**National Parks Stakeholder Advisory Group**

**Note of meeting seven – 21st September 2023 - online**

**Present**

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| **Name** | **Organisation** | **Name** | **Organisation** |
| Ian Aikman | Heads of Planning / Scottish Borders Council | Jayne Ashley  Karen Jackson | South of Scotland Enterprise |
| Anna Maclean | Loch Lomond & The Trossachs National Park Authority | Calum Duncan | Marine Conservation Society |
| Grant Moir | Cairngorms National Park Authority | John Thomson | SE LINK |
| Carol Ritchie | Europarc Federation | Isobel Mercer | Royal Society for the Protection of Birds |
| Steve Micklewright | Trees for Life | David Miller (part)  Rebecca Hughes | Scottish Landscape Alliance |
| Allan Rutherford  Dara Parsons | Historic Environment Scotland | Nikki Sinclair | Scottish Campaign for National Parks/ Association for the Protection of Rural Scotland |
| Helen Todd | Ramblers Scotland | Stephen Young | Scottish Land and Estates |
| Pete Rawcliffe  Laura Campbell | NatureScot | Cate Turton (chair)  Felicity Hollands  Jenny Gibbons  Nick Breslin  Jonathan Ferrier | Scottish Government (SG) |

Apologies - Robert Nicol – COSLA; James Davison – Disability Scotland; Kirsten Young – YoungScot; John Mair – FLS; Sarah Cowie – NFUS; Chris Taylor – VS; Megan Watson - Scottish Renewables and Douglas Cowan – HIE

**Agenda**

1. Introduction and update on National Parks work
2. Overview of the Scottish Biodiversity Framework consultation
3. Legislative proposals for National Parks
4. Next steps.
5. Future contact/meeting

**1) Introduction and update on work**

SG welcomed everyone to the meeting and thanked all for their continuing interest in this work. While progress is broadly on track, there is still a very tight timeline to deliver at least one new National Park within this Parliament. So we both welcome and will need your support along the way.

It was explained that the new [consultation](https://www.gov.scot/publications/tackling-nature-emergency-consultation-scotlands-strategic-framework-biodiversity/) on the Scottish Biodiversity Framework (SBF) covers the Scottish biodiversity strategy and delivery plan as well as proposals for a Natural Environment Bill covering statutory targets, 30 by 30, and national parks. The delivery plan includes actions on National Park and actions which will impact on the work of National Parks. It was emphasised that views on the whole consultation are sought, and not just the section on proposals for legislative change to national parks.

**2) Overview of the SBF consultation**

The consultation launched on 7th September and will run until 14th of December 2023.

It is set out in two parts: part A is the final version of the Scottish Biodiversity Strategy, the first draft 5 year delivery plan and the policy frameworks for nature networks and 30 by 30.

Part B sets out proposals for legislation that are to be included in the Natural Environment Bill; these are statutory targets for nature restoration and changes to national parks legislation.

The changes to the bill are needed to tackle the twin reinforcing crises of biodiversity loss and climate change, and specifically the scale of the issue of biodiversity loss in Scotland. The bill will help us meet our global commitments to protect nature and restore biodiversity by providing:

* a framework for new statutory targets for nature restoration to drive performance towards the delivery of our overarching vision as outlined in the strategy;
* refreshed legislation on protected areas in order to meet the 30x30 commitment; and
* changes to national parks legislation.

The consultation also includes consultation on various impact assessments and it would be helpful to have your input on those too.

*Questions and discussion*

*Question - Can we hear more about* ***30 by 30****?*

SG - Work is currently underway to ascertain what will be required in legislation to implement our 30 by 30 commitments. We expect to consult on any legislative proposals later this year. The legislative element is just one part of delivering 30 by 30. If not seen already, the policy framework (that are also referenced in the consultation) is published here - [Framework for 30 by 30 in Scotland - Draft | NatureScot](https://www.nature.scot/doc/framework-30-30-scotland-draft)

*Question - Are you* ***defining what is meant by and included as a protected area****?*

SG - the policy framework refers to the IUCN World Congress definition - “A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.”

*Question - It would be good to understand* ***how this consultation links to the previous National Park consultation over the summer and comments received to that.***

SG - We held a consultation over the summer which asked for views on the proposed selection criteria for new National Parks. The results of that have been analysed and we will say more about next steps on the new national parks process as a result of that consultation. The current consultation on national parks is focused on proposed changes to the National Parks (Scotland) Act 2000 that would be relevant to existing national parks and any new national parks.

1. **Legislative proposals for National Parks**

*Purpose and aims*

**SG - Purpose of National Park authorities**. We're proposing to amend the statutory purpose given the urgency of the biodiversity and climate crises and the important leadership role that national Parks have to play in tackling these crises. We're proposing that in addition to the existing purpose, which is all about the collective achievement of the National Park aims, the purpose should specifically refer to nature restoration and tackling climate change.

In support of this refreshed purpose, we're also planning to make some amendments to the **National Park aims** as follows

* First Aim - we're proposing to update the language of this aim and split it into two separate aims. The new first aim would focus on the protection and restoration of natural assets, biodiversity and ecosystems within the National Park. The new second aim would focus on the protection and enhancement of the cultural heritage and historic environment assets within the National Park.
* Second (existing) Aim - We're proposing to build on the essence of it and respond to the leadership role that's required of national parks to promote the sustainable use of natural resources and to tackle climate change in a way that's fair and inclusive for the communities and individuals within the National Park area.
* Third (existing) Aim - We're proposing to build on the essence of this aim and to reference the importance of enabling visitors, tourists and the public to understand, access and enjoy the national Parks’ natural and cultural assets.
* Fourth (existing) Aim - we're proposing a minor change to include cultural development alongside the economic and social development and also to refer to the well-being of the area's communities, given that this is an increasingly important concept.

There are also some changes proposed to the **National Park principle and the duty on public bodies**. Section 9/6 of the 2000 Act compels the National Park authority to give greater weight to the first aim if there should be a conflict between the aims. We're proposing to retain this principle and to apply it to the proposed new first aim. That would give greater weight to the protection and restoration of natural assets, biodiversity and ecosystems within the Park if there were to be a conflict between the aims.

To support the collective achievement of the National Park aims, we're proposing that other public bodies operating within the National Park area should be obliged to have regard to both the aims and the National Park principle when carrying out their functions. We're also proposing that the current duty on public bodies to have regard to the National Park plan should be strengthened so that public bodies operating within the park would have an obligation to actively support and contribute to the implementation of the Park plan. This duty would apply to the public bodies operating within the national parks for purposes that are devolved to Scotland, so there would be some exceptions.

Questions and discussion

*Question - Do the changes to the* ***leadership role*** *capture the role of National Parks as exemplars approaches elsewhere? In discussion with Lorna Slater at the Highland Show, she was very clear that National Parks, in taking on the new role in relation to nature recovery and net zero, the just transition, should be demonstrating how it should be done in ways that were relevant outwith the parks. That seems a very important role that we're looking to them to play now. I wasn't sure that the leadership role as it defined really quite captures that. I don't know how you enshrine that in legislation but if that is the ambition then it's quite important to make sure that it is communicated very clearly.*

SG – That is a really important point and it would be interesting to see if others have a view. It could be difficult to enshrine in the legislation but there may be other ways to communicate that and for ministers to make clear that is part of the role they see of national parks.

National Park rep - I'm not sure that's something for legislation. My feeling would be that if you're leading on nature and climate and doing things like the Heritage Horizons 2030 in Cairngorms or the Future Nature work in Loch Lomond & Trossachs, then you are by definition providing a leadership role and exemplar of those things to other places. That is happening already and has happened for at least past 10 years.

Further comment – I agree with the above (and what the questioner is saying about NPs as exemplars) but don't think it needs to be enshrined in legislation.

*Question - Interested in your thinking about the third aim as to* ***why the bracket about recreation was taken out****. I wasn't around in 2000, but obviously it was felt important to spell out recreation then and I wondered why it hadn't made it through to the new version.*

SG - It's difficult to capture everything that you need to within that aim. I think enjoyment has taken over from the recreation aspect, but enjoyment meaning recreation and ways that people come to enjoy everything that the National Park has to offer. One thing that's important to recognise is that the wording within this table is not intended to be the final wording of any proposed changes. It's to give a flavour of the direction that we're proposing to make these changes in. This is exactly the sort of point that it would be useful to have views as responses to the consultation. Then we'd work with those in government who draft legislation to find the right terminology that that covers everything that we want to capture with the changes to the aims. So, if that's something that you feel strongly about, please do put it in writing.

NatureScot - From memory, the bit in brackets reflected concerns expressed at Stage 2 (primarily from SportScotland) that outdoor recreational and sport interests would be neglected by the new Park authorities. In practice, I think we can say this has not happened and ‘enjoyment’ is probably sufficient - but views welcome on this, of course.

*Question - A similar question in terms of something that this group has discussed quite a lot. That is the concept of* ***just transition*** *and the leadership role that National Parks have to play in delivering a just transition to net zero and nature positive at a local scale. And also demonstrating the socioeconomic benefits of the increased focus on nature and climate. I noticed that the wording hadn't made it through into some of these aims, or the purpose: is there a specific reason for that?*

SG – Support to communities and the economy within a National Park area continues to be of huge importance. We have tried to capture this within the proposed changes to the aims. I think that comes through in the fifth aim and also the third aim in terms of the sustainable management of natural resources. Using the terminology of benefits for the environment, climate, economy and people is intended to capture that really important aspect. If there is terminology that is important to capture in the aims, please let us know.

National Park representative - If you achieve the aims collectively then that should give you a just transition.

Further comment - Sometimes no harm in spelling out that aims mean just transition.

Further comment - I was trying to think through whether or not the specific term would be useful in the legislation or not, I think it is certainly useful in communicating folk what the revised aims are trying to achieve

*Powers and Governance*

SG - National Park authorities have the power to create **bylaws** 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 within the National Park. The purpose of these bylaws is to prevent irresponsible behaviours. Currently, almost the only way to enforce the bylaws is through reports to the Crown Office and Procurator Fiscal Service. This process can be very lengthy and resource intensive. To improve compliance with bylaws and tackle anti-social behaviour more effectively, we propose that Park Authorities should be given the power to enforce the contravention of bylaws by issuing fixed penalty notices. There is already a precedent for this in Loch Lomond and Trossachs National Park for littering offences.

We are also seeking views on whether any other changes should be made to the **powers** of National Park authorities. This did not come through particularly strongly in the consultation that NatureScot colleagues led last year, so we are using the current consultation as another opportunity for stakeholders and interested parties to put forward thoughts on this.

Finally, we are proposing some changes to the **governance** of national Parks, to both the size and composition of National Park authority boards. These changes seek to further improve the efficiency and diversity of park authorities, ensuring that boards have the right mix of skills and expertise for their vital leadership role in tackling the nature and climate crises and the other important work that that happens within the park area.

The first proposed change is to reduce the size of Park Authority boards to a maximum of 15 members and a minimum of eight members. This would result in some modest reductions to the size of the existing National Park boards. It would also apply to any new National Park boards and bring the boards more in line with other Scottish public bodies and make some important savings whilst maintaining effective governance.

We are also proposing to amend the composition of the park boards. Approximately half of the Board's membership would be directly appointed by ministers. The other half, or just over half, of the Board's membership would be a mixture of locally elected and local authority nominated members. The exact composition of the local membership would be determined on a case-by-case basis. That would be set out in the relevant designation order for each park.

We're also proposing that the board members who become the convener and deputy convener should be appointed by ministers based on recommendations from the board, rather than directly elected by the board itself. These appointments would seek to balance local representation and accountability with the relevant skills, expertise and experience required to successfully lead the Park Authority.

Finally, our ministers have made very clear that they wish to see continued improvements to the diversity of each board's membership, with consideration being given to the protected characteristics that are set out in the Equalities Act.

*Questions and discussion*

*Question - Regarding powers and governance, would you expect all national parks to have similar governance and powers or* ***could different national parks operate in slightly different ways****?*

SG – A benefit of the current legislation is that it has a lot of flexibility within. National Park powers can be adapted to the particular circumstances of the area and the role of the National Park. That can evolve over time as well. It could be that any new National Park has a slightly different set of powers and make-up to the current two and indeed there are differences between the existing national parks.

National Park rep - Agree a good thing about the legislation is that it's flexible in terms of different options for different parks. The obvious one is that Loch Lomond & the Trossachs is a full planning authority and Cairngorms is a calling-in authority. A future National Park may well be within just one local authority area and then that might make you look at planning differently; and again, in that circumstance, you might look at bylaws differently. It’s about the local circumstances and having the flexibility in the legislation to be able to adapt to whatever the key issue is within a different area in addition to the general work that all national parks have to do, such as a park plan. You've got to give greater weight to the first aim and you've got to operate in terms of the aims of the National Park. But after that the legislation is flexible and the designation orders can be set up flexibly about what powers go to which parks to be able to deliver in that specific area.

*Question - My question with regards to the flexibility within the system has been partially answered. But I had a couple of points with regards to the comments on* ***governance****. Subsidiarity, representation and democracy are fundamental principles for any sort of good governance. I am slightly disconcerted with the issue regarding the chairing of the National Park boards. I think having half the board appointed by ministers and half from local representation is reasonable. If the half that’s appointed by Scottish ministers brings in the expertise required, I see no need for Scottish ministers to then appoint the chair or co-chair. On the grounds of representation, democracy and substantiality, it would be the responsibility of the board itself to appoint or elect its own chair. There is huge diversity in the governance systems across Europe but in many, if not most, cases the chair or presidents of the boards are directly elected by the people or by the board themselves. To retain that sense of propriety in terms of democracy within the system in Scotland would be something I'd alert you to.*

SG – It’s really important that you put those views into the consultation. The perspective on the various governance models and what we can learn from them would be really valuable. While the proposal in our consultation is that the board chair and deputy chair would be confirmed by Ministers rather than being elected by the board, the proposals still require the board chair and deputy chair to come from the board’s membership - either the directly represented, local authority nominated or the ministerial appointed members of the board.

Further comment – I would be concerned about ministers appointing chairs, even from within board, period.

Further comment - I've already had feedback from local campaign groups on this. We met them yesterday and they raised some concerns about that and how it played into localism, ground-up approaches and development. They were raising some concerns, to use their words, if someone is parachuted in who doesn't have that relationship to the locality.

SG – There are two elements: there's a change to the composition of the board, which will have an implications for that balance of local versus ministerial appointments; and there's the election of the convener and deputy convener. We are keen to hear views on both.

*Question - On* ***byelaws*** *– if you're thinking of bylaws in terms of visitor management, who would be doing the enforcement, is that Rangers? Loch Lomond and Trossachs have that situation already but I don't know entirely how that works. Have you spoken to SCRA about that and what their views would be about changing the role of Rangers in a more formal way? And also, technically, the bylaws don't have to just be about visitor management, they could be about other things. Land managers might be asked to modify their behaviour through bylaws, for example, in which case who would be enforcing that?*

SG - We're not planning to make any changes to the scope or ability of national parks to make byelaws. That's already set out within the Act. What we're looking to improve is faster enforcement of the bylaws, particularly for the sort of irresponsible behaviours that cause problems for visitor management or damage to the natural or cultural heritage of the park.

We're also conscious that there may be other views in relation to bylaws and other powers that are either within the act and not used at the moment, or if there's an appetite for more use of these. That's why we've got a wide-ranging consultation question, to see if anybody has particular views that they want to put forward.

National Park rep - Byelaws don't have to just be visitor management, and that is clear in the legislation. We've looked at options for other issues as well. We're having a discussion at the moment about wildfire and wildfire management in the park and potential byelaws around that. The key thing is fast and effective enforcement of byelaws. It doesn't have to be Rangers that enforce byelaws. It needs to be somebody who's in effect an employee of the National Parking Authority or a properly constituted person from the National Park authority, and that's also pretty clear in the legislation. So there's a bit of flexibility in there.

Further comment - I think the key change is the ability to use Fixed Penalty Notices rather than taking cases through the courts.

National Park rep - I suppose it depends on what your byelaw is for, as to who enforces it. If it was a visitor management issue it might be a Ranger; if it was more a land management issue then you'd probably get a different set of people within your organisation. We have byelaws that our Rangers enforce at the moment, and our Rangers also have fixed-penalty notice powers for littering. It’s also about the court time and whether that's a good use of it and an appropriate way to deal with some of some of the offences that we're talking about here. I think the option for fixed payment notices is something that we'd be keen to hear more about.

*Question - Given the proposed changes to the aims and as a result the 'principle', the environmental report seems central to the consultation. What is the timescale for publishing the Environmental Report for the NP Section?*

SG - This being published today (scheduled for 4pm). We have undertaken a Strategic Environmental Report on the national parks proposals, both the proposed legislative changes and the proposal to designate at least one new National Park in the current parliamentary term. That's running for consultation alongside the broader consultation on the biodiversity framework.

*Question - Do the proposed changes maintain the* ***National Park principle (the Scottish equivalent or the Sandford principle)****? Has stronger wording such as ‘to further’ the National Park aims been considered and ruled out, as the text is now the weaker form of ‘have regard to?*

SG - It’s very much our intention to retain the Sanford principle or the National Parks principle. But with the proposed change to the aims that principle would apply to the amended first aim, if that were to be agreed, which is to focus on the natural assets, biodiversity and ecosystems and the protection enhancement of those. That would be the slight tweak given the gravity of the biodiversity crisis and the importance of restoring nature.

Wording is something that we've given some thought to and happy to consider further.

Further question/comment - I second the point about ‘have regard to’ because it is a notoriously weak formulation. It's been used many times in legislation and by and large the experience is that it hasn’t made much difference. ‘Furthering’ would be an improvement, and the comment that the duty shouldn't conflict with or displace responsibility related to these public bodies. Obviously, public bodies will have a primary duty, but it would be good if we could find a way of saying that the public body should be striving to reconcile their primary duties with National Park aims or some such wording; certainly that sort of general meaning.

*Question - My other point goes back to the* ***first aim****, and I understand why you're saying you want to update the terminology there. But one of the dangers in not using the words ‘natural and cultural heritage’, is losing the connection with the definition of the natural heritage in the act that established Scottish Natural Heritage, which was very much bringing in the landscape and amenity and indeed recreation side of things. There is a danger in fragmenting in the way that you have, of losing that holistic vision of what a National Park ought to be about. I make that point because I think it would be a significant loss at the end of the day. National Parks as we have them are all protected landscapes, that that is their function. Nobody's denying the desirability of using them as a vehicle to recover nature and pursue net zero, but we don't want to lose sight of the fact that they are actually valued for the landscape.*

SG – Very good points which we will take note of.

National Park comment - The national parks principle states that it’s only when there's a conflict that you give greater weight to that first aim. I don't think separating them has any impact, because the whole point of a National Park is to try and achieve all of the aims collectively. Use of greater weight (the National Parks principle) is a backstop, that's what makes it a National Park. I think that's what the updates are for, is to make it much clearer that it's about the backstop being to protect and enhance natural heritage and the greater weight given there. Collectively achieving the aims is the key thing that needs to be kept at the forefront in these discussions.

Further question / comment - I absolutely agree about achieving the aims collectively. My point about the loss of the wording ‘natural heritage’ was really the fact that natural heritage is defined in legislation as including non-biodiversity interests. Whereas the way it's phrased now, although it talks about natural assets, there may be a tendency to think that those assets are essentially biodiversity assets rather than the wider ones that are incorporated in the word ‘landscape’ or in the wording ‘natural heritage’ which includes landscape.

SG - These are all good points and to reiterate, it's just the beginning of the consultation. We look forward to discussing this further and seeing your contributions to the consultation.

Further question / comment: By way of an overall comment on the consultation, we are considering the detail but generally think the direction of travel is really positive.

**4) Next Steps**

SG - We opened the registration of interests in May this year and we're really pleased that we have received more than ten registrations of interest. We're also really pleased that these cover a broad geographic range across Scotland.

We can't at this stage share those locations, but we are checking with the groups if they are still interested in moving on to nomination, and if they are content for us to share information about their proposal or registration of interest. We are expecting that to be made public when we when we launch the nominations process.

The next phase is formally opening the nominations phase, publishing the nomination form, guidance on the nomination and the appraisal process, including the timelines, and the appraisal framework itself. We’re aiming for early October. We'll also publish the report on the consultation on the appraisal criteria that was held d over the summer, as well as looking to announce which areas have so far registered interest.

To support the nomination process we have an invitation to tender for the contract to provide support for nominating groups. When we launch the nominations process, we will contact nominating groups to see if they are interested in receiving support and, if so, what kind of support. Shortly after the launch of the nominations we'll be putting groups in touch with the supplier, but we won't have any information on that until the tender is concluded.

*Questions and discussion*

*Question - Regarding support, and the documentation they will need to for the applications, one of our campaign groups has asked if there is* ***economic data to prove the value of a National Park****. Do the two existing parks have something that they could share, and if that package of information could be given to all the applicants? It would create a level playing field and they could then take that data and assess it from a local perspective.*

SG – Yes, we without committing the parks at present, we will talk to both parks and see what we can provide. Once nominating areas see the final version of the guidance and the appraisal framework, and the kind of indicators and sort of evidence that we'd be looking for as part of their nomination, then we would expect questions like that to come forward. We'll be as helpful as we can in terms of data sets or evidence that's publicly available that we can help areas to access. I’m sure both parks will have lots as well.

National Parks rep - I'm speaking at an event next week, and happy to do that in other places as well if that's helpful.

Further comment - is ‘early October’ is before or after the school holidays?

SG - It will be as early in October as possible. We have a few final clearances to get through, but the package of information, from our perspective, is almost ready to go. So we're hoping reasonably early October and ideally before the school holidays.

1. **Future contact / meeting**

SG confirmed that they will be in touch with SAG members when they open the nominations phase for new national parks. We will make sure that all members of this group have the information that we publish. If anybody wants to get in touch on any specific aspects of the consultation on the legislative proposals, please contact Nick Breslin or Jenny Gibbons.

There is no date set for the next meeting of this group, but we will be in touch if it makes sense to do that during the consultation on legislative proposals / after the launch of nominations. Otherwise we will certainly arrange one, once the consultation closes, to provide an update at that stage.