

Tackling the nature emergency - Consultation on Scotland's Strategic Framework for Biodiversity

Agenda Item 10

National Park Authority Board Meeting
11 December 2023

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1. Purpose

1.1. The Scottish Government is seeking views on a range of topics and proposals related to biodiversity and tackling the nature emergency in Scotland. The current consultation on Scotland's Biodiversity Strategic Framework covers three main areas:

1. The **Scottish Biodiversity Strategy** which sets out a vision to halt and reverse biodiversity loss;
2. The first five-year **Delivery Plan** which contains the actions to deliver the vision; and
3. The proposed **Natural Environment Bill** which will provide a framework for establishing **statutory nature targets** to drive delivery and transformational change. The proposed Bill is expected to be introduced to the Scottish Parliament in late 2024 where the proposals will be further debated and scrutinized.

1.2. This consultation document is set out in two parts. **Part A** is consulting on the final draft of the Scottish Biodiversity Strategy, the first five-year Delivery Plan,

and policy frameworks for Nature Networks and protecting at least 30% of our lands and seas by 2030 (30 by 30). **Part B** of this consultation seeks views on proposals related to tackling the nature emergency that will require legislation, specifically statutory targets for nature restoration and **changes to National Parks legislation**.

1.3. The proposals overall present significant opportunities for the National Park Authority to progress already established priorities such as our Future Nature strategy. The finalised National Park Partnership Plan presented elsewhere on this agenda already reflects many of the aspirations and priorities for restoring nature set out in this consultation.

1.4. This paper sets out those areas of greatest significance and opportunity for the National Park and proposes recommended responses to the consultation for consideration by the Board.

2. Recommendation(s)

2.1. That the Board

2.1.1. **Agree** the Recommended Responses outlined in this paper as the Park Authority responses to the questions outlined in the Scottish Government consultation.

2.1.2. **Discuss and agree** a position on the Governance proposals set out in Paragraph 5.52 where a specific recommended response has not been proposed.

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

3.1. The consultation is on Scottish Government policy and legislative changes that will set the context and requirements for future National Park Partnership Plans as well as guide some priorities for the Authority in future years which may be reflected in our Corporate and Annual Operating Plans

4. Background

4.1. In December 2022, the Scottish Government published its draft **Scottish Biodiversity Strategy**. The proposals recognise that Scotland, in common with the rest of the UK, has not done enough over the last 20 years to prevent the continuing decline in biodiversity. The 2019 State of Nature Scotland report indicated that 49% of Scottish species have decreased in abundance and 11% of species are threatened. In this context the strategy sets out a vision, outcomes and 33 priority actions designed to halt and reverse

biodiversity loss. These outcomes and actions are framed around high-level objectives to:

- Accelerate nature restoration and regeneration;
- Protect nature on land and at sea, across and beyond protected areas
- Embed nature-positive farming, fishing and forestry
- Protect and support the recovery of vulnerable and important species and habitats;
- Invest in Nature; and,
- Take action on the indirect drivers of biodiversity loss.

4.2. The Strategy will be underpinned by a series of **five-year Delivery Plans**. The plan is comprehensive and ambitious – it contains over 100 actions which taken together represent a step change intended to accelerate the pace and scale of our efforts to address the biodiversity crisis. The delivery plan seeks to set out actions as a way of mainstreaming biodiversity in the same way as is happening for climate action.

4.3. The Biodiversity Strategy includes a commitment to **protecting 30% of land and seas for nature by 2030** and ensuring that every local authority area has a **nature network** to improve ecological connectivity across Scotland. A framework has been developed which sets out a vision and key principles which will guide the further development and delivery of policy.

4.4. The Scottish Government is committed to passing a new **Natural Environment Bill** in the current parliament. A key element of the Bill will be the introduction of legally binding nature restoration targets. These targets are intended to drive forward action to tackle the nature emergency and provide a clear accountability. Statutory targets will nest within a wider monitoring framework, measuring progress against Scotland's domestic and international obligations and commitments, primarily the Kunming/Montreal Global Biodiversity Framework (GBF).

4.5. The consultation seeks views on its suggestions for **proposed changes to the National Parks (Scotland) Act 2000**. These are seen as necessary to enable the important leadership role that Scottish Ministers want National Parks to play in tackling the interlinked crises of climate change and biodiversity loss, whilst also welcoming visitors and supporting local communities and businesses. Members will recall that the National Park Authority Board [approved a response](#) to a public consultation undertaken by NatureScot on the future of National Parks in Scotland. The outcome of this consultation emphasised the important role of National Parks are expected to play in tackling the twin crises. The current legislative framework for National Parks is the National Parks (Scotland) Act 2000 ('the 2000 Act') is over twenty

years old. The Scottish Government has set out that in order for existing and new National Parks to respond most effectively to today's societal challenges, the underpinning legal framework should be updated and refreshed.

4.6. The finalised National Park Partnership Plan is presented separately on the Board agenda and sets out ambitious priorities up to 2029 and a vision and aims out to 2045. **Many of the proposals contained within this consultation will have the effect of making delivery of that Plan easier and potentially more impactful in the future.**

4.7. This paper sets out recommended responses to the proposals which have the most significant implications and opportunities for the National Park.

4.8. As part of the proposals for changes to the National Parks (Scotland) Act 2000, there are Governance proposals (Section 7) which could affect the future make-up and size of our Board. Given that current Board members could be perceived to have a personal interest in the outcome of these proposals, advice has been sought from the Standards Commission for Scotland who have confirmed this as a conflict of interest. As a result of these discussions, and in line our Code of Conduct, the National Park Authority have applied to the Standards Commission to seek a dispensation for all Members to take part in any discussion, decision-making and voting on this matter. The Standards Commission have confirmed that they have granted this dispensation for all Members. This is in recognition of the public interest in the Scottish Government being able to benefit from hearing the perspectives and views of the organisations directly affected by the proposals and it is accepted that this outweighs any potential benefit to individual Members, or the perception of such. Therefore, the Board **will be able to discuss this item** (set out in Paras 5.50 to 5.56) and a formal note for the minutes of the conflict will record that a dispensation has been given.

5. Recommended Responses to Consultation Questions

Scottish Biodiversity Strategy Delivery Plan

5.1. The draft Scottish Biodiversity Strategy sets out a Strategic Vision:

By 2045,

Scotland will have restored and regenerated biodiversity across our land, freshwater, and seas.

Our natural environment, our habitats, ecosystems, and species, will be diverse, thriving, resilient and adapting to climate change.

Regenerated biodiversity will drive a sustainable economy and support thriving communities, and people.

5.2. The Strategy identifies a series of outcomes which capture what success looks like across our landscapes and marine environments. It is proposed that a series of rolling national 5-year delivery plans will ensure progress and the consultation seeks views on the first draft delivery plan which outlines the actions we needed to halt the decline in nature by 2030. These plans would be refreshed every 5 years.

5.3. The key actions proposed achieve the first objective to **Accelerate Restoration and Regeneration** include, amongst a comprehensive set of measures, to:

- Introduce Statutory Nature Restoration Targets
- Identify partnership projects for six large scale landscape restoration areas in Scotland with significant woodland components by 2025
- Plan for Invasive Non-Native Species (INNS) Surveillance, Prevention and Control and to enable long-term effective INNS removal at scale
- Increase resilience in coastal and marine habitats to allow for natural change and adaptation to sea level rise, while tackling marine litter and plastics
- Substantially reduce deer densities across our landscapes and better management of grazing by sheep to improve overall ecosystem health by reducing herbivore impacts
- Implement a Programme of Ecosystem Restoration (with Peatland restoration and Scotland's Rainforest identified as a priorities)
- Enhance water and air quality and undertake water management measures to enhance biodiversity and reduce negative impacts

5.4. There are more detailed proposed actions which sit behind each of these headings. The consultation asks whether the key actions are the right ones to deliver the objective and end the loss of biodiversity by 2030.

Recommended Response #1

- 5.5. The preparation of rolling delivery plans to realise the ambition of the new Scottish Biodiversity Strategy is most welcome. Previous strategies have not led to the scale of action necessary and in the context of the twin crises in climate and nature, the need to focus on delivering the most impactful things at scale over the next 5 years is all the more pressing. This approach is already reflected in our delivery of **Future Nature** as well as the priorities set out in our finalised **National Park Partnership Plan** (presented elsewhere on this agenda).
- 5.6. Loch Lomond and The Trossachs National Park is in a position to contribute significantly to a number of the proposed key actions and there are some points of clarity that are suggested for the finalisation of the SBS Delivery Plan.
- 5.7. Some clarity is required over what the criteria are for proposed partnership projects for six large scale landscape restoration areas with significant woodland components by 2025. Work is ongoing to reinvigorate and expand the Great Trossachs Forest. Future Nature also identifies Wild Strathfillan and the Loch Lomond Basin (Atlantic Oakwood Rainforest) as priority partnership projects which could contribute to this action.
- 5.8. Other specific actions of note include ‘reducing the rate of establishment of known or potential INNS by at least 50% by 2030 compared to 2020 level; and, detection of priority INNS through increased inspections and vigilance of citizen scientists and eradicated or contained before they become established and spread’. Support for developing a pipeline of strategic INNS projects to coordinate the control of priority INNS at scale to eliminate or reduce the impacts of INNS in at least 30% of priority sites by 2030 is welcome.
- 5.9. An action to explore how best to support optimal herbivore densities to enhance biodiversity outcomes in the uplands is welcome and reflects that the successful management of herbivores other than deer is important, particularly sheep. This should include recognising the future contribution of sheep farming in this context.
- 5.10. Given the number of lochs and freshwater bodies that are used for water abstraction in the National Park, the commitment to take an adaptive approach to water abstraction and impoundment management to protect freshwater biodiversity from the impacts of water scarcity in response to future climate change pressures is welcome. Abstraction that leads to some watercourse completely drying up is a concern in the National Park in the light of the threats to freshwater species. The National Park is looking to work with

SEPA on better use of the Controlled Activity Regulations (CAR) to review abstraction.

- 5.11. In relation to **Ecosystem Restoration** there is a commitment to support landowners to protect and restore priority ancient woodlands by 2030, where the initial priority list is those protected/designated woodlands that are currently in unfavourable condition. Given the declining condition of some of our most important woodlands it is not clear what will be done differently to achieve this to improve on current efforts.
- 5.12. In relation to **Marine and Coast** the commitment to 'Extend current monitoring programme for marine litter to include monitoring of microplastics' and 'Develop Coastal Change Adaptation Plans (CCAPs)' is welcome particularly given the extent of marine litter affecting Loch Long as well as the extent of predicted sea level rise in the Firth of Clyde.
- 5.13. Also included is a welcome commitment to implement a programme of **measures to restore catchments and rivers** through River Basin Management Planning to achieve 81% of water bodies at 'Good' or better condition by 2027.' Our current levels indicate nearly 50% are less than good condition. This area will need further engagement with stakeholders to ensure meaningful delivery in the National Park.

Nature Networks Delivery Framework

- 5.14. Improving ecological connectivity to create fully functioning, healthy and robust ecosystems, where animal and plant species can move and adapt to pressures is a critical part of the nature restoration agenda. Nature Networks can bring benefits to nature and people, such as clean water, flood mitigation, natural cooling and health and wellbeing. The shared vision for Nature Networks is:

“By 2030 Scotland will have evolving, flexible and resilient Nature Networks nature-rich areas allowing wildlife and natural processes to move and adapt to land use and climate change pressures. The networks will help build people’s connection to nature, providing biodiversity-rich spaces that deliver local benefits, and meet the priorities of local communities for nature. “

- 5.15. Nature Networks will be developed as long-term features of local and regional landscapes, which support nature restoration and provide multiple benefits for society. The guiding principles to be used by implementation partners in delivering Nature Networks are:

- Delivered from the bottom up, addressing local needs and objectives

- Governance will be transparent, democratic, and accountable and with inclusive and diverse representation
- Engagement with partnerships and communities will be inclusive and empowering, with a focus on building people's connection with, and fostering a stewardship of nature
- Scotland's public bodies will be exemplars, supporting delivery of Nature Networks on their land
- Developed using and sharing local knowledge, experience and best-practice supporting the growth of green skills and jobs
- Monitoring approaches for Nature Networks will be developed with, and for, stakeholders to inform management and action
- Public and private finance and funding delivered through properly resourced, clearly directed, long-term, simple, and accessible means
- Policy and planning levers will be used to safeguard Nature Networks and provide long term assurance
- Mainstreaming Nature Networks, and wider biodiversity targets, at all levels of government and across the whole of society to encourage shared responsibility, efficient use of resources and delivery of multiple benefits

Recommended Response #2

5.16. Nature Networks if delivered well, with meaningful and long-lasting buy-in from local communities and land managers have the potential to offer a huge, positive impact for re-building nature. By encouraging more natural habitats, that are better connected across landscapes they could provide the building blocks for a richer natural environment and greater resilience to pressure and change.

5.17. Clarification is required as to how planning authorities will be adequately resourced and supported to give them and other key delivery bodies the ability to establish, manage and monitor Nature Networks and what requirements will be placed on land managers within them to ensure land use that delivers nature restoration. We aim to develop our approach to nature networks as part of our new Local Development Plan.

30 by 30 Policy Framework

5.18. The Global Biodiversity Framework included a commitment to ensure that at least 30% of land and sea is effectively conserved for nature by 2030. The

aim is to ensure and enable that by 2030 at least 30 per cent of terrestrial, inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed. The Scottish Government is committed to working with communities and stakeholders to develop an implementation route map to deliver 30X30. The first step has been to develop a policy framework which sets out the vision and a set of guiding principles. A vision statement sets out that:

By 2030 at least 30% of Scotland's land will be protected or conserved for biodiversity, delivering for people and climate. Sites showcase the best in nature restoration, protection and in mitigating and adapting to climate change. They help protect the rare and vulnerable, as well as delivering diverse, complex, and resilient ecosystems that provide important services that benefit everyone far into the future. These 30 by 30 sites are integrated into the wider landscape, acting as the beating, nature-rich hearts of Scotland's Nature Network and beyond.

5.19. Some of the proposed principles to guide a 30x30 route map include:

- Area-based conservation will provide adequate protection or conservation to the area of importance it covers
- The approach to 30 by 30 sites will be simple, clear, transparent, and flexible in governance and application
- Approaches to the selection and objectives of 30 by 30 sites will be strategic, forward-looking, and dynamic
- Management must be adaptive, dynamic, and responsive, operating at the necessary scales (spatially and temporally)
- Those responsible for the management of Scotland's land will be empowered to work collaboratively and equipped with skills needed to champion good management within their own sectors
- Established and prospective 30 by 30 sites will be considered as priorities for funding and investment
- Land owning public bodies will manage their land to contribute towards 30 by 30

Recommended Response #3

5.20. In relation to the current interpretation of 30 x 30, NatureScot in their recent [advice to Ministers](#) on new National Park(s) in Scotland were of the view that **not all land within National Parks meets the criteria for 30 x 30**, although it is recognised that there is an aspiration for more land to meet this criteria.

5.21. We would **question this conclusion** which implies that land in National Parks outside of formally designated nature sites is not important for nature especially as it is designated as being “of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage” (Section 2 of the National Parks (Scotland) Act 2000). Equally, it is accepted that the entirety of National Parks should not count towards 30x30. Given the key role that National Parks increasingly play in Scotland’s nature restoration ambitions we believe special consideration should be given to how categories such as ‘*other effective area-based conservation measures*’ (OECMs) could be applied within the National Parks to provide new ways of building effective landscape scale partnerships on multiple landholdings, securing more land into long-term and effective management for conservation and restoration. We would welcome the opportunity to discuss in more detail how National Parks can play in helping to deliver 30 x 30, with large swathes of land in the Park being demonstrably important for nature in other ways.

Statutory Targets for Nature Restoration

5.22. A central part of the proposed Natural Environment Bill is a framework for statutory targets for nature restoration which be binding on government, in the same way that climate change targets to achieve our net zero ambitions. Putting nature restoration targets on a statutory footing is complex and requires a robust and transparent approach. Done well, statutory targets will signal a clear long-term direction of travel, and drive and focus action.

5.23. It is proposed that a set of detailed targets, with indicators and values, will go out for further consultation prior to being laid before parliament to be delivered through secondary legislation.

5.24. The proposals seek to improve on previous target setting efforts by:

- Working more strategically and at scale;
- Focusing on ecosystem health and landscape scale regeneration as well as on management for individual species;

- Systematically mainstreaming biodiversity across sectors and the wider policy landscape;
- Ensuring sufficient investment;
- Strengthening accountability for delivery

5.25. Statutory targets will therefore set the long-term commitment of government to drive the transformational change needed to tackle the biodiversity crisis. Given the complexity and inter-relatedness of nature and the uncertainty of impacts such as climate change on it, it is proposed that the Natural Environment Bill should establish the framework for targets, and that this will include the high-level topics (e.g., species abundance and habitat quality) that targets will be required to be set against. The detail of the targets, such as the quantitative figures, will then be provided in secondary legislation. This approach allows for targets to be agile and adapt to unforeseen circumstance and ensures parliamentary scrutiny is maintained.

Recommended Response #4

5.26. The proposal to set, monitor and review statutory targets for nature restoration is *supported in principle* as this will help focus efforts on driving forward the larger scale delivery which is necessary to reverse the decline in nature. Clarity is required as to how delivery bodies will be enabled and supported to meet these targets above the current levels of public duty and suite of designations already in existence.

National Parks

5.27. The consultation asserts that in the context of the twin nature and climate crises, Scotland's National Parks are more important now than ever before. It is stated that National Parks can be exemplars in contributing towards Scotland's ambitious targets to halt biodiversity loss by 2030 and reverse declines by 2045. Equally, they have a vital role to play in the transition to a net zero economy in a way that is fair and inclusive for local people. The benefits for sustainable tourism, visitor management, nature friendly land use, communities, employment and attracting investment in natural resources is also highlighted.

5.28. The consultation carried out by NatureScot in 2022 both confirmed the appetite to see more National Parks in Scotland and the important leadership role of National Parks are seen to have in tackling the interlinked crises of climate change and biodiversity loss, whilst also welcoming visitors and supporting local communities and businesses. It is therefore seen as

important that both existing and new National Park Authorities have the legal framework and powers they need to fulfil this leadership role and which is fit for purpose to respond to today's societal challenges.

Purpose of National Park Authorities

5.29. The current purpose of a National Park authority in Scotland, as set out in the 2000 Act (see section 9(1)), is **“to ensure that the National Park aims are collectively achieved in relation to the National Park in a coordinated way”**. Given the urgency of the biodiversity and climate crises, and the leadership role of National Parks, it is proposed that, in addition to the collective achievement of the National Park aims, **the statutory purpose specifically refers to nature restoration and tackling climate change**.

Recommended Response #5

5.30. The consultation carried out by NatureScot last year proposed that there should be a national policy statement on the role of all National Parks in Scotland. The response agreed by the Board was supportive of a statement that encapsulates the national role and combined benefits that can be delivered by National Parks for Scotland while not unduly restricting the focus of individual National Park Partnership Plans.

5.31. This proposal differs from NatureScot's in that now it proposes to embed a broader statutory purpose in the 2000 Act. While this may be seen to somewhat duplicate aspects of the aims, it nevertheless is an important statement on the importance of National Parks in tackling these existential threats. **This proposal is therefore strongly welcomed**, and it is anticipated that more specific wording will appear in the draft Bill.

National Park Aims

5.32. In order to support the proposed new purpose of Scotland's National Park authorities it is proposed to make some changes to the statutory National Park aims.

5.33. In response to the NatureScot consultation the National Park Authority agreed that the statutory aims should be updated and made the following suggestions:

- *The first aim should be redrafted to make more explicit reference to the role of National Parks in enabling nature recovery and healthy ecosystems*
- *The second aim should be redrafted to incorporate reference to the role of the National Park in mitigating and adapting to the effects of climate change*

including through promoting the sustainable use of the natural resources of the area;

- *The third aim should include reference to sustainable enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by people of all backgrounds; and*
- *The fourth aim should include reference to the cultural development and heritage of the area's communities*

5.34. The Scottish Government is now proposing to update the aims as set out in the table below. The wording will be subject to further change as the Bill is drafted and legal advice is reflected. The proposed revised aims serve to indicate how the aims might be refined and made more relevant to the present day challenges and opportunities in National Parks.

	Existing National Park aims:		Proposed National Park aims would seek to:
1	To conserve and enhance the natural and cultural heritage of the area.	1	Protect, restore and enhance the natural assets, biodiversity and ecosystems within the National Park
		2	Protect and enhance the cultural heritage and historic environment assets within the National Park
2	To promote the sustainable use of the natural resources of the area.	3	Promote the sustainable management of the area's natural resources to maximise the benefits for the environment, climate, economy and people.
3	To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public.	4	Promote public understanding and enjoyment of the area's natural and cultural assets, supporting sustainable tourism and visitor management, inclusion and improved accessibility for all.
4	To promote sustainable economic and social development of the area's communities.	5	Promote the sustainable economic, social and cultural development and wellbeing of the area's communities.

Recommended Response #6

5.35. The proposed changes **represent a positive response to the suggestions previously made by the National Park Authority and are supported**. In particular the separation of natural and cultural heritage into two separate aims is welcome as there can occasionally be conflicts between these interests. The National Park Authority has assessed some proposals against the National Park aims in the past, particularly in relation to significant planning applications. Impacts on the current first aim have interpreted natural heritage to include visual impacts on landscape and scenic qualities. The proposed new wording should clarify that natural assets includes the quality and character of the landscape, which has been a significant consideration to the reasons for designation. The expansion of other aims to reflect the value, role and work of National Parks is welcome although this has meant that they have inevitably become more wordy. As mentioned above the drafting of the Bill will allow the opportunity to simplify language where possible.

National Park Principle

5.36. Section 9(6) of 2000 Act states ***“if, in relation to any matter, it appears to the authority that there is a conflict between the National Park aim set out in section 1(a) and other National Park aims, the authority must give greater weight to the aim set out in section 1(a)”*** (to the aim to conserve and enhance the natural and cultural heritage of the National Park area).

5.37. It is proposed to **retain this principle** and **apply it to** the proposed **amended first aim** (to protect, restore and enhance the natural assets, biodiversity, and ecosystems within the National Park). This would allow greater weight to be given to the protection and restoration of natural assets, biodiversity, and ecosystems conflict between aims.

Recommended Response #7

5.38. The scope of the four aims which apply to Scotland's National Parks is seen as appropriate and successful. It should be noted that Scottish National Parks still differ from those in England and Wales by having a 'socio-economic' aim to be pursued in balance with the other three (now proposed four). This has led to a more rounded perspective in both strategy and delivery. However, the reasons for National Park designation must still be at the heart of all decision making and how the National Park Authority uses its resources as well as co-ordinates and influences others. **If there is conflict with the first aim, it is still very important that the National Park Authority gives greater weight to the nationally important environmental assets that it is charged with protecting and enhancing. In the context of a nature crisis this duty is more important than ever.** The new National Park Partnership Plan has this duty at its heart as do other strategies and plans such as Future Nature and the Local Development Plan. Occasionally the National Park principle has been used to assess significant planning applications where there is considered to be conflict with the first aim and an unacceptable threat or risk to aspects of the National Park's precious environment.

5.39. It should be noted that without the National Park 'principle' being included in the National Parks (Scotland) Act 2000 it is unlikely that Scottish National Parks would be recognised as protected landscapes particularly in an international context. Scottish National Parks are recognised as a Category V¹ protected area under International Union for Conservation of Nature guidelines (in common with those in the rest of the UK).

5.40. The National Park 'principle' is at the heart of what gives the designation its purpose and for this reason its retention should be strongly supported.

Other Public Bodies and National Park Aims

5.41. National Park Authorities work in partnership with a wide range of public sector bodies and other organisations to achieve the National Park aims and to implement National Park plans. However, under the current Act, National Park Authorities are the only public bodies with any duties with regard to

¹ The 1994 Guidelines for Protected Area Management Categories defines Category V, Protected Landscape/Seascape thus:

Area of land, with coast and sea as appropriate, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, ecological and/or cultural value, and often with high biological diversity. Safeguarding the integrity of this traditional interaction is vital to the protection, maintenance, and evolution of such an area.

achieving the National Park aims. **It is therefore proposed that public bodies operating within the National Park should be required to have regard to the National Park aims and the National Park principle.** This duty would only apply to public bodies operating in National Parks for a purpose that is devolved to Scotland. The duty should not conflict with or displace responsibilities that are the primary remit of these public bodies.

Recommended Response #8

5.42. Given that other public bodies and decision makers may be pursuing activities which may significantly affect the National Park aims it is anomalous that they have no responsibility at all to consider them under the current terms of the Act. The introduction of this duty will significantly help National Park Authorities hold partner bodies to account to ensure that they are actively considering the National Park aims as part of their own work where appropriate. Examples of why this is important, includes the extent of land in the National Park which is publicly owned and managed or the prospect of public infrastructure projects such as road improvements where impacts need to be adequately mitigated.

5.43. It should also be noted that there are instances when planning decisions are being taken in National Parks by entities other than a National Park Authority. While Loch Lomond and The Trossachs National Park Authority is the full planning authority, the Act allows for other configurations in how planning powers may be exercised. **Revisions to the Act should make clear that any planning authority making decisions in a National Park should have a duty to consider the impacts of a development on the achievement of National Park aims.** This extends to decision making on planning appeals where the decision maker is the Scottish Government's Planning and Environmental Appeals Division or the Scottish Ministers. It is anomalous and concerning that these decision makers **do not** have a duty to consider the National Park aims when considering appeals on decisions made by a National Park Authority where an application has been assessed as contrary to the aims.

5.44. **The extension of this duty to other public bodies operating in the National Park is therefore to be strongly welcomed** and should be drafted to ensure that all entities involved in planning decisions are included within this definition.

Duty on Other Public Bodies to Deliver National Park Partnership Plans

5.45. Section 14 of the 2000 Act states that National Park Authorities, local authorities and any other public body or office holder must, in exercising

functions **have regard** to the National Park Plan. It is proposed that the duty on public bodies should be strengthened so that public bodies operating within the National Park **have an obligation to actively support and contribute to the implementation** of National Park Plans. This duty would apply to public bodies operating in National Parks for a purpose that is devolved to Scotland. The strengthened duty should not conflict with or displace responsibilities that are the primary remit of these public bodies.

Recommended Response #9

5.46. The National Park Authority response to NatureScot's consultation said:

It is considered that the current 'have regard' wording is too weak and does not place a significant enough duty on public bodies to give sufficient priority to delivering National Park Plans..... To address this, it is suggested that there may be a need to strengthen the effect of this duty so that public bodies exercising functions within a National Park are required to positively support delivery of National Parks Plans.

It is therefore welcome to see this enhanced duty proposed as this will assist with more effective delivery of our National Park Partnership Plan.

General Powers of National Park Authorities

5.47. The powers and functions of each National Park Authority are set out in the relevant designation order for that Park. For example, it allows for the exercise of the statutory planning function to differ between National Parks. The 2000 Act gives National Park Authorities the power to create byelaws in order to protect the natural and cultural heritage of the area, to prevent damage to the land and to ensure public safety and enjoyment in the National Park. Loch Lomond and The Trossachs National Park has extensive experience in the operation and enforcement of the Loch Lomond (Navigation) and Camping Management Byelaws. Currently all formal enforcement of an alleged byelaw breach has to be reported to a Procurator Fiscal and handled via Sheriff Courts. The consultation proposes that National Park authorities should be given the **power to be able to enforce** the contravention of National Park byelaws **by issuing fixed penalty notices rather than having to defer to the court system.**

Recommended Response #10

5.48. The National Park Authority response to NatureScot's consultation said it would like to see;

"More direct powers of enforcement in relation to byelaws made by National Park Authorities to allow simpler disposal of minor byelaw breaches through giving National Parks Fixed Penalty Notice powers for some offences rather than all breaches being referred to procurator Fiscals."

5.49. **This proposal would therefore be strongly welcomed.** Loch Lomond and The Trossachs National Park Authority staff already have experience of fixed penalty notice powers concerning littering offences conferred through other national legislation. These powers are used sparingly and bring added deterrence value assisting Ranger staff to achieve voluntary compliance rather than formal enforcement. Current enforcement of National Park byelaws breaches through the court system involves significant legal work and in the case of more straightforward breaches could be seen as disproportionate particularly where there is a risk of receiving a criminal record. It is not anticipated that this proposal will be in place for when the revised Loch Lomond Byelaws come into force on 1st October 2024. The timetable and statutory provisions needed to implement this proposal will require further discussion and clarification.

Governance of National Park Authorities

5.50. The consultation states that in order to provide bold leadership and ensure that National Parks are at the forefront of efforts to restore nature and tackle the climate crisis, it is essential that National Parks have effective and efficient governance. It states boards should be large enough to ensure diversity, a broad range of relevant skills and local representation but they should not be so large that decision making is difficult and costs to the taxpayer are disproportionate for the size of the public body.

5.51. It is highlighted that with Cairngorms National Park Authority having 19 members whilst Loch Lomond & Trossachs National Park Authority having 17 members, these are larger than other Scottish public bodies such as the Scottish Environment Protection Agency (currently 10 members), Visit Scotland (currently 8 members), Historic Environment Scotland (between 10 and 15) and Scottish Enterprise (between 8 and 11).

5.52. In order to maximise efficiency, diversity and relevant skillset the consultation proposes:

- (i) A National Park board should have **no fewer than 8 members and no more than 15**.
- (ii) **Approximately half** of the board (a) members elected through **direct elections** to the board and (b) members **nominated by local authorities** in the National Park.
- (iii) **Approximately half** of the board **directly appointed by the Scottish Ministers** based on their skills, experience and their national perspective on issues facing National Parks
- (iv) **Greater diversity** must be achieved across each board's membership in terms of protected characteristics set out in Equality Act 2010
- (v) The **Convenor and Deputy Convenor** should be members of the respective board and they should be **appointed by Scottish Ministers** (rather than being elected by the board).
- (vi) The **exact size and detailed composition** of each National Park Authority's board should be **set out in the relevant Designation Order** for that National Park

Recommended Response #11

5.53. The consultation by NatureScot last year asked a very general question on whether there was a need to review governance arrangements for National Parks and did not make any specific proposals. In response we said:

“...the current approach does ensure that National Park Boards have a balance of local accountability and knowledge as well as national perspectives and experience in topics of relevance to National Park management issues. However, an issue that should be considered for review is whether the current approach to Board appointments and elections is fit for purpose in securing more diversity on our Boards.”

5.54. While it is recognised that National Park Authorities have larger boards than other national Non-Departmental Public Bodies, the consultation omits to acknowledge that they are different from them in that they exercise a number of powers normally held by local authorities. This alongside the local geographic remit therefore means that Boards should have an appropriate balance of local and national expertise and perspectives. The knowledge of locally based members and the connection with local stakeholders and communities is a vital part of the governance make up of National Parks helping ensure they are responsive to local issues and concerns while delivering nationally important benefits.

5.55. The consultation suggests a shift in balance of board membership but is not specific on precise numbers. The proposal for a maximum board size of 15 would mean at least a reduction of two Board members for this National Park Authority. Whether this new maximum board size, balance of membership, or means to elect the Convener and Vice-Convener should change or the status quo remain is a matter for the Board to debate and take a view on. It is suggested that the Board could consider options as follows:

A No change from the current arrangements

B Support the proposals set out in the consultation in full

C Suggest any specific changes to the current arrangements that may be supported.

5.56. As set out in the introduction, while Board members have a conflict of interest in this matter, a dispensation has been granted by the Standards Commission to allow the Board to debate this matter and agree a response.

6. Risks

6.1. There is a risk that the legislation governing the work of National Parks in Scotland is changing while the National Park Authority is delivering its new National Park Partnership Plan, prepared under the terms of the current National Parks (Scotland) Act 2000. While much of our strategy work and prioritisation is following the direction of travel of Scottish Government policy, there is a risk that this could change again following consultation. Officers will be working closely with Scottish Government officials and will be able to consider how best to address any changes appropriately as they arise. The setting of statutory targets for nature and the further development of policy on 30x30 and Nature Networks will need to be considered both in the delivery element of our Future Nature strategy and in preparing our forthcoming Local Development Plan.

6.2. A number of the proposals seek to enhance the status of National Park Partnership Plans and are therefore seen as an opportunity rather than a risk.

7. Next steps

7.1. Once the responses to this round of consultation are analysed and considered by Scottish Ministers, any specific changes to the National Parks (Scotland) Act 2000 along with other new statutory provisions to deliver the Scottish Biodiversity Strategy will be progressed as part of the Natural Environment Bill to be introduced to the Scottish Parliament in late 2024. The timetable for the Bill to progress through the various stages of scrutiny and debate will become clearer by then. It is anticipated that the enactment of such changes will be towards the end of the parliamentary term in early 2026. Any changes which

are specific to individual National Parks may also require amendments to Designation Orders. At the same time the process to designate at least one more National Park will be progressing. The current process inviting formal bids to be considered for new National Park status is ongoing and will conclude in February 2024.

8. Appendix 1: Table of Recommended Responses

Author(s): Gordon Watson CEO, Simon Jones, Director of Environment & Visitor Services

Executive Sponsor: Gordon Watson, CEO