

## **CLIMATE CHANGE AND THE NATIONAL FOREST ESTATE ANALYSIS OF CONSULTATION RESPONSES**

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### **A. Summary of key points**

- 514 responses analysed
- A majority had positive views on joint ventures for renewable energy programmes – see paragraphs 8 -12 and paragraph 35:
  - Differences of view about whether or not this should include biomass-related projects;
  - Interest in using powers for local, small-scale, projects as well as larger-scale projects.
- A majority had negative views on leasing parts of the national forest estate – see paragraphs 13 - 22:
  - Concern about diversion of funds away from forest sector; loss of social and environmental benefits; adverse impact on staff and local employment; adverse impact on wood supply; poor value for money;
  - Wide range of suggestions about requirements that should be built into any leases.
- A majority had negative views about use of not-for profit trusts, considering them unnecessary – see paragraphs 23 – 27.
- Other views included:
  - need to regard woodland expansion as one of a range of opportunities for forestry in relation to climate change – others include sustainable use of timber and adaptation – see paragraph 31;
  - need to consider woodland expansion in broader context of rural land use in Scotland; in order to increase area of woodland, priority should be given to improving delivery of Scotland Rural Development Programme – see paragraphs 32 – 33;
  - an enhanced repositioning programme is one of a number measures that could increase funding from the national forest estate – see paragraph 34.

## **B. Introduction**

1. The Climate Change (Scotland) Bill sets a framework for guiding Scotland to a low-carbon economy. It includes forestry provisions that are intended to enable Forestry Commission Scotland (FCS)<sup>1</sup> to play a greater role in tackling climate change. Specifically, section 47 would allow Scottish Ministers, by order, to modify the functions of the Forestry Commissioners in or as regards Scotland where they consider it necessary or expedient in relation to climate change. Section 47 also provides that the order may modify the Forestry Commissioners' functions to allow them to form or participate in corporate bodies or trusts, and that the order may make provision about the delegation by Forestry Commissioners of their functions.
2. The immediate intent of these provisions is to take forward proposals relating to renewable energy development on the national forest estate (NFE) and to the release of capital from the NFE, in order to fund forest-related climate change measures, such as woodland creation. The NFE is land owned by the Scottish Ministers and put at the disposal of Forestry Commissioners. It extends to 665,000 hectares (of which about two-thirds is forest) and is managed by Forest Enterprise Scotland (FES), an agency of FCS.
3. A consultation on these proposals was launched on 4 November 2008 and closed on 27 January 2009. The consultation paper<sup>2</sup> explained that the proposed measures could provide greater flexibility in maximising the potential of the NFE to help combat climate change by allowing:
  - FCS to enter into joint ventures (JV) for the purposes of participating in renewable energy programmes, subject to the approval of the Scottish Ministers;
  - Scottish Ministers to lease land for forestry purposes and FCS to grant cutting rights over this forest;
  - Scottish Ministers the option of transferring the ownership of this leased land to a not-for-profit trust that could also make use of the funds generated from the sale of these rights to promote woodland creation in order to mitigate climate change.

The consultation paper also sought views on other actions that need to be taken to help Scottish forestry to contribute to the target of reducing green house gas emissions by 80% by 2050.

4. Meanwhile, Scottish Ministers asked FCS to consider options for using the assets of the NFE to help fund forest-related climate change mitigation measures, while safeguarding other benefits delivered by the estate.
5. In addition to being placed on the FC website (with a cross-reference on the SG website), the consultation paper was sent to interested organisations and individuals. It was discussed at an open meeting of the Scottish Forestry Forum on 18 December 2008, and

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<sup>1</sup> The Annex has a list of abbreviations

<sup>2</sup> *Climate Change and the National Forest Estate*

[http://www.forestry.gov.uk/pdf/forestryscottishclimatechangebill.pdf/\\$FILE/forestryscottishclimatechangebill.pdf](http://www.forestry.gov.uk/pdf/forestryscottishclimatechangebill.pdf/$FILE/forestryscottishclimatechangebill.pdf)

at a number of Regional Forestry Forum meetings. FCS organised staff meetings in eight locations throughout Scotland to discuss the paper. Many of those attending these (and other) meetings during the consultation exercise have submitted their own responses to the consultation. In addition, reports of discussions at the Scottish Forestry Forum and Regional Forestry Forums have been included as consultation responses.

6. The consultation paper sought views on four questions. Because these were open-ended questions, this analysis is largely qualitative and highlights recurring themes; verbatim comments are included (in italics) where they are considered helpful. It presents views as they were expressed, without commenting upon them, and the factual accuracy of statements is not necessarily endorsed. There is also a quantitative analysis, but this has some limitations: it gives equal weight to all responses, and in some cases a judgement has been required to determine whether a particular respondent has a positive or negative view, or is neutral or undecided.
7. There were 514 responses. Many were from individuals, but there were also responses from organisations, including private companies, industry associations, environmental bodies, voluntary sector organisations, trades unions, community councils, local authorities and government agencies. Except where confidentiality was requested, copies of responses are available for public viewing at FCS's office at 231 Corstorphine Road, Edinburgh; in addition they are published on the FC website<sup>3</sup>.

### **C. Joint ventures for renewable energy programmes on the national forest estate**

8. The consultation paper asked "what are your views on allowing the Forestry Commissioners to enter into joint ventures, with the intention of participating in renewable energy programmes on the national forest estate?"
9. There were 368 responses to this question. 70% expressed positive views on this option, although a number added caveats; 15% expressed negative views. The remainder appeared to be neutral or undecided.
10. The caveats put forward by those who responded positively included the need:
  - to ring-fence the income from JVs for reinvestment in forest-related climate change measures;
  - for FCS to have the necessary expertise to negotiate and manage JVs;
  - to prevent undesirable environmental impacts, especially on landscape, key habitats and species;
  - for all proposals to go through the usual consents systems, including where necessary Public Inquiry;
  - to use JVs to create local employment;

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<sup>3</sup> <http://www.forestry.gov.uk/fcsclimateconsultation>

- to clarify mechanisms for giving local communities opportunities to have a stake in the developments;
- to prevent FCS from using JV powers for biomass related developments.

11. Where reasons were given for expressing negative views, these included:

- concern over the environmental impact of renewables developments and doubt about the overall carbon sequestration benefits of windfarms;
- a preference for leases as being simpler, quicker and more appropriate for a public sector land owner, with management of risk being left to the private sector;
- the legal cost of JVs, especially as they can lead to litigation;
- doubt that FCS has the necessary expertise;
- fear that FCS would cease to focus on forestry;

*“The FCS's expertise is in managing state owned woodland, we do not perceive any advantages in the FC entering into joint ventures specific to renewable energy.”*

- concern that taxpayer would lose if a JV failed;

*“The extra income expected from joint ventures implies the acceptance of greater risks. The failure of a significant project could have serious implications for the funding of FCS.”*

- concern about issues of unfair competition and “crowding out” of the private sector through increased public sector involvement;
- concern about conflicts of interest arising from the use, by an FCS JV, of biomass procured from the NFE;
- concern about conflicts of interest arising from the fact that FCS is an arm of government, which has overall responsibility for promoting and regulating the industry (including the exercise of development control functions).

12. Other views included:

- the need for more detailed information about JVs;
- the need for a feasibility study to assess the potential for income generation from renewable energy schemes on the NFE;
- the importance of location, scale and infrastructure (transport and grid) for larger-scale projects;

- concern about the source of capital for any JV;
- the need to consider exit routes from JVs;
- FCS should be more proactive in biomass developments;
- concern about FCS being more proactive in biomass developments, on the grounds that it could distort markets and would effectively be selling timber to itself;
- the need for compensatory planting to replace areas of forest lost due to wind farm developments. Concern that short-term peaks in production from these areas adversely affect longer-term production and the wood supply chain. Concern about certification status of this timber;
- the opportunity for securing community benefits, including equity shares, recognising that community bodies may also be able to access other sources of funding. Revenues could be used to further community aspirations for sustainable development;
- the potential for small-scale, community based developments, including (eg) partnerships with local authorities in providing heat and power for local communities;
- the potential to use JVs to help communities that want to manage parts of the NFE but cannot raise capital for purchase;
- the potential to use the Public Service Reform Bill to secure wider powers for creating JVs that are unrelated to climate change.

#### **D. Leases and cutting rights over parts of the national forest estate**

13. The consultation paper asked “what are your views on allowing Scottish Ministers and Forestry Commissioners to offer leases and cutting rights over parts of the national forest estate?”

14. There were 469 responses to this question. 72% expressed negative views on this option and 12% expressed positive views. The remainder appeared to be neutral or undecided.

15. Where reasons were given for expressing negative views, these included:

- concern that funds derived from a lease would not be used for forest-related climate change measures:

*“No guarantee given that capital raised by leasing would be ring fenced and used for climate change reduction purposes ... [would be used] instead to balance overspend or shortfalls in the budgets of other Scottish government departments.”*

- woodland expansion can be achieved in other ways. Some respondents said that no additional funding is necessary provided (eg) that implementation of the Scotland

Rural Development Programme (SRDP) can be improved. Others said that additional funding should come from other Government sources or other SRDP measures;

- offering long leases is tantamount to privatisation:

*“This land is owned by the people of Scotland and should remain firmly in the control and management of the Forestry Commission.”*

- widespread public concern. For example, around 3,700 people have signed the FC Trade Unions’ petition calling on the Scottish Government not to lease 25% of the estate to private investors but to keep it in public ownership and control;
- loss of social and environmental benefits. There were specific concerns about the potential adverse impacts on walking; mountain biking; tourism; orienteering; car rallying; archery; dog sledging; community engagement; the preservation of cultural heritage sites; the protection of rare species; forest landscape design; use of continuous cover forestry; broadleaved planting; water quality; fertiliser use; fisheries; research plots; and training/apprenticeships:

*“Our objection to the proposal to lease Forestry Commission land to the private sector is based on serious concerns that private companies would be less likely to preserve the environment of forestry land and would be less likely to promote recreational use of the countryside.”*

*“Whilst Scots law does now bestow a right to roam, the Forestry Commission actively promotes this and encourages public access and use. The private sector will be at best merely permissive and may even actively deter access.”*

*“Key visitor attractions such as the 7 Stanes, a partnership project between the FCS, Dumfries and Galloway Council and other partners must be protected and retained.”*

*“A key strength of the tourism offer in the Scottish Borders is the established mountain bike product, with UK and international acclaim, at Glentress in the Tweed Valley ... a recent Tweed Valley Forest Park Development Study estimates the economic value of tourism in the Tweed Valley at some £40 million.”*

*“Another of Dumfries and Galloway’s key strengths has been the reliance of motor sports to hold significant events and rally tests within the Forestry Commission areas and private woodlands, using the large network of Forestry tracks to create a significant and recognised series of rally stages. These events bring visitors and competitors to the area which has an economic benefit to the local economy. An increase in the fragmentation of forestry areas could lead to a reduction in the number and frequency of rally events in D&G.”*

*“I cannot envisage any situation that a private lessee would have stimulated and encouraged the development of such projects [riparian management and native woodland] both of which are now heavily involved in local tourism, recreation, biodiversity and enhance the local economic situation.”*

*“[demand] can change dramatically in a short space of time. An example is the Seven Stanes mountain biking which 10 years ago was little more than an idea ...”*

- impossible to select 100,000 hectares for leasing where there are not significant social and environmental benefits, especially given need to identify manageable parcels of forest;
- impact (immediate and longer term) on FCS employees and communities where they live. Uncertainty for staff transferred to work for a lessee, especially if the lessee were subsequently able to justify a redundancy programme – **see also paragraph 19 below**;
- disruption to management of NFE and loss of expertise from FCS if staff are transferred;
- less predictable wood supply for processors, with potential to destabilise and undermine the timber market – **see also paragraphs 20 and 21 below**;
- a lease is unlikely to offer value for money, as investors will significantly discount its value. Reasons given included uncertainty over future timber prices and development income, inability to benefit from capital appreciation in land values, and difficulty in borrowing against a lease;
- in practice, lessee likely to negotiate an extension after (say) 25 years – but if this is not factored into the lease at the start the lease will be undervalued;
- loss of future revenue from the NFE:

*“There would be no financial benefit for the people of Scotland”.*

*“The removal of 100,000 ha (approx.25% of the NFE’s woodland cover) of the most commercial areas from FCS management is equivalent to removing nearly 35% of the income from FCS. This income is currently used to fund multi-purpose forestry across the whole of the forest estate.”*

*“Concerns that the residual portion of the estate would be less revenue generating and more reliant on the public purse.”*

*“Will only be worth bidding for on good parts, leaving the unviable parts.”*

*“Would compromise future flexibility over the use and development of our woodlands.”*

- fear that, following an initial lease of 25% of the NFE, further areas would be leased in the future;
- potential problems with enforcing the terms of the lease –

*“What happens if a leaseholder goes bust?”*

*“What is to stop the purchasing companies from re-selling to others with no obligation to the current workforce, either jobs being lost, or conditions of work being down-graded?”*

- cost and complexity of preparing, marketing and negotiating a lease – with no certainty about a successful outcome;
  - cost of administering, monitoring and enforcing the lease;
  - concern about management by foreign companies;
  - negative experience with forest leases and privatisation in other countries. Eg in New Zealand a lessee went bankrupt, overcutting jeopardised local sawmills and jobs were lost. In British Colombia 20/30 year cutting rights often led to poor practices and disputes. The Swedish Government sold much of its NFE to a company which used its semi-monopoly to raise log prices, leading to sawmill bankruptcy/sales; the Government has now re-acquired a significant stake in the forests;
  - lengthening rotation length improves carbon sequestration, but the average rotation length in private forests at least 10 years shorter than on the NFE: this equates to a reduction of about 8% in sustainable carbon sequestration;
  - difficult to ensure that lessees improve standards of management in line with developments in good forest practice;
  - additional pressure on SRDP funding, if lessee eligible for grants;
  - loss of community acquisition opportunity through the National Forest Land Scheme;
  - consultation rushed and (given current economic circumstances) ill-timed.
16. Where reasons were given for expressing positive views, these included:
- private sector more likely to be efficient:  
*“The private sector, whether represented by the great estates or other commercial interests has traditionally shown a greater responsiveness and innovation than governments or quangos.”*
  - would reduce the need for public money to subsidise FES operations (ie growing, harvesting and sale of timber);
  - public subsidy can be used more efficiently in other ways to generate jobs;

- would attract new wood using and forest based industries, and bring efficient management, access to capital and an ability to develop new ideas quickly. This would increase employment in the industry;

*“Permitting private sector involvement will create new entrepreneurial opportunities for people, particularly those living in the economically fragile rural communities of Scotland.”*

- would help address concern about role of FC as both the largest forest manager in Scotland and the forestry authority;
- in its forestry authority role, FCS would have a continued monitoring and enforcement role to ensure felling, restocking and management continued to meet standards required by the law and SG policy;
- certification under FSC provides a verifiable benchmark for securing social, environmental and sustainability elements of forest management;
- many good examples in Scotland of privately owned forests offering excellent recreation facilities and attention to the environment;
- there is a legal right of responsible access to land;
- a commercial forest manager would be keen to maintain and develop commercially viable forest uses, such as car rallying and mountain biking (although any subsidy might need separate funding);
- many existing FES staff would adapt, and benefit from moving to a fully commercial environment.

17. Many of those who were positive about leasing, or who were neutral or undecided, added caveats. These included the need:

- to ring fence the money raised to ensure that it is used for forest-related climate change measures. Some said it should only be used for woodland creation;
- for further reassurances and consultation with stakeholders about the impact on timber supply (nationally and locally), on tourism/recreation facilities (including those currently under development), on community involvement initiatives and on environmental projects;
- for clear selection criteria that minimise loss of social and environmental benefits;
- for a full Strategic Environmental Assessment, showing (eg) how the Scottish Biodiversity Strategy, UK Biodiversity Action Plan, EU Birds and Habitats Directive and biodiversity theme of the SFS would be delivered, and how the landscape and historic environment would be safeguarded;

- to assess impact on disabled people or other disadvantageded groups who currently make use of forests;
- to safeguard opportunities for community acquisitions under National Forest Land Scheme;
- for detailed assessment of impact on FCS staff and detailed explanation of how the interests of individuals will be safeguarded;
- for FCS to retain accountability and have necessary powers to ensure that safeguards in lease are effectively applied, monitored and publicly reported;
- for SG to maintain or increase (in real terms) current funding to FCS for recreation, conservation, heritage and community involvement activities;
- for SG to provide extra money to cover the costs of offering grants to a lessee (eg under SRDP);
- for SG to provide extra money to cover extra costs incurred by FCS and other public bodies (eg SEPA, SNH, local authority archaeology services) in monitoring the activities of a lessee;
- to explore other ways to increase woodland expansion (eg by improving operation of SRDP) before embarking on leases;
- to focus woodland creation in areas subject to leases, in order to increase job opportunities in these areas;
- for reassurance that leases would only be offered to companies with a good reputation and a track record in sustainable forest management;
- to make potential lessees aware of anticipated constraints over management (eg impact of water quality considerations on restocking practice);
- to consider capital payments in instalments, together with a ground rent that could be adjusted (eg in respect of developments that add value to the leased area);
- to consider how to apportion development value; the terms of payment; responsibility for (eg) roads maintenance; break clauses; penalties for breach of contract; exit terms etc;
- to consider whether, and on what conditions, leases could be assigned;
- to consider whether there would be provision to renew the lease after (say) 25 years. If so, this would be even more like privatisation. If not, what incentive would the lessee have to manage forests that they would not be able to harvest before expiry of the lease?

- to consult stakeholders over the drafting of leases;
- to test the concept by first offering a shorter lease over a smaller area.

18. Suggested lease conditions included:

- certification under a recognised scheme (eg UKWAS/FSC or PEFC), with any major corrective actions carrying financial penalties;
- statutory duties and other commitments (including financial commitments) that currently apply to NFE. These include the responsible right of access, the biodiversity duty and commitments with regard to the care of scheduled monuments
- a requirement to consult locally on forest management plans;
- a requirement to operate according to an agreed long term marketing plan;
- a requirement to offer a mix of long term contracts and open market opportunities for all wood users (**see paragraph 21 for more details**);
- a requirement to offer accessibility (not just access) to leased forests, to communicate with local authorities etc on recreational issues and (eg) to maintain long-distance footpaths and other trails;
- a requirement to allow continued use of forests for (eg) car rallies, orienteering, mountain biking, horse-riding under current terms (eg national agreement for rallying);
- a commitment to employ local people;
- a requirement to take account of carbon impact of operations;
- safeguards with respect to existing rights over the land (eg sporting, peat-cutting);
- safeguards with respect to the interests of neighbours (including, eg, shared accesses, private water supplies and fences).

19. The response from FC Trade Unions raised particular issues about FCS staff who might be affected by a lease; (other points made in their response are reflected elsewhere in this analysis):

- the SG commitment of ‘no compulsory redundancies’ does not form part of the terms and conditions of employment for FC staff and as such would not form part of any ongoing employment commitments should any FC staff be subject to a TUPE related transfer to another employer;

- experience with TUPE has shown that detrimental changes to terms and conditions can materialise very soon after transfer as a result of the pressure to reduce costs and maximise profits;
- the option of transferring staff to other jobs in FCS is not realistic as many staff, particularly those on the lower pay rates are secondary earners within their household. Refusal to move in such circumstances could mean the person being classed as resigning.

20. The issue of security of wood supply was a critical issue for the wood processing industry. ConFor (which represents forestry and wood using businesses) stressed that the industry expects further consultation, especially on the recycling of funds raised and security of wood supply before decisions are taken. General views from the industry are incorporated elsewhere in this summary, but these paragraphs highlight the more detailed points raised by the wood processing sector:

- annual investment in wood processing has risen from £60 million per year (in the 1980s and 1990s) to £100 million per year. Significant investments in excess of £100 million are currently under consideration;
- the FCS role (as a reliable supplier in the medium to longer term, including when prices are depressed) is a major confidence element;
- the issue of leasing has raised fundamental concerns over confidence in future wood supply; this could have an impact on current and future levels of investment. Reducing confidence would have an impact along the wood supply chain, affecting forestry contractors, haulage businesses etc;
- SG/FCS should work with the industry to consider, urgently, whether and how confidence could be retained to underpin the continued growth and development of the forestry and wood using sector in any future developments regarding the public forest estate;
- if a lessee formed part of a vertically integrated operation with a processor this would disrupt the market and potentially harm indigenous businesses;
- large biomass projects could secure significant volumes from a lessee. This would impact on the long-term viability of established businesses producing, eg construction timbers, fencing products, pallets, wood panels, and paper. It would also lead to job losses, as large-scale biomass using energy plants require fewer people;
- without FCS ability to offer guarantees of wood supply, future investments in wood processing could be lost to other countries;
- lease provisions aimed at addressing these concerns in the longer-term would be difficult to enforce and might be construed as a restriction on trade.

*“We have invested significantly in our sawmilling operations and as a result we have grown our business considerably and as industry consolidates we will continue to do so. FCS have helped to support these investments by committing to offer for sale their production forecast volumes year on year plus have also committed to Long-term supply agreements.”*

*“... plans to invest £60 million in future developments over the next three years. These major capital investments are based on security of supply and confidence in the wood supply chain. There is no guarantee that any lease holder will commit timber volumes to the open market and therefore we feel that the proposal to lease 25% of the forest estate could potentially seriously undermine these future developments.”*

*“subject to some comfort that FES production forecasts will be maintained and harvesting programmes will continue to be available on an ‘open market’ basis, we would support a move towards leases and cutting rights over parts of the national forest estate. We would however have concerns if the control of future FES timber volumes fell for example to a single large ‘international’ processing entity with a substantial appetite for the full output from the leased estate.”*

21. If leasing were to go ahead, the safeguards suggested by the wood processing industry include:

- setting up a lease working group, with representatives of the processing sector, to set out the conditions for a lease
- no loss in the timber marketing commitments currently given by FCS;
- writing the following commitments into the lease (to be binding for at least 30 years):
  - production forecast volumes will offered for sale every year, with a guarantee that over a period of time (eg two years rolling) a minimum of 90% of the production forecast volume will be sold;
  - all existing long-term contracts that are transferred with the lease are honoured in full;
  - a minimum of 50% of the production forecast volume will be marketed via long-term sales contracts;
  - all timber sales outwith long-term contracts will be offered to the open market via tenders or auctions;
- the tendering and evaluation process must be fair and above board and the interests of the existing industry must be taken into account when awarding the contract;
- there must be an opportunity to negotiate extensions to existing long-term contracts.

22. Other views and issues raised about leasing included the need:

- to provide opportunities for local communities and local individuals to lease small areas of land (including housing plots). This was suggested as an additional option by some respondents who were positive about large-scale leases; and as an alternative by some respondents who were negative about large-scale leases;
- for more detail, and a cost-benefit analysis of leasing – comparing it with other options for raising money from the NFE to deliver SFS and other SG policies . This should also consider the impact on remaining FCS activities, including funding of social and environmental activities;

*“Careful costing and economic analysis will be required to prove that these leases provide a significantly higher return in the short-term than would be gained from longer term timber receipts”.*

*“While the private sector believes it can manage forests as well as FCS, it recognises that FCS provides services that the private sector would not wish to lose. In terms of regulation and grant provision the sector respects the higher level of service and expertise that exists within FCS than in other Government departments. Also an important provider of forest research. Role in developing standards for forest management and plant health also strong.”*

- for FC Accountable Officers to be able justify leasing on value for money grounds;
- to avoid making the lease so restrictive as to be unattractive to the private sector, recognising that the value of a lease will be critically dependent upon the conditions within the lease document;
- for continuity of training opportunities so that the role that the industry plays in rural job creation is not compromised;
- to recognise that as part of its UKWAS certification, FCS gave an ongoing commitment to conform to UKWAS requirements and declared its intention to protect and maintain the ecological integrity of the NFE in the long-term. This commitment needs to be maintained if parts of the certified area are leased;
- to have more than one lease to reduce the risk of distorting the timber market. It would, eg, be possible to sub-divide the area of leasing into a number of separate lots;
- for proper mapping and documentation of land subject to leases.

### **E. A not-for profit trust**

23. The consultation paper asked “what are your views on (i) transferring the proceeds from leases and cutting rights to a not-for profit trust, for investment in woodland creation; (ii) transferring the landlord’s interest in this land to a not-for profit trust; and (iii) Ministers stipulating the constitution of such a not-for profit trust?”

24. There were 313 responses to this question. Although the question was sub-divided, most respondents gave a general reply to all three sections. 66% expressed negative views on this option, although a small number of these were only negative about the suggestion that a trust should act as landlord; 16% expressed positive views. The remainder appeared to be neutral or undecided.

25. Where reasons were given for expressing negative views, these included the following:

- a trust would be an unnecessary expense:

*“The introduction of any not-for profit trust is an unnecessary complication with increased bureaucratic problems which are more likely to cause extra administrative expenses than any increase in efficiency.”*

*“... Forestry Commission Scotland ought to be best placed to reap the benefits of economies of scale and ensure the sustainability of their forest resources without adding an additional layer that would have its own costs.”*

*“There is no need for the Scottish Government to incur the expense and upheaval of creating new bodies with new infrastructures and new budgetary frameworks when the FCS is the appropriate body to carry out the measures for new woodland creation.”*

- a trust would be unrepresentative and not accountable:

*“The interests of the Scottish people will not necessarily be equitably represented.”*

*“The people of Scotland already own the Forestry Commission so why does the statement say that a new trust would give the people of Scotland a direct stake.”*

*“A not-for profit trust would be contentious and would remove land from direct public ownership and accountability”.*

*“The only way to build any accountability into the concept of this trust would be to make it responsible to the Scottish Government”.*

- the private sector is well-capable of promoting woodland expansion, given an effective system of grant support. A trust would compete with the existing private sector (eg for grants and land for planting);
- the creation of a trust would lead to private sector acquiring all significant rights to management and felling in the forests;
- the same purpose could be achieved by FES, if it were given greater financial flexibility to hold money (eg trading fund status);
- if leasing does not go ahead, there is no need for a trust.

26. Where reasons were given for expressing positive views, these included the following:

- a trust would provide a mechanism for “ring-fencing” the proceeds from a lease and holding money from one financial year to the next;
- a trust would provide a vehicle for attracting new sources of finance, including voluntary donations, for sustainable forest management;
- a trust would be able to focus woodland creation activity in areas of market failure -

*“The trust can add real value if it buys urban fringe woods with a recreational bias that the private sector/grant system combination seems to find hard to deliver”.*

- a trust could promote woodland expansion through the private sector, by topping up grants;
- a trust could be efficient and workable:

*“The transfer of the landlord’s interest to a trust would allow the direction of this important national asset via a group of trustees that could (and be seen to) better reflect the needs and aspirations of the people of Scotland.”*

- a trust (or trusts) could provide a vehicle for greater local community involvement.

27. Other views about the use of a not-for profit trust included the need:

- to clarify the role of a trust in promoting woodland expansion – would it acquire and plant land, offer grants to “top-up” SRDP, or offer free-standing grants?
- for the aims and membership of any trust to be carefully formulated – it was suggested that this should be subject to consultation and subsequent scrutiny;
- for flexibility to adapt to changing circumstances;
- for stakeholder representation in its governance arrangements;
- for a guarantee that all income from leasing is invested through the trust in multiple public benefit forestry and related climate change actions (including adaptation). It was suggested that this could include research funding;
- to phase activity to avoid distorting (eg) the land market;
- to clarify whether “top-up” funding from a trust would be regarded as public money for State aids purposes;
- to consider implications of charity law;

- to make use of, and channel funds to, existing trusts or not-for profit organisations – both at national and local level;
- to recognise the potential for establishing or using local trusts with community membership:

*“The transfer of state land to communities through the creation of local not-for profit trusts, should allow forestry to serve the needs of the local communities in a much more effective manner aspiring to combine inventiveness and enterprise, with a strong moral sense of community and compliance with national and international agreements.”*

## **F. Other actions and changes**

28. The consultation paper asked “are there other actions which need to be taken, or are there other changes in legislation which need to be made, in order to allow the public and private forestry sector to contribute to Scotland’s target of reducing emissions by 80% by 2050? If so, please outline what these are.”
29. There were 311 responses to this question.
30. Most respondents who answered this question focussed on actions directly relevant to increasing the contribution of forestry to reducing net green house gas emissions; these are grouped below, by general theme. However, a few respondents challenged underlying assumptions about (eg) the seriousness of climate change, the significance of anthropogenic factors, the rationale for the Scottish Government’s emission reduction targets, and the role of renewable energy. Other general issues raised by respondents included:
- the overarching importance of actions aimed at achieving a transition to a low carbon economy;
  - the opportunity for planning policy to encourage zero emission buildings, eg through better house and office insulation;
  - the need to reduce transport emissions;
  - the potential of tidal power;
  - the need for increased use of nuclear energy;
  - the need for more research to develop Clean Coal Fired Power Stations;
  - the need to broaden renewable energy policy to encompass heat, cooling and transport, as well as electricity;
  - the need for a sustainable development duty on public bodies, including FCS, to require environmentally sustainable action on climate change;

- the need to change consumption patterns;
- concern about how Scottish Ministers might use secondary legislation to change FCS duties and functions.

Forestry and climate change – general

31. A number of respondents specifically requested that there should be stakeholder consultation over the draft Scottish Statutory Instrument used to confer additional powers on FCS under the Climate Change (Scotland) Bill. Other general points about forestry and climate change included:

- a welcome for the holistic approach adopted in the FCS Climate Change Action Plan;
- the benefits of increasing rotation age and associated production of sawn wood for use in sustainable construction;
- the need to adopt sustainable building standards and encourage developers and practitioners to make more sustainable use of timber and wood products;
- the benefit of increasing domestic wood production to reduce pressure on overseas forests and to reduce the transport of timber and wood products;
- the benefit of using any additional resources for tackling climate change more cost-effectively by helping to fund the ownership/sustainable management of tropical rain forest;
- the opportunity to protect/restore carbon sinks in lowland raised bogs and other organic soils;
- the need to recognise the importance of adaptation measures as well as mitigation;
- carbon sequestration should be seen as one of a range of benefits arising from long term, multi-benefit forestry;
- the need for fuller assessment of carbon sequestration benefits of woodland creation, taking account of soil carbon and disturbance by operations, the albedo effect and cooling through evapo-transpiration. Some recognised a need to strike a pragmatic balance between scientific certainty and the costs of achieving that certainty. A number of respondents said that any carbon sequestration achieved through additional woodland creation in Scotland would be relatively insignificant - therefore carbon sequestration should not be the main or only driver for woodland creation;
- the need to spend the bulk of any additional funds on woodland creation;
- a range of views on the relative merits of different species. Some respondents said that conifers are better at carbon sequestration than broadleaved species, as they grow faster and are more likely to be converted into long lasting products;

- the need to develop a green house gas emissions trading scheme, for example drawing on lessons from New Zealand, embracing agriculture as well as forestry;
- the value of measures such as the Freight Facilities Grants, which promote rail transport and sea transport and so reduce “road miles” of timber;
- the value of providing more public transport to forests for recreational purposes.

### Achieving more woodland expansion

32. A substantial number of respondents said that the top priority for achieving more woodland expansion is to overcome frustrations with the SRDP by simplifying it and improving implementation. Several referred to the recommendations already put forward by ConFor; others suggested a return to a free-standing forestry grant scheme.

33. Other views on achieving more woodland expansion included:

- the need for better integration between forestry and farming. Some respondents expressed concern about loss of land for food production; others argued that agricultural policy should explicitly recognise the need to release land for woodland expansion. A number of respondents highlighted the importance of the current Land Use Study being undertaken by the SG;
- the need for better policy integration between policies for farming and food production, forestry, flooding and biodiversity. Climate change cannot easily be separated from other aspects of land use policy, or from broader sustainable production and consumption issues;
- concern about the potential adverse impact of woodland expansion on landscapes, on food production (with the likely loss of grazing land) and on rural communities in areas where active farming is pivotal. Important not to repeat the woodland expansion mistakes of the past:

*“It would be unrealistic to expect Dumfries and Galloway to be able to accommodate another substantial wave of new open ground planting without substantial public opposition.”*

*“New woodland creation is welcome but must also be done strategically with a balanced approach and not have an adverse impact on wildlife, soils and scenery.”*

- avoid new planting on organic-rich soils such as peat - this can result in a net contribution to carbon emissions;
- concern about adverse impact on fisheries (eg through acidification);
- the need to update indicative forestry strategies;

- concern about whether ambitions for woodland expansion are realistic, given (eg) difficulty of securing land for new planting. Reference to the 2006 MLURI scoping study on *Possible Opportunities for Future Forest Development in Scotland*. This identified 33% of Scotland as being suitable for trees from both a biological and land use planning perspective, but added that 25% forest cover is unlikely to be achievable by 2050 without significant changes in the economic attractiveness of woodlands relative to agriculture.
- the need to increase woodland expansion target from 10,000 to 15,000 hectares per year. Necessary because of likely “slippage” in achieving target and loss of productive forest area due to (eg) restructuring following clear felling, with increased use of broadleaves and open space. This would require increase in SRDP funding of £24 million a year (compared with £8 million per year for 10,000 ha per year);
- the need for at least 6,000 hectares per year of new native woodland to achieve the vision set out in the SFS;
- the opportunities for encouraging more natural regeneration, eg by reducing deer numbers, controlling muirburn and reducing pressure from grazing livestock;
- the benefits of new woodlands in helping to address flooding problems;
- the benefits of new woodlands in and around towns;
- the need to give woodland expansion a higher priority in the SRDP, with higher grant rates;
- concern that proposals would skew the funding balance of the SRDP, which should be used to ensure that farming, as well as forestry, can play a lead role in tackling climate change. Use SRDP funding to help farm businesses realise the opportunities for mitigation and adaptation on farms;
- the potential to use flexible incentives such as regional challenge funds, locational premiums or a “carbon sequestration” grant for promoting woodland expansion;
- widen eligibility for farmland premium under SRDP;
- change rules for Single Farm Payments, to allow forestry as well as active farming;
- change rules for LFASS, to make woodland creation an eligible activity;
- develop farmer/investor partnerships;
- provide farmers with free, unbiased advice on woodland creation;
- encourage wood using industries to invest in woodland expansion;

- examine ways to reduce burden of (eg EIA) processes that are a disincentive to woodland expansion;
- increase FCS land acquisition for planting;
- plant more of the bare land on the NFE;
- facilitate management of NFE land by local community groups and conservation trusts willing to plant trees and manage woodland;
- facilitate enhanced role for voluntary sector, which can encourage landowners to work together (eg creation of riparian woodland by fisheries trusts) as well raising funds to acquire land and establish woodland;
- use planning gain to promote woodland creation (eg) along transport corridors, on derelict land and other “brownfield” sites, and in association with housing developments;
- develop a voluntary carbon offset scheme, backed up by a national standard, registry and inspection:

*“[Carbon trading schemes] are not yet sufficiently developed to have any significant impact on providing ‘new’ money for forest establishment in Scotland, but there is a growing amount of research being undertaken and knowledge and understanding of how schemes might be developed. These should be pursued as a priority”.*

- review system of tax incentives with a view to using income/corporation tax system to promote woodland expansion;
- remove inheritance tax incentives for woodlands, as these inflate prices and discourage acquisition by those who would make best use of them;
- reintroduce sporting rates, but offer exemptions for new woodland;
- seek greater access to lottery funding for woodland creation;
- provide greater stability, over time, in incentives for woodland expansion and in regulatory framework and guidelines.

#### Increased funding from national forest estate

34. Views on increasing funding from the NFE included:

- increasing the repositioning programme on the NFE – especially until increased funding from other sources (eg renewables development) becomes available. This was suggested by a number of respondents as a straight-forward, relatively non-contentious way to raise predictable sums of money in a manageable way.

However, some respondents had reservations about this and saw a need for further debate (including, eg, about how best to safeguard existing public benefits from NFE) before embarking upon an expanded programme;

- selling half NFE between now and 2030, focussing on areas of better timber and less significance for public delivery, to raise £600 million;
- selling unproductive land and/or development land;
- removing the capital charge of £30 million per year;
- developing a more innovative, commercial, profit focussed approach to the management of the NFE, eg, by increasing revenues from recreation developments, as well as JVs, and by allowing FCS to withhold timber from market when prices are low;
- giving FES ‘Trading Status’ and allowing it to hold funds for forest-related climate change measures between financial years;
- allowing FCS flexibility (eg) to sell financial harvesting futures or to enter carbon trading contracts;
- offering, by competitive tender, short term management contracts (of, eg, 5 years) to forestry management companies to harvest, administer, manage and restock parts of the NFE. Other variations of this approach suggested by respondents included selling rights to harvest timber for say 10-20 years; offering longer term management contracts (with FCS determining management practice and harvesting volumes); or contracting out the management of whole Forest Districts.

### Realising potential of renewable energy

35. Views on realising the potential of renewable energy from the NFE included:

- the need for SG to develop an overarching national locational strategy for renewables;
- the need to simplify the necessary consents required to start wind energy generation and hydro-electric schemes;
- the need to minimise the cost of SEPA and other government charges and regulations;
- the need to promote use of biomass for combined heat and power rather than just electricity generation;
- concern that burning wood, rather than processing it, has a negative impact in terms of green house gas emissions;

- the opportunity to work with the Carbon Trust's Partnership for Renewables to develop and manage on site renewable energy projects;
- the need to improve energy efficiency in FCS buildings and vehicles;
- the opportunity to make more use of wood fuel in heating new SG buildings;
- the need to support wood pellet plants and the use of wood-fired boilers – for example through grants, and changes in building control regulations;
- the need to support integrated energy demand/supply chains that (eg) match support for wood boilers with wood fuel supply networks and energy wood production;
- the need to support forest energy supply systems that are based on existing systems – eg, by encouraging existing forestry contractors to diversify into energy chip production, and by facilitating the use of tried technology from Scandinavia, Austria etc;
- a welcome for the second round of Scottish Biomass Heat Scheme which encourages people to transfer from non-renewable heating sources to sustainable renewable energy sources;
- the need to establish more woodland suited for wood fuel production, including short rotation forests (clearfelled after 6-8 years, followed by a second rotation). Consider more uses of species such as aspen and black locust;
- the opportunity to target sales of NFE to encourage the development of renewable energy (including biomass developments);
- the importance of transport infrastructure (including rail and port) for handling large volumes of wood for fuel;
- the need to encourage local biomass schemes and to facilitate the sale of wood fuel from NFE in relatively small volumes at local level.

**March 2009**

## **ANNEX**

### **ABBREVIATIONS**

EIA	Environmental Impact Assessment
FC	Forestry Commission
FCS	Forestry Commission Scotland
FES	Forest Enterprise Scotland
FSC	Forest Stewardship Council
JV	joint venture
LFASS	Less Favoured Areas Support Scheme
NFE	National Forest Estate
PEFC	Programme for the Endorsement of Forest Certification schemes
ROC	Renewables Obligation Certificate
SFS	Scottish Forestry Strategy
SG	Scottish Government
SRPD	Scotland Rural Development Programme (2007-13)
TUPE	Transfer of Undertakings Protection of Employment Regulations
UKWAS	UK Woodland Assurance Standard