similar terms.

The sporting rights on the neighbouring croft had been sold to the crofter, however, only on the condition that they were leased back to the estate for a nominal rent. During the negotiations it came to light that in the intervening years the entire estates sporting rights had been packaged and leased to another of the landowner's companies for more than 100 years. The respondent indicated that this was to stop further sale of such rights to crofters so the landowner could continue to shoot and stalk unimpeded, which appeared to be their only real interests in the estate.

The respondent also reported that the landowner retains significant access rights. They reported that although they maintained the tracks on the croft and have installed fencing and gates to help manage their sheep, the landowner and sporting guests regularly use the tracks, and often leave gates open and damage fences. This has caused sheep to escape, get mixed up and once triggered stressful early lambing when the rams got amongst the ewes.

There have also been incidents of driving through fields and crops, and ad-hoc parking along the riverbank to go fishing, blocking access and causing damage.

The respondent reported that similar behaviour occurred across neighbouring crofts and on the common grazings where the landowner has retained these rights.

Source: Written response to SLC to call for evidence

While respondents who have bought land were broadly pleased that they had the freedom to develop their asset or business as they saw fit, the retention of rights by the previous landowner was a clear flashpoint for conflict, and when exercised in a discourteous or arrogant manner was evidently frustrating and disempowering.

In cases where rights had been exempted from the sale of land to be retained by the current landowner, or conditions attached regarding future sale or development, the evidence suggests that this is usually non-negotiable and that ultimately the individual or community pursuing the sale are forced into a take it or leave it scenario.

This clearly demonstrates the effect of concentration of power in the landowner's hands and typifies monopolistic behaviour in that any land sales either happen on the landowner's terms or not at all.

5.3 Non-Market Investment

A prominent theme amongst those who identified benefits to the community from Scotland's current pattern of landownership, was the opportunity for it to provide non-

market investment in rural communities (i.e. investment made without the expectation of a financial return, and/or for non-financial purposes).

5.3.1 Positive Experience of Non-Market Investment

A significant number of respondents who identified as landowners and land managers were keen to detail examples of non-market investment they felt were of benefit to the local community. Some respondents who identified as residents also cited a range of examples of where they believed their local landowner(s) had made such investments.

Examples given of such investments included the provision and maintenance of community facilities such as village halls; investment in infrastructure such as roads and bridges; preservation of built heritage; and direct financial support for community events like fairs, fêtes, galas, and highland games.

Landowners who made these types of investments were viewed very positively by residents, and in many cases such decisions appear to have been made following extensive community engagement, and often built on long-standing relationships between the landowner and the community.

Additionally, a number of landowners and managers also commented on the fact that some such investments were made for the long term benefit of the land holding and the community, in some cases for decades or longer into the future. While acknowledging this was not entirely selfless, these respondents also pointed out that there was no expectation of any type of return during the landowner's lifetime, with some suggesting it was their duty to think of the next generation rather than short term financial gain.

One landowner was keen to stress that "**We don't own the estate, we look after it so we can pass it over to the next generation**" and another that "**You don't own land but you are looking after the land for future generations.**" One land manager added that "**...no one owns anything, one is a tenant for life only.**"

This attitude to long term thinking and generational succession was particularly clear in the experiences reported regarding private landowners with long standing familial ownership who lived wholly or mainly on their holding. This resonates strongly with academic research on the continuity of ownership and its importance for landowners (see section 2.4).

5.3.2 Economies of Scale and External Resources

A number of respondents across all categories argued that positively perceived investment is only possible due to significant economies of scale being achieved through having large scale land holdings capable of supporting diverse business operations.

However, several respondents also pointed out that in multiple cases this type of investment came not from economies of scale derived from large scale landholdings, but from off-estate activities or resources not derived from the land in question. In many

cases it appears that the landholding was not considered a primary business by the owner, or indeed a business at all.

For example, on one estate in the Highlands “*...the new owners have pumped in millions of pounds to the local community, in the form of new village hall, more employees, diversification and major local building work. This example is repeated in many other areas.*”

This presence of external resources appears to be particularly true amongst perceptions of third sector landowners, and some private landowners with conservation and environmental priorities, where some respondents felt that these landowners were deliberately reducing local economic activity to pursue other goals and are reliant on income derived from outwith the landholding.

Even in instances where landowners were reported to be engaged in more traditional business activities, there was evidence to suggest that often substantial external resources were being used to enable non-market investment in a way that may not otherwise happen.

This in turn poses questions about whether the economies of scale derived from large landholdings are in themselves allowing positive non-market investment, or whether such investment is in reality a question of management priorities and the availability of additional external resources.

There is also no clear evidence that where large scale land holdings are supporting non-market investment that this could not equally be achieved through multiple smaller landowners pooling resources.

5.3.3 Negative Experience of Non-Market Investment

While positive experiences of non-market investment were broadly recognised across all respondent categories, the majority of negative experiences were reported by residents. Negative experiences fell mostly into two themes: private landowners (usually absentees) prioritising sporting activities; and third sector landowners prioritising their defined aims (often conservation related).

As indicated in 5.3.2, there was a perception that some third sector landowners can afford to make non-market investments due to having substantial external resources – the same holds true for the private landowners described in this section.

A number of respondents identified landowners behaving in a particular manner, one from the west Highlands reported that the local landowner “*lives in the south of England and comes to the estate for a couple of weeks each summer for shooting. ...he treats it like a playground and doesn't invest anything in the area and has no interest in its development.*”

Another respondent from the north east said their local landowner “*comes twice a year to shoot with friends - short visits*”. The respondent in this case further elaborated

that the estate in question employs a minimal number of staff to keep basic functions related to sporting activity running for the benefit of the owner, and engages in no other business – not even commercial sporting opportunities.

In these examples it was clear that there was little in the way of land based business supporting the holding, and the role of external economic power was vital in maintaining any activity. It was also clear that these cases demonstrate non-market investment, with some identifying this particular use of economic power as behaviour typical of “trophy” landowners (i.e. those who regard their landholdings as a status symbol and use them mainly for occasional sporting or recreational purposes).

Respondents reported that while by and large these types of landowners were not necessarily malicious in their intent, being described by some as **“guilty of benign neglect”** there was a clear lack of community engagement in decision making, and a clear disinterest in supporting the ambitions of local communities.

While third sector landowners tended to have very different management priorities to the private landowners described above, the tendency towards a myopic focus on charitable priorities did appear to have similar effects in some areas. The evidence gathered included a number of cases where non-market investments were being made with poor or no consideration of the local community and often lacking in meaningful engagement.

One resident in the north Highlands highlighted issues with a third sector landowner who **“neglected local residents wishes and failed to meaningfully engage with the local and wider community. Displayed an arrogance that would be condemned in a private landowner. Felt that they were untouchable as a charity and they knew best. Built unsympathetic structures and destroyed peatlands.”**

Given the significant economic power these types of landowners can and do exert over their holdings, and the local communities, combined with the resulting weakening of the local economy and community cohesion, this would appear to be more an issue related to concentration of power than scale of ownership.

What is less clear is whether this imbalance in economic power arises from either the scale or concentration in landownership. The evidence suggests that a large number of landowners have access to, and may be reliant on, resources generated outwith the holding. This indicates that the issue here is more to do with concentration of power and resources more generally, and that land holdings are acting as an outlet for the exercise of this power rather than its source.

However, as mentioned elsewhere in this report, there is a clear logical distinction in these cases between scale and concentration of ownership, and owner profile and management priorities that respondents generally did not acknowledge.

5.4 Summary

Overall 58% of the disadvantages within this theme related to poor engagement between landowners and communities. Several respondents provided examples of unilateral decision making by landowners and in some cases outright refusal to engage with communities in any meaningful way. This position was however not universal. The research also identified examples of landowners who appeared to have built good relationships with their local communities, encouraged and supported engagement, been open to ideas and proposed developments, and provided financial, material, and social support to their local communities. This was particularly true of private (often long standing) landowners who lived on their land holding, had multiple enterprises based on the land holding, and clear long term and succession plans.

A significant issue of concern raised by several respondents was the imbalance in professional support available to many landowners compared to most communities and a feeling that landowners were able to use this to gain an unfair advantage over communities in negotiations. In a similar way, some respondents expressed concern about the ability of landowners to leverage influential personal networks in support of their position. There was a widely held view that differential access to such networks and support has created a very uneven playing field between landowners and communities in some parts of Scotland.

It was clear from the evidence that some respondents were very fearful of the repercussions that could arise if they were seen to oppose the wishes of their local landowner. This fear was rooted firmly in the concentration of economic power in some communities and the *perceived ability* of landowners to inflict economic consequences on residents should they so wish. Such a culture of fear is likely to be highly detrimental to the long term development of the communities affected.

All of the disadvantages highlighted in this section are clearly rooted in the concentration of economic and decision making power. Issues most clearly arise when this combination of resources and power is exploited by the landowner. The negative effects of such behaviour can be particularly damaging to community and social cohesion ranging from causing anger and frustration, to feelings of intimidation and fear to speak out, to disempowerment and helplessness, and in extreme cases impacting on resident's health and well-being, and perpetuating community decline.

The advantages identified within this theme generally related non-market investment and broader community support provided by some landowners. These benefits were generally (but not exclusively) highlighted by landowners and their agents. Many of these respondents linked the ability to make non-market investment to the scale of land holdings but the evidence for these assertions was weak. Instead the evidence suggested that the ability to make non-market investment is often linked more to the availability of resources generated outwith the land holding and is therefore more related to private investment decisions than the scale of ownership.

6 The Natural and Historic Environment

The natural and historic environment was the third most common theme raised through the call for evidence accounting for 20% of the advantages highlighted (the second most common type of advantage identified) and 10% of the disadvantages.

6.1 Operating at a Landscape Scale

A frequently cited benefit associated with Scotland's current pattern of landownership was the effectiveness and ease of managing the environment at a landscape scale. There was widespread agreement amongst many respondents that environmental projects such as peatland restoration, deer management or habitat improvements are more effectively delivered over a large area. As one respondent explained:

"When applied properly, there is a far greater opportunity to manage wildlife habitat on a landscape scale. Fragmented ownership makes it incredibly difficult to achieve and massively increases the cost to the public purse. The ability to amalgamate many marginal management activities into an operational plan that will provide continuous employment for specialist contractors is rarely possible in a mixed ownership."

6.1.1 Administrative Convenience

When examined more closely however it seems that the benefits being described by these respondents related more to the efficiency of decision-making processes than any intrinsic environmental benefit of large scale landownership. As several respondents confirmed, one of the advantages of large scale landownership is that it is easier to negotiate and deal with fewer landowners and managers. They felt that this simplifies the process and improves environmental outcomes as a result.

While there is some logic to the argument that large scale management can be easier with a smaller number of decision makers, little evidence was provided to suggest that large scale land-management can only be achieved through large scale landownership. The benefits of large scale landownership in this instance would therefore appear to relate more to administrative convenience than environmental necessity.

6.1.2 Private Capital and Non-Profit Activities

Several respondents expressed a belief that Scotland's current pattern of landownership gives rise to environmental benefits because landowners with large landholdings are better able to support non-profit generating activities like conservation. These respondents highlighted that such landowners were often able to use income from external sources to invest in environmental initiatives (see examples in Figure 6-1).

Figure 6-1 – Subsidising Conservation: Three Alike Perspectives

"I am factor of a relatively large estate and the owners have supported, from their own funds, every initiative prescribed by SNH and others to improve the environmental and ecological management of the estate. The Owners have developed the Estate spending material sums of money in the local area on repairs, maintenance and services. A community could not afford to do what we have done."

"Large swathes of land when owned by a limited few can lead to the faster action of improvements be it social, community or environmental as there are fewer challenges to overcome from additional parties. These landowners often assist with these improvements to the local communities and the environment by donating their land use and additional services at no cost, which may not be possible otherwise."

"Large estates [have] the resources through economies of scale to privately fund a detailed engineering study of natural flood management options over a catchment of 49 square miles under one ownership with a view to mitigating long term flood risks to communities downstream."

Source: SLC Call for evidence

It is clear from the quotes above that the environmental benefits being described are the result of the investment of private wealth rather than an intrinsic consequence of any particular-pattern of landownership. As has been noted elsewhere in this report, there appears to be some confusion between the advantages of private investment and the scale of individual landholdings. In principle there does not appear to be any logical reason why wealthy individuals with an altruistic desire to invest in environmental protection initiatives must necessarily own the landscape they seek to conserve.

6.2 Land Use Drivers

The call for evidence also identified environmental disadvantages associated with the current pattern of landownership in Scotland. Two specific sub-themes were identified: concerns about the impact of autonomous decision-making within large estates and the impact of subsequent land management practices on the environment.

6.2.1 Large Sporting Estates

Particular concern was expressed about the perceived negative environmental impacts of large sporting estates. As one resident of a community in the Highlands explained:

"...decisions regarding land use made by a single individual impact thousands of hectares of land and thereby affect the quality of life of local inhabitants on a daily basis as well as visitors and wider society. Obvious and specific examples include management of huge areas for deer stalking and grouse shooting which hold land in a damaged environmental state offering little local employment and no long term hope for re-possession and re-inhabitation. The opportunity cost to local communities and wider society is inestimable. Long term alienation of people from their local landscape has led to loss of understanding of land processes and use, in other words a profound dis-empowerment which serves to reinforce existing patterns and single use practices."

Other respondents described how burning heather on grouse moors “**scars the landscape**” while others highlighted the risks of raptor persecution, with one resident of a community near a privately-owned estate in the north east of Scotland describing how she had “**occasion to report concerns over pine martens and hen harriers in the area to SNH, RSPB and the wildlife crimes officer.**”

There was a sharp divergence of opinion between respondents on the environmental impacts of sporting estates. While many respondents echoed the sentiments above others insisted that sporting estates delivered significant environmental benefits. The research team took the opportunity to speak further with the head gamekeeper from one sporting estate who responded to the call for evidence to explain the nature of these benefits and he chose to repeatedly focus on perceived economic benefits that he believed the estate delivered for the local community instead (see Figure 6-2).

Figure 6-2 – The Environmental Benefits of a Sporting Estate

One respondent reported that he was responsible for managing around 30,000 acres of grouse moor on an estate in the north of Scotland. When asked about the benefits of this the respondent focused on the economic benefits he perceived the estate generates for local businesses, reporting that each of the estate’s eight keepers are given a generous allowance for tweeds and equipment each year, most of which is purchased from local businesses.

The respondent also alluded to the environmental benefits generated by the estate. When asked to elaborate on these benefits the respondent began by expressing hostility to the idea of rewilding stating that “**It doesn’t benefit the economy, it doesn’t benefit the people, it doesn’t benefit the wildlife. It doesn’t benefit anyone**”. When pushed on this the respondent explained his belief that “**if you were to take away the management then the predators would take over and none of the other species would survive**” and went on to describe how the shooting brings “**stupid amounts of money**” into the local area.

Source: SLC Interviews with respondents to call for evidence

6.2.2 Conservation Bodies

Other respondents expressed particular concern about large scale landownership by conservation bodies and the perceived impact that this can have on local communities. Such concerns are illustrated well by the example in Figure 6-3 below, which describes the experience of a respondent living in an area owned by a large charitable landowner.

Figure 6-3 – Resident Living in an Area of Charitable Landownership

Having inherited a croft in the village she grew up in, this respondent was keen to return home and start a new life with her partner. To do this the respondent needed to build a home and a shed from which she intended to operate a new business.

However, the croft is located in a part of the country owned and managed by a large charity, which, in the respondent's view, is anxious to preserve the village as a "**museum**". The respondent reported how she has been part of a protracted "**battle**" with the landowner lasting several years to build a house on the croft, with the landowner repeatedly delaying the process by putting what the respondent regards as unreasonable conservation burdens on the site. The respondent described how she has faced repeated demands for additional surveys and feels "**like they're just trying to wear us down**". Throughout the process she reported that the landowner's local representative has been "**difficult**" and conducted negotiation in an unprofessional manner.

As a result of this situation the respondent has been forced to live in a caravan with inadequate sanitation for several years. Her plans for establishing a new business have stalled because it makes no sense setting up a business with nowhere to live. She described how his personal life and mental health have suffered as a result stating that "**I can't bear to be here anymore. I've had to shut myself off and close myself down to deal with the situation.**"

The respondent expressed the strong view that the landowner's attitude to conservation represented a direct threat to the future of her community. She explained how 40% of houses in the area are holiday homes and the school roll is falling and directly linked this to the conservation agenda of charity and their "romantic" notion of the Highlands. According to the respondent the focus is on aesthetics rather than the community, explaining how "**In all my years of living here I've never really seen [the landowner] in [the village]. You only hear about them when they're objecting to something.**"

Source: SLC Interviews with respondents to call for evidence

In this example it seems that the landowner's exclusive focus on conservation objectives and unilateral approach to decision-making is regarded as a barrier to development by the wider community. Similarly, in the examples highlighted in the previous section (6.2.1) it would appear that where landowners adopt a narrow focus on sporting pursuits this can be to the detriment of the environment and wider community. As such the issues highlighted through all these examples would appear to be related more to poor land management and community engagement practices rather than landownership.

6.3 Land Use

How land is used is closely linked to issues around land management which was another environmental issue raised by several respondents. Some of the issues raised related to commercial forestry, as one respondent commented: "**The swathes of Scotland laid out to single or limited trees for profit, mainly by the landowner are a poor use of land. Reforestation using slow growing indigenous trees are needed to reclaim the land. Further flooding can be prevented by strategic tree planting. When the land is owned by a commercial body or an overseas investor - it is impossible to negotiate more diverse land use.**"

In this instance, the land was being managed based on a decision made by an individual but the respondent felt that this decision was ill informed. This echoes a view held by a

number of respondents who claimed that the scale and concentration of landownership is an issue as poor environmental management arises from the way landowners are able to unilaterally make decisions about the environment.

It is important to note that this approach was not associated exclusively with any particular type of landowner: issues were identified in areas of private, public and charitable ownership. As one respondent put it: “**Many public bodies communicate in a very high-handed way with local communities, and many conservation charities are dismissive of the needs of the local human population.**”

The complete absence of land management was also discussed several times, for example: “**If the large landowner is not experienced and trained in good land-management techniques, has an extreme land management objective or falls prey to poor advice, things can go wrong over large areas. There is even a danger that the unbalanced land management prescription will fail to achieve its aim.**”

The statement above highlights how large scale landownership has the potential to intensify the impact of poor decision making by magnifying it over large areas.

6.4 Summary

Working at a landscape scale was one of the main perceived environmental advantages of Scotland’s current pattern of landownership but the logical connection between landownership and landscape scale management is weak. It does not necessarily follow that large scale landownership is a necessary prerequisite for delivering landscape scale environmental initiatives.

There was also a view that large scale, diverse landholdings may be in a position to absorb the cost of non-profit generating activities, such as conservation, by drawing on the surplus from other areas of activity. Such investment is however often the result of the investment of external resources rather than an intrinsic consequence of any particular pattern of landownership. Logically there is no reason why wealthy individuals or organisations with a genuine interest in the environment must necessarily own the landscape they seek to conserve in order to invest in it.

The environmental disadvantages identified through the call for evidence were associated largely with unilateral decision making and the poor land management practices that can arise from this. While these disadvantages may not be a direct result of how land is owned, Scotland’s current pattern of landownership does exacerbate the problems by magnifying the negative effects of poor decision making over large areas.

7 Local Housing Needs

Comments relating to local housing needs accounted for 10% of all the issues raised through the call for evidence, including 13% of the disadvantages identified and 7% of the advantages. This chapter explores the issues raised in further depth and considers how they relate to Scotland's pattern of landownership.

7.1 A Vicious Circle of Decline

Overall there were nearly 100 instances where people who responded to the call for evidence felt that Scotland's current pattern of landownership has a negative impact on the ability to meet local housing needs. Each of these experiences was connected by a common narrative in which the ability of a dominant landowner to control the supply of housing within rural communities was seen as a key driver for the pattern of depopulation and economic decline that affects so many parts of rural Scotland.

In this narrative, an inadequate supply of housing forces local people to leave the area to access suitable accommodation elsewhere. As people leave the area, the viability of local services and amenities declines, school roles begin to fall, and businesses start to fail. Inevitably this process makes the area less attractive, stimulating further out-migration and deterring new in-migration. Many of those who responded to the call for evidence laid responsibility for this vicious circle firmly at the door of landowners.

As highlighted elsewhere in this report, rural development is determined by a variety of factors and the direction of causality between housing supply and economic decline is not clear cut. That the relationship exists however is undeniable, so it follows that removing unnecessary constraints to rural housing supply should be a priority for policy makers who aim to improve rural development outcomes. To better understand the role of landownership in this it is helpful to consider the ways in which landowners are believed to restrict rural housing supply and what the reasons for this could be.

7.1.1 *One Man's Playground*

The experience of some respondents suggests that in some rural areas landowners have adopted a deliberate policy of encouraging depopulation by refusing to sell land for new housing development or to renew leases for existing residential properties. This behaviour was believed to be motivated by landowner's desire to maintain "trophy estates". This approach was seen as a serious and immediate threat to the survival of some small rural communities, with one respondent alleging that his community was now at the brink of "**catastrophic population collapse**" as a result. Two examples of this approach are provided in Figure 7-1.

Figure 7-1 – A Policy of Depopulation on Two Different Estates

One long term resident of a privately-owned estate in the south of Scotland explained how she had witnessed a long term process of population decline in her local community that she described as “**lowland clearances**”. This respondent explained that when the present (non-resident) owner took over the estate, they adopted a policy of not renewing farm and residential tenancies when they came up for renewal and of not maintaining properties in an adequate state of repair. The respondent believed that this was part of a deliberate attempt to empty the landscape of people in the belief that their presence would compromise the owner’s commercial objectives for the estate. The respondent linked this policy directly to long term population decline in the area and described how the community was now “**littered with derelict properties**” that are no longer fit for human habitation as a result.

A resident of another privately-owned estate in the north of Scotland told a very similar story, describing how her local community had become “**very much one man’s playground**”. This respondent reported that although there are around 70 residential properties on the estate she lives on, only eight of these are inhabited and these are maintained only for the use of estate staff. She alleged that other properties have been deliberately damaged, making it impossible for them to be used, and reported that the landowner was unwilling to make any land available for new housing development. In her view this has had devastating consequences for the local community, making it difficult for local businesses to recruit staff who live in the local area or for new residents to move into the area.

Source: SLC Interviews with respondents to call for evidence

While the experiences described above were provided by local residents, similar problems were acknowledged by some landowners and land managers, making such concerns difficult to dismiss. These respondents generally believed that the number of such landlords was small and declining. As one experienced land agent put it:

"In the early days I had lots of clients who were frankly obnoxious. They had the attitude that 'we can do what we like.' This started to change when land values started going up and people who really weren't interested in the land started to sell up. There are now a great deal fewer bad landowners than there used to be."

The call for evidence was not designed to provide a representative sample of community experience across Scotland so it is difficult to draw firm conclusions about the prevalence of such behaviour in Scotland today. What can be said is that the number of estates identified through the call where “trophy” landowners do appear to have adopted a deliberate policy of depopulation was relatively small but where this behaviour was identified, the consequences for the communities affected appear to be very severe.

7.2 The Value of Housing Land

While the number of landowners pursuing an active policy of deliberate depopulation may be small, the number who appear to be unwilling to sell land at prices that would make it possible to develop housing at prices that the local community could afford to pay appears to be much higher. This difference between landowners price expectations and communities ability to pay was a common theme within the evidence provided. Similar challenges around purchase negotiations and valuation were also common

themes within research published by the Scottish Land Commission in 2018 on community land acquisition processes (McMorran et al., 2018).

A typical scenario would involve an approach being made to the local landowner to acquire a suitable site to help address an identified local housing need. Very often the landowner would appear receptive to the initial approach, but negotiations would subsequently break down over price. A typical example of this type of behaviour and the effects that it has had on one particular community is described in Figure 7-2.

Figure 7-2 – Unrealistic Expectations

A survey undertaken by the local development company on one small remote community identified housing as the most important priority for the community. Working together with the local community, the local development company was able to identify a sizeable piece of land that would be a suitable location for affordable housing. An approach was made to the landowner who indicated that they would be willing to sell the land for this purpose.

The community was able to secure funding for a feasibility study for the site and, following a positive outcome, applied to the Scottish Land Fund for funding to buy the land. Although the funding application was successful the transaction did not proceed because the landowner was unwilling to accept the price the community was able to offer. The price offered by the community was based on the value of the grant funding secured, which was in turn based on the market value of the site if it were to be used for affordable housing. As the community development company was unable to bridge the gap between the value of grant funding available and the price the landowner was asking the project was abandoned.

Although it was reported that negotiations have since restarted, this is happening under the threat of compulsory purchase and as such the issue is unlikely to be resolved either amicably or quickly. Meanwhile, the shortage of affordable housing is becoming ever more acute.

Source: SLC Interviews with respondents to call for evidence

In one sense the issue highlighted in the examples provided above (and others like them) is simple: because the landowner owns virtually all of the land in the community they are free to choose how much land (if any) they wish to sell, when they sell it and at what price, safe in the knowledge that potential purchasers have no choice but to accept this because they have no other source of supply. Such behaviour in any other sector would accurately be described as monopolistic.

Many respondents simply attributed these types of problems to landowner “greed” and “selfishness”. While landowner motivations certainly play an important role, such interpretations do little to further understanding of the issues involved or move communities toward effective solutions. What may be more helpful in this respect are the comments that some respondents made regarding how landowners assess the value of housing sites and the role of the planning system in this process.

One respondent, whose experience related to an island owned by a large national charity for example, raised the issue of how charitable and public sector landowners assess “best value”, pointing out that best value does not necessarily equate to highest price. For other respondents the key issue appeared to lie in the role of the planning system in helping to shape land values.

7.3 The Role of the Planning System

Several respondents with experience of rural housing development described how their efforts had been thwarted when the landowner they were dealing with refused to accept what the community believed was a reasonable offer for land. Underpinning these issues seem to be differing expectations about what constitutes a reasonable offer.

Respondents representing community interests generally understood a reasonable offer to mean the price at which it would be viable to develop the land for social housing. That some landowners choose to “hold out” for a higher value than this suggests that they believe that at some point in the future they may be able to sell the same site to a commercial housing developer for a higher price. The key question for policy makers therefore appears to be what drives these expectations?

The information provided through the call for evidence sheds little light on this but two explanations merit consideration. The first is that land-use planning policies that determine the type of housing that can be built in remote rural communities are sufficiently ambiguous to justify such expectations. The second is that some landowners are poorly informed about how the market value for housing land is determined, resulting in unrealistic expectations. The first explanation points to the need for improved planning policy while the second suggests a need for improved knowledge.

7.3.1 Rural Housing Land Allocations and Housing Needs

Another issue raised by a small number of respondents in relation to the planning system related to the practice of “land-banking” and the process by which land in rural communities is designated for housing development. One respondent from the north east of Scotland for example explained how an area of land in her area had been allocated for development in the local plan more than 10 years ago but had not been developed despite what she perceived as very significant housing need in the local area.

The same respondent went on to explain how, because land was already allocated for housing development, **“the next cycle of local plan development will not allow any new housing sites to come forward in our community as it is considered to have sufficient housing allocation, despite the landowner making no moves to develop the housing and showing no signs of doing so in the foreseeable future.”**

Another respondent from the west Highlands described how this process has resulted in a **“vicious circle of need”** in which young people are forced to leave the area in search of housing, and the planning authority interprets the fact that they are leaving as evidence of a lack of housing need.

7.3.2 Landowners and Housing Developers

It is important to note that the difficulties that some communities reported in securing land for affordable housing provision are not necessarily representative of experience

across Scotland. Several landowners and land managers who responded to the call for evidence did provide examples of land being made available for affordable housing. One landowner from the west of Scotland for example described how he had “***made the provision of affordable housing possible in [small village], by gifting a plot of land for 5 units of accommodation, and in addition contributing £80k to cover the gap between Government funding and the build cost of the homes.***”

While the behaviour described above is commendable, this example serves to illustrate the difficulty faced by many communities because, although the community in question undoubtedly benefited from the new housing provided, this was entirely as a result of the generosity of a single individual. A situation in which the very future of a rural community can depend entirely on the benevolence of a single individual is clearly not a strong basis for long term sustainable rural development.

The respondents who provided these kinds of examples tended to believe that large scale landholdings facilitated the provision of affordable housing, but most did not explain why they believed this to be the case. A notable exception to this was one landowner from the north east of Scotland who described how the scale of his estate had been instrumental in enabling his team to secure the upfront infrastructure funding required to support a major housing development (which included affordable housing provision). Examples like this were however the exception rather than the rule, suggesting that the “economies of scale benefits” cited by some respondents may be more theoretical than real in many areas.

7.4 Private Rented Housing

One of the main housing related advantages associated with Scotland’s current pattern of landownership was the provision of affordable rental accommodation in rural areas. Several respondents pointed out that large scale private landowners often provide an important (if not the only) source of private rental accommodation in some rural communities, enabling people to live in rural areas who either cannot afford to buy a home or do not wish to (an example of this was documented in Thomson et al., 2016).

Some of these respondents suggested that this role was intrinsically linked with Scotland’s current pattern of landownership, suggesting that in order to manage a housing portfolio effectively a landowner required a large land-holding. Most respondents provide little evidence to support this view, but one landowner explained how owning a large portfolio of 30-40 cottages enabled his estate to employ a small maintenance team, which he believed would be impossible for a smaller estate.

This explanation is instructive as it suggests that the economies of scale in this example were related to the size of the property portfolio rather than the scale of the land-holding the portfolio happened to be located on. If this logic is representative of other landed estates, then it suggests that other models of providing affordable rented accommodation in rural areas may be equally feasible. The idea expressed by one

landowner, with a large portfolio of privately rented properties and an extensive ongoing programme of maintenance, that his estate “**should be classified as a housing association**” is particularly interesting in this respect.

7.4.1 Maintenance and Investment

The cost of maintaining privately rented accommodation and the investment required to bring it up to modern energy efficiency standards was a challenge highlighted by several landowners and land managers. Part of the challenge is simply due to the volume of investment required to bring properties up to standard and part of the issue related to difficulties in securing planning consent for improvements to older and listed properties.

Some landowners acknowledged that the extent of the investment required reflected a long term pattern of underinvestment, with one private landowner noting that “**estate property was traditionally not maintained very well**”. Most private landowners who raised this issue went on to describe how they had put in place a programme of investment to bring their property portfolio up to standard and appeared to take some pride in providing a high-quality product for their tenants despite “**making very little money**” from this. However, this attitude was not universal as Figure 7-3 illustrates.

Figure 7-3 – A “Lifestyle Choice”?

For one private estate owner profit from residential property lets was an important component of the estate business model. This respondent was very open about his motivation for owning land, explaining how “**if a family wants to live on the land then they have to be able to create a good life style**” and reporting how he was “**determined to hand this land onto my children.**”

The respondent reported that there was a sizeable portfolio of residential properties on his estate, around a third of which are tied houses for current or former staff. He was particularly frustrated by the introduction of stringent new energy efficiency requirements for private landlords, explaining that most of the properties on the estate do not currently meet these with many lacking “**any efficient form of heating**”. Added to this, many of the properties are also historic buildings, making it more difficult to secure permission for any necessary alterations.

Initial investigations suggest that bringing the properties up to standard is likely to cost between £50,000 and £80,000 per property, a scale of investment the landowner described as “**almost impossible**”. The respondent’s view was that living in these attractive Victorian houses was a “**privilege**” and “**a lifestyle choice**” and that rather than forcing owners to make what he regarded as unreasonable improvements, tenants should instead “**temper their expectations accordingly.**”

During the interview the respondent voiced concerns about the effect of enhanced protections for tenants that have been introduced in recent years, which he believed have made it more difficult for landlords to remove troublesome tenants. The respondent explained that this has removed the incentive for tenants to look after properties properly, claiming that those responsible for such policies “**lack a basic understanding of what happens when you take away moral hazard away.**”

The respondent reported that he has started to put up rents to pay for the improvements and described how this had resulted in one tenant’s rent increasing by around 130% over a few years and other tenants, who were unable to afford the increases, being evicted.

Source: SLC Interviews with respondents to call for evidence

To some extent the issues raised by this case study relate to how land is managed rather than how it is owned. The physical deterioration of the housing portfolio on the estate described above has occurred as a result of chronic under-investment, which is a reflection of the priorities and financial resources of the landowner, rather than the scale of the landholding. Similarly, the rent increases and evictions described are a result of the landowner's attitude toward his tenants rather than an intrinsic weakness with a particular tenure or scale of landownership.

However, all of these issues do indicate that the landowner benefits from a concentration of power in decision making.

One interpretation of this is that efforts to address these issues should focus on changing behaviour, perhaps using financial penalties and incentives, rather than ownership – but this is unlikely to be sufficient. To understand why it is necessary to consider why some landowners might be resistant to change. As the landowner in the example provided above posed the question: ***"Is it because they can't change or because they won't? If it's because they are so financially constrained that they can't afford to then there's not much point introducing policies that penalise them further - and if they're so wealthy they just don't care, then financial penalties won't deter them."*** This interpretation would suggest a need for stronger interventions aimed at changing more than behaviour.

7.5 Summary

There is a strong narrative within the current land reform debate that draws a causal link between Scotland's pattern of landownership, constrained rural housing supply, depopulation and long term socio-economic decline (Land Reform Review Group, 2014). While the direction of causality in this narrative is more complex than is often presented, the logical relationship is strong.

At its core this issue appears to be about excessive market power. When a single landowner owns virtually all the land in a given community they are free to choose how much land (if any) they wish to sell, when they sell it and at what price, safe in the knowledge that potential purchasers have no choice but to accept this because they have no other source of supply. Similarly, when the bulk of the privately-owned rental housing stock in an area is owned by the same individual or organisation this gives that organisation or individual a huge amount of power to determine who can live in a community and under what terms. While many landowners appear to exercise this power responsibly, this is not always the case and where decisions are not made in the interests of the resident community this can severely constrain long term development.

The housing related disadvantages identified through the call for evidence cannot however be fully explained by looking at Scotland's pattern of landownership. By helping to shape landowner's expectations of land value the land-use planning system also plays a key role in determining the nature and timing of residential development. This

implies that while policies to address the concentration of market power in the housing land market will be a necessary part of the solution to the disadvantages identified, they will not on their own be sufficient. Changes to the planning system will also be required.

The rationale underpinning the housing related advantages associated with Scotland's current pattern of landownership was based on the belief that large landholdings help to facilitate improved housing supply in rural communities. The narrative was therefore rooted in the logic of economies of scale. This logic was applied to both new housing development and the provision of privately rented accommodation.

In relation to new housing supply it was suggested that large scale land holdings enable some landowners to leverage the finance required to provide upfront funding for major housing development. While this logic is convincing, very few practical examples were highlighted, suggesting that such benefits may be more theoretical than real. In relation to privately rented accommodation it was suggested that large land-holdings made it possible to manage a housing portfolio effectively. The evidence provided to support this view was however weak and on further interrogation the purported benefits appeared to be related to the size of the property portfolio rather than the scale of the land-holding. This suggests that other models of providing affordable rented accommodation in rural areas may be equally feasible.

8 Agriculture

Agriculture accounts for the majority of Scotland's land use, around 81% of the total landmass of the country is capable of being used for agriculture, some 6.3 million hectares¹². Despite this only 5% of themes identified through the call for evidence raised agricultural issues in relation to Scotland's current pattern of landownership, however, many of these responses were some of the most extensive and detailed received.

Responses were evenly split between positive and negative perceptions of the impacts of concentrated landownership, with respondents highlighting key issues around land capability; land availability; and the impact of changes in land use.

8.1 Land Capability

Fundamentally any agricultural business relies on the land it uses, and the capability of that land is a critical determinant of business options and viability. The majority of Scottish agricultural land is only suitable for rough grazing, with less than 10% considered prime arable and suitable for a wide variety of enterprises¹³.

These factors were highlighted in a number of responses and there was general agreement that there is a minimal scale of holding below which it is not possible to run a viable business¹⁴. Further, there was also general recognition that the scale required for business viability varies with location and land capability. For example, a lowland farm on high capability arable land would require a significantly smaller area to be viable than an upland holding on land capable of only pasture and rough grazing.

Additionally, respondents recognised that land capability is broadly fixed, and that the long term decline in agricultural profitability has spurred farmers and landowners to consolidate and increase holding size to remain viable businesses. As one respondent noted:

"I live in agricultural Fife where in 1995 100 acre farms became unviable, in 2005 the same applied to 250 acre farms, and now there are very few left at less than 500 acres and they are usually contract farming additional acres."

Drawing together the declining profitability of agriculture and the fixed capability of land, it is clear why a large number of respondents associated clear benefits derived from economies of scale (in this case increasingly larger land holdings) as an advantage of the current pattern of landownership to the agriculture sector.

¹² <https://www2.gov.scot/Topics/Statistics/Browse/Agriculture-Fisheries/PubEconomicReport/ERSA2018>

¹³ <https://www.hutton.ac.uk/learning/exploringscotland/land-capability-agriculture-scotland>

¹⁴ A "viable business" is one generating enough income to support at least one FTE post.

However, while there is broad agreement about the need for a minimum scale to support a viable farming business, there is clear disagreement about the point at which, or indeed whether, this pursuit of economy of scale begins to become harmful.

Figure 8-1 – A Landowner’s Perspective on Agricultural Economies of Scale

A landowner reported taking steps over the past 10 years to consolidate the estates in hand farming operation, making the point that the economies of scale generated help improve business viability and provide wider benefits.

The respondent feels this will increase productivity and yields and has allowed the estate to employ a farm manager and three additional workers. One of the drivers behind this pursuit of economies of scale is the landowners wish for the farming enterprise to become self-sustaining and no longer reliant on subsidies.

Conversely, the respondent feels smaller farms lack the ability to invest – particularly in technology which he feels is becoming an ever more important factor in modern agriculture – and cannot justify the expense of doing so. He feels smaller holdings are less efficient and productive, and without the economies of scale they cannot provide wider benefits like employment.

Source: SLC Interviews with respondents to call for evidence

Many landowners and land managers expressed similar views regarding the benefits of economies of scale to those of the landowner highlighted in Figure 8-1. However, a number of other respondents questioned that opinion, feeling that the perception of the benefits of economies of scale is more heavily influenced by the existing policy and fiscal environment (particularly area-based support payments) than land capability.

Figure 8-2 – Tenant Farmer wants a Radical Rethink on Economies of Scale

One tenant farmer has a secure agricultural tenancy originally taken by his grandfather in the 1940's. The unit is now too small to be viable, but the landlord has repeatedly refused to consider leasing more land. As a result the respondent has taken another job locally as the farm business is stifled by lack of ability to expand.

While the respondent recognised the need for a minimum scale for business viability, they felt that many of the arguments used to support increasingly large farms, and the perceived benefits of economies of scale, arise as a result of current policy.

The respondent believes that measures such as changes to fiscal policy; caps on subsidy payments and potentially the value of land holdings; reform of land use and planning; and penalties for absenteeism would all pose serious questions to the perception that significant economies of scale would stack up.

Ultimately the respondent believes that a landscape of small owner-occupiers would be more productive, dynamic, and conservation minded, and with an asset to borrow against would allow for broader growth, innovation, and diversification.

Source: SLC Interviews with respondents to call for evidence

8.2 Land Availability

The availability of land for agriculture – particularly for new entrants and progressing farmers – was cited by a number of respondents, the vast majority of whom viewed the current pattern of landownership in Scotland as a significant barrier to increasing land availability.

Respondents highlighted three main issues as drivers for these perceptions: the capital cost of land, with particular regard to the perceived divorce of agricultural land values from real world operation of farm businesses; landowners fear of political change; and the influence of area-based payments. One farmer expanded upon the connection between support payments, new entrants, and land management:

"The experience that occurs locally is that contract farming means that agricultural activity is concentrated into large farms and offered to farmers who already farm large areas. This is encouraged by a subsidy system that rewards large scale units. These large units are mostly well run and efficient but give no thought whatsoever to aspiring new entrants. Greed is the order of the day. I would further say that the modern trend of large arable farms is not sustainable in the long term given that they are not geared to livestock production and consequently do not look after the soil in the long term. I see evidence of this quite a lot."

Respondents also highlighted the long term declining trend in the number of tenanted holdings and the move by existing landowners and farmers to consolidate and expand farming operations as contributory factors in declining land availability.

A couple of respondents also noted that this expansion and consolidation behaviour is not just being driven by landowners, but also some tenant farmers, with one landowner reporting that all his land is tenanted by one individual, that this tenant also has land from neighbouring estates and runs an extensive contracting operation. Many of the issues raised by respondents in this regard reflect those considered in research published by the Scottish Land Commission in 2018 (McKee et al, 2018)

8.2.1 The Value of Agricultural Land

Industry research suggests the per hectare value of agricultural land in Scotland has steadily increased by 85% over the past decade (2007-17) across all land categories, with good arable land in particular more than doubling in value¹⁵. Over the same period total farming income grew by around 15%¹⁶. A number of respondents noted that these trends have made it increasingly difficult for new entrants and progressing farmers to acquire land to farm as the rate of growth in land values outstrips farming incomes. With even relatively modest holdings attracting price tags of several hundred thousand pounds, it is only those with significant resources already who can afford to purchase land, which in turn has resulted in a trend towards fewer, larger farming businesses.

¹⁵ <https://content.knightfrank.com/research/443/documents/en/scottish-farmland-index-h2-2017-5258.pdf>

¹⁶ <https://www.gov.scot/publications/total-income-farming-estimates-fo-scotland-2015-2017/pages/12/>

Respondents provided no clear answers as to why the rate of increase in land values was so disconnected from farm incomes, however, speculative acquisition and land use change (particularly towards forestry and development) were often cited as potential drivers.

Nevertheless, respondents acknowledged that this meant that land acquisition is an option only available to already substantial and well-resourced landowners, or those coming into the sector with significant capital, reducing the availability of farm land for new entrants and progressing farmers, while further concentrating control over agricultural land.

Additionally, increasing land values have spurred some respondents to reconsider how they manage and use their land assets.

8.2.2 Fear of Political Change

A number of respondents highlighted fear of political interventions as a driver for reducing land availability, particularly when it came to tenanted holdings. These fears broadly circulate around the uncertainty of future government policy on land reform, which in many cases has driven a programme of consolidation as landowners seek to “protect” their holdings.

A strong, but minority view, is that this is contributing towards a counterproductive climate of fear:

“There is a clear disadvantage in the current climate where there is uncertainty caused by the current government position on landownership. Landowners are retrenching their holdings. The number of tenancies is declining so the opportunities for young farmers are diminishing. Quite the opposite effect that the political leaders of Scotland are surely looking for.”

Some respondents expanded on these fears, highlighting particular concerns around potential future rights to buy, and specifically absolute rights to buy for tenants, as well as the possibility of retrospective legislation.

8.2.3 The Influence of Area Based Payments

Currently, the main agricultural support programme, the Basic Payment Scheme, is made on an area farmed basis. A number of respondents highlighted this fact as a driver for landowners to increase and consolidate their farming operations, therefore increasing their payment, leading to a limiting of access to agricultural land.

Respondents generally felt that payments were too generous at the upper end, were not reflective of business need, and despite recent progress that “slipper farming”¹⁷ is not uncommon. One respondent highlighted how he believed the concentration of landownership in the arable sector had created opportunities for individuals to gain unfair advantages from public subsidies and tax breaks, which is in turn driving what he described as “**a growing rural wealth gap.**”

In a few cases, respondents felt landowners were going to significant lengths to attract or retain support payments.

Figure 8-3 – A New Entrant struggles to get their Support Payments

One respondent who identified as a new entrant described their experience of an estate where every effort is made by the landowner to obtain support payments. They felt that these payments were obtained by consolidating the estates in-hand farming operation, and by forcing tenants out the farms their families have run for generations.

The respondent felt that the single farm payment would be put to much better use for the environment, local economy, and local community when awarded to and managed by “**true active farmers**”. They felt that though the estate claims the money, very little is used to support active farming, or filters back to the local economy.

They believed that this leads to short term damage to the local economy and farming, with longer term losses building up as there are no opportunities for young/new farmers.

The respondent reports that as a new entrant in farming, their landlord has made every effort to make getting started as difficult as possible so they could retain the single farm payment for the tenanted land.

Source: Response to SLC call for evidence

The focus of subsidy capture does appear to be a significant consideration for existing landowners and farmers in the reluctance to make more land available to new entrants and progressing farmers – even when land is made available some landowners appear to be going to significant lengths to retain payments over let land.

The evidence from respondents does indicate that the current area-based payment scheme is supporting, and may be encouraging, land consolidation, which in turn is having the effect of concentrating control over agricultural land in fewer hands.

8.3 Land Use Drivers

For a number of years there has been significant debate over how Scotland’s land should be used. With regard to agricultural land, a number of respondents felt that agricultural use was in decline as competing land uses have gained favour and/or financial support over the past few years. Respondents particularly highlighted forestry

¹⁷ Slipper Farming occurs where a landowner or farmer does a minimum amount of agricultural work in order to qualify for subsidy entitlements.

as a competing land use, but some also noted building/development; sporting; renewable energy; and environmental and/or “rewilding” uses.

The perceived upsurge in forestry plantations was a specific issue for some respondents, particularly where these are sited on “good” agricultural land. Respondents felt that many decisions to convert agricultural land to forestry are driven by “**aggressive marketing**” of forestry, the provision of “**generous**” grants, and significant tax reliefs.

A few respondents highlighted cases where they believed tenant farmers had, or were, being “**cleared**” to make way for forestry plantations.

Other respondents felt that government policy in this area was the driver for incentivising non-agricultural land uses, and that rather than being complementary the policy and fiscal frameworks are disjointed and increase conflicts around land use.

“The Government needs to be more selective in where it decides to allow tree planting. At the moment it's allowing planting on ground that could be used for farming. Once it's planted then it's lost for good.”

On the urban fringes a few respondents noted that development pressures can be huge – particularly for small owner-occupiers – and that in many cases farmers and landowners would be “**silly**” not to consider the development route as such land can attract values hundreds of times as much as agricultural land.

Regardless of the type of competing land use, respondents broadly acknowledged that decisions over land use rested with the landowner, and that in many cases diversification was welcome and necessary. However, many respondents felt that landowners were not very good at consulting on land uses changes, or recognising that their decisions would have wider impacts.

Many respondents felt that preserving agricultural land was important, with a few suggesting that decisions to change land use away from agriculture should be better consulted on, and potentially prevented. There was also a clear feeling from a number of respondents that significant land use changes should include much wider engagement, particularly where “good” agricultural land and farming jobs would be lost, with a few respondents suggesting that a more formalised process akin to the existing planning processes.

8.4 Wider Impacts

A number of respondents viewed agriculture as a fundamental cornerstone of rural society, contributing to a perception of a way of life as much as, or more importantly than, to the rural economy. While these types of comments tend not to be from farmers, there is a very strong perception that having farming families active and engaged within their local communities is overwhelmingly positive, and that they can and do play key roles in supporting community activity. In areas that have become dominated by large

farming operations, some respondents suggested the decline in community activity was in large part due to the displacement of farming families.

For farming respondents there was a clear theme around improving public understanding of agriculture in Scotland to increase community engagement, with farmers feeling that current public discourse around farming practices, agriculture land use, and often climate change impacts, is dominated by “**vague, competing, and often irrelevant information, much of which comes from an American perspective.**”

This led a number of respondents to raise concerns about the direction of travel of debate around the future of agricultural policy, and rural land use more broadly.

Figure 8-4 – Need for Better Engagement

A farming respondent from Fife, both owner-occupier and tenant, expressed the strong view that communities and their land are intimately linked, that farmers and landowners need community buy-in, and that the community has to be recognised in the management process.

To achieve this the respondent felt better agricultural education across society (including existing farmers and landowners) is critical so discussion can be meaningful, and decisions and results benefit everyone.

They were very supportive of activities like school visits to farms and believed that better linking of agriculture to wider issues such as healthy eating and the environment has to happen.

Source: SLC Interviews with respondents to call for evidence

Farming respondents generally wished to see better connections made between farming, and food in particular, across wider society.

8.5 Summary

It is clear that there is a minimum scale necessary to sustain a viable agriculture business, however, this minimum scale is very much dependent on geography and enterprise type. Due to this variability it is difficult to determine the exact point at which a farming enterprise begins to take advantage of economies of scale, however, it is clear from the evidence that currently some of the most productive and profitable farming operations are also the largest. That said, there is no evidence to suggest that a landscape of smaller owner-occupiers or tenanted holdings would be more or less profitable or productive, despite appearing less administratively efficient, than the current prevailing situation.

What is less clear is whether the benefits attributed to economies of scale are solely a product of land capability, or whether the impact of the current policy and fiscal environment gives extra advantages to, and indeed incentivises the creation of, larger holdings.

There is also a lack of clarity about the wider advantages of pursuing economies of scale, with reported benefits such as employment possibly more a factor of individual business management and priorities than an absolute rule.

Concentration of landownership can arise from, and perpetuate, issues around agricultural land availability and land use.

It is clear from the evidence that the reduction in land availability, particularly for new entrants and progressing farmers, is being driven by a set of factors. Whether landowners are motivated by the increasing value of land, fear of political change, the influence of support payments, or a combination of these and other factors, there does appear to be a current trend of increasing concentration of agricultural landownership.

There is a clear thread running through these themes that this behaviour is not sustainable in the long term, and that locking potential new entrants and progressing farmers out of the industry is harmful. However, as it stands there is little to prevent existing landowners expanding, consolidating, or organising their holdings as they see fit, with any progress in increasing land availability reliant on the goodwill of landowners.

The impacts on agricultural land from land use change are somewhat clearer, with landowners very much in the driving seat and following their own priorities. Issues around changes in land use, particularly as they relate to the loss of agricultural land, were some of the most emotive and highlight the value many attach to farming not just as a business, but as a way of life and cornerstone of the rural community.

The clear influence of the concentration of power is obvious in land use decision-making, with some landowners acting unilaterally and arguably displaying monopolistic behaviour.

Government policy and the fiscal environment also appear to be contributing to increasing concentration of agricultural landownership. When it comes to land use issues in particular there are a number of perceived competing public policy objectives and a lack of consideration as to how these objectives should be balanced.

This lack of a coherent policy framework can also be seen as a consequence of poor understanding of how agriculture works, the unawareness of motivations of farmers, and a broader debate around the future of Scottish agriculture being susceptible to contradictory, irrelevant and poorly sourced information.

9 Conclusions & Policy Implications

Perhaps the most striking pattern within the analysis presented in chapters 4-8 is that most of the advantages associated with Scotland's current pattern of landownership relate to the size of landholdings, while most of the disadvantages relate to the concentration of social, economic and decision-making power. Scale and concentration are distinct concepts and this differentiation has important implications for policy.

A second important pattern was that many of the disadvantages identified were underpinned by concerns about the ability of residents of rural communities to influence decisions about how land is used and a belief that they often derive little benefit from decisions that are made. Such issues generally related more to the effectiveness of land-use decision making processes than the structure of landownership.

The third clear pattern within the evidence was a failure to differentiate between the physical characteristics of a landholding and the type of entity that owns it with many respondents equating concern about the scale and concentration of landholdings with hostility toward private ownership. The two issues are of course quite distinct.

The implications of these patterns for policy are considered below.

9.1 Scale Vs Concentration

There is no automatic link between large scale landholdings and poor rural development outcomes. Indeed, this research has found evidence to suggest that in some contexts large scale landownership can be beneficial. These benefits are most apparent in the agricultural sector, where commercial viability is closely connected to size (although there are legitimate questions about the extent to which this is an inherent feature of the industry or a consequence of the structure of current agricultural support arrangements). Large landholdings also appear to have enabled a small number of landowners to leverage the finance needed to provide upfront infrastructure funding to support major housing and other development. Other examples of economies of scale were also identified through the research but the logic underpinning these was generally weak and not well supported by the evidence.

In contrast, the research found convincing evidence that highly concentrated landownership, in which a single organisation or individual controls all or most of the land within a given community, can have a detrimental effect on rural development outcomes – but this link is also not automatic. The attitude, motivations and management approach of the landowner all play a key role in determining outcomes. Unlike large scale landownership however, there was no evidence to suggest that there are any advantages associated with concentrated landownership.

The disadvantages associated with concentrated landownership are linked directly to the ability of the dominant landowner to decide whether communities can access land, when, for what purpose and at what price. Land is vital for so many aspects of life in a

rural community: housing development, community facilities, recreation, growing food and business expansion. If the supply of land is controlled by a single individual, then that individual has a huge degree of control over almost every aspect of life.

In other sectors, when the supply of a good or service is controlled by a single entity a monopoly is said to exist and mechanisms are in place to protect consumers from abuse of this excessive market power. For example, the Competition and Markets Authority exists to promote competition and to make sure markets work well for consumers, businesses and the economy. In contrast, the concentration of power in land markets is largely unregulated and land monopolists face no sanctions for irresponsible behaviour.

Although many, perhaps most, landowners do behave responsibly this research has identified strong evidence that **harmful concentrations of power in relation to land do exist and appear to be causing significant and long term damage to the communities affected**. This has fostered a deep sense of injustice in some communities that is socially corrosive and runs directly counter to the objectives of community empowerment. It seems perverse that the kind of protection available to consumers across the UK is not currently extended to residents of some of the most fragile communities in Scotland. The policy implication flowing from this is that:

There is an urgent need for formal mechanisms to be put in place that would enable harmful land monopolies to be identified and changes in either ownership and/or management practice to be implemented that would protect fragile rural communities from the irresponsible exercise of power.

The abuse of power is a consequence of individual behaviour, so it follows that behaviour change should be an important policy focus – but this is unlikely to be sufficient. While decisions about how to use power are made by individuals, the ability to misuse power is created by the system in which they operate. Monopolies encourage irresponsible behaviour because where there is no competition, there is no incentive to improve. As such, mechanisms that would enable the ownership of land monopolies to be altered are likely to be required as well as policies to encourage good management.

This report has illustrated that the socially corrosive effects of land monopoly occur not only because of what a landowner has (or has not) done – but because of what they *could* do. This points to a need for systemic change that goes beyond mitigating the effects of established land monopolies and aims instead to bring about greater diversity in Scotland's pattern of landownership. This supports the current focus of land reform in Scotland on diversifying landownership and implies that:

Policies should be developed and implemented that would encourage greater diversity in land ownership and avoid the creation of new harmful land monopolies in the future.

9.2 Land-Use Decision Making

Although landownership has an important influence on rural development, it does not fully explain many of the issues raised through the call for evidence. Dissatisfaction with land-use decision making processes is central to the discontent felt by many respondents. This discontent was particularly apparent in communities that had been recently affected by major land-use change. The most emotive examples of this related to the conversion of agricultural land into commercial forestry but renewable energy and other commercial development also elicited strong responses. Emotive responses were also received from communities that had not experienced recent major land-use change. Particularly strong concerns were expressed about large areas of Scotland being devoted to grouse moors or conservation uses such as “rewilding”.

Two factors appeared to underpin this discontent. The first was the perception that there are few, if any, opportunities for local people to influence decisions about major land-use change. The second factor was a strong sense of injustice that while land-use change often has significant adverse consequences for communities they generally receive little or no benefits in return. This could be considered an anomaly because it is an established principle within development planning that developers should mitigate any negative effects that their proposals might have on the local community. The policy implication of this is that:

Improvements are required to land-use planning and decision making processes to ensure that rural communities can influence significant land-use change in their local area, that any adverse effects arising from such changes are effectively mitigated and ensure that any potential benefits are maximised.

The discomfort that many respondents expressed about certain land-uses was often compounded by a belief that the land-use in question was being subsidised by fiscal incentives paid for from their own tax contributions. From the evidence presented it appears that the fiscal environment surrounding agriculture, forestry, and renewable energy in particular appears to incentivise behaviour that is sometimes contrary to Scotland’s land reform objectives. The policy implication of this is that:

Fiscal incentives relating to agriculture, forestry, and renewable energy should be reviewed to ensure that they are consistent with the policy objectives of community empowerment, rural development, and land reform.

9.3 Dimensions of Landholding Vs Types of Landowner

The third key pattern to emerge from this analysis is a failure to differentiate between the physical dimensions of a landholding and the type of landowner responsible for managing it. Many respondents automatically equated concern about Scotland's pattern of landownership with hostility toward private ownership and a preference for community-based models of control. The two issues are of course quite distinct.

The problems associated with Scotland's current pattern of landownership are not associated exclusively with any particular type of landowner. The responses provided to the call for evidence provided examples of charitable landowners, public agencies – and even a community body – that could be accused of abuse of market power. This highlights the need to take an open-minded approach to identifying potential solutions.

Many of the responses submitted to the call for evidence demonstrated the transformative effect that private capital can have on rural communities, supporting employment and physical regeneration that would not otherwise exist. While it is often assumed that large scale landownership is required to attract such investment, there is no logical basis for this assumption. The two concepts are logically distinct; recognising the value of the former does not imply acceptance of the inevitability of the latter.

For this reason, while an increase in community control will be part of the solution to many of the issues discussed in this report, it can only be part of the solution. It is clear from the responses provided to the call for evidence that there is also an appetite for greater individual ownership in rural communities. The policy implication of this is that:

There is a requirement to develop new mechanisms for attracting alternative sources of capital to support rural development, particularly smaller scale private ownership.

9.4 The Final Word

This research set out to explore the issues associated with Scotland's current pattern of landownership. Most of the issues identified can be attributed either to imbalances of power created by Scotland's unusually concentrated pattern of ownership or to a deficit in participation created by inadequate or poorly understood land-use decision making processes. These themes are connected by a common thread of unfairness. Many of those who responded to the call for evidence were motivated by a strong sense that it is fundamentally unfair that so much of Scotland is owned by so few individuals and fundamentally unfair that so many residents of rural communities have so little influence over the land they live on.

What this report has done is to make a clear connection between unfairness in how land is owned and managed and sub-optimal rural development outcomes - but this conclusion should not be surprising. There is now a strong body of international research

evidence¹⁸ connecting inequality with sub-par economic performance. What is more surprising is that the relevance of this literature to Scotland's pattern of landownership is not more widely recognised.

Rural areas currently account for 27%¹⁹ of Scotland's economy so improving economic performance in rural Scotland could make a significant contribution to Scotland's overall economic performance. The overarching conclusion of this report is that increasing the diversity of rural landownership and enabling more effective participation in rural land-use decision making could make a major contribution to realising this potential.

Given the profile of the responses received to the call for evidence, the focus of this research has necessarily been on rural Scotland but the potential relevance of the conclusions to urban Scotland should not be overlooked. There is huge potential to share learning on land reform between urban and rural Scotland and realising this potential could bring big rewards not just for rural areas but for the whole of Scotland.

¹⁸ See for example: Stiglitz J, (2012), *The Price of Inequality*.

¹⁹ Based on figures included in Scottish Government (February 2018), *Understanding the Scottish Rural Economy*

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