



Loch Lomond Byelaws Review 2023

Agenda Item 4

National Park Authority Board Meeting

30 January 2023

Paper for decision

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1. Purpose

1.1. The purpose of this paper is to seek Board approval to submit the attached draft report (Appendix 1) and its appendices to Scottish Government Ministers to seek approval for the changes to the current Loch Lomond Byelaws 2013 under the National Parks (Scotland) Act 2000.

1.2. The report outlines the history and purpose of the existing byelaws, the statutory review requirements and proposed changes to the byelaws which have been informed by the consideration of the available evidence, extensive expertise and experience of the National Park Authority staff managing the loch, engagement with key loch stakeholders, a public consultation exercise and external legal advice.

1.3. Additionally, the report, which has been drafted for Scottish Government Ministers (subject to approval by the Board), highlights several associated

issues on the use of Loch Lomond which have been raised during the review process, but which have not been deemed appropriate or proportionate to take forward to formal byelaw changes at this time or require further discussion with the Scottish Government over a longer time frame.

1.4. The proposed next steps for implementing the byelaw changes are also laid out, should Ministers confirm approval.

2. Recommendations

2.1 Board Members are asked to:

2.1.1 **Note** the outcome of the review process carried out by officers, and timetable of next steps, including submission to Scottish Government Ministers and proposals for implementation should the changes be accepted;

2.1.2 **Approve** the attached draft report, including the final proposed byelaw changes to be submitted to Scottish Government Ministers for their consideration;

2.1.3 **Agree** to delegate approval of final design and minor editorial adjustments of the report to officers prior to submission to Scottish Government Ministers.

3. Contribution to National Park Partnership Plan and/or Our 5-year Plan

3.1 The Loch Lomond byelaws contribute towards delivering the following Outcomes and Priorities of the Partnership Plan:

National Park Partnership Plan

- Outcome 2: Landscape Qualities, Priority 2.1: Landscape & Heritage
 - Outcome 6: Water Recreation, Priority 6.3: Water Recreation
 - Outcome 8: Visitor Management, Priority 8.1: Visitor Management
- Priority

4. Background

4.1 Paragraph 8 of Schedule 2 of the National Parks (Scotland) Act 2000 (“**2000 Act**”) provides for the Park Authority’s powers to make byelaws, for the purposes of:

1. *protecting the natural and cultural heritage of the National Park,*
2. *preventing damage to the land or anything in, on or under it,*
3. *securing the public’s enjoyment of, and safety in, the National Park*

- 4.2 The National Park Authority became responsible for implementing the Loch Lomond byelaws when it came into being in 2002, although the byelaws had been in existence since 1996, when they managed by the predecessors to the Park Authority, the Loch Lomond Regional Park and the Loch Lomond and The Trossachs Interim Committee.
- 4.3 The byelaws are in place on Loch Lomond, and not on other lochs in the National Park, because of the extent and range of recreational activity and need to manage the special environmental qualities. Specifically, they were first introduced to manage safety on the Loch, disturbance to Loch users and disturbance to wildlife.
- 4.4 The approach taken by the National Park Authority to the enforcement of the byelaws is one of prevention first, through engagement and information targeting positive behaviour and voluntary compliance. However, some alleged byelaw contraventions are progressed to formal enforcement through cases being referred to the Procurator Fiscal to be dealt with in the Sheriff Courts.
- 4.5 It is important to acknowledge while the byelaws are an important management tool, they are part of a combination of measures and approaches to managing behaviour and activities on the Loch. Some aspects of management are better suited to and require to be addressed through alternative approaches, such as education campaigns and infrastructure provision.
- 4.6 Sections 1-4 of the attached review report contain the background to the current byelaws.

5. Why are the byelaws being reviewed?

- 5.1 There are two primary reasons for the review. Firstly, there is a legal requirement for the Park Authority to carry out a review and submit this to the Scottish Government for consideration. The Civic Government (Scotland) Act 1982, requires all byelaws to be reviewed at intervals of not more than 10 years. The Loch Lomond byelaws have undergone two previous reviews in 2007 and 2013 and are due for a third review by 2023. *For information Board members should note that the [Camping Management Byelaws, 2017](#) covering the Park are due for review by 2026 latest.*
- 5.2 Secondly the Loch has seen over the past few years a significant change in recreational uses across a range of activities, meaning that the review is a timely opportunity to consider how the Loch is best managed to ensure that the purpose of the byelaws is being fulfilled and that these remain fit for purpose in a changing operating and Loch user environment. This is particularly important with regard to the growing concerns over safety on the

Loch due to rapid changes in some recreation uses with an escalation of some dangerous behaviours and the pressing need to address this issue.

- 5.3 Whilst the legal requirement and changing use of the Loch were the chief drivers of the byelaw review, the process also allowed the opportunity to engage with stakeholders on a wider range of related matters such as sustainable visitor management and tackling the climate and nature crises.
- 5.4 The reasoning behind the review process is outlined fully in section 4 of the review report.

6. What has changed on Loch Lomond?

- 6.1 In a few years marked changes in recreational use have been observed. These include a significant increase in non-powered activities such as open water swimming and stand-up paddle boarding, as well as a rapid growth in Personal Watercraft (PWCs), commonly known as jet skis or jet bikes using the loch.
- 6.2 This trend is having mixed impacts. From a positive perspective many people are enjoying and benefiting from a wider range of accessible recreational activities on the Loch, which has been particularly important during the COVID19 pandemic period when activity was drastically reduced for the whole population. However, this has also led to some negative consequences with an increase in safety risks to user groups, a marked increase in alleged byelaw contraventions, and a rise in levels of disturbance, noise and antisocial behaviour (including increasing incidents of dangerous behaviours). Many of these issues are concentrated in the most popular and accessible parts of the Loch, such as Balloch, Duck Bay and Luss heightening the concerns of local communities and some stakeholders.
- 6.3 The review report details the full nature of the changing use of the Loch in section 5.

7. Byelaw Review – Process & Outcomes

- 7.1 Section 7 of the review report outlines the detail of the review process which has been thorough and inclusive, closely involving the views of local stakeholders, the wider public, legal counsel and experienced staff members over a period of several months.
- 7.2 Officers focused on developing a set of practical and proportionate changes to the existing byelaws which aim to make the Loch a safer, healthier and more enjoyable environment for all. These changes were outlined in a series of six proposals (p. 20-21, Section 7.4 in the draft report) developed with input from key stakeholders, which were then taken to public consultation over a 12-week period between July and October 2022.

- 7.3 With over 380 responses from organisations and individuals, the public consultation highlighted a diverse range of views on the proposals, but with significant levels of support (75-88%) for most proposed changes. Proposal 1 which focused on the creation of 7 Low Powered Activity Zones in the busiest parts of the Loch attracted the lowest level of support (65%).
- 7.4 Following the public consultation officers then re-assessed the proposals, with further input from local and national stakeholders and legal counsel to create the final draft proposals for byelaws changes which Board are presented with in section 10, p.28-35 of the report.
- 7.5 All comments and proposals from the consultation and engagement process have been carefully considered by officers and through the application of a set of objective criteria (section 7.3, p19). Final draft recommendations were taken to the National Park Authority Executive Team before inclusion in this report.
- 7.6 Alongside the finalised byelaw proposals are a set of other related matters and suggestions which were considered but concluded as not appropriate to be taken forward at this time (section 11, p36-40). These cover a range of comments and suggestions from stakeholders with the most prominent being the banning of all PWCs, increasing the levels of enforcement action, the introduction of mandatory third-party insurance for boat owners, and how to decrease unwanted environmental impacts, such as noise levels.

8. Other considerations

- 8.1 The review process has also surfaced a series of issues and matters related to the longer-term management of the Loch which are worthwhile highlighting to Board members. They are not all specifically relevant to the final byelaws being proposed but are important considerations within the wider context of managing the National Park and are therefore briefly outlined below.
- 8.2 Considerable discussion has taken place around the implications of an historic Right of Free Navigation on the Loch which is assumed to allow free movement around the Loch. We view this historic right as no longer fitting for a contemporary National Park, with multiple competing uses on the Loch set in a world now experiencing the twin climate and nature crises. Legal advice is that to change this right would require new legislation, with resourcing implications over a longer timescale than the current byelaw review. This matter is covered in section 10.1, p 29 of the report.
- 8.3 At current levels, resourcing the management of the Loch Lomond byelaws is a significant and ongoing cost, in the region of £400,000 per year, covering the Loch-based Ranger Service and all supporting systems. The introduction of the byelaw changes to tackle safety and associated issues is estimated by

officers to cost in the region of £250,000 in preparatory costs, resulting from the need for new infrastructure (such as new buoyage) and supporting services (such as the new personal registration scheme). Board Members are asked to note that the current charging rates for boat launch fees will continue to be kept under regular review in order to reflect increasing costs of providing these services.

8.4 At the forthcoming March meeting Board members will be presented with a draft new National Park Partnership Plan, setting out an updated strategic direction for the Park for the coming years. As global, existential threats, tackling the climate and nature crises will be an urgent priority of the Park Authority and our partners in the coming years, and this will no doubt feature prominently in the draft plan. This will be our effort to work towards the Scottish Government commitment for a net zero nation by 2045. Through our own Mission Zero programme we are aiming to be a net zero organisation by 2030, but beyond this a net zero National Park is a subsequent step.

8.5 With a transition away from fossil-fuelled vehicles, both on land and water, Board members are asked to note that this will likely have far-reaching consequences for transport and recreation in the Park, including on the Loch itself, although the detail is still to be worked out. This transformation will not be specific to the Park, but as part of a wider national shift driven by governmental policies and actions in delivering Scotland's journey to net zero.

9. Next steps

9.1 A draft version of the fully designed report will be made available for members prior to the Board meeting. Should Board members approve the draft byelaw change proposals, the report will be amended with any changes before being published on the National Park Authority website and made available at our offices for a period of one month, to give stakeholders and interested parties sight of the finalised byelaw changes. During this time, stakeholders and Loch users can write to Scottish Government with any grievances or concerns about the draft byelaws. The finalised report and draft byelaws (subject to any minor editorial changes) will then be submitted to Scottish Government Ministers for consideration.

9.2 It is unknown at this time when a response might be expected from the Scottish Government, but we will engage with our Sponsor Team to request a timescale that allows us sufficient time to prepare for implementation – currently planned for 1 April 2024. With the byelaw review completed, the existing byelaws will continue to operate until the date Scottish Ministers approve the introduction of the proposed changes.

- 9.3 Implementation will require a range of actions including activities such as installation of new buoys and signage, procurement of a boat registration database, staff training and a communication plan to roll out messaging to Loch users and other stakeholders.
- 9.4 Officers will also continue to engage with stakeholders to ensure that any byelaw changes are fully understood and in time monitored. We expect the Loch Lomond Stakeholder Group to be an essential vehicle for two-way engagement in the coming months.
- 9.5 The development and delivery of the new National Park Partnership Plan will provide the opportunity to discuss and consider some of the other considerations listed in section 8 above – and agree any associated next steps.

10. Risks

10.1 Risks to delivery and implementation of an updated set of Loch Lomond byelaws include:

- potential failure to secure timely final agreement from Scottish Government Ministers, resulting in inability to effectively implement the new byelaws for 1st April 2024
- potential failure to agree Byelaws with Scottish Government Ministers due to lack of alignment on policy matters such as levels of ambition on climate emergency or nature restoration.
- a lack of sufficient resources to fully enable delivery and implementation.
- significant levels of stakeholder concern should the finalised byelaws include amendments not previously consulted upon.
- Board should also note that there are risks associated of not implementing these proposed byelaw changes, in terms of ongoing safety concerns for Loch users, along with levels of antisocial behaviour and disturbance to local communities.

10.2 Officers are confident that the likelihood, and therefore potential impact of these risks can be proactively managed through ongoing engagement and liaison with stakeholders and Scottish Government including an awareness that a decision timeline beyond June 2023 could be detrimental to the implementation and delivery of the Byelaws.

Author: *Simon Jones, Director of Environment and Visitor Services*