

LOCH  
LOMOND  
& THE TROSSACHS  
NATIONAL PARK



# Loch Lomond Byelaws Review

REPORT TO SCOTTISH GOVERNMENT

2023



# Loch Lomond Byelaw Review - Report to Scottish Government

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# 1. Executive Summary

- The National Park Authority is required by law to review the Loch Lomond Byelaws at least once every 10 years and this process has now been carried out with input from local stakeholders and a public consultation.
- There has been significant change over the last 10 years in terms of recreational use on Loch Lomond (referred throughout this document as ‘the Loch’) with a rapid expansion of non-powered activities, as well as a growth in use of Personal Water Crafts (PWC), i.e. jet skis and jet bikes.
- These changes have had positive effects for many users but have also highlighted concerns about the safety of Loch users and other negative impacts on local communities and the sensitive environment.
- There have also been shifts in wider social trends, visitor pressures and policy shifts and this has reframed the context in which the Byelaws now sit.
- Six key changes to the Byelaws were proposed, focusing on: addressing safety concerns, protecting the environment, widening recreational participation, minimising antisocial behaviours and improving enforcement effectiveness.
- Overall, these proposed changes received good levels of support, but also polarised views, with the proposed introduction of Low Powered Activity Zones in the busiest areas attracting the widest range of comments.
- A range of other related matters and proposals from the public and stakeholders were received as part of the review process. These were systematically considered using a set of criteria, although not all could be carried forward.
- The public consultation led to refinements being made to several elements of the proposals, which are presented in this final report.
- The review has also surfaced wider considerations about the longer-term use and management of the Loch beyond the byelaws, including the historic and assumed Right of Navigation, the impact of the climate and nature crises on Loch use, and the use of different enforcement approaches. These will require further discussion and review following submission to Scottish Government Ministers.
- Considerations around the historic and assumed Right of Navigation have led to a final proposal of introducing Low Speed Activity Zones, instead of Low Powered Activity Zones as had been tabled within the public consultation.
- The remaining five proposals included within the public consultation are retained with some refinements
- The changes now proposed deliver an enhanced suite of behaviour change tools, including clear communication and credible enforcement deterrents focused on supporting and protecting safe responsible behaviours in increasingly popular areas.
- While the byelaws are an important management tool, they are just one part of a combination of measures and approaches to managing behaviour and activities on the Loch.
- The report also lays out the resource implications and next steps for implementing the new set of byelaws should Ministers approve them.

## Proposed changes at a glance

Under the existing byelaws	Under proposed byelaws
<b>Proposal 1 - Low Speed Activity Zones</b>	
All vessels and activities permitted across all areas of the Loch but power-driven vessels must not exceed 11kph in speed limit zones (including 150 metres from shoreline – see page 43 for map).	All vessels and activities permitted across all areas of the Loch but power-driven vessels <b>must not travel ‘on the plane’</b> or exceed 11kph in existing speed limit zones (including 150 metres from shore) <b>AND</b> must not exceed <b>6kph in new Low Speed Activity Zones</b> at Balloch Castle Country Park, Duck Bay, Luss, Manse Bay, Milarrochy, Sallochy and Rowardennan (see pages 43-50 for maps).
<b>Proposal 2 - Realign speed limit zone around Inchmoan</b>	
Power-driven vessels must reduce their speed to max 11kph when entering speed limit zone around the islands from the southern basin. The boundary of existing speed limit zone lies in a straight line just ahead of Rossdhu House on West Loch Lomond to Ellanderroch island in the east (see page 51 for map).	<b>Speed limit zone reduced in size and realigned</b> so that Loch users can use the northern point at Rossdhu House, Inchgalbraith, Inchmoan and Ellanderroch islands as visual/geographic markers to better understand when to reduce speed to comply with the 11pkh speed limit zone (see page 51 for map).
<b>Proposal 3 - Personal Flotation Devices (PFDs), e.g., lifejackets / buoyancy aids</b>	
<u>PWCs (jet skis)</u> All those on craft required to wear PFDs.  <u>All other vessels</u> PFDs only required to be carried on board other motorised and non-motorised vessels.	<u>PWCs (jet skis)</u> All those on craft required to wear PFDs.  <u>All other vessels</u> Aged 16 and over: PFDs only required to be carried on board other motorised and non-motorised vessels.  Aged under 16: <b>Required to wear PFDs</b> when underway on a motorised or non-motorised vessel, unless they are in a cabin or other enclosed space. <sup>1</sup>

<sup>1</sup> Underpinning this change will be ongoing communications campaigns and engagement to strongly encourage all Loch users to wear a PFD regardless of their age or activity.

## Proposed changes at a glance

Under the existing byelaws	Under proposed byelaws
<b>Proposal 4 - Transfer liability for under 16s</b>	
Young people (under 16) can be in charge of a vessel with a greater engine power than 5hp (3.7 kw) if a supervising adult is on board. They can also be in sole charge of any vessel under 5hp.	Young people still have the same opportunities to take charge of powered vessels, but the <b>owner or registered owner of the vessel would be liable for a young person committing an offence</b> should any byelaw contraventions be recorded while a young person is in sole charge of a vessel.
<b>Proposal 5 - Loch Lomond User Registration Scheme</b>	
<p>All power-driven vessels are required to be registered for use on Loch Lomond by their owners.</p> <p>Individuals using motorised vessels, who may not be the owner of the vessel, are not required to register.</p>	<p>All power-driven vessels are required to be registered for use on Loch Lomond by their owners</p> <p><i>AND</i></p> <p>Any <b>individual who intends to be in charge (Master) of a powered vessel will have to register</b> with the National Park Authority in advance. At least one registered user would require to be on board while a vessel is in use.</p>
<b>Proposal 6 - Permission to Trade</b>	
Businesses are required to apply for permission to trade on Loch Lomond from the National Park Authority <i>AND</i> meet all other local and national legislation or regulatory frameworks relevant to business practices on the Loch (e.g. those covered by Local Authorities, national bodies, planning and licencing legislation, etc).	<p>Businesses <b>do not need to apply to the National Park for permission to trade</b> on Loch Lomond but must meet all other local and national legislation or regulatory frameworks relevant to business practices on the Loch.</p> <p>The National Park Authority still retain powers to take enforcement action against businesses where their behaviour is causing 'nuisance' (for example compromising safety or damaging the environment – see Appendix 2 for full definition)</p>

## 2. Introduction

Loch Lomond (also referred to throughout this document as ‘the Loch’) is the largest body of freshwater in mainland Britain and an iconic place due to its range of special environmental qualities including Sites of Special Scientific Interest (SSSI), Special Areas for Conservation (SAC), and Special Protection Areas (SPA).

Large numbers of people enjoy many types of recreation activities on and around the Loch all year round and many businesses and communities also thrive on the opportunities that Loch Lomond offers.

The Loch Lomond Byelaws were first introduced in 1996 as a mechanism to manage recreational activity to assist in balancing and reducing environmental, economic, and social pressures on the Loch and ensuring that it is enjoyed safely and responsibly. In particular, they were introduced to manage:

- **Safety on the Loch**
- **Disturbance to Loch users**
- **Disturbance to wildlife**

They are in place not just to enable enforcement action to be taken but as a means to influence and change negative behaviours, by providing a robust set of guidelines backed up in law to act as a deterrent to irresponsible or unsafe behaviour.

Byelaws are in place on Loch Lomond, and not on other lochs in the National Park, because of these specific characteristics and to help manage the careful balance between these multiple uses and opportunities.

### 3. Purpose of this report

Loch Lomond & The Trossachs National Park Authority became responsible for implementing these byelaws when it came into being in 2002. Since then, this set of byelaws has undergone two reviews, first in 2007 and again in 2013, and is due for its third review by 2023 in line with the requirements of the Civic Government (Scotland) Act 1982.

This report to the Scottish Government sets out the context and process for the byelaw review undertaken by the National Park Authority over the last 12 months and sets out the proposed changes to the Loch Lomond Byelaws for approval.

The report presents the background to the byelaws, changes in how the Loch is used in recent years, a summary of the feedback gathered through stakeholder engagement, formal consultation and legal advice, and explains the rationale behind the final proposed changes to the byelaws.

The report also outlines areas which have arisen during the review process that have not been deemed appropriate or proportionate to take forward to formal byelaw changes at this time. Some of these are issues which will need to be revisited as the Park Authority develops and implements the next National Park Partnership Plan, which will set the strategic direction and outcomes for the National Park as a place over the coming years. This may mean that a further review of the byelaws will be necessary before the next 10-year mandatory review period.

## 4. Reviewing the Loch Lomond Byelaws

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.***

In particular, a National Park Authority may make byelaws:

- 1) *to regulate or prohibit the lighting of fires,***
- 2) *to prohibit the depositing of rubbish and the leaving of litter,***
- 3) *for the prevention or suppression of nuisances,***
- 4) *to regulate the use of vehicles (other than the use of vehicles on a road within the meaning of the Roads (Scotland) Act 1984 (c.50),***
- 5) *to regulate the exercise of recreational activities.***

The National Park Authority has a duty to review the byelaws in line with the Local Government (Scotland) Act 1973 and the Civic Government Act (Scotland) 1982. This means that a National Park Authority needs to review byelaws at intervals of not more than 10 years and in the case of the Loch Lomond Byelaws 2013, no later than the 31<sup>st</sup> March 2023.

This review is also timely due to significant changes in recent years in the way that the Loch is used for recreation across a range of activities. There has been a significant increase in non-powered activities such as open water swimming and stand-up paddle boarding. In addition, in the last two years there has been a marked upturn in Personal Water Craft (PWCs), commonly known as jet skis or jet bikes, using the Loch. The rapidly increasing multiple recreational uses of the Loch, while positive in terms of more people being able to access and enjoy the benefits of the water, has also increased safety risks, particularly in the most popular and accessible parts of the Loch.

In light of these significant changes in use in recent years, the urgent need to consider additional measures to improve the safety of Loch users was considered to be the priority factor when undertaking this review. Environmental, enforcement and administration factors have also been taken into account.



The review has been led by the National Park Authority, drawing on its extensive experience and expertise in implementing the byelaws and managing visitors over many years. The Park Authority has worked with key stakeholder groups and partners throughout this process, which included a formal 12-week public consultation running from July to October 2022.

This report has been approved by the National Park Authority Board before being submitted to the Scottish Government Ministers for approval.

The mandatory 10-year review of the byelaws is considered as completed at the point when the final proposed byelaws have been submitted to Scottish Government Ministers. This means that the implementation date of the byelaws can come after 31<sup>st</sup> March 2023 with the direction of Scottish Government Ministers and that up until the point of any approved implementation date, the existing byelaws remain active. When considering an implementation date, the following considerations must be taken into account:

- Giving an appropriate amount of time to clearly communicate the changes to Loch users to ensure that changes in the byelaws and procedures are understood
- Giving sufficient time for any new procedures to be developed and implemented alongside training for National Park Authority staff who will enforce the byelaws
- Allowing for the time needed to implement physical measures such as new signage and the laying out of new marker buoys
- That the timing of implementation sits well around the peak season for recreation on Loch Lomond

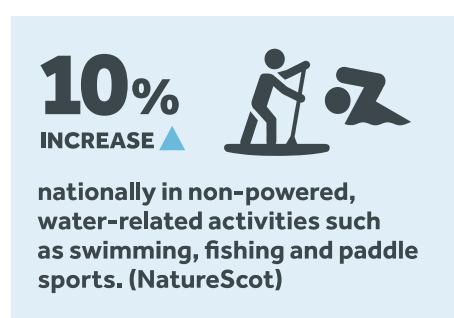
It is currently the aspiration of the National Park Authority for the new byelaws to become operational during 2024, provided the timing of any decision by Scottish Ministers allows for the above preparations to be progressed in good time.

## 5. What has changed on Loch Lomond?

There have been significant changes in the type and volume of recreation activities enjoyed on Loch Lomond since the byelaws were last reviewed, particularly in recent years. Data and insight from a wide variety of sources helped inform the proposals for what needed to change in the Loch Lomond Byelaws. Some key trends and shifts seen over time are brought to life below.

### 5.1 Post-pandemic shift sees non-powered activities increase in popularity

Far more people are now taking part in non-powered activities such as open water swimming, paddleboarding and kayaking as well as spending time by the water, even if not taking part in a specific activity.



According to research carried out for [NatureScot](#) there was a 10% increase nationally in non-powered, water-related activities and a 14% increase in people visiting lochs between 2019 and 2021. While this data is not available specifically for the National Park area, based on their experience during these times, National Park Authority staff and stakeholders engaged prior to the public consultation felt the national trend was even higher

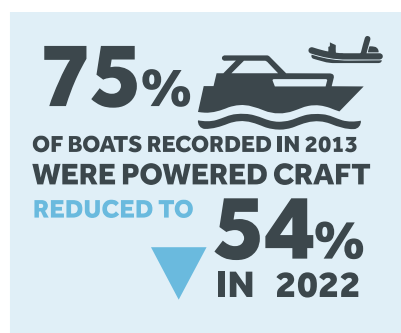
on Loch Lomond.

Other trends indicate this increased interest in, and understanding of, the benefits of being in and around water, for example:

- [Research commissioned by Outdoor Swimmer magazine](#) in 2021 found that “*The consensus is that outdoor swimming is growing, that it has been growing for a number of years and that the coronavirus pandemic gave it a boost*”. They estimate that “*participation in outdoor swimming in the UK has increased by between 1.5 and 3 times since 2019.*”
- Google Trends provides access to a largely unfiltered sample of actual search requests made to Google, giving an indication of interest in a topic over time. [Interest in Paddleboarding from people searching in Scotland](#) for example, showed a real growth in interest in paddleboarding from 2020 onwards (versus previous years).
- The 2021 [Watersports Participation Survey](#) showed growth in stand-up paddleboarding (SUP), kayaking and canoeing, with 7.6 million adults across the UK taking part, an increase of 46% compared to 2020.
- Results from [the Watersports Participation Survey](#) in 2021 indicate that boat ownership has also increased, with canoe/kayak (1.8 million) and stand-up paddleboards (1.6 million) the two most popular types of craft owned by UK households.
- In 2021, [VisitScotland commissioned research](#) found that many UK adults feel that being near water benefits their health and wellbeing, with 90% agreeing that being near water was relaxing for them.

## 5.2 A shift in the type of boats used on Loch Lomond has been seen over time

In 2022 the National Park Authority commissioned a repeat of the Loch Lomond Recreational Boat Surveys that were undertaken annually between 1989 and 2013. The [subsequent report and analysis](#) was carried out by the Scottish Centre for Ecology and the Natural Environment (SCENE), University of Glasgow. The survey showed a significant shift in the percentage of powered and non-powered craft using the Loch.



In 2013, 75% of the boats recorded were powered craft but this reduced to 54% in the 2022 survey, the lowest percentage recorded. Since paddleboarding was only recorded in the 2022 survey and not before, this comparative data excludes paddleboarding. This survey was focused on boating, so open water swimming was not included.

## 5.3 Understanding powered v non-powered activities at key sites on Loch Lomond

Between May and October 2022 the National Park Authority undertook additional surveys at six of the sites<sup>2</sup> proposed as 'Low Powered Activity Zones' in the public consultation (see map on page 12), to help gain a clearer picture of recreational activity in these areas.

The [subsequent report and analysis](#) of data collected was carried out by the Scottish Centre for Ecology and the Natural Environment (SCENE), University of Glasgow.

This research showed that the most popular activities in the areas surveyed were open water swimming and paddleboarding, with other popular activities including canoeing, and the use of speedboats and personal water craft (PWCs).

Of the six areas surveyed:

- Balloch Castle County Park (BCCP) had the highest proportion of powered boats with 42% powered boats<sup>3</sup> versus 58% non-powered
- Rowardennan had the next highest proportion of powered boats with 33% powered and 67% non-powered
- Milarrochy had the lowest proportion of powered boats with 92% non-powered and only 8% powered boats in this zone

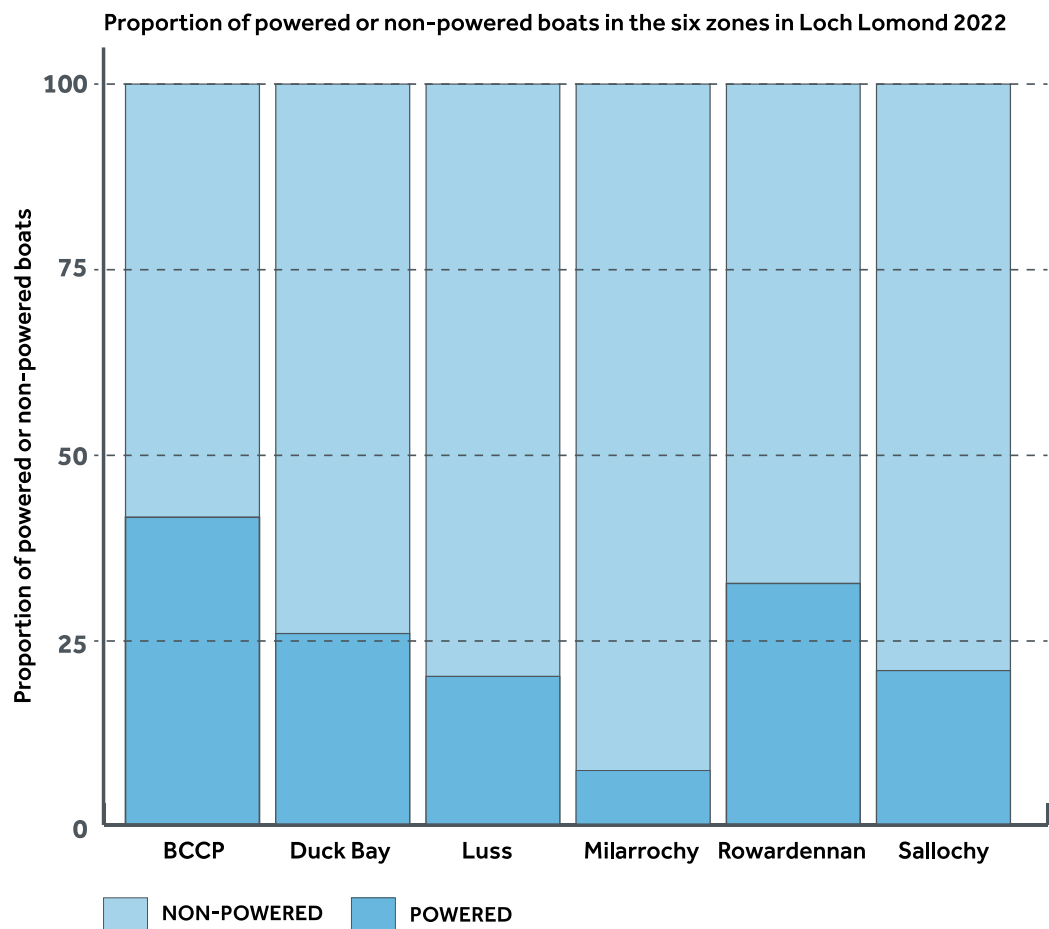
<sup>2</sup> The proposed zone at Manse Bay was not included in these surveys as this site was not initially proposed as a Low Powered Activity Zone, however it was included in the public consultation following discussions with stakeholders about concerns around displacement of Loch users.

<sup>3</sup> Recreational Boating was defined by boat type into the following categories: Fishing, Motor Cruiser, Fast Cruiser, Speed Boat, SB & waterski, SB & wakeboard, SB & Donut (inflatable towed object), (for most of the analysis speed boats were grouped together), RIB, PWC, PWC & Donut, Pleasure Day, Boat, Sailing Dinghy, Tour Boat, Yacht, Rowing Boat, Wind Surfer, Canoe, Stand-up Paddleboard (SUP), Pedalo. Non boating recreation was recorded as Open Water Swimmer and Shore Use including Paddling.





The graph below outlines the proportion of powered v non-powered boats present at these proposed zones recorded during the surveys.



Swimmers were recorded in the water across all zones on 172 occasions during the surveys. Powered craft were also present on 55% of these occasions.

On the occasions when both swimmers and powered craft were present at survey sites:

- 32% were at Duck Bay
- 28% at Luss
- 19% at Rowardennan
- 12% at Milarrochy
- 7% at Balloch Castle Country Park
- Sallochy only comprised 2%

In all zones surveyed, when both swimmers and powered boats were present, powered boats were outnumbered by open water swimmers.

## 5.4 A note on insights drawn from National Park Authority data

[Data collected by the National Park Authority](#) from 1<sup>st</sup> January 2012 to 31<sup>st</sup> October 2022 has also been used to inform this review. This data comes from a range of sources including boat registrations, alleged byelaw contravention data, frontline complaints and those escalated through the formal complaints process.

This data allows consideration of both long term (2012-2022) and short-term term trends (2019-2022).

It is worth noting that 2019 and 2022 were considered to be more 'normal' years for recreation on Loch Lomond, with 2020 and 2021 being heavily affected by the COVID-19 pandemic.

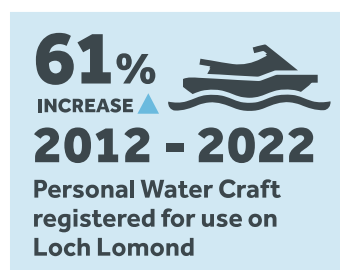
The COVID-19 response not only restricted access to the Loch but seemed to influence behaviours when these restrictions were lifted, making these years atypical.

## 5.5 An increase in the number of PWCs being registered on Loch Lomond

As has been shown above, there has been a rise in popularity of non-powered activities – at the same time, the volume of motorised craft on the Loch has also changed.

The number of motorised craft registered for use on Loch Lomond has [remained fairly consistent across the 10-year period](#), however the number of personal water craft (PWCs), i.e. jet skis and jet bikes, being registered for use has seen a huge increase:

- Between 2019 and 2022 there was a 31% increase in registrations of PWCs
- Considering a longer time period (2012-2022), the trend remains. The number of PWCs registered for use on Loch Lomond in 2022 was 61% higher than in 2012



While more people enjoying the Loch responsibly is a positive, these trends also increase the potential for conflict between the ways different users want to use Loch Lomond. At times this has led to incidences of disturbance, antisocial behaviour and increased safety risks to different users.



## 5.6 Changes in byelaw contraventions over time

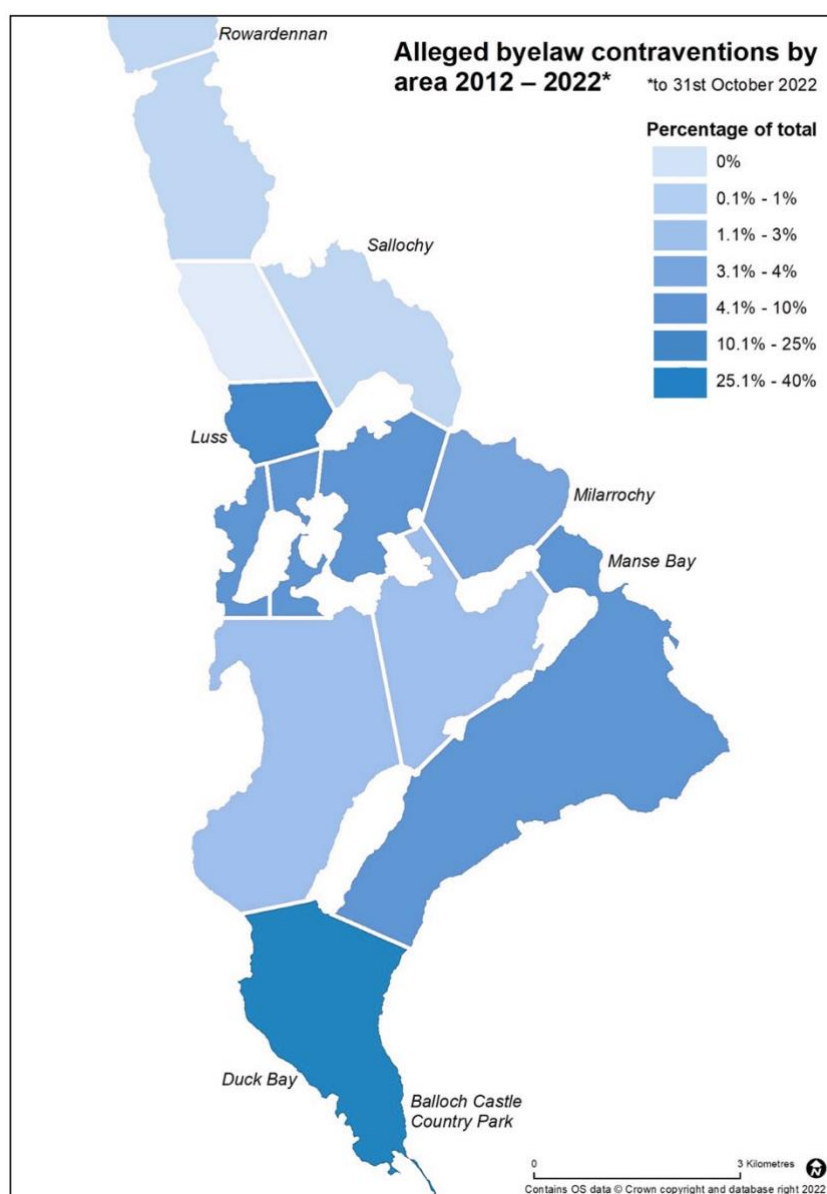
When comparing longer term data, the number of alleged contraventions of the Loch Lomond Byelaws has significantly increased:

- There was a 185% increase in total alleged contraventions between 2012 and 2022
- During this time, the highest number of alleged contraventions (53%) were for speeding in lower speed limit zones

In recent years, the increase in overall contraventions has risen more sharply:

- Between 2019 and 2022, there was 76% increase in total alleged contraventions
- In this period, the highest number of alleged contraventions (46%) continued to be for speeding in lower speed limit zones

This map shows alleged contraventions of the Loch Lomond Byelaws between 2012 and 2022, by area of the Loch where the contravention took place. The darker the area, the higher the concentration of contraventions that took place in that area.



## 5.7 Insight gathered from complaints received

Members of the public are able to report complaints about the conduct of others on or around the Loch via direct contact with our Ranger Service and via our public mailboxes.

- 277 complaints made by members of the public to the Ranger Service base at Duncan Mills Memorial Slipway between April 2016 - October 2022 were linked to irresponsible vessel use on the Loch
- Many of these reports concentrated around busy locations which have good vehicular access and facilities, such as at Luss (29%), Milarrochy (14%) Balloch (7%), and Duck Bay (5%)
- 51% of these 277 complaints related to PWC behaviour. This is seen most acutely at Luss where 58% of complaints related to irresponsible behaviours on PWCs

## 5.8 Learning from the insights gathered and responding to changes in Loch use

The trends in complaints reflect a wider change in uses and behaviours seen on Loch Lomond. They also indicate that the scope of the existing byelaws may not be providing a strong enough deterrent to the minority of Loch users whose dangerous behaviour does not appear to change, despite messaging and advice around responsible recreation.

This byelaw review must respond to these new trends and heightened safety concerns to better manage concerning behaviours taking place on Loch Lomond, reduce the risk of serious incidents and environmental degradation, and support healthy and safe enjoyment of the Loch.

## 5.9 Using experience of operating the byelaws to inform what needs to change

As well as the data and insight brought to life above, the experience of the National Park Authority staff who operate the byelaws, along with insights from partners and key stakeholder groups, were used to inform proposed changes to the byelaws before and after public consultation.

There is a clear and urgent need to focus on increasing safety on the Loch and on byelaw changes that could help reduce the risk of serious incidents occurring. In particular, some of the proposed changes aim to create clear new rules for defined areas, focusing on the busiest parts of the Loch to avoid accidental contraventions, provide deterrents and to enable efficient enforcement processes to reduce deliberate contraventions and dangerous behaviours.

## 6. Impact on nature and climate

While safety is considered to be the most pressing issue in this review, there are also important environmental factors to be taken into account.

The impacts of the twin global crises of [nature loss](#) and [climate change](#) are already being felt across the National Park.

The National Park Authority has set ambitious targets for [restoring nature](#) and achieving net [zero emissions](#) as an organisation and will be stepping up work on nature and climate even further over the coming years.

These ambitions will be explored and consulted on in more detail as part of the overarching strategic plan for the whole National Park, the National Park Partnership Plan, which is being developed and will be consulted on in 2023.

The Loch Lomond Byelaws along with a range of other existing legislation and designations will continue to play a part in helping to manage impacts on nature and climate on the Loch and its surroundings, which is an extensive semi-natural landscape supporting important terrestrial and freshwater biodiversity.

The Byelaw Review Project team has engaged with a range of internal and external expertise at various stages of the review process, and it is considered that the existing provisions within the byelaws have, to date, provided adequate and efficient environmental protection for important species and habitats in tandem with other forms of regulation and management.

The Loch Lomond Byelaws Review has provided an opportunity to begin discussions with key stakeholders on how to better monitor and manage environmental impacts on Loch Lomond. There is a need to consider what additional data needs to be gathered to monitor environmental trends on Loch Lomond (and other lochs and rivers) which may point to further management measures in the future. If monitoring this data highlights new issues, the National Park Authority may choose to carry out a further review of the byelaws in the coming years, if this is deemed appropriate to ensure that net zero and nature restoration ambitions can be achieved.



## 7. The Byelaw Review process

### 7.1 Developing the review

In 2021, The National Park Authority established an internal project team to begin the process of reviewing the Loch Lomond Byelaws by considering the changes seen on the Loch in recent years and assessing the suitability of the current byelaws. Through this process, and with input from stakeholders, a number of outcomes were identified and refined that this review aimed to achieve:

- 1. Safer enjoyment of the water for all Loch users and especially young people**
- 2. Protecting the environment**
- 3. Increased participation in healthy recreation by making space for all users and types of activities**
- 4. Minimising incidents of antisocial behaviour and disturbance to communities and loch users**
- 5. Appropriate management and enforcement of the byelaws**

National Park Authority officers have continuously assessed the issues being faced on Loch Lomond that have the potential to be addressed in part by amendments or changes to the current byelaws and associated procedures. These assessments are based on the experience of staff responsible for managing the existing byelaws, drawing on data held and working with legal experts and other specialist staff as required.

This initial analysis identified seven key issues in addition to several minor technical procedural issues. These key issues, along with a number of smaller amendments to the byelaws, were then discussed through early engagement with stakeholders.

### 7.2 Key issues to address

To help achieve the outcomes set out above, the following key issues were identified to be addressed by this byelaw review:

- 1. Irresponsible use or antisocial behaviour by some Personal Water Craft (PWC) users**
- 2. Disturbance to communities and other Loch users**
- 3. Powered vessels travelling at speed close to shore**
- 4. The risk of fatalities due to accidental immersion and cold water shock**
- 5. Young people in sole charge of powered vessels**
- 6. Challenges identifying individuals leading to difficulty progressing enforcement cases**
- 7. Unnecessary duplication with existing legislation regulating business practices on the Loch**

### 7.3 Formulating proposed changes

After identifying these issues, several draft proposals (with associated byelaw changes and amendments) were developed. When considering the proposals, six principles were applied to each of them to test their viability. These tests included:

- **Proportionality:** Is the proposal a reasonable and proportionate response to the issue identified?
- **Evidence base:** Is there enough evidence to support this proposal?
- **Enforceability:** Can this be easily enforced, or will it make enforcement easier?
- **Practicability:** How easily can this be implemented (taking into account capacity to resource the management of any proposed change)?
- **Impact:** Will the proposal truly help to address the issues required and not cause additional issues?
- **Alternatives:** Can this issue be addressed in another way - for example through procedures, highlighting an issue in a national conversation, through communications campaigns - rather than through the byelaws?

These principles were applied to sift potential byelaw changes into a set of proposals to take forward to wider consultation.

An initial informal stage of engagement allowed these ideas and proposals to be explored with over 50 stakeholders/groups including:

- Local recreation groups
- Businesses and land/riparian owners
- Lochside Community Councils
- Emergency services
- National recreation groups
- Environmental organisations
- Local Authorities

Additional sessions were held with National Park Authority Board representatives to further explore alignment with Park Authority nature and climate ambitions, and our National Park Youth Committee to explore their views on the proposals.

These discussions offered useful insights and clarity on some considerations and generally aired a broad range of views that gave officers confidence that no major alterations were needed to the proposals ahead of the public consultation, and that some of the more detailed comments could be discussed during the public consultation and assessed in line with the analysis of that process.

## 7.4 The proposed changes

From this initial engagement phase, the following proposals and the associated byelaw changes were taken forward to [public consultation](#):

### **Proposal 1**

#### **Introduce Low Powered Activity Zones**

The creation of zones for low powered activities only at the busiest locations on the Loch where many activities are increasingly concentrated into a limited area. This proposal was to create distinct and obvious areas where vessels over 15hp (11.2kw) and capable of higher speeds would be excluded to reduce risk of conflict between non-motorised recreation and high-powered craft and give all users a clear understanding of where they can best enjoy their activity safely and with consideration of other Loch users. A number of areas popular for non-powered activities, but which have seen fewer incidents/complaints, were also included where there was considered to be a risk of displacement of powered craft activity to them. This change also aimed to provide clarity in these areas to support more straightforward enforcement, and therefore act as a stronger deterrent to anyone behaving in an irresponsible or reckless manner.

### **Proposal 2**

#### **Realignment of the current 11kph boundary to the south of the island of Inchmoan.**

An amendment to the existing 11kph speed limited area (see map on page 51) using more obvious and discernible geographic markers at this location to help understanding of where that zone starts and ends while out on the Loch.

### **Proposal 3**

#### **Compulsory wearing of Personal Flotation Devices (PFDs) such as lifejackets or buoyancy aids for young people on all vessels when on an open deck**

A change whereby all young people under the age of 16 years would be required to wear lifejackets or buoyancy aids (PFDs) when enjoying the Loch on motorised or non-motorised craft. With the exception of being on a Personal Water Craft (PWC) such as a jet ski or jet bike, the existing byelaw only states that lifejackets should be carried on board.

#### **Proposal 4**

#### **Transfer liability for offences committed by young persons in sole charge of powered vessels to the Owner or Registered Owner of the vessel**

The transfer of liability for an offence which a young person in sole charge of a powered vessel commits to the adult owner/registered owner of that vessel for the purposes of enforcement.

#### **Proposal 5**

#### **Introduce a Loch Lomond User Registration Scheme**

This would ensure that all users of powered craft are easily identifiable, not just the registered owners as is currently the case. This proposal, in tandem with Proposal 1, would create more credible deterrents to irresponsible and unacceptable behaviours and work towards improved behaviours and more efficient enforcement on the Loch when required. This proposal would also offer improved communication between the National Park Authority and Loch users, not just the registered owners of craft and would facilitate the use of more proportionate fixed penalty fines for certain byelaw offences if these are introduced in the future.

#### **Proposal 6**

#### **Amend the existing Permission to Trade byelaw to solely deal with business practices causing nuisance on the Loch and its surroundings**

Addressing an inefficiency within the existing byelaw around trading permissions for businesses. This proposal created a clearer and simpler system in tandem with parallel regulation such as planning and licencing. This change was designed to reduce bureaucracy for responsible businesses whilst retaining controls around businesses which are acting irresponsibly and inappropriately.



## 7.5 Other changes to the Loch Lomond Byelaws

As well as the six key proposed changes to the byelaws outlined above, several other minor byelaw changes and amendments were put forward as part of this review.

These included new byelaws, amendments to some definitions, removal of some definitions, amendments to existing byelaws and removal of some existing byelaws.

These changes were proposed to ensure the byelaws are clear, consistent and both easier to follow and to implement. Details of these proposed changes can be found in the full table of proposed changes to the byelaws (Appendix 2) and the set of the proposed byelaws that were taken to public consultation (Appendix 1).

## 7.6 Further matters considered before public consultation

During the review process prior to public consultation, a range of other potential proposals were also explored by the National Park Authority and in discussion with stakeholders. These included:

- Requirement for insurance
- Requirement for minimum levels of training and certification for someone in charge of a powered vessel
- Requirement for landowner permission to launch power-driven vessels
- A ban on the use of Personal Water Craft (PWCS), i.e. jet skis
- The introduction of measures to reduce harmful impacts of wake
- Compulsory swim floats for open water swimmers
- Introduction of 'safe swimming' zones
- Camping restrictions on the islands
- Undertaking a staged approach to decarbonising Loch Lomond to net zero which would eventually see the phasing out of fossil fuel power driven vessels
- Waiving launch fees for electric vessels
- Installing charging points for electric vessels

These were not included within the proposals taken to public consultation either because the National Park Authority felt that there was insufficient evidence to justify changes, or there was no significant body of opinion advocating for a specific change. Some of these issues are also not specific to Loch Lomond and require a national response to address them (e.g. requirement to be insured, qualifications, phasing out of fossil fuel craft, etc). National Park Authority officers are available to discuss further with Scottish Ministers or their officials as required.

Climate issues are being considered more widely for the National Park as part of the development of the next National Park Partnership Plan.

It was made clear that these issues and proposals would still be able to be discussed and considered further, during, and after, the public consultation. One proposal that could not be taken forward due to the limitations of the current legislation associated with creating byelaws was the use of alternative disposal methods for dealing with more straightforward byelaw contraventions.

Currently, if an alleged byelaw contravention is assessed to be worthy of charging an individual, the only way to do this is to report the case directly to the Crown Office and Procurator Fiscal Service, which can result in a defendant gaining a criminal record if they are found guilty. An alternative to this would be to introduce disposal methods such as Fixed Penalty Notices, which are currently available to designated National Park staff for offences such as littering under the Environmental Protection Act 1990.

Having this type of alternative for more straightforward byelaw breaches could assist with both the efficiency and the proportionality of enforcing the byelaws.

Initial discussions with stakeholders suggested there would be general support for this concept. However, this power can only be conferred through national legislative instruments. The National Park Authority would wish therefore to further discuss with the Scottish Government the possibility of acquiring fixed penalty notice powers for more minor byelaw breaches, as it is considered that this would provide additional deterrence from inappropriate or unsafe behaviours.

## 8. The Public Consultation

The public consultation on the proposed changes ran for 12 weeks from Wednesday 27th July to Wednesday 19th October 2022. The [consultation document](#) and online survey was published on the National Park Authority website. Paper copies of the document and survey were also made available at multiple locations. The consultation posed three main questions:

- **Do you agree with the six key changes being proposed as part of this review?**
- **Do you have any alternatives or proposed changes to the byelaws that have not already been captured? Please provide an outline of these and your reasons for them.**
- **Do you have any other comments on the review of the byelaws?**

The consultation was advertised through local newspapers, the National Park Authority website, social media channels and through direct contact with stakeholders. In addition, three pop-up engagement sessions were held at popular locations for Loch-based recreation around Loch Lomond.

The public consultation exercise was fully assessed through an [Equalities Impact Assessment](#) to ensure that all audiences were able to engage in the consultation and that no one was excluded from the process.

### 8.1 Loch Lomond Stakeholder Group

Following the initial engagement phase with a wide variety of stakeholders, the National Park Authority also formed an external stakeholder steering group with representatives from various stakeholder groups to help consider issues relating to the Loch Lomond Byelaws, wider visitor management issues on the Loch, and how improved management of the Loch can better support Scotland's climate and nature ambitions. The stakeholder group was designed to:

- Provide feedback and advice to the National Park Authority on the topics listed above during this review and beyond
- Input experience and expertise to help refine and finalise the proposed changes to the byelaws that will be submitted to Scottish Ministers following the consultation
- Provide guidance and advice to the National Park Authority when preparing for implementation of any changes to the Loch Lomond Byelaws
- Feed into discussions on the development of other National Park strategic plans and initiatives where necessary
- Discuss climate and nature ambitions for the Loch to feed into wider strategic planning
- Act as representatives for their area of expertise in each of these discussions

Current members of the group include:

- Cruise Loch Lomond
- Forestry and Land Scotland
- Friends of Loch Lomond & The Trossachs
- Glenfalloch Estate
- Loch Lomond Association
- Loch Lomond & The Trossachs Access Forum
- Loch Lomond Water Ski Club
- Luss Estates
- Montrose Estate
- Royal Yachting Association Scotland
- Scottish Canoe Association
- Scottish Land and Estates
- Sweeneys Cruises

## 9. Results and Insights from Public Consultation

The public consultation received 383 responses. The consultation was initially analysed by independent consultants Kevin Murray Associates and the results were collated into a [final report](#) to inform any changes to the proposed draft byelaws before being presented to the National Park Authority Board.

Overall, there was general support from both organisations and individuals for the six proposals, with percentages between 65-88% in favour.

**Proposal 1** - Introduce Low Powered Activity Zones, received 65% support.

**Proposal 2** - Realignment of the current 11kph boundary to the south of the island of Inchmoan, received 75% support.

**Proposal 3** - Compulsory wearing of Personal Flotation Devices for young people (under 16) on all vessels when on an open deck. Received 88% support.

**Proposal 4** - Transfer liability for offences committed by young persons in sole charge of powered vessels to the Owner or Registered Owner of the vessel, received 88% support.

**Proposal 5** - Introduce a Loch Lomond User Registration Scheme, received 77% support.

**Proposal 6** - Amend the existing Permission to Trade byelaw to solely deal with business practices causing nuisance on the Loch and its surroundings, received 76% support.



Some organisations and individuals provided additional comments and caveats. Most were regarding the antisocial behaviour of personal water craft (PWCs), with some requesting a full ban on these crafts while others advocated for more restrictions on them. One common concern was the displacement of activities relating to PWCs to other lochs within the National Park in the event of the introduction of a ban on Loch Lomond.

Enforcement was another recurring issue, with respondents advocating for more enforcement for the byelaws to be more successful.

Building upon the findings from the independent report, the officers carried out a further analysis of every consultation response. This process included checking any suggestions for amendments to the proposals, whether they agreed with or not, against the aims of the review and tested them against the [six principles](#) used throughout the review process.

There was a large amount of crossover and repetition in the responses across the three questions. Those that could be, were dismissed quickly based on the six principles, with a reason recorded and those that needed further deliberation were considered before being accepted or rejected with reasons recorded.

It was also clear when delving into some responses that some people had fundamentally misunderstood some of the proposals. This was not always critical to the analysis as some people's concerns were unwarranted, for example some people thought that the proposed Low-Powered Activity Zones were going to be the only place that non-powered activity was going to be allowed.

Some misunderstandings were given more consideration when refining the proposals. For example, many people who were supportive of Proposal 6 thought that the proposal was to introduce a Permission to Trade and not remove it.

Due to the technical nature of the review, although a large number of suggestions warranted further scrutiny, a single well-reasoned point was given equal consideration in the assessment. Whilst many suggestions were not deemed appropriate in relation to changing our proposals, there were a substantial number of operational suggestions that will be used in the implementation phase of the byelaw review and can be incorporated into procedures and communications.

## 9.1 Stakeholder discussions

The external stakeholder steering group met four times following the consultation with a good level of attendance. The initial meeting allowed discussion based on an overview of the findings of the public consultation with a focus on:

- How 'Proposal 1 – Low Powered Activity Zones could work most effectively for all Loch users
- Expectations of levels of enforcement on the Loch and how this could be carried out
- What should the future of Loch recreation management look like in the face of the biodiversity crisis and climate emergency

Below are a few key points from each of the sessions:

### **Exclusion Areas: What is a meaningful step if some options are not possible?**

- A majority of stakeholders present at these meetings believed that Personal Water Craft (PWCs), i.e. jet skis or jet bikes, should be banned
- An assumed Right of Free Navigation was discussed relating to mooring and beaching which would impact on Proposal 1, although some supported exclusion zones
- There was concern that the zones would end up restricting access to the rest of the Loch for non-powered activities
- Noise predominantly from PWCs was also brought up as an issue

### **Enforcement: What is expected, effective and achievable?**

- There was some support for the introduction of alternative disposal methods in the form of Fixed Penalty Notices
- There was concern that the byelaws did not cover other Lochs
- There was concern that if funding was cut there would be less resource to manage the byelaws
- There was a suggestion that vessels could be confiscated
- Use of technology was suggested such as fixed cameras and bodycams
- Later and earlier patrols (dawn and dusk) were suggested
- A requirement for banning PWCs was reiterated
- Suggestions that other groups could help enforcement through providing information to the National Park Authority

### **How might Loch recreation change in the future?**

- There was a general acknowledgment that in the next 10-15 years there are likely to be significant changes to Loch recreation and its management for various environmental, social and economic reasons
- Technological advancement was particularly prevalent in discussions that could help to solve some issues. There was also a feeling that increased numbers of people using the Loch for recreation is positive but the negative behaviours by some Loch users should be the main focus of Loch management. This was that start of a conversation that will continue with stakeholders in line with the outcomes of the new National Park Partnership Plan

## 10. The Final Changes to the six Key Proposals

This section outlines the final six key proposals with refinements based on the analysis of public consultation, further analysis by National Park Officers and external legal counsel. The full set of proposed byelaws can be found in Appendix 1 and a table highlighting the proposed amendments, changes and new byelaws compared to the 2013 byelaws can be found in Appendix 2.

### 10.1 Proposal 1 - Introduce Low Powered Activity Zones

The proposed 15 horsepower (hp) limit proposed at specific areas of the Loch aims to reduce risk of conflict and serious incidents between powered and non-powered users in some of the Loch's most popular areas. This is in the context of a growth in non-powered recreation activities becoming increasingly popular at some accessible lochside areas and this being likely to continue to increase in the future. This proposal would still allow some lower powered navigation to take place within these zones.

This proposal generated the widest spectrum of views and was the most contentious area of the consultation. Whilst the proposal was generally supported, the consultation responses and suggestions for amendments were varied and many posed technical challenges to implementation and future enforcement.

A number of consultation responses and the engagement with stakeholders did take the view that an even stronger approach to these zones should be taken, which would exclude all powered craft from these areas altogether.

It was also suggested in some responses that two further locations would also benefit from the same zoning approach. Having considered the statutory requirements for consulting on proposed byelaws, it is considered that introducing any new zones would necessitate a new consultation exercise on the proposed new areas, which on balance we feel is not merited as these areas are not showing the same evidence of incidents or byelaw breaches.

A number of responses questioned how easily Loch users could determine the power of a vessel to comply with these zones. Some responses suggested that basing these zones on very low speed limits would be more effective and easier for users to understand and adhere to.

Some responses have also raised a significant legal question through the consultation process regarding their understanding of the historic Right of Navigation on Loch Lomond. This assumed right, which originates from a reading of historic landowner actions and case law, means that if a person can legally take access to the Loch and launch a craft then there is no restriction on where they can go on it. This assumed right had been taken into account during the initial exploration and engagement around potential proposals, including taking legal advice on proposals to be taken forward for consultation.

However, some consultee representative groups have raised the threat of legal challenge against the proposals as they were seen to interfere with these assumed rights. The National Park Authority has taken legal advice on the matter throughout this process. The nature of the historic case law does not envisage the management issues which are present on the Loch today, particularly the volume of use and changing recreation activities. There is a risk that, in this context, we cannot be confident that the outcome of any legal challenge to the proposed Low Powered Activity Zones would find in favour of the National Park Authority.

Given that there is an urgent need to reduce the risk of serious incidents in the proposed zones in the face of current trends, officers have examined alternative approaches which would be less open to challenge (as well as the accompanying delay and legal costs). This would also therefore help achieve the aspiration of the new byelaws being in place during 2024. On balancing the risks, officers recommend that it would not be in the best public interest at this time to progress the proposed Low Powered Activity Zones in their original form, which would have the effect of excluding significant numbers of powered craft who consider they have a right of navigation in these areas.

Notwithstanding the revised approach to these zones now being recommended in this paper, this legal question will require to be revisited in the future. The historic circumstances which have informed previous case law decisions from the early part of the 20<sup>th</sup> century, could not anticipate the situation and use of the Loch in the present day. Further work will be needed to consider the limits this assumed Right of Navigation puts on how the National Park Authority can manage modern recreation activities on the Loch in the public interest not only in terms of safe use but also to safeguard this precious environment in the context of the climate and nature crises.

Until this fundamental legal question is addressed, the Park Authority, and by extension the Scottish Government, is limited in what change it can confidently propose regardless of the level of stakeholder support or outcomes sought by the surrounding policy framework.

In the light of these considerations, this proposal has been revised to address the same issue by an alternative means. It is now proposed to significantly further reduce speed limits in the same proposed zones, rather than excluding craft by engine size. This would introduce a differentiation in these areas and allow clearer and more efficient enforcement around speed, disturbance and reckless behaviours in these busy bays. This would be enhanced by the increased use of buoys to demark the zones and additional signage if deemed appropriate.

The proposal has now been retitled to **‘Introduce Low Speed Activity Zones’**. This would mean that all vessels would be limited to a speed of 6kph within them. This speed was selected as it was deemed the lowest feasible speed at which most vessels could still maintain steerage.



The new byelaw associated with this proposal is:

*3.6.(3) Notwithstanding Byelaw 3.6 (1) and 3.6 (2), and except with the prior written approval of the Authority complying with any conditions therein, the Master of a Power-driven vessel shall not permit their Power-driven vessel to travel at a speed greater than 6 kilometres per hour....*

The areas that this byelaw applies to can be found in the maps on pages 44-50.

The original Low Powered Activity Zone proposal had the benefit of being simple to enforce by being able to observe whether a non-compliant craft was in the zone. Evidencing the speed of a craft has been less straightforward. To address this, National Park Authority officers have also made an amendment to byelaw 3.6(2) which sets out the existing 11 kph speed limit areas. These speed limit areas would continue to be in place, as well as the new proposed even lower speed limit zones in popular areas. The additional amendment is to set out that in the 11kph limit areas, vessels should not travel faster than this speed OR 'on the plane'. This refers to the point at which the vessel is travelling with enough speed to generate sufficient lift from the water, allowing it to pass and drop over the wave created by the front of the boat.

This is designed to ensure that enforcement has the potential to be based on the behaviour of the vessel in relation to the water as well as the speed that it is travelling. The intention being that the burden of proof is made easier for Rangers observing an alleged offence to provide evidence to the courts based on expert witness testimony.

## **10.2 Proposal 2 - Realignment of the current 11kph boundary to the south of the island of Inchmoan**

This proposal was generally supported in the public consultation. However there was some misunderstanding in a small number of responses that both agreed with the proposal and disagreed with it, seeming to confuse the existing zone and the proposed change. The main concerns related to negative impacts on the islands. Others simply believed that the existing line with increased buoyage was sufficient.

This proposal was given further consideration taking into account advice from the Ranger Service based on their observations over the period since the introduction of the current byelaws. It was felt that the amendment to the zone would make it easier for Loch users to better understand the zone boundary using natural landforms including the islands of Eilean Derroch, Inchmoan, Inchgalbraith and the point at Rossdhu House. In turn this better understanding by Loch users will make it easier for them to comply with the speed limit and for the Rangers to enforce it.

### 10.3 Proposal 3 – Compulsory wearing of Personal Flotation Devices (PFDs) for young people (under 16) on all vessels when on an open deck

It is proposed to progress this proposal as is. This would be in addition to, and not in place of, the existing byelaw stating that PFDs, such as lifejackets or buoyancy aids, must be carried on board any vessel, including non-powered craft such as paddleboards and kayaks.

While the proposal was strongly supported, there were arguments presented in favour of keeping the status quo on PFDs. The rationale being that choosing to wear a PFD is a matter for personal responsibility and should be promoted as guidance rather than being set out in a byelaw. At the same time, some respondents (12%) were of the view that the new byelaw should make PFDs compulsory for everyone regardless of their age.

The National Park Authority acknowledges both arguments and strongly advises that everyone should wear PFDs on any vessel on Loch Lomond or indeed any water body in the National Park. This is part of the advice given by Rangers on the water and is included in our water safety campaigns.

Making PFDs compulsory for all would be a more straightforward communications message, however there must also be consideration of the significant level of resource required to enforce this measure on all individuals and how this could be balanced with enforcing other elements of the byelaws, particularly those where Loch user behaviour could be causing a danger to others.

The wearing of PFDs is a clear example of where the byelaws are one part of a mix of approaches needed to manage and influence behaviour. The Park Authority has a strong track record of educating visitors on water safety advice and works closely with a range of partners on this.

We also recognise that children are less likely to be able to make an informed decision in relation to their personal safety and therefore have a higher level of risk. For that reason, it is considered proportionate to introduce this new, additional byelaw only for young people. However, the guidance that PFDs should be worn by all, regardless of their age, will continue to form a crucial part of our water safety advice, both through face-to-face engagement and other communications channels.

In surveys carried out between 2006 and 2011 at Duncan Mills Memorial Slipway, 94% of young people were noted as wearing PFDs. However, the National Park Authority believes the target for young people should be 100% and will continue to monitor this over the coming years.

Further refinements were also considered regarding concerns about how this proposal should be applied depending on different vessel layouts and whether the vessel is in motion. However, these were deemed to make the byelaw less clear and very hard to enforce.

Therefore, the new byelaws associated with this proposal are:

*3.5.(6)(a)(ii) every **Young person** is wearing a sufficient and appropriate lifejacket or buoyancy aid of the standard specified in Byelaw 3.5 (6) (e) at all times when the Vessel is under way unless that **Young person** is in a cabin or other space which is enclosed on all four sides and covered by a roof.*

*3.5.(6)(d) In the event that any **Young Person** is on a Vessel that is not a Power-driven Vessel, which is Underway, and they are not accompanied by an Adult who is also on board, each **Young Person** shall ensure that they are wearing a sufficient and appropriate lifejacket or buoyancy aid of the standard specified in Byelaw 3.5 (6) (e)*

Exemptions can be given by the National Park Authority by prior written permission, and it is envisaged that this would be rare and primarily used for small commercially operated vessels who already comply with national legislation or codes which adequately address the provision of life saving equipment.

## 10.4 Proposal 4 - Transfer liability for offences committed by young persons in sole charge of powered vessels to the Owner or Registered Owner of the vessel

This proposed change was strongly supported in the public consultation so it is proposed that this change should broadly be progressed as is. Only a minor amendment to the wording was made to clarify that the offence that the Registered Owner or Owner would potentially be charged with would not be the offence(s) being committed by the young person, but of the offence outlined in this byelaw only.

There were some suggestions that there should be alignment with other ages that are commonly used, such as 17 which is used for the UK Driving Licence. However the proposed changes that National Park Authority Officers made were to ensure that there is a clear separation between a young person (aged under 16) and an adult (aged 18 or over), so that this transfer of liability is not passed between two people that could be only a day different in age.

There were some concerns that people would be penalised if their vessel is associated with a theft, but this would be a Police matter and action under the Loch Lomond Byelaws would be unlikely to be pursued.

The byelaws associated with this proposal are:

*3.5(4)(b) In the event that a Power-driven vessel with a greater engine power than 5 horsepower (3.7 kilowatts) is under the control or charge of a Young person who is not supervised by an Adult who is present on the Power-driven vessel at the same time, the Registered Owner (or, in the event that the Power-driven vessel is not registered, the Owner) shall be guilty of an offence.*

*3.5(4)(c) In the event that a Power-driven vessel with an engine power of 5 horsepower (3.7kilowatts) or less is under the control or charge of a Young person and that Young Person acts in such a way that if that Young Person was an Adult they would have committed an offence then the Registered Owner (or, in the event that the Power-driven vessel is not registered, the Owner) shall be guilty of an offence.*

## 10.5 Proposal 5 - Introduce a Loch Lomond User Registration Scheme,

It is proposed to progress this proposal without further changes. The byelaw associated with this proposal is:

*2.1 REGISTRATION – MASTER No Master of a Power-driven vessel shall cause it to be used on the Loch unless that Master has first registered with the Authority as a Registered User by submitting to the Authority an application for registration, or renewal of registration, on a form supplied by the Authority containing such information and accompanied by such evidence and documentation as may from time to time be prescribed by the Authority and then receiving from the Authority confirmation that they are registered as a Registered User.*

This proposal was well supported in the consultation and from the comments it was clear that the reason for the introduction of the proposal was understood. There was, however, some confusion around how the new system would work, particularly concerns over the complications and costs of introducing this scheme alongside the current Boat Registration Scheme.

These concerns are understandable, however, the current system that the National Park Authority uses for boat registrations is due for replacement. This project was delayed to ensure any new system being introduced could be aligned to any changes to the administration of the byelaws.

A new system would provide opportunities to better manage resources and support more effective enforcement.



## 10.6 Proposal 6 – Amend the existing Permission to Trade byelaw to solely deal with business practices causing nuisance on the Loch and its surroundings

It is proposed to progress this proposal without changes. The byelaw associated with this proposal is:

3.13.(1) **Trade of business**; *No person shall conduct any activity by way of trade or business with, or in expectation of, personal reward from members of the public, on the Loch (except for the interior of the Islands), in such a manner as to constitute a Nuisance.*

Although the responses in the public consultation were supportive of this proposal, further analysis of the comments indicated that it was misunderstood by several respondents. A number of respondents perceived the proposal to be the introduction of a new scheme, rather than removal of the existing one.

It is recognised that this might be seen to be reducing controls on the Loch. However, existing laws in other national and local regulatory frameworks, e.g. licencing and planning laws, provide protections from the majority of impacts that businesses may have on the Loch.

Amending the byelaw to deal solely with business practices causing nuisance allows the National Park Authority to retain some control by protecting against any negative behaviours by businesses which may have an impact on other Loch users, property (including land) and wildlife.

The main concern with the proposal centred around the use of the word ‘nuisance’ which was felt to be subjective and could be misinterpreted. Legal opinion is that the word ‘nuisance’ is well understood and used in law. There is also a definition and related definitions contained in the byelaws as follows:

1.3.(11) *“Nuisance” means any act or omission which causes or is likely to cause Injury, annoyance, disturbance or Damage to other users of the Loch.*

1.3.(7) *“Injury” means any permanent or temporary impairment of physical or mental condition and/or any disease.*

1.3.(4) *“Damage” means death or Injury to any human being or Wildlife or any loss or physical harm to any property, including land.*

## 11. Other matters considered

In the public consultation responses and ongoing stakeholder engagement there were some additional suggestions and subject areas that were reiterated regularly and as such were given consideration the National Park Authority. Some centred around the introduction of further byelaws, some were centred around byelaw procedures, and some reflected on the future of Loch recreation management across the National Park.

The most prominent of these suggestions and subject areas are described below, along with responses from National Park officers regarding the reasons why they were not included in the proposed byelaws and what future influence these concerns could have on future iterations of the Loch Lomond Byelaws or other measures to manage Loch-based recreation.

### 11.1 Personal Water Craft (PWCs)

In the consultation, there were a number of requests for a complete **ban on Personal Water Craft (PWCs)** such as jet skis and jet bikes. The main reasons given for this included:

- Anti-social behaviour associated with some jet ski users
- Fears that there will be a collision with a jet ski and other Loch user that could result in a fatality
- Disturbance caused by the noise of the engines of these machines and that these types of vessels were not compatible with a National Park setting

Officers had at the outset of the review considered the merits of a ban on these types of vessels as an option before finalising the consultation proposals. However, it was not seen to be proportionate to ban one type of powered vessel and was deemed more appropriate to focus on using byelaws to address behaviours. Taking the overall consultation responses and the assumed Right of Navigation question into account, this view has not changed.

While data does show that there has been a significant increase in PWCs registered on Loch Lomond in recent years, other activities such as paddleboarding and kayaking have also seen significant increases. The broader range of uses of the Loch, particularly in popular areas, is an important factor in the increased risk of collisions and conflicts between different users. Proposal 1 – to create ‘Low Speed Activity Zones’ is designed to minimise these risks.

PWCs are also not the only vessels capable of high speeds, rapid acceleration, high manoeuvrability and of producing a significant engine noise. As technology develops, PWCs may also become less intrusive due to the introduction of electric power sources but will still be capable of being ridden irresponsibly.

A ban on these specific vessels is also likely to result in the displacement of this type of activity to other larger lochs within the National Park and the wider region unless other management measures are imposed on all lochs. Whilst the National Park Authority has the powers (subject to Scottish Government approval) to enact byelaws on other lochs within the National Park, this is a lengthy and detailed process which requires sufficient evidence on the need for new byelaws, extensive consultation and a significant increase in resources to manage any new byelaws introduced on multiple lochs.

While there were a number of responses calling for a ban on PWCs, this was not a significant majority. When asked if they had any alternative suggestions or other proposed changes to the byelaws, 9 out of 15 organisations who responded to the question proposed a ban on PWCs. Of 183 individual responses to the question, 45 people also called for a ban.

Legal factors around the historic Right of Navigation on the Loch would also need to be addressed before any specific vessel could be banned. The Lake District National Park Authority did introduce a blanket maximum speed limit of 10mph on some of the Lakes and a full ban of any powered vessels operating on others. The impact of this measure was that most PWC users did not access the lakes as this speed limit seriously impinged their enjoyment of the activity. This was, however, applicable to all power-driven vessels, not just PWCs. If such a speed limit was imposed on Loch Lomond, the largest water body in the UK by area, it would impact far more activity than just the use of PWCs with far reaching implications that would need careful consideration.

That said, the antisocial behaviour by some PWC users is recognised as an issue and the changes outlined to the byelaws to help address this - in particular Proposals 1, 4 and 5.

The National Park Authority will continue to monitor the use and impact of PWCs and other powered craft and will keep under review whether expanded byelaw restrictions or proposals for further legislation changes are desirable in line with the National Park Partnership Plan 2024 – 2029.

## 11.2 Enforcement

A recurring theme throughout the consultation and engagement process was that there is a perception that the **byelaws need to be enforced more strongly**. Suggestions for how this might be achieved included:

- Ensuring that there was adequate coverage of the Loch by Ranger patrols with boats operating throughout the day from dawn till dusk
- Use of camera technology to provide evidence to support cases being taken forward to the Crown Office and Procurator Fiscal Service
- Use of Fixed Penalty Notices as an alternative to reporting cases directly to the Crown Office and Procurator Fiscal Service
- Use of body worn cameras to increase the safety of the Rangers whilst enforcing the byelaws

Byelaws are in place to provide a framework for taking enforcement when necessary, however they are also there to provide a robust set of enforceable guidelines/rules that can influence behaviour and provide a deterrent to irresponsible behaviour.

The National Park Authority, both on the land and the water, takes the approach of prevention first, through engagement and education, taking enforcement action when necessary. This is set out in the Visitor Management Engagement and Enforcement Policy.

Cases can be taken directly to the Crown Office and Procurator Fiscal Service if and when an alleged byelaw contravention is deemed to warrant this approach.

However, it is important to note that one of the main positive aspects of having the byelaws is the opportunity this provides for the Ranger Service to engage directly with Loch users. The hundreds of conversations the Rangers have with loch users each year are backed up by the byelaws providing this framework for escalation and enforcement, rather than just recommended guidance.

At the same time, it is recognised that laws can lose their intended effect if the perception is that they will not be escalated to prosecution when necessary. Amendments to the existing byelaws, including Proposals 1, 4, and 5, have been put forward to strengthen the enforcement of the byelaws and increase the likelihood of a case succeeding in court. This includes the amendment to byelaw 3.6(2) to incorporate the potential for enforcement action to be taken based on visual evidence of vessels being 'on the plane' in restricted speed areas of the Loch. In addition to this, a number of additional operational and procedural measures are being developed to further support effective enforcement.

The presence of National Park Rangers and other enforcement agencies on the Loch to enforce byelaws is fundamental to their effectiveness. This does come with significant costs associated not only in terms of staff but the operation and maintenance of a fleet of boats, buoys, markers and signage, as well as systems such as the boat registration database. As with other enforcement agencies such as the Police, it should be recognised that the Ranger Service cannot be everywhere all of the time. Data and intelligence are used to design patrolling patterns to be as effective as possible.

Anticipated financial considerations mean it is likely that the National Park Authority will seldom be able to operate more than two patrol boats on the Loch simultaneously. However, there are opportunities which will be explored in the implementation of the updated byelaws to use new ways of deploying resources, potentially using new technology to better target patrolling.

The National Park Authority is also in the process of replacing some of its marine fleet, to ensure its reliability over the coming years. The practicality of using PWC for patrolling purposes has also been considered but deemed challenging from staff welfare and enforcement perspectives. The planned new boat/loch user registration database and investment in new IT equipment will also provide Rangers with more information when on the Loch to further help with effective enforcement, as well as providing additional deterrents against unacceptable behaviours in the busy bays through video evidence.

The National Park Authority will also continue to work with the Procurator Fiscal not only to highlight the importance of the byelaws but to work with them to develop more robust evidence gathering procedures, especially when dealing with speeding offences and reckless behaviour. The National Park Authority would also like to work with the Scottish Government to investigate acquiring powers to use Fixed Penalty Notices and explore the potential to increase fines that are able to be issued by the Procurator Fiscal.

### 11.3 Third party insurance

There were multiple requests for third party insurance to become a requirement for registering a vessel, however this is an issue that is not specific to Loch Lomond alone and would need to be considered at a national level. National Park Authority officers would be happy to discuss this further with Scottish Ministers or delegated officials.



## 11.4 Environmental Concerns

There were environmental considerations related to the climate emergency and nature crisis, also to the effects of noise (mostly associated with jet skis) on the Loch environment.

Having engaged with a wide range of stakeholders and gathered expertise internally and externally, the view of the Byelaw Review Project team is that the existing provisions within the byelaws have to date provided adequate and efficient environmental protection for important species and habitats, in tandem with other forms of regulation and management. The byelaws, along with a range of other existing legislation and designations, will continue to play a part in helping to manage impacts on nature and climate on the Loch.

However the National Park Authority is committed to stepping up its work on nature and climate even further over the coming years and this will include consideration of environmental impacts on and around the Loch. The byelaw review process has provided a valuable opportunity to begin discussions with key stakeholders on these, including how to better monitor and manage these impacts. One important example of this type of consideration is how, as part of a wider national approach, powered water craft using the Loch can transition from being fossil-fuel powered to zero emissions, in line with Scottish Government target for becoming net zero by 2045.

This dialogue will continue with stakeholders through the development of the as part of the next National Park Partnership Plan, which is the overarching strategic plan for the whole National Park.

If monitoring this data highlights new issues, the National Park Authority may choose to carry out a further review of the byelaws in the coming years if this is deemed appropriate.

## 11.5 Other proposed changes to the Byelaws

Alongside the byelaws associated with the six key proposals, several other minor byelaw changes and amendments are being proposed in the byelaw review. These included new byelaw, amendments to some definitions, removal of some definitions, amendments to existing byelaws and the removal of some existing byelaws. All changes, amendments, additions and removals were scrutinised by external legal counsel.

The proposed changes have been designed to ensure the byelaws are clear, consistent and both easier to follow and to implement. Details of these proposed changes can be found in the full table of proposed changes to the byelaws in Appendix 2 and the final the proposed byelaws in Appendix 1.

## 12. Recommendations

This report provides the following recommendations:

1. That the Scottish Government confirm that the process associated with this byelaw review and as described in this report has been carried out fairly and to a required quality standard and that a byelaw review has been completed in compliance with legislation.
2. That the Scottish Government **approve the Loch Lomond Byelaws 2023** fully as set out in Appendix 1.
3. That Scottish Government approves **an implementation date for the new byelaws of the 1<sup>st</sup> April 2024**. This will allow:
  - a. Sufficient time to communicate changes to loch users to ensure that they are fully understood.
  - b. Sufficient time to implement the systems and physical measures, procedures and staff training associated with these changes.
4. That the Scottish Government commits to work with the National Park Authority to discuss and **explore the potential to enact powers for use of alternative disposal methods** such as Fixed Penalty Notices for some alleged offences, rather than reporting them directly to the Crown Office and Procurator Fiscal Service.
5. That the Scottish Government commits to work with the National Park Authority to discuss and explore legislative measures which can ensure that the National Park Authority is **not legally constrained by the assumed historic Right of Navigation** where byelaws may need to affect navigation to protect the public interest and the environment of the Loch.

## 13. Next steps

With the byelaw review completed, the existing byelaws (the Loch Lomond Byelaws 2013) will continue to operate until the date Scottish Ministers approve the introduction of the proposed changes.

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.

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 formed during this process will be an essential vehicle for two-way engagement in the coming months.

The development and delivery of the new National Park Partnership Plan in 2023 will provide the opportunity to discuss and consider some of the other considerations listed above and we welcome the opportunity to speak with Scottish Ministers or delegated officials regarding further discussion points and associated next steps referred to in this report at the earliest opportunity.

## 14. Maps outlining the changes proposed

This map is an indicative overview illustrating the location of proposed changes. See individual maps on pages 44-51 for more detail.

