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# TWO HUNDREDTH and SIXTH MEETING OF THE BOARD OF NATURESCOT

## SCOTTISH ENTERPRISE, ATRIUM COURT, WATERLOO STREET, GLASGOW – 22 JUNE 2023

## CONFIRMED MINUTES

## MEMBERS PRESENT

Colin Galbraith Chair

Aoife Martin Deputy Chair

Margaret Davidson Member

Ian Gambles Member

Jaboury Ghazoul Member

Peter Higgins Member

David Johnstone Member

Heather Reid Member

Jill Robbie Member

Nikki Yoxall Member

## IN ATTENDANCE

Francesca Osowska Chief Executive

Nick Halfhide Director of Nature and Climate Change

Robbie Kernahan Director of Green Economy

Jane Macdonald Director of Business Services & Transformation

Stuart MacQuarrie Deputy Director of Business Services & Transformation

Claudia Rowse Deputy Director of Green Economy

Jason Ormiston Head of External Affairs

Graham Boyle Chief of Staff

Sara Lewis Governance Support Manager (minutes)

Darren Hemsley Head of Supporting Good Development (item 6)

Kath Leys Head of Biodiversity and Geodiversity (item 7)

Louise Harker Cloud GIS Project Manager (Young Employee Panel rep)

Gemma Harper Chief Executive, JNCC (observer)

## APOLOGIES

Colin McPhail Member

Wayne Powell Member

Eileen Stuart Deputy Director of Nature and Climate Change

# AGENDA ITEM 1: OPENING REMARKS AND APOLOGIES

1. The Chair opened the meeting by welcoming everyone to the two hundred and sixth meeting of the Board of NatureScot, especially Louise Harker the Young Employee Panel rep, and Gemma Harper, Chief Executive of JNCC who was observing. He explained that he was delighted to join NatureScot at such a demanding and important time for nature. The Chair gave thanks to the previous Chair Mike Cantlay, and to Aoife Martin for covering as interim Chair, until he was appointed on 21 June 2023.

2. Apologies were noted from Colin MacPhail, Wayne Powell and Eileen Stuart.

# AGENDA ITEM 2: DECLARATIONS OF INTEREST

3. The Chair listed his entries which appear on the Register of Interest for general information in the interests of transparency. Nikki Yoxall declared an interest in agenda item 6 (NPF4 Update and Implications for NatureScot), as she works as a consultant for Highlands Rewilding, which would benefit from any biodiversity credits agreed. Heather Reid also declared an interest in agenda item 6, as she could be involved in chairing planning application activity as part of her role as Convenor for the Board of Loch Lomond and the Trossachs National Park. David Johnstone informed that there was the potential to have a declaration of interest in any wider discussions or decisions on land management, due to his role as partner and owner of Annandale Estates. This would be assessed on a case-by-case basis in this and in future meetings.

# AGENDA ITEM 3 – CHIEF EXECUTIVE’S REPORT (OFFICIAL – SENSITIVE)

4. Board members noted the contents of the Chief Executive’s report, in particular the following key themes:

* Changing political dynamics with several new Ministerial appointments. Information had been circulated to Board members on where those Ministers engage with NatureScot areas of business.
* A statement from government on Highly Protected Marine Areas is expected before parliamentary recess.
* Launch of the consultation on the Scottish Biodiversity Strategy delivery plan is imminent.
* Engagement with the Statutory Nature Conservation Bodies in Derry Londonderry as well as with the European Nature Conservation Agencies who were hosted by NatureScot in Stirling.

# AGENDA ITEM 4: MINUTES AND ACTION POINTS

5. Board members were content to **approve** the minutes of the Board of NatureScot Meeting on the 10 May 2023.

## Action Points

6. The **actions points** were noted:

**Action Point** (AP13/181) (Future Options for Kinloch Castle) Following a later discussion under agenda item 13 (Kinloch Castle Update) it was agreed that the action point had been met, therefore this action point was to be **discharged**. It was also agreed that when there were more details available on wider options for the future of the castle, and an estate management plan for the Isle of Rum, these would be made available to the Board.

**Action Point** (01/203) (More Detail to the Board on Land and Sea Use Priority Action) Members noted that this action point remains **ongoing**, with consultation on the priority actions from the draft delivery plan for the Scottish Biodiversity Strategy now expected in August.

**Action Point** (01/204) (Strengthening of Business Plan Measures) Members noted that Stuart MacQuarrie would be meeting with Jill Robbie and Nicki Yoxall who have been collaborating on the Business Plan with colleagues at the end of June, to discuss how Directors had strengthened the business plan measures. It was agreed that this action point was **ongoing**.

# AGENDA ITEM 5: MATTERS ARISING

7. Members asked for a timescale for the planned review of NatureScot’s licencing processes. Robbie Kernahan informed that the review was required as part of the Bute House Agreement, and should be conducted by an independent reviewer. Terms of Reference for the review were currently with Scottish Government (SG) for approval, Board members would be kept informed of progress.

# AGENDA ITEM 6: NPF4 UPDATE AND IMPLICATIONS FOR NATURESCOT

8. This paper presented the approach to engaging with the planning system and other regulators developed in response to the National Planning Framework 4. It set out a reminder of how NatureScot engages in the planning system and other regulatory

casework, what has changed as a result of NPF4, where NatureScot is setting the bar for planning and other regulatory casework, and where there is still more work to do and where uncertainty remains.

9. The Board were asked to agree and note the rationale, risks and controls associated with continued engagement on:

* Strategic plans and policies
* Development Planning
* Development Management
* National Interest
* The need to have measurable biodiversity enhancement

10. Darren Hemsley explained that NatureScot was a statutory consultee within the NPF4 process for any planning application which was deemed to be of national importance, and has balancing duties particularly for planning applications for renewable energy. Developers are required to leave biodiversity in a better state than before development began. Discussions were ongoing with SG to develop guidance for developers.

11. During discussion, members covered the following:

* Any current biodiversity metrics which could be used to measure biodiversity net gain from developments – it is not clear whether existing Department for Environment, Food and Rural Affairs (DEFRA) or Scottish and Southern Energy’s metrics are most suitable to use in Scotland until any more specific ones are developed.
* Sight of a planning application that NatureScot had objected to would be helpful to put this work into context for members.
* How nature could be defined differently throughout different countries.
* The criteria used to define a planning application as ‘in the national interest’ – Darren Hemsley agreed to provide information on this to members.
* Robbie Kernahan agreed to provide a paper to a future Board meeting on planning applications, biodiversity metrics, and options on which to use, for discussion.

**Action Point 01/206**

* How the Board can help to influence SG to regard the ongoing development of guidance and policy in this area as priority work.
* The importance of co-opting stakeholders into contributing to using NPF4 to directly influence an improvement to biodiversity as a result of building development, including local authorities. It was acknowledged however that local authorities are under-resourced for this work, which NatureScot continues to highlight to SG.
* An NPF4 strategic plan will be produced within 5 years, to show how biodiversity will have been improved as a result of building developments by 2030/45.

12. The Board were content to agree the recommendations of the paper, and noted that Robbie Kernahan will forward the latest update of contentious casework on planning applications to members.

**Action Point 02/206**

# AGENDA ITEM 7: THE DEVELOPMENT OF STATUTORY NATURE TARGETS.

13. This agenda item provided an update on the development of Statutory Nature Targets to support the Natural Environment Bill. A draft list of targets was provided for the Board’s information and to seek their input on their scope, completeness and priority.

14. Members were asked to provide their views on whether the Scientific Advisory Committee (SAC) and the Biodiversity Strategy Expert Panel will provide sufficient oversight and expert input on a shortened list of targets, and the numerical elements of targets. Furthermore, the Board’s agreement was sought to delegate the detail of the targets to the Scientific Advisory Committee for further NatureScot input.

15. Nick Halfhide explained that the targets were part of the Scottish Biodiversity Strategy action plan, designed to address the twin crises of biodiversity loss and climate change. The Natural Environment Bill is a key part of Scotland’s response to the crises, and will hold Ministers to account for meeting the targets, which will have legally binding status.

16. Kath Leys informed that it was hoped that the Board’s SAC and the Strategic Biodiversity Expert Panel (SBEP) would agree on the proposals for SG to align the Scottish targets and monitoring with our international commitments in the Convention on Biological Diversity’s (CBD) Global Biodiversity Framework (GBF).

17. The Board discussed the number of targets, and although the convenience of aligning the Scottish targets with CBD’s GBF were acknowledged, members stated that it was more important that the targets were specific to Scotland. Kath informed that this may be possible via secondary legislation.

18. Members stressed that it was important for the whole Board to retain an overview and direct responsibility and approval for the outcome of the work. The process of refining the targets, specifically for Scotland, but balanced with EU plans was discussed, and members agreed that the SAC and the SAC Expert Panel would work to achieve this. The resultant options would then be presented to the Board on which targets should be set in statute, along with information on any uncertainties that had arisen. The Board will take the final decision.

**Action Point 03/206**

# AGENDA ITEM 8 – EXTENSIONS TO STRATHMORE PEATLANDS SSSI AND RUMSDALE PEATLANDS SSSI

19. This paper presented to the Board the request to make a decision on whether or not to grant an extension to two SSSIs which had received scientific objections. The two SSSIs were part of a larger area of a further eight SSSIs, which had already had extensions granted by the Protected Areas Committee (PAC) after no objections had been received. The area involved the Caithness and Sutherland Peatlands, specifically Strathmore Peatlands SSSI and Rumsdale Peatlands SSSI. These areas are owned by Aquila Capital.

20. It was recommended to the Board that the extension request met the SSSI selection criteria, and that they should approve the extension.

21. Chair of the PAC, David Johnstone, updated members that since the Board meeting papers had been circulated, the objection to the extensions had been withdrawn, and that with Board approval, the extensions to the two SSSI areas could be granted. David informed that site visits had taken place, where it was evident that the extensions should be granted, and that positive engagement with Aquila Capital over the maintenance of the sites had resolved their objections.

22. The Board were content to approve the extensions to Strathmore Peatlands SSSI and Rumsdale Peatlands SSSI, and thanked the Chair of the PAC, as well as the committee, for their successful input in resolving the issues.

# AGENDA ITEM 9 – AUDIT AND RISK COMMITTEE ANNUAL REPORT

23. This agenda item presented to the Board the Annual Report summary of work completed by the Audit and Risk Committee during 2022/23. Board members were asked to endorse the work of the Audit and Risk Committee (ARC) during the period 2022/23 and confirm that it is effective in supporting the Board in upholding its governance responsibilities.

24. Chair of the ARC, Ian Gambles, highlighted the self-assessment exercise completed by the Committee in May 2023, which has led to a sharper, more strategic focus on the key issues within the organisation. The Committee had also recognised the opportunity of greater interaction with the Board on their work, and this would be discussed with the Chair of NatureScot in the coming weeks.

**Action Point 04/206**

25. The Board were content to endorse the work of the Audit and Risk Committee during the period 2022/23 and confirmed that it is effective in supporting the Board in upholding its governance responsibilities.

**AGENDA ITEM 10 – SCIENTIFIC ADVISORY COMMITTEE ANNUAL REPORT**

26. This agenda item presented to the Board the Annual Report summary of work completed by the Scientific Advisory Committee (SAC) during 2022/23. Board members were asked to endorse the work of the SAC and its subgroups.

27. Chair of the SAC, Pete Higgins, highlighted the change in membership of the Committee during the life of the report. This had led to the recruitment of a new member of the Committee, and two new SAC Expert Panel members. The current workload for the SAC members was noted.

28. Members raised a previous request for greater engagement with the SAC as a way of gaining greater knowledge of current areas of work. There was a particular request for sight of the SAC report on muirburn to allow an understanding of the underlying debates which inform the issue. It was agreed that on completion of the report, the SAC sub-group would engage with the Board to discuss this area of work.

**Action Point 05/207**

**AGENDA ITEM 11 – PROTECTED AREAS COMMITTEE ANNUAL REPORT**

29. This agenda item presented to the Board the Annual Report summary of work completed by the Protected Areas Committee (PAC) during 2022/23. Board members were asked to endorse the contents of the paper reflecting the work undertaken by the PAC during the past year.

30. Chair of the PAC, David Johnstone, highlighted the ongoing work to develop the 30x30 framework, and how the PAC had considered how this contributed to delivering the recommendations from the Protected Areas Review. Thanks were offered to the NatureScot staff for their involvement in the work of the PAC.

31. The Board were content to endorse the contents of the paper which reflected the work undertaken by the PAC during the past year.

**AGENDA ITEM 12 – FORWARD PROGRAMME OF BUSINESS**

32. The Board Forward Programme of Business was presented to members. Members had no further updates to make to the programme

Information Papers

**AGENDA ITEM 13 – KINLOCH CASTLE UPDATE**

33. This information paper updated the Board on progress to dispose of Kinloch Castle, and report on Minister Lorna Slater’s visit to the Isle of Rum on 12 May 2023.

34. Robbie Kernahan informed that during her visit to the Isle of Rum, Ms Slater had met with local residents, and heard their views on how the castle should be managed in future, as well as their future vision for the island.

35. Other options to be explored included third sector ownership of Kinloch Castle, as well as testing the open market for a buyer who agrees with the terms acceptable to the island community. Managed decline, and maintaining the status quo were deemed to be unacceptable options.

36. The Board also heard that the Chair of the Isle of Rum Community Trust (IRCT) and three directors has resigned. There was a concern that this has resulted in lack of governance with which to engage with on the island development plan. Robbie updated that NatureScot would continue to work with the community, firstly to agree Terms of Reference for a new governance structure. An island development plan can then be instigated.

37. The potential for new nature based investment into community development, island based business and future NNR management were being explored by NatureScot staff.

38. Members recognise the importance of community engagement on this complex issue, but voiced concern that diversity of views in the community should not become a barrier to the positive action necessary to identify an appropriate way forward. It was however acknowledged that this, along with the high level of resources being dedicated to the castle and future of the island, reflects the importance of the island as a NatureScot-owned National Nature Reserve (NNR).

39. Members acknowledged the update and requested a future agenda item once there was progress on the next steps, and when wider options and development plan were available.

**Action Point 06/206**

**AGENDA ITEM 14 – NATURESCOT BOARD MEMBER ENGAGEMENT**

40. This paper gave a short summary of Board members’ internal and external engagements with NatureScot related work since the last Board meeting. In addition to the engagement recorded, members updated as follows:

* Nikki Yoxall continued engagement with the Agriculture Reform Implementation Oversight Board.

41. The Chief Executive requested that Board members carrying out engagement for areas of responsibility outwith NatureScot keep the Executive informed. This may provide opportunities to also influence on behalf of the organisation.

AOB

42. Members acknowledged that the Land Reform Act was now 20 years old. They noted the merits of the act, including outdoor access, and its contribution towards caring for nature. It was suggested that the Board could have a discussion on the current position on outdoor access at a future meeting.

Date of Next Meeting

43. The next Board of NatureScot meeting is planned to take place on 23 August 2023, using hybrid methods of attendance.

44. The Chair thanked all those in attendance, particularly Gemma Harper and Louise Harker. The meeting was closed.

# END