**National Park Commission - SAG 3-2 – Towards a first draft of the proposed consultation paper and questions**

1 This paper presents the draft contents of the proposed consultation paper.

2 **Members of the stakeholder group will be aware this draft has been prepared with some speed so we expect its content to change as it is finalised for consultation.**

**Consultation paper**

3 The first draft of the text of the proposed consultation paper is presented in Annex A. This is largely complete, with exception of Section 7 – summary of consultation questions and next steps.

4 The consultation covers a lot of ground and presents a lot of technical information. While aimed at an informed audience rather than the general public, further work is needed to simplify the text and questions. Some questions may need to be modified for specific audiences.

5 Much of the contents of the paper will be familiar having been distilled from previous SAG papers and discussions. We had originally proposed to provide papers on governance and administration and alternative mechanisms but we have instead included material on these topics in Section 4 (page 13-14) and 6 respectively. To help inform discussion of these topics, we have provided two background papers which cover aspects of these topics.

6 We expect the consultation to reformatted to mirror the presentation of the current Scottish Biodiversity consultation with boxes for free text responses to some individual questions – see <https://www.gov.scot/publications/scotlands-biodiversity-strategy-consultation/>

7 We think that a separate summary version will be needed for a more general audience. While the consultation paper will be published “online”, summary versions could be printed for distribution at meetings and events.

**Recommendation**

8 We intend to use the meeting to discuss the draft consultation in more detail and especially

* The scope and contents of the paper
* The purpose and framing of the questions for consultation
* Any missing issues or questions

**NatureScot**

**August 2022**

**Annex A**

NATIONAL PARK COMMISSION – DRAFT CONTENTS OF THE PROPOSED CONSULTATION PAPER

*“We face twin reinforcing crises – a decline in biodiversity will make the climate crisis worse and a changing climate will increase the rate of biodiversity loss.  Biodiversity is the best chance we have to adapt to climate change and ensure we continue to be able to enjoy the things that nature provides, on which we all depend”.  SBS consultation paper*

**Section 1 – Introduction**

The Scottish Government is committed to the designation of at least one new National Park during the lifetime of the current Parliament.

At this stage, Scottish Ministers do not have any specific areas in mind for designation as a National Park. Instead, they are keen to encourage nominations from across Scotland from which they will select one or more to take forward into the statutory process of designation. The key steps and timeline for meeting this commitment by 2026 is show in Diagram 1.

As it is nearly 20 years since the first two National Parks were created, Scottish Ministers have also decided that that it would be appropriate, before more are designated, to review our approach to National Parks to make sure it is still relevant. In particular, Scottish Ministers want to explore how our National Parks **can help drive the transformation needed to address the twin crises of biodiversity loss and climate change.**

As a first step in this work, NatureScot has been asked to: provide advice to Ministers on the role and approach to National Parks; and how areas for new National Parks could be selected.

In taking forward this work, NatureScot has taken following into account

* The starting point for this work is the existing National Park legislation;
* We are not reviewing the existing national parks, but we will need to draw on their experience in developing our thinking and this could include proposals for changes to the legislation;
* Ministers have clearly indicated that there are no front-runners in terms of potential areas. Instead they are keen on a process which encourages debate and attracts a range of high quality nominations worthy of consideration.
* In line with NatureScot’s [advice](https://www.nature.scot/sites/default/files/2017-07/Publication%202006%20-%20SNH%20Advice%20on%20Coastal%20and%20Marine%20National%20Parks.pdf) on this topic in 2006, consideration of coastal and marine national parks are in scope, though wholly marine national parks are not;
* We have not had time to commission new research but instead have drawn on relevant experience from the UK, Europe and elsewhere;
* While our focus is on national parks, we need to give some consideration to other related management mechanisms such as regional parks, national scenic area and biosphere reserves.

This consultation paper sets out our initial thinking on these issues and seeks your views on it. We will report to Ministers what you tell us and take it into account in our final advice.

The development of this paper has been informed by the work of a [national stakeholder group](https://www.nature.scot/professional-advice/protected-areas-and-species/protected-areas/national-designations/national-park) we established to bring together a wide range of organisations and sectors with an interest in this area. It has also drawn on the ideas and discussion generated by an [online call for ideas](https://www.ideas.gov.scot/the-future-for-national-parks-in-scotland) on the Scottish Government’s website.

This paper is divided into the following sections

**Section 2 - Scotland Approach to National Parks   
Section 3 – The Changing Context for National Parks**

**Section 4 – Refreshing our approach to National Parks**

**Section 5 – Selecting areas for consideration as National Parks**

**Section 6 - Alternatives to National Parks**

**Section 7 – Summary of consultation questions**

Response to this consultation are requested by the 31st XX October using this form.

**Section 2 – Scotland’s approach to National Parks**

**This section provides some background to Scotland’s current approach to National Parks**

In Scotland and throughout the world, National Parks are established to protect and enhance some of a nation’s finest wildlife, landscapes, seascapes and cultural heritage. They also provide a range of first class opportunities for people to enjoy, learn and value the natural and cultural heritage of these areas. Developed to meet Scottish needs for more integrated management of nationally important areas, our National Parks also play an important role in sustaining local communities and championing the sustainable development of these areas.

The National Park designation signals a strong national commitment to - and investment in - protecting and enhancing the special qualities of the area as a whole. In Scotland, this means our National Parks need to:

* deliver on targets for the care and enhancement of nature and landscape, which recognise national and local goals and also the linkages between the natural and cultural heritage of the area;
* promote a range of outstanding opportunities for people of all backgrounds to experience, enjoy and understand the special qualities of the area;
* promote high quality in every aspect of the planning and management of the area;
* facilitate development and the use of land and water resources that is in sympathy with maintaining and enhancing the natural heritage of the area, both now and in the longer term; and that
* develop changes in present working practices, to secure effective partnership working with communities and within and between the public and private sectors.

The legal basis for National Parks in Scotland is set out in the [National Parks (Scotland) Act 2000](https://www.legislation.gov.uk/asp/2000/10/contents). Key elements of this Act are summarised in Annex A including the four aims at the heart of Scottish National Parks, namely to:

* conserve and enhance the natural and cultural heritage of the area;
* promote the sustainable use of the natural resources of the area;
* promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area; and
* promote the sustainable social and economic development of the area’s communities.

The integrated approach to these aims distinguishes Scotland’s National Parks from the original purposes of most others throughout the world. In part, this is possible because Scotland has come relatively late to National Parks and a range of mechanisms already existed to protect the best of our natural and cultural heritage. But critically, these balanced aims can also be seen as reflecting a modern approach to sustainable development which acknowledges that within ‘living and working landscapes’, social and economic development must be addressed alongside the care and enjoyment of the natural and cultural heritage.

The Scottish approach to National Parks enshrined in the Act contains a number of key principles.

* **Park areas have to be of outstanding national importance for their natural heritage, or their combination of natural and cultural heritage.** The Act provides for a long-term commitment to the conservation and enhancement of these special qualities.
* **Each of the four aims of the Park are concerned with making positive things happen.** National parks have a key role on restoring biodiversity. Existing economic and recreational uses of the area are also supported; and new uses are encouraged provided that they do not impact negatively on the special qualities of the area.
* **A Park Authority is established to oversee the planning and management of the Park area.** Its main task is to prepare and help implement a Park Plan. Scottish Ministers approve the Plan, and the wider public sector is expected to contribute positively to its preparation and implementation.
* Through their direct representation in the Park Board and in the process of preparation and implementation of the Park Plan, **local communities play an enhanced role in the governance and management of the area**.
* Each Park is established through a separate designation order approved by the Scottish Parliament following extensive consultation, both locally and nationally. **The specific arrangements for the powers, functions and governance of each Park can be tailored to meet the needs of each Park area.** Section 31 of the Act allows for further modification of its operation to meet the needs of Park areas which extend into Scotland’s marine environment. There are also unused powers for public bodies to delegate their functions to National Park authorities and vice versa.

Scotland’s National Parks are currently categorised as “Category 5” protected areas by IUCN, which is the same as the rest of the UK (see Annex B). In keeping with this categorisation, there is also a range of other national designations which sit within our National Parks including National Scenic Areas (NSAs), National Nature Reserves (NNRs), and Sites of Special Scientific Interest (SSSIs).

**Section 3 – The Changing Context for National Parks**

**This section explores the changing context for National Parks and some of the issues that will need to be addressed in establishing new National Parks**

**What role do we want National Parks to play?**

The decision to establish further national parks provides the opportunity to take stock of the role or roles that we want National Parks to play moving forward in contributing to a better Scotland. Even a cursory look at the legislation suggests that some of its language and aspirations now feel dated suggesting a need to at least refresh parts of this framework. At the same time, the establishment of new National Parks provides an opportunity to test fully the potential of the existing legislation to tailor approaches to National Parks so they meet the needs of different areas.

Scotland has ambitious targets and priorities to meet the challenges we face in tackling the climate and nature emergencies and we need to transform what we do, and how we do it, if we are to deliver them. Scottish Ministers have made it clear that they want Scotland’s National Parks to be places that will actively demonstrate nature recovery and the transformational change needed in our approach to land-use, providing leadership and showcasing a just transition to net zero in Scotland.

Delivery of new National Park(s) are therefore not only goals in their own right, but must be seen in the context of wider Scottish Government Strategies and Commitments, including:

* The [Environment Strategy 2020](https://www.gov.scot/publications/environment-strategy-scotland-vision-outcomes/) with its outcome that ‘Scotland’s nature is protected and restored with flourishing biodiversity and clean and healthy air, water, seas and soils’.
* Delivery of vision and outcomes of the [Scottish Biodiversity Strategy for 2030](https://consult.gov.scot/environment-forestry/scottish-biodiversity-strategy-2022/), including
* preventing any further species extinction and halting declines by 2030 and making significant progress in restoring the natural environment by 2045.
* Securing by 2030 that at least 30% of Scotland’s land and seas are managed for nature
* Ensuring every Local Authority area will have a nature network of locally driven projects to improve ecological connectivity.
* Commitment to meeting carbon reduction targets and adapting to climate change through implementation of the [Climate change Action Plan](https://www.gov.scot/publications/securing-green-recovery-path-net-zero-update-climate-change-plan-20182032/pages/2/) by developing “thriving rural economies based around woodland creation, peatland restoration and biodiversity as well as sustainable tourism, food and drink and energy”
* [National Strategy for Economic Transformation](https://www.gov.scot/publications/scotlands-national-strategy-economic-transformation/) – including its ambition “to demonstrate global leadership to deliver a just transition to net zero nature positive economy and rebuilding natural capital”.
* Delivery of Scotland’s [national planning framework](https://www.transformingplanning.scot/national-planning-framework/), [land-use strategy](https://www.gov.scot/publications/scotlands-third-land-use-strategy-2021-2026-getting-best-land/) and [national marine plan,](https://www.gov.scot/publications/scotlands-national-marine-plan-9781784128555/) including the development of regional land-use partnerships and regional marine plans;
* Implementation of Scotland’s [visitor management strategy](https://www.visitscotland.org/binaries/content/assets/dot-org/pdf/about-us/what-we-do/a-visitor-management-strategy-for-scotland.pdf)
* Refresh of [Our Place in Time – Scotland’s strategy for the historic environment](https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=fa088e13-8781-4fd6-9ad2-a7af00f14e30).

Scotland’s National Parks have an important contribution to make across all these areas and section 4 contains proposals that could further strengthen their contribution.

**Considerations for new National Parks**

Scotland’s first two National Parks were designated for broadly similar reasons:

Loch Lomond & the Trossachs

* Need to maintain a working countryside
* Need to manage recreational and visitor pressures
* Need to safeguard and enhance of the natural heritage of the area
* Need to give greater care to the cultural heritage of the area
* The need to facilitate community development

Cairngorms

* Need to maintain a working countryside
* Need to make better provision for recreation
* Need to safeguard and enhance of the natural heritage of the area
* Increased interest in the care of the cultural heritage of the area
* Need to facilitate social inclusion and community development

Both Parks have significant populations and cover a complex administrative landscape of multiple local authorities, two of Scotland’s enterprise agencies, several destination management organisations, and regional divisions of most public bodies.

As a result, the Park “model” that emerged for both these areas was similar, comprising a stand-alone non-departmental public body (NDPB) with a range of powers drawn from existing legislation. These included the general powers and functions of non-departmental government bodies; the natural heritage functions of NatureScot (including for countryside management, ranger provision, nature reserves, compulsory purchase and grants etc.); and the planning and access authority functions of local authorities. In addition, National Parks have general bylaw making powers in relation to their conservation and enjoyment functions. While not yet used, the legislation also contains unique powers for Scottish Ministers and public bodies to transfer their functions and powers to a Park body and vice versa

The model for Scotland’s next national park could be similar if it was established in an area with similar needs. At the same time, it may need to be very different in several respects e.g.

* Covering much smaller areas (or even larger ones) with lower populations
* Extending to, or largely covering, a coastal and marine area
* Located within one or at most two local authority areas rather than 4 or 5
* No, or limited, planning function
* Focused more on rebalancing visitor pressures across parts of Scotland rather than managing current visitor pressures
* Focused more on opportunities to restore nature as well protecting what exists already.

In deciding to establish new National Parks, a number of strategic considerations are also important.

* **Focus** Do we want National Parks to represent the very best of Scotland’s nature or be representative of all of Scotland’s nature; what role do we want Parks to play in relation to cultural heritage?; are urban National “City” Parks in scope?; how should potential rather than current value of possible areas be assessed?
* **Form** How diverse do we want the framework and operations of our National Parks to be? Do we need to establish a separate Park body for each area or could other options be considered?
* **Family** As the number of Parks grows in Scotland, how do we increase their collective impact? What role should other designation continue to play both within and alongside National Parks?

We discuss these issues further in the proposals for section 4 and 5

**Section 4 – Proposals for legislative and policy change**

**This section sets out proposal for legislative and policy change**

**The role of National Parks**

Scotland’s National Parks currently play a number of key roles. They represent some of the very best of Scotland’s nature, landscapes and heritage; they are important mechanism for planning and integrated land management; they provide exemplars of community engagement and sustainable development; they are at the forefront of landscape scale action for nature recovery; and they are an increasingly important part of Scotland’s visitor offer.

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| 1. Question – Are these the main roles that we want Scotland’s National Parks to play? What other roles do you think they should have? |
| 1. Question – How can these roles contribute more effectively to tackling the twin crisis of climate change and biodiversity loss? |

**Aims and Powers**

Table 1 suggest three models that illustrate options for changes to the aims and powers that could increase the focus and effectiveness of National Parks. The models range from consolidation to evolution and radical change. The mix of aims and powers for any option is illustrative at this stage and will need to be refined further. Consideration is also needed on cultural heritage and how this remains part of the approach to our National Parks going forward.

All three options include a high-level statement or vision for National Parks. The scope and contents of this would require further consideration and consultation but could address the range of issues described in Section 3.

While the changes proposed may seem relatively modest compared to the other two, Option 1 would significantly strengthen the effectiveness of National Parks by providing stronger clarity and direction on the role of National Parks; refreshing the aims to reflect this, and increasing the role of the National Park Plan in directing change across the Park area.

Options 2 and 3 would move Scotland closer to the European and wider international approach to National Parks and would allow new Parks to directly contribute to meeting Scotland’s 30x30 targets (including strict protection for 10%).

Option 3 would require radical changes to the existing legislation and would signal a fundamental change of approach to the management of both public and private land within National Parks. Given its focus on stricter protection of nature rather than integrated management, Option 3 would in practice probably require new National Parks to be much smaller in size. Its applicability to the existing National Parks would also need to be considered carefully.

In considering these models, a key question is the extent to which we want all our National Parks to be similar. It could be that both existing National Parks and any new ones should follow a similar model through legislative approaches in the National Parks (Scotland) Act 2000 (primary legislation). The proposed Natural Environment Bill could present a means to update the primary legislation to reflect common aims and powers across all Parks, which are not catered for in the 2000 Act. Alternatively, different models could be developed though bespoke changes to individual Parks via existing or new designation orders (secondary legislation). A new National Park which involved a significant coastal and marine element would in practice need bespoke arrangements (as provided for by Section 31 of the Act).

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| 1. *Question - Do you agree that changes to the aims and powers of National Park are necessary?* |
| 1. *Question – Do you agree that a national vision and strategy are needed to provide a clear direction for National Parks?* |
| 1. *Question – if so, what should the national vision and strategy cover?* |
| 1. *Question – Do you agree that an over-arching purpose for National Parks to provide clearer direction to the implementation of the Parks’ aims should be developed?* |
| 1. *Question – If so, do you agree that it should emphasise nature recovery and climate change?* |
| 1. *Do you have any specific comments to make on the 13 proposals for change to the powers in Table 2?* |
| 1. *Should any changes apply to all National Parks?* |
| 1. *Which of the three options would you consider to be the best overall approach?* |
| 1. *Are there any other comments you wish to make on the role of National Parks and the changes to the aims and powers needed to deliver this?* |

**Table 1 - Options for change**

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| --- | --- | --- |
| **Option** | **Aims** | **Powers/functions** |
| 1. **National Parks strengthened** | * A national vision of strategy for National Parks is developed by Scottish Government * Rewording of existing aims to reflect the vision and current policy priorities | 1. Apply section 9(6) requirements on the National Park Authority in respect to the delivery of Park aims to all public bodies or to at least all relevant public bodies for the Park area. 2. Change the duty on public bodies to ‘have regard to’ Parks Plans to a duty to ‘support the implementation’ of Parks Plans. 3. Simpler disposal of minor byelaw breaches through giving National Parks Fixed Penalty Notice powers for some offences. 4. Require greater coordination of management of the public estate in National Parks. |
| 1. **National Parks empowered** | * A national vision and strategy for National Parks is developed by Scottish Government * Rewording of existing aims to reflect the national vision and current policy priorities * Inclusion of an overarching purpose for National Parks to secure nature recovery and positive contributions to climate change adaptation and mitigation. | As above, plus   1. Designate strictly protected nature protection zone/s or nature recovery zones within National Parks (equivalent to IUCN Category 2). 2. Update approach to management rules in National Parks to provide a set of enforceable standards relevant to each Park in line with their Park Plan. 3. Transfer of functions from public bodies to National Park bodies 4. Require higher standards for all public land in National Park. 5. Use National Parks to manage and distribute SG funding schemes. |
| 1. **National Parks rebooted** | * A national vision and strategy for National Parks is developed by Scottish Government * Inclusion of an overarching purpose for National Parks to secure nature recovery and positive contributions to climate change adaptation and mitigation. * Reduce aims to first one and change the other three aims “to have regard to” duties. | As above plus   1. Remove or simplify existing designations in National Parks. 2. Simplify management of public land within National Parks – for example by transferring more land to the National Park in the designated core areas. 3. Require land purchasers in advance of buying land in the Park to lodge a proposed management plan with the NPA for approval. 4. Create a dedicated integrated funding scheme for the implementation of National Park Plans. |

**Governance, Administration and Funding**

The current arrangements have been developed to integrate and balance local and national interests in the operation of National Parks through:

* Local and national representation on the board of the Park Authority, including directly elected representation and requirement for at least 60% of members being locally based;
* Selection of the convenor of by the members of the board of the Park authority (rather than by Scottish Ministers as is the case with other non-departmental public bodies);
* Approval of the Park Plan by Scottish Ministers;
* Provision of 100% core funding by Scottish Ministers; and
* Sponsor relationship with Scottish Government and scrutiny by Scottish Parliament

At present, the designation of a National Park requires a National Park Authority to be established comprising both Board members and a chief executive officer who then determines the appropriate level of staffing required for the functions the Park body is required to undertake.

The size of the Board and the composition of its members of each National Park is set out in the secondary legislation. The minimum board size required by the legislation is nominally 5 (1 directly elected; 2 local authority representatives and 2 national appointees). Both existing National Parks currently have much larger boards of between 17 and 19 members reflecting the number of local authority areas within these National Parks and the size and geography of their populations. Smaller boards arrangements are possible and may well be appropriate for National Parks within a single local authority area and/or having a small population.

The existing National Park parks have developed into small organisations with circa 80 -120 staff each reflecting the range of functions their undertake including planning and visitor management. Some corporate functions are led by one Park and delivered across both organisations. However, other options that could be explored for new National Parks include:

* The provision of staffing support from existing national park bodies
* The provision of staffing support from other public bodies
* The provision of staffing for a number of new parks from a single new Park body
* The provision of staffing for all national parks from a single Park Body made up from existing park bodies and/or public bodies.

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| 1. *Question – is the integration and balance of local and national interests still appropriate? Are there any changes you would suggest to the current arrangements?* |
| 1. *Question – Are there changes to Park boards you would suggest which would increase the effectiveness of Parks?* |
| 1. *Question –Should we look for new approaches to staffing new National Parks? If so, what options would you favour being explored further and why?* |

**Section 5 – Selecting areas for consideration as National Parks**

**This section considers the issues that need to be addressed in selecting further national parks. While NatureScot has been asked to provide advice on how it should be done and what it should comprise, the Scottish Government will lead the development of the evaluation framework and the nomination process itself.**

**Developing a nomination process for National Parks**

Scottish Ministers have committed themselves to an open nomination process for selecting new National Park areas rather than the traditional expert-led, top-down approach. This fits well with new thinking about “co-production” in protected areas approaches, conservation practice and public policy more generally. While similar ideas are also being tested in one or two other countries, Scotland will need to take its own path in terms of the development and application of this approach to our National Parks.

Key elements of the approach envisaged by Scottish Ministers include

* Development and publication of an evaluation framework to assess nominations
* A request for nominations to be made with clear guidance and within a timeframe that encourages nominations from all parts of Scotland
* The provision of advice and other support for potential areas to prepare nominations
* An open and transparent evaluation of the nominations based on the agreed framework, probably undertaken by an independent panel
* Decisions on which area or areas to progress made by the Minister based on recommendations from this panel.

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| 1. *Question – Are these the key elements of an effective nomination process for National Parks in Scotland?* |
| 1. *Question - Are there suggestions for improving any of the specific elements of the process?* |
| 1. *Question - Are there are additional elements you want to see, and what are these?* |

**Criteria for nomination and evaluation**

Table 2 suggests a number of criteria against which nominations for new National Parks could be evaluated, and for each highlights a number of issues with their application.

As part of the development of the evaluation framework, further consideration will be needed on the “information” or “measures” required to apply any criteria selected and what weight they should have in comparison to each other to enable evaluation of - and between - nominations.

**Table A – Developing a framework for evaluating national park nominations**

| **Potential Criteria** | | **Possible measures or components?** |
| --- | --- | --- |
| 1. Fit with current legislative criteria | 1a) Outstanding Value | * Value for biodiversity, landscape and cultural heritage * Value for enjoyment and understanding * Value of natural capital assets * Contribution as an exemplar to a suite of National Parks representing the best of all of Scotland |
| 1b) Coherence | * Minimum size threshold * At least a core area of high nature and/or landscape value * None or maximum percentage of “non-compatible” land or sea uses * Inclusion of relevant coastal and marine areas up to 12 nm. |
| 1c) Need/Added Value   * Contribution to tackling the climate and nature emergency? * Contribution to visitor management? * Contribution to sustainable economic development? * Contribution to a fairer Scotland | Are existing approaches in place? How significantly would a Park enhance these or provide good practice in respect to   * Nature recovery potential? * Net Zero transformation potential of current land or sea use? * Potential to increase natural capital and support sustainable development as part of the well-being economy (including nature based skills and jobs)? * Potential to increase accessibility to nature for all? * Visitor and tourism pressures or opportunities? * Existing or potential for provision of sustainable transport options? |
| 1. Current degree of support | | * Support by local community or group * Support by local authority/fit with local authority policy * Indication of national support//fit with national policy |

The thinking in the table is mainly grounded in the current legislative approach and covers the following areas.

*Outstanding national value*

In terms of international practice, a strong case can be made for having a suite of National Parks that are representative of either “the best of Scotland’s nature and landscape” or “all of Scotland’s nature and landscape”. Both approaches would suggest that a coastal and marine National Park should be established.

While outstanding national quality is strongly linked to international practice in National Parks and should be so in Scotland, we may also want to consider the potential for nature restoration in any area that is nominated. It is worth noting that the existing legislative conditions in the Act refer to “natural and cultural heritage” and it therefore may also remain an important consideration in thinking about future National Parks.

*Coherence*

National Parks are normally contiguous, discrete areas but should that always be the case? It may be important to consider whether the area is too small or too large for consideration as a National Park. An important factor here will the extent of land-uses which detract from the special qualities of the area. While potentially important, the inclusion of coastal and marine areas may also raise additional considerations.

*Need or added-value*

The Minister has made it clear her ambition for our National Parks to provide leadership through practical action to tackle the climate and nature crises, so this should provide a key basis for evaluation. Other roles have also been identified around visitor management and sustainable development, and it will be important that future National Parks also address issues of Just Transition, accessibility and inclusivity. Should any of these have more priority than the others or should this be determined on a Park by Park basis? If a key role for National Parks is as exemplars of management and good practice, do we want to select a range of areas that cover the issues and opportunities that come from different landscapes and seascapes to demonstrate this?

*Degree of support*

In its role as reporter, Scottish Ministers asked NatureScot to address the degrees of local and national support for a National Park in both Loch Lomond and the Trossachs and the Cairngorms. This was tested again during the consultation and Parliamentary scrutiny of the designation order. The need for this assessment remains for future proposals, suggesting that the evaluation framework should include some consideration of this issue to allow Ministers to have confidence that a statutory proposal they issue has the best chance of leading to designation. As well as the level of support, who is supporting the nomination is also important – be it local authorities, communities, land-owners and other key stakeholders. How this is best captured in the framework and expressed in nominations will need careful consideration.

A related issue to the degree of support is who can make the nominations? While the Minister has stated a preference to keep this fairly open, it would seem sensible to generally keep this to “any **local** organisation or group” including local authorities, community councils or constituted community groups. At the same time, we need to take care that national interests and expertise also have a voice either as part of the nomination process or the evaluation of the nominations.

**Practicality of designation**

Scotland’s first national parks had, to different extents, existing management arrangements in place in terms of governance and strategy. This allowed the development of proposals for - and the establishment of - National Parks in both these areas to be relatively quick (if not always smooth). Other areas being nominated as new National Parks may not have this foundation to build on. This could be a particular issue for coastal and marine areas where strategy and partnership working in both the terrestrial and marine areas of the Park may need more effort to join up effectively.

Ministers will want to consider the practicality of designation to meet the 2026 target. To ensure that this did not bias the process towards areas which are seemingly more “oven ready” there is perhaps scope to think about two outcomes from the nomination process:

* The selection of at least one preferred candidate area which could be established by 2026.
* A list of other potential national park areas which could be supported to develop their proposal further or consider an alternative mechanism.

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| 1. *Question – Are the criteria in Table 1 the right ones? Are there any criteria that are missing?* |
| 1. *Question – How should these criteria be best applied in the nomination process? Is there data available to support quantification of the case being made or should we simply ask for qualitative information?* |
| 1. *Question – Should the nomination process lead to a both a short list and long list of potential areas?* |

**Section 6 - Alternatives to National Parks**

**This section considers alternative management approaches to National Parks**

Not every area that comes forward as part of the nomination process will become a National Park. For these areas, other existing mechanisms could be considered to improve their management including:

* **Biosphere Reserves** – for integrated management of larger areas which do not merit national park status at present or where local communities and stakeholders are not convinced of benefits of such a designation.
* **Regional Parks** – for integrated management of larger areas which do not merit national park status at present but which are under heavy visitor pressure and/or have potential to help restore nature.
* **National Scenic Areas** – for stronger protection and management of areas of outstanding scenic importance.
* **National Nature Reserves** – for stronger protection and management of smaller areas where strict protection for nature and its responsible enjoyment by the public could be guaranteed by land ownership or long-term agreement.

To be seen as credible alternatives to National Parks, the first three of these mechanisms would be need to refreshed and put on a firmer policy and funding footing as part of a policy framework that covered National Parks. Legislative changes to regional parks and national scenic areas would also need to considered. These issues will need further detailed consideration in due course drawing on the outcomes of the 30x30 commission.

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| 1. *Question – Do these existing designations provide alternative mechanisms to National Parks that could be considered? What changes would be needed to these mechanisms to enable them to play this role?* |
| 1. *Question – Should other existing mechanisms be considered or new ones developed?* |

**Section 7 – Next steps and summary of consultation questions**

**Annex A – Key parts of the National Parks (Scotland) Act 2000**

### ***General purpose and functions of National Park Authorities***

The general purposes and functions of a National Park Authority (NPA) are set out in Section 9, namely

*9(1) - The general purpose of a National Park authority is to ensure that the National Park aims are collectively achieved in relation to the National Park in a co-ordinated way.*

*9 (2) - A National Park authority has, in relation to the National Park—*

*(a) the general powers conferred by virtue of schedule 2,*

*(b) the functions conferred by virtue of schedule 3,*

*(c) such planning functions as may be conferred under section 10,*

*(d) such additional functions as the designation order may specify*

*(e) such other functions as are conferred by virtue of this Act.*

Point 9(d) means that changes to National Park powers can be carried out through amendments to the designation order rather than having to always change the primary legislation.

Section 9(6) of the Act sets out that the overarching role of National Park Authorities:

*In exercising its functions a National Park authority must act with a view to accomplishing the purpose set out in subsection (1); but 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).*

This means that the NPA has to give greater weight if there is a conflict between aim one (natural and cultural heritage) and the other aims *however* it does not apply to any other public body operating in the National Park. There is also no definition of ‘greater weight’ in the primary legislation.

***Duty to have regard to the National Park Plan***

*14 - The Scottish Ministers, a National Park authority, a local authority and any other public body or office-holder must, in exercising functions so far as affecting a National Park, have regard to the National Park Plan as adopted under section 12(7)(a).*

***Byelaws and Management Rules***

NPAs have the powers to create byelaws (schedule 2, section 8) and to set up management rules (schedule 2, section 10).

*Byelaws*

*8 (1) A National Park authority may make byelaws for the National Park for the purposes of—*

*(a) protecting the natural and cultural heritage of the National Park,*

*(b) preventing damage to the land or anything in, on or under it,*

*(c) securing the public’s enjoyment of, and safety in, the National Park.*

*8 (2) In particular, a National Park authority may make byelaws under sub-paragraph (1)—*

*(a) to regulate or prohibit the lighting of fires,*

*(b) to prohibit the depositing of rubbish and the leaving of litter,*

*(c) for the prevention or suppression of nuisances,*

*(d) 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)),*

*(e) to regulate the exercise of recreational activities.*

*Management Rules*

*10 (1) Sections 112 to 118 (management rules) of the Civic Government (Scotland) Act 1982 (c.45) have effect as if references to a local authority and to the authority’s area included references to a National Park authority and the National Park.*

*10 (2) In the application of those sections to a National Park authority—*

*(a) the reference in section 112(9) to management rules being sealed with the common seal of an authority, and*

*(b) section 117(6) (disapplication of section 56(1) of Local Government (Scotland) Act 1973 (c.65)),*

*are omitted.*

However, byelaws are complicated and expensive to put in place while management rules, as currently constructed, are not considered to be a practical option.

**Application to Marine areas**

Section S31 of the Act allows Scottish Ministers to modify a number of provisions of the Act to make them relevant to coastal and marine areas. The application of this section was explored further in with NatureScot’s [advice](https://www.nature.scot/sites/default/files/2017-07/Publication%202006%20-%20SNH%20Advice%20on%20Coastal%20and%20Marine%20National%20Parks.pdf) on coastal and marine National Parks in 2006.

**Annex B – International perspectives on National Parks**

While the primary purposes of National Parks are broadly similar (nature conservation, landscape conservation, public enjoyment and understanding), there are range of approaches reflecting different emphasis on the protection of nature and the inclusion of social and economic considerations. This diversity is illustrated within the IUCN categorisation of protected areas

|  |  |
| --- | --- |
| **Ia Strict Nature Reserve:**Category **Ia** are strictly protected areas set aside to protect biodiversity and also possibly geological/geomorphical features where human visitation use and impacts are strictly controlled and limited to ensure protection of the conservation values. Such protected areas can serve as indispensable reference areas for scientific research and monitoring [more...](https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-ia-strict-nature-reserve) |  |
| **Ib Wilderness Area:**Category **Ib** protected areas are usually large unmodified or slightly modified areas retaining their natural character and influence without permanent or significant human habitation which are protected and managed so as to preserve their natural condition. [more...](https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-ib-wilderness-area) |  |
| **II National Park:**Category **II** protected areas are large natural or near natural areas set aside to protect large-scale ecological processes along with the complement of species and ecosystems characteristic of the area which also provide a foundation for environmentally and culturally compatible spiritual scientific educational recreational and visitor opportunities. [more...](https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-ii-national-park) | (Some NNRs, SSSIs) |
| **III Natural Monument or Feature:**Category **III** protected areas are set aside to protect a specific natural monument which can be a landform sea mount submarine cavern geological feature such as a cave or even a living feature such as an ancient grove. They are generally quite small protected areas and often have high visitor value. [more...](https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-iii-natural-monument-or-feature) |  |
| **IV Habitat/Species Management Area**: Category **IV** protected areas aim to protect particular species or habitats and management reflects this priority. Many Category IV protected areas will need regular active interventions to address the requirements of particular species or to maintain habitats but this is not a requirement of the category. [more...](https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-iv-habitatspecies-management-area) | Most NNRs, SSSIs |
| **V Protected Landscape/ Seascape:**A protected area where the interaction of people and nature over time has produced an area of distinct character with significant ecological biological cultural and scenic value: and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.[more...](https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-v-protected-landscape-seascape) | National Parks |
| **VI Protected area with sustainable use of natural resources**: Category **VI** protected areas conserve ecosystems and habitats together with associated cultural values and traditional natural resource management systems. They are generally large with most of the area in a natural condition where a proportion is under sustainable natural resource management and where low-level non-industrial use of natural resources compatible with nature conservation is seen as one of the main aims of the area [more...](https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-vi-protected-area-sustainable-use) |  |
| **Not classified** | National Scenic Areas, Regional Parks  Biosphere Reserves |

In developing its advice on National Parks in 1999, NatureScot commissioned a range of research on National Parks including [a review of models of National Parks](https://archive.org/details/modelsofnational98bish/page/108/mode/2up). While now dated, much of the analysis of this report remains valid. In particular, it identified a range of relevant approaches to National Parks in Europe and globally, which included:

* small areas of strict protection and state ownership more akin to Scotland’s National Nature Reserves (e.g. Netherlands, Ireland, Sweden) – mainly IUCN category 2;
* larger areas including strictly controlled core zones for conservation and other zones that allow for a range of compatible recreation, land-use and economic development (e.g. France, Italy, Germany and Canada) – a mix of IUCN Category 2 and 5 with a difference in classification of National Parks even within countries;
* larger strongly “humanised” natural areas or cultural landscapes (e.g. England, Wales) with similar approaches found in French Regional Parks and other European Nature Parks– all IUCN Category 5.

Perhaps not surprisingly given the commonality in land ownership, use and governance that we share, the Scottish model developed in the National Parks (Scotland) Act 2000 is closest to the English and Welsh approach to National Parks. However, there are a number of key differences including the stronger integration of cultural heritage into the legislative framework, the addition of specific sustainable land-use and social and economic aims, the flexibility over planning arrangements; and the inclusion of directly elected members from the community on Park boards. In being 100% funded by Scottish Ministers and run by non-departmental public bodies equivalent to NatureScot, the administration of Scotland’s National Parks is different and more akin to some European practice.