

# Final Business and Regulatory Impact Assessment

## Title of Proposal

**Designation of a Rural Housing Body under section 43(5) of the Title Conditions (Scotland) Act 2003**

## Purpose and intended effect

- **Background**

Section 43 of the Title Conditions (Scotland) Act 2003 (the 2003 Act) has provision for the Scottish Ministers to designate bodies if they meet the set criteria under section 43(6) of the Act to become a Rural Housing Body (RHB).

- **Objective**

To provide affordable housing for local residents in rural communities. Section 43 of the 2003 Act permits the creation of rights of pre-emption in favour of prescribed RHB. Such rights of pre-emption are known as “rural housing burdens”. A rural housing burden gives the body in whose favour it has been created the first opportunity to buy the property back when it is sold. The objective is to maintain a stock of affordable homes in rural areas.

- **Rationale for Government intervention**

The application by Yuill Community Trust: CIC identifies the need to provide housing that is affordable for permanent residence, and to keep the housing in affordable tenure.

A body can only become an RHB if it is designated by SSI. The designation of a RHB may help achieve one of Scotland’s national outcomes which is that “We value and enjoy our built and natural environment and protect it and enhance it for future generations.” It could also meet the national indicators “Improve access to suitable housing options for those in housing need” and “increase the number of new homes”.

The proposal would help to maximise the delivery of affordable housing within the Scottish Borders

## Consultation

- **Within Government**

We have considered the application with the Community Right to Buy Team within the Land Reform and Tenancy Unit and the Supply Strategy, Right to Buy Team within the Housing Supply division. All parties were content with application by Yuill Community Trust: CIC to proceed.

- **Public Consultation**

We did not carry out a written public consultation across Scotland given the limited impact of the SSI.

- **Business**

We approached seven outside bodies in relation to this BRIA. Three companies agreed to be interviewed, however, one company asked for additional information on Yuill Community Trust: CIC and failed to respond after we provided this. A second company agreed to be interviewed but failed to make contact regarding a suitable time. The third company responded in writing to our list of questions prepared for the interview.

A further three companies failed to respond to any correspondence sent to them. However after some intervention a further organisation provided us with a response in writing to our questions.

An additional organisation who was not in the initial list of potential interviewees, advised us that they thought the concept sounded interesting but, as Yuill Community Trust: CIC proposed to operate predominantly in the Scottish Borders; they did not feel their input would be relevant.

The bodies contacted were:

Local Authority  
Potato Producer  
Plastic Manufacturer  
Egg Producer  
Builder x 2  
A Housing Partnership

## **Options**

There are 2 options regarding Yuill Community Trust: CIC's application to become designated as a RHB.

Option 1 is to do nothing.

- **Sectors and groups affected**

There would be no direct impact on the local community and businesses in the Scottish Borders if we decide not to approve the application of Yuill Community Trust: CIC to be designated as a RHB.

- **Benefits**

By doing nothing there would be no impact on communities within the Scottish Borders.

- **Costs**

There would be no costs involved as no SSI would be required. However, doing nothing could have a negative impact on the local economy. Economic activity could be generated though the work carried out by Yuill Community Trust: CIC. In addition, any housing built could house people from the local community or people who wish to move permanently to the Scottish Borders.

Option 2 is to designate Yuill Community Trust: CIC as a RHB.

- **Sectors and groups affected**

This proposed SSI would designate Yuill Community Trust: CIC as a RHB. The impact is therefore on the Scottish Borders and the communities and businesses within the Scottish Borders.

- **Benefits**

The aim of the trust is to provide affordable housing to the rural community where such housing is in demand as there is not a sufficient supply. By providing affordable housing and community buildings it will help encourage the younger generation to stay within the Borders area.

- **Costs**

There would be the minimal cost of the SSI

### **Scottish Firms Impact Test**

Due to the location of the businesses it was agreed that we would conduct the interviews by telephone. Lists of questions were prepared and were due to be sent out to the businesses prior to the interview. The questions were sent out to only one business who completed the 'questionnaire' and therefore no interview was undertaken.

#### **JS Crawford – Builder**

- Agreed to be interviewed after initial letter. However, Mr Crawford instead chose to answer the list of questions rather than be interviewed.
- Mr Crawford stated that he felt there would be neutral impact should Yuill Community Trust: CIC become designated as a RHB. He could see not see any drawbacks.

#### **Scottish Borders Council**

- Scottish Borders Council (SBC) have stated that the intentions of Yuill Community Trust: CIC is commendable and consistent with the current Scottish Borders Council Administration, Local Housing Strategy and Single Outcome Agreement which aim to deliver at least 100 units of additional affordable housing per year.
- They have however raised some concerns regarding the purchasing of land, Yuill Community Trust: CIC have advised that they have two sites which the owners of the land are willing to place a rural housing burden on when they develop the sites with the community. Yuill Community Trust: CIC also have three other provisional sites they are currently exploring.
- They also said that should the Trust be designated as a Rural Housing Body, the Council expects that it would be required to work in the context of Planning policies operating within the Scottish Borders Council area. Obtaining Rural Housing Body status does not allow builders/planners to build houses without obtaining the appropriate permissions/consent for the area.

As indicated above, other bodies were contacted to be interviewed but no interviews took place, for a variety of reasons.

- **Competition Assessment**

Finding 6 individual businesses to interview for the BRIA has proved very difficult. We have tried a number of businesses and have failed to get a response apart from one.

The Government has considered the impact of the proposal on competition and does not consider that there would be an adverse impact. We have two reasons for taking that view. First of all, it seems unlikely that work carried out by RHBs would have an adverse impact on the house-building or other industries, given that work by RHBs is relatively small-scale. Secondly, as indicated above, there was no significant interest from companies in the Scottish Borders when we approached them to be interviewed for this BRIA. This lack of interest suggests that there were no major concerns about the proposal.

- **Competition assessment filter questions**

**Will the proposal directly limit the number or range of suppliers?**

No. The policy will not restrict the number or range of suppliers. Plots of land will be made available and allocated to self-builders.

**Will the proposal indirectly limit the number or range of suppliers?**

No. The Trust or the individuals purchasing may use local companies but that would be a matter for them.

**Will the proposal limit the ability of suppliers to compete?**

No. Again it will depend on who the trust and/or who the new homeowner wants to appoint to construct. The current proposals do not state that there will be any restrictions on suppliers to compete.

**Will the proposal reduce suppliers' incentive to compete vigorously?**

No. It will be open to the businesses to compete within the criteria laid down by the Trust or new homeowners.

The building industry may benefit if affordable housing is built.

The policy itself does not place any restrictions on who may tender for the work or range of suppliers. This will be for the RHB, Yuill Community Trust: CIC to decide or for the individual families. The location may rule out some firms/businesses but this is not a consequence of the policy.

There will be no limit to the range of suppliers e.g. it will not award exclusive rights to a supplier or create closed procurement.

- **Test run of business forms**

N/A. There are no new forms associated with this proposal.

**Legal Aid Impact Test**

The proposal has no impact on the legal aid budget.

### **Enforcement, sanctions and monitoring**

The policy does not need enforcement or sanctions.

Monitoring will be at a low level, given the restricted impact of this SSI. The Carnegie Trust have carried out research on Rural Housing Burdens:

<http://www.carnegieuktrust.org.uk/publications/2011/the-effectiveness-of-rural-housing-burdens> and <http://www.carnegieuktrust.org.uk/getattachment/8a4d9d3f-11ad-46f5-b294-58be4e93dae0/Rural-Housing-Burdens--A-Policy-Summary.aspx>

Points made by the Carnegie Trust include:

- The use of RHBs has helped to grow the population of small, fragile, rural communities, such as Glenachulish in the West Highlands, improving their sustainability in the medium term.
- Most families who have purchased a property with a RHB are clear that this was the only way in which they could have afforded to buy their home.
- The RHB mechanism has enabled properties to be developed in attractive locations, which would not have been made available for housing development – or may not have received planning permission – without the protection that the RHB offers in terms of retaining the property within the local community.

The Government intends to follow up the research by the Carnegie Trust to consider further the impact of Rural Housing Burdens generally.

### **Implementation and delivery plan**

An SSI will be drafted to add Yuill Community Trust: CIC to the list of designated RHB's

- **Post-implementation review**

As indicated above, the Carnegie Trust have undertaken a review of the effectiveness of RHB's. The Government will follow this work up.

### **Summary and recommendation**

The application by Yuill Community Trust: CIC to be designated as a RHB should be approved and the SSI made.

The proposed housing may attract new people to the Scottish Borders area which may also increase the work-force along with attracting new businesses.

Yuill Community Trust: CIC is a newly formed community interest company that intends to design and manage the delivery of high quality affordable housing, primarily within the Scottish Borders, but also throughout Scotland. The buildings will be delivered directly for, and with, the participating community through Community Self-Build. As part of their constitution they will help any community group establish a Community Land Trust should they desire.

By becoming a RHB, the Yuill Community Trust: CIC will be able to maximise that delivery of affordable housing for both current and future communities of the Scottish Borders and beyond. The Yuill Community Trust: CIC would use the rural housing burden mechanism to help community groups provide affordable rural housing in perpetuity.

Any surplus made by Yuill Community Trust: CIC will be used to fund Community Self-Build Projects. Yuill Community Trust: CIC will work with communities to establish their own Community Land Trust and assist them through the process of building their homes from inception to completion.

There may be issues around whether people can get the necessary finance to purchase the properties to build them. The current economic downturn may make lenders nervous in funding such burdened properties. However, this is a general issue across the housing industry.

- **Summary costs and benefits table**

As indicated above, at this stage the Government does not consider it possible to quantify the potential benefits of the proposed SSI. The costs of the SSI are negligible.

Indications from the Trust are as follows:

- Yuill Community Trust: CIC also want to work in the smaller communities that surround these towns/villages.
- Yuill Community Trust: CIC plan on building five self-build homes in 2014. Based on a three year projection they plan on doubling the builds year on year with the anticipation of approximately 20 builds in year 2016.
- The Trust currently have two sites which the owners of the land are willing to place a rural housing burden on when we develop the sites with the community. They also have three other provisional sites they are currently exploring.
- Yuill Community Trust: CIC feel that the benefit is that the Trust will be able to provide at least 35 new homes in three years which will be affordable in perpetuity. Homes will become community owned assets which will help people stay in the Scottish Borders and help support economic development in the region.

**Declaration and publication**

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impacts of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:****Date:****Roseanna Cunningham, Minister for Community Safety and Legal Affairs****Scottish Government Contact point: Catherine Devlin Ext 44213**