

## THE FUTURE FOR NATIONAL PARKS IN SCOTLAND – HAVE YOUR SAY

### A stakeholder consultation on the selection criteria and approach to National Parks in Scotland

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#### Part A - Scene setting –Scotland’s National Parks

This section provides background to Scotland’s current approach to National Parks and some of the key considerations in establishing new ones. Further information on the international context for Scotland’s National Parks and the key parts of the National Parks (Scotland) Act 2000 are provided in Annex A and B of this paper respectively.

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 Scottish approach to National Parks 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 legislation provides for the long-term commitment to the conservation and enhancement of these special qualities of the area, and specifically its biodiversity, landscapes and historic features.
- **Each of the four statutory aims of the Park are concerned with making positive things happen.** National parks can play 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 in order to ensure that the aims of the National Park are collectively achieved.** Park Authorities are required to prepare and 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.

Scotland's integrated approach to National Parks acknowledges that social and economic development must be addressed alongside the care and enjoyment of the natural and cultural heritage. Ministers are also seeking to make sure Scotland's approach to National Parks delivers more for nature recovery and achieving net zero.

### Key considerations for new National Parks

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

The case for establishing Scotland's first National Parks
<p><u>Loch Lomond &amp; the Trossachs</u></p> <ul style="list-style-type: none"> <li>• Need to maintain a working countryside</li> <li>• Need to manage recreational and visitor pressures</li> <li>• Need to safeguard and enhance the natural heritage of the area</li> <li>• Need to give greater care to the cultural heritage of the area</li> <li>• The need to facilitate community development</li> </ul> <p><u>Cairngorms</u></p> <ul style="list-style-type: none"> <li>• Need to maintain a working countryside</li> <li>• Need to make better provision for recreation</li> <li>• Need to safeguard and enhance the natural heritage of the area</li> <li>• Increased interest in the care of the cultural heritage of the area</li> <li>• Need to facilitate social inclusion and community development</li> </ul> <p><i>From</i>  <a href="#">Report on the proposal for a Loch Lomond &amp; the Trossachs National Park (2001)</a>  <a href="#">Report on the proposal for a Cairngorms National Park (2002)</a></p>

The arrangements set out in the statutory designation orders for both of these Parks are similar comprising: a Park Board, a stand-alone non-departmental public body (NDPB), planning and access functions, and a range of powers drawn from existing legislation. This approach was considered appropriate given the reasons for designation. It also took into account that the both these areas cover relatively large populations and complex administrative arrangements (including at least four local authorities, two of Scotland's three enterprise agencies, several destination management organisations, and regional divisions of most public bodies).

The arrangements for Scotland's next national park could be similar to the first two. At the same time, they may need to be different in several respects e.g.

- Covering a different size of area (smaller or larger) or a different size of population;
- Extending to, or largely covering, a coastal and marine area;
- Located within fewer local authority areas or a single local authority area;
- A different range of powers and functions;
- Alternative governance and staffing models;
- Designated for a different range of reasons e.g.
  - Delivering more on the opportunities to restore nature as well protecting what exists already.
  - A stronger role in demonstrating exemplars of sustainable community development and land-use through natural capital approaches
  - As a tool to increase population growth in more remote parts of Scotland
  - A focus on rebalancing visitor pressures across parts of Scotland as well as the management of current visitor pressures.

Establishing new National Parks also brings wider opportunities in terms of nature recovery and could be a key element to achieving the [“30x30” commitment](#) to protect at least 30% of Scotland’s land area for nature by 2030. At the same time, refreshing the approach to National Parks may have implications for the role and arrangements for existing natural and cultural heritage designations.

In deciding to establish new National Parks, a number of strategic considerations therefore become important.

- What should be the key role or roles of National Parks?
- As the number of Parks grows in Scotland, how do we increase their collective impact?
- Do we want the suite of National Parks to collectively represent the very best of Scotland’s nature or be representative of all of Scotland’s nature?
- What are the implications of new National Parks for the role and importance of other natural and cultural heritage designations?
- How diverse do we want the strategic framework and operations of our National Parks to be?

These issues are explored further through the consultation questions

## Annex A – International perspectives on National Parks

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

<p><b>Ia Strict Nature Reserve:</b> Category <b>Ia</b> 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 <a href="#">more...</a></p>
<p><b>Ib Wilderness Area:</b> Category <b>Ib</b> 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. <a href="#">more...</a></p>
<p><b>II National Park:</b> Category <b>II</b> 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. <a href="#">more...</a></p>
<p><b>III Natural Monument or Feature:</b> Category <b>III</b> 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. <a href="#">more...</a></p>
<p><b>IV Habitat/Species Management Area:</b> Category <b>IV</b> 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. <a href="#">more...</a></p>
<p><b>V Protected Landscape/ Seascape:</b> 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. <a href="#">more...</a></p>
<p><b>VI Protected area with sustainable use of natural resources:</b> Category <b>VI</b> 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 <a href="#">more...</a></p>

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](#). 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.

## Annex B – Key extracts from the [National Parks \(Scotland\) Act 2000](#)

### **Aims of National Parks**

#### *1 The National Park aims*

- *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.*

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

*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.

*S 9 (6) 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).*

Section 9(6) of the Act sets out an overarching requirement for National Park Authorities to safeguard the special qualities of the Park area. This means that the National Park Authority has to give greater weight if there is a conflict between aim one (natural and cultural heritage) and the other aims. This requirement only applies to the National Park Authority and not 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

All National Park Authorities have the general powers to create byelaws (schedule 2, section 8) and to set up management rules (schedule 2, section 10). Both provide for the control of a range of activities which are illegal (such as littering); or detrimental in specific locations or concentrations (such as the use of open fires or wild camping) or are incompatible with other uses (such restrictions on jet skis).

### *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 subparagraph (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."*

## 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](#) on coastal and marine National Parks in 2006.

## Part B – Proposals – an online survey in three sections

### Section 1 – The Role of Scotland’s National Parks

**This section examines the role of National Parks in Scotland and sets out proposals for refreshing the approach to National Parks.**

At present, Scotland’s two National Parks cover 7.2% of its land area. Establishing more National Parks will increase this total, bringing Scotland more in line with other parts of the UK (for comparison, the 10 English National Parks cover 9.3% of England and the 3 Welsh National Parks cover 19.9% of Wales). How do we enable the National Park designation to deliver more for each of these areas and Scotland as a whole?

#### Contents

- The role of National Parks
- The statutory Aims of National Parks
- Powers and Functions of National Park Authorities
- Diversity in approach

#### The role of National Parks (Q1-7)

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 wish to see Scotland’s National Parks as 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.

The establishment of one or more additional National Parks is therefore not only a goal in its own right, but must be seen in the context of a range of connected Scottish Government strategies and policies including:

- [National Strategy for Economic Transformation](#) – including its ambition “to demonstrate global leadership to deliver a just transition to net zero nature positive economy and rebuilding natural capital”.
- The [Environment Strategy 2020](#) 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](#), to protect nature by 2030 and restore it by 2045 including
  - Preventing any further species extinction and halting declines by 2030 and making significant progress in restoring the natural environment by 2045.
  - 30x30 - securing by 2030 that at least 30% of Scotland’s land and seas are managed for nature.



- Nature Networks - ensuring every Local Authority area will have a nature network of locally driven projects to improve ecological connectivity.
- Establishing a world leading suite of highly protected marine areas.
- Commitment to meeting carbon reduction targets and adapting to climate change through implementation of the [Climate Change Action Plan](#) by developing “thriving rural economies based around woodland creation, peatland restoration and biodiversity as well as sustainable tourism, food and drink and energy”
- Delivery of Scotland’s [national planning framework](#), [land-use strategy](#) and [national marine plan](#), including the development of regional land-use partnerships and regional marine plans;
- The development of [new legislative proposals for land reform](#) including the introduction of a public interest test for transfers of large-scale landholdings;
- Implementation of Scotland’s vision for Responsible Tourism for a Sustainable Future in [Scotland Outlook 2030](#) and its [visitor management strategy](#); and the
- Refresh of [Our Place in Time – Scotland’s strategy for the historic environment](#).

Scotland’s National Parks currently play a number of key roles that support many of these strategies and plans through demonstration and good practice. In particular:

- they help protect some of the very best of Scotland’s nature, landscapes and heritage;
- they are at the forefront of landscape-scale action for nature restoration;
- they are an important part of Scotland’s visitor offer and provide a range of outstanding opportunities for outdoor recreation and enjoyment of nature.
- they are an important mechanism for land-use planning and the piloting of regional land-use partnerships; and
- they provide exemplars of community engagement and sustainable development, including natural capital approaches.

To build on this existing work and add greater emphasis to it, National Parks could be given a new overarching purpose “**to lead nature recovery and a just transition to net zero**”. Key elements of leadership and action required in this role could include:

- Promoting the need to do things differently and at greater pace if we are to make the changes needed to address the climate and nature emergencies;
- Recognising that change is inevitable and that nature recovery should be inspired and informed by the past but not seek to simply replicate it;
- Accelerating the transition in land and marine use needed to deliver climate mitigation and adaptation and nature recovery;
- Testing and embedding natural capital approaches to growing a well-being and sustainable economy;
- Generating opportunities for greater private investment in natural capital;
- Realising the just transition by championing reskilling and new employment opportunities to help ensure that no local community in the Park area is left behind;
- Leading on improving ways of design and place making that achieve optimum outcomes for people, nature and landscapes.

1) Do you support “leadership of nature recovery and a just transition to net zero” becoming the overarching purpose of Scotland’s National Parks? If not, what else would you propose?

Yes, especially in the face of the climate and biodiversity crises, the primary goal of new and existing National Parks should be to lead nature recovery, and act as exemplary models of progressive land management for the whole of Scotland. This in turn will make vital contribution towards our net zero target by 2040.

As well as places of exceptional landscape value and potential for large ecological transformation, our two existing National Parks are home to more than 35,000 people, many living on the edge socially and economically. This figure will inevitably be expanded by the designation of any new National Parks.

The ‘just transition’ dimension, therefore, is crucial, and should perhaps be elaborated to spell out clearly what that might mean in the context of a National Park – e.g. ensuring economic benefits from investment in natural capital will be distributed fairly.

So, while supporting the overarching purpose as proposed, we believe that that the over-riding national objective of nature recovery and a just transition to net zero should be underpinned by a strong commitment to improving the social, economic and cultural welfare of local communities.

2) Which of the proposed elements of leadership and action set out in the list above do you support? What others - if any - would you propose?

We would support all of the elements listed above. We would also wish to emphasise under bullet point 7 that private investment in natural capital should only be encouraged in National Parks where it meets exemplary standards of community benefit, environmental integrity and social justice.

We would add several further bullet points:

- Demonstrating exemplary land management
- Involving local people and community groups in key decision-making
- Providing outdoor skills, education and training opportunities
- Working with Transport Scotland to improve affordable, low-carbon accessibility to new and existing National Parks
- Working with local land managers to develop affordable recreational accommodation such as huts, cabins and basic campsites.

3) What opportunities are there for National Parks to generate private investment in natural capital?

There is already private investment in carbon and natural capital within our National Parks and that trend is likely to continue into the future. Three big challenges we face are:

- 1) Ensuring that natural capital investment does not magnify existing social inequalities but brings significant public benefits, locally and nationally, including fair distribution of revenue benefits.
- 2) Discouraging, and where possible blocking, illusory quick-fix schemes to generate carbon credits, such as mass commercial planting of dense, mono-species, Sitka plantations, which can be destructive for biodiversity and counter-productive, in the long term, for carbon reduction.
- 3) Opposing schemes whose primary goal is to allow major greenhouse gas polluters to avoid responsibility for reducing their carbon output.

In the face of these three key challenges, we believe that the Scottish Government should work with the National Parks to set clear criteria that would be expected of all private investment schemes to ensure they meet the highest environmental and social standards.

- 4) What role should local communities play in the National Park and how should National Park authorities work with and for them to secure a just transition?

On the first question, we would suggest that some thought should be given to the role of the different geographical elements of National Parks. Without wishing to oversimplify, these can broadly be divided into:

- 1) Places where people live and work, with significant housing settlements, business activity, roads, energy and communications infrastructure.
- 2) Places primarily devoted to productive agriculture.
- 3) Places that would be considered by most people to have a high degree of wildness, even though ecologically damaged, with great potential for carbon sequestration and biodiversity restoration.

There is, of course, overlap across these three broad categories. Nonetheless, it may be that the input of communities will vary from one category to another. In populated areas, communities should have the primary role in shaping their future. In wilder areas, a combination of specialist ecological expertise, representatives of the outdoors community, and the in-depth knowledge and skills of those who work locally on the land, will be vital if National Parks are to fulfil their overarching purpose. In agricultural areas, environmentalists and farmers could work together to maximise agricultural production while protecting and improving nature.

How these communities – of place, of interest, and of expertise – work together under the auspices of our National Park authorities will require much more consideration, but it may be preferable to a more general, broad-brush approach that is less equipped to deal with all the complexities inherent in any large scale National Park.

On the second question, on how National Parks should work with communities to achieve a just transition, we would set out four principles.

First, we believe that National Parks should have a clear ambition to help drive forward land reform and encourage expansion of community ownership.

Second, we believe that jobs, training and procurement generated by nature recovery projects within National Parks should give first priority to local people and businesses.

Third, we believe that any new tourism facilities or infrastructure developed or consented by National Park authorities should be designed not just for visitors, but also for the benefit of local people.

Fourth, we believe that there should be tests and restrictions to limit the proportion of second homes and holiday homes within National Parks, and to ensure that there is sufficient housing available at affordable prices and rents for local people.

A national statement that sets out the Scottish “vision and mission” for National Parks could be useful to provide further clarity on the role of National Parks and to promote their work more widely.

5) Do you support a “vision and mission” for all of Scotland’s National Parks being clearly set out in a national statement? If not why not?

Yes.

6) If you favour a national statement for Scotland’s National Parks being developed, what else should it cover?

We believe that a vision and mission statement should have the primary aim of achieving flourishing nature in National Parks, and also incorporate a commitment to thriving communities, economic and social justice, and increased social and ethnic diversity of visitors. We further believe that any national ‘vision and mission’ statement should recognise that Scotland is geographically, culturally and historically diverse, and that each National Park should have a large degree of autonomy to reflect its distinct qualities, challenges and opportunities.

7) To what extent should new National Parks be about the future potential of an area for nature restoration as well as what’s currently in place?

To a large extent. With much of Scotland’s land, including even many of our most scenic areas, ecologically impoverished, we consider that nature restoration should be a major priority for our rural land, especially across our uplands. Our National Parks could and should be exemplars, demonstrating best practice in achieving nature restoration at scale.

### The statutory Aims of National Parks (Q8-12)

*National Park aims are 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.*

*Where*

*“**natural heritage**” includes the flora and fauna of a National Park or a proposed National Park, its geological and physiographical features and its natural beauty and amenity*

*“**cultural heritage**” includes structures and other remains resulting from human activity of all periods, language, traditions, ways of life and the historic, artistic and literary associations of people, places and landscapes,*

*Section 9 (6) - 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)*

*National Parks (Scotland) Act 2000*

There should naturally be a close relationship between the “vision and mission” of National Parks and the statutory Aims of National Parks provided in the Act. In covering environment, social and economic dimensions, the four statutory Park Aims currently provide the basis for Scotland’s integrated approach to National Parks. While none explicitly refers to it, the Aims also enable National Parks to contribute to nature recovery and a just transition to net zero.

Definitions of both the natural and cultural heritage are provided by the Act. The latter was developed before [Our Place in Time, Scotland's strategy for the historic environment](#), was written. Further consideration may be needed on whether this definition should be updated to reflect this strategy and its implementation as well as experience of its application within National Parks.

The National Park Authority is required to take forward each of the Aims in a joined-up way unless this is likely to lead to the detrimental loss of the natural heritage and cultural heritage of the area at which point it must give “greater weight” to this first Aim. This “balancing duty” is essential to the protected area function of Scotland’s National Parks.

While the current legislative approach has generally been seen as successful, a number of changes to these statutory Aims could be considered to further strengthen the focus and contribution of National Parks. Some of the possible broad options include:

1. retaining the current status quo e.g. keeping the existing four Aims as currently worded;
2. keeping the policy intention of each Aim unchanged but rewording them to better reflect the new vision and mission in the proposed national statement;

3. keeping the four Aims but include a new overarching statutory purpose of National Parks to secure nature recovery and a just transition to net zero;
4. adding additional aims e.g. “to promote the just transition to net zero” or “to increase the accessibility of the areas for all”; and
5. reducing the Aims to the first one only and change the other three Aims to duties, thus giving the National Park a much stronger, single statutory focus on the protection and enhancement of the natural and cultural heritage.

8) Are any specific changes to the existing four Aims required? If so why, and what are they?

**On first bullet point** we would replace the words ‘conserve’ and ‘enhance’ with bolder and more dynamic words such as *protect, restore, regenerate* and *transform*.

**On second bullet** we would suggest adding the phrase, ‘to ensure that they are left to future generations in a better condition’.

**On third bullet point** we would suggest adding wording along the following lines: ‘and ensure that our National Parks reflect the social and ethnic diversity of Scotland and the other nations of the UK’.

**On fourth bullet point** we would suggest adding ‘by investing in the social and economic development of local communities in way that is socially just and that will benefit future as well as present generations’.

We would also support adding a new overarching statutory purpose of nature recovery and a just transition to net zero.

9) Which of these possible options, or mix of possible options, do you think would help strengthen the focus and contribution of National Parks, and why?

**Mix of points 2, 3 and 4**

10) Are there other options that could be considered? If so, what are they?

**See our response to question 8**

Other public bodies are also bound by these statutory Aims when they are exercising functions within a National Park through the duty on them “to have regard” to the Park Plan.

*Section 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).*

This wording does not itself require action by public bodies. While the track record of partnership working by public bodies in National Parks is strong, issues can arise between policy objectives which may slow or block delivery of the Park Plan. To address this, there may be a need to strengthen the effect of this duty so that public bodies exercising functions within a National Park are required to positively support delivery of National Parks Plans.



11) Do you think there should be any changes to the wording in the Act to require public bodies to support delivery of National Park Plans?

We believe it may be useful to configure this legislation with the Land Reform Bill now in progress, which is likely to include a strengthening of the powers of public bodies to ensure that all major landholdings act in line with the national Land Rights and Responsibilities Statement (and its associated protocols).

We would commend the new Cairngorms National Partnership Plan 2022-2027, which is progressive in its ambitions and strikes a judicious balance between nature/climate and social/economic priorities. We are conscious however, that National Parks in Scotland are forced to work with a patchwork of landowners whose values, aims and priorities can in some instances be out of tune with those of the National Park authorities.

Here, public bodies should work together with National Park authorities to exert influence and use whatever powers they have to ensure that our National Parks are able to implement their plans and realise their vision. We also believe that the wording of the Act should require public bodies and National Park authorities to work together to achieve progress in diversification of landownership.

12) Do you have any other suggestions for improving partnership working to support the implementation of the National Park Plan by all. **No**

### **Powers and Functions of National Park Authorities (Q13-16)**

At present, the Act provides the following powers and functions to all National Park Authorities These include:

- general powers of non-departmental government bodies (charges, advice, research, grant-aid; land acquisition and compulsory purchase etc.);
- natural heritage functions of local authorities and NatureScot (for example for countryside management, ranger provision, nature reserves, compulsory purchase and grants etc.); and the
- planning and access authority functions of local authorities.

Through the designation order, these powers and functions can be further specified to meet the needs and circumstances of the area.

All National Park Authorities also have general powers to make bylaws and management rules in relation to the achievement of the National Park aims. 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.

13) Could any of the existing powers and functions be used more effectively? If so, which ones and how?

Up until now, there has been very little use of compulsory purchase or land acquisition powers. This perhaps reflects the wider political context, where successive UK and Scottish governments have historically relied on a combination of voluntary action and financial incentives to achieve public objectives. The sense of urgency that now prevails around the climate and biodiversity crises, along with potential legislative changes in the coming Land Reform Bill, are wider context for change, which may justify National Parks making greater use of these powers, at least as a last resort, to help accelerate change.

14) Are any of the existing powers or functions redundant or unnecessary? If so, which ones and why?

Don't know

To take forward a refreshed “vision and mission”, National Park Authorities may require strengthened or new powers and functions in relation to the following areas:

- Improving protection, enhancement and enjoyment of nature
- Delivering Net Zero
- Better management of land or sea
- Funding
- Community well-being and development

15) What, if any, changes to the powers and functions in these areas should be considered and why?

Because of the national status and profile of National Parks, we see an advantage in providing National Park authorities with enhanced powers to help them deliver accelerated progress on nature restoration, a just transition to net zero, and community well-being and development. This could allow National Parks to become a model and benchmark for changes in land use and management at a national scale.

We would support the principle, for example, of devolving to National Park authorities the responsibility for signing off local land management plans, and overseeing compliance with the Land Rights and Responsibilities Statement.

16) Are there any other areas where strengthened or new powers and functions will be needed by the National Park Authority? If so, what are they?

There are currently two proposals for discretionary local authority taxes or levies. The Local Visitor Levy Bill proposes to give councils the power to introduce a levy (often referred to as tourism tax) on overnight visits. This is at a fairly advanced stage, and has been widely discussed at least for the past four years. The idea of a carbon emissions land tax on large landholdings to be implemented at the discretion of local authorities is at a more embryonic stage, but gaining influential support (most recently from the Stop Climate Chaos Coalition).

Because these are discretionary, there may be a case for National Parks to be given default powers to introduce these fiscal measures in the event that the local authority covering the park area chooses not to do so.



### Diversity in approach (Q17-18)

In thinking about powers and functions, a key question is the extent to which we want all our National Parks Authorities to be similar. Consideration may also be needed in relation to their governance and management. It could be that a new National Park Authority will need to be similar to the existing ones. Alternatively, very different approaches could be developed though bespoke arrangements set out in the individual designation order for each new National Park Authority which reflect the needs and geography of its area and its administration.

17) Should the powers and functions of National Park Authorities be decided on a Park by Park basis? Should any apply to all National Park Authorities? If so, which ones and why?

*Don't know.*

18) Are there any changes you would want to see to the governance and management arrangements of all National Park Authorities?

*Nothing specific to suggest, but see our response to the first part of question 4 which is a more general point about involving communities of place, interest, and expertise in the development of National Parks.*

Any changes to the statutory Aims of National Parks and the powers, functions and governance of National Park Authorities will require amendments to the legislation and will be the subject of further consultation by the Scottish Government.

## Section 2 – Criteria for selecting National Parks

This section considers the issues that need to be addressed in selecting new 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.

### Contents

- Developing a nomination process for National Parks
- Criteria for nomination and evaluation
  - Outstanding national importance
  - Size and coherence
  - Need or added-value
  - Degree of support
  - Strategic contribution
- Selection Criteria – other issues

### Developing a nomination process for National Parks (Q19-21)

Scottish Ministers have committed themselves to an open, transparent and bottom-up 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.

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;
- Decisions on which area or areas to progress made by Scottish Ministers based on recommendations following this evaluation.

19) Are these the key elements of an effective nomination process for National Parks in Scotland?

Yes

20) Do you have suggestions for improving any of the specific elements of the process?

No

21) Are there additional elements you want to see included, and if so, what are these?

No



## Criteria for nomination and evaluation (Q22-37)

The following questions (22-37) seek views on possible criteria against which nominations for new National Parks could be evaluated.

Possible criteria that could be included in the Evaluation Framework are as follows:

1. What are the special qualities of the area that merits its designation as a National Park? (“Outstanding national value”)
2. Does the area proposed make sense as a National Park? (“Size and coherence”)
3. How would establishing a new Park help deliver nature recovery and a just transition to net zero in this area? (“Need or added value”)
4. Is the investment in creating a new National Park Authority for this area justified in terms of these outcomes, or are existing approaches sufficient? (“Need or added value”)
5. Is there sufficient evidence of local support for this proposal to be considered further? (“Degree of support”)
6. Would the designation of the area increase the impact of Scotland’s National Parks as a whole? (“Strategic contribution”)

For each of these criteria, a number of components are suggested that could be expanded on as part of the nomination and reviewed as part of the evaluation processes. Further consideration is needed on how far we try to quantify these components or whether they should be left more open-ended. (“Other issues”).

### Outstanding National Importance

i. What are the special qualities of the area that merits its designation as a National Park?
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Possible components
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- |  |
|--|
| <ul style="list-style-type: none"> <li>• Value for biodiversity, landscape and cultural heritage</li> <li>• Value for enjoyment and understanding</li> <li>• Value of natural capital assets</li> <li>• Inclusion of associated marine areas and islands where relevant</li> </ul> |
|--|

This criterion directly reflects one of the conditions in the existing National Parks legislation.

In terms of international practice, a strong case can be made for having a suite of National Parks that either include “the best of Scotland’s nature and landscape” or are representative of “all of Scotland’s nature and landscape”.

The existing legislative conditions in the Act refer to “natural and cultural heritage” and it also therefore remains an important consideration in thinking about future National Parks.

While outstanding value 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 recovery and a just transition to net zero in any area that is nominated.

22) *Do you agree that outstanding national importance should be a criterion? Could the clarity of it be improved and, if so, how?*

Agree. On second question, we would be wary of trying to clarify this in too much detail. Individual proposals should be encouraged to present their own ideas about why their area is of national importance.

23) *Do you agree with the proposed components? Are any components missing and, if so, what are they?*

While we agree with all the proposed components, we do not think that these need to be exhaustive. For example there may be a case to be made for a new National Park that offers something different from those that already exist, culturally or geographically.

### Size and coherence

ii. Is the proposed geographic area likely to make sense as a National Park?

Possible components

- A definable geographic area including, where relevant, associated settlements
- Shared heritage, cultural associations and traditions
- A size which allows for the delivery of Park aims
- An area in which the special qualities of the Park as a whole would not be undermined by existing or proposed more intensive land or sea uses or large scale infrastructure that exist within, or are proposed for, the area

This criterion directly reflects one of the conditions in the National Parks legislation.

National Parks are normally contiguous, discrete areas with shared heritage, cultural associations and traditions. Smaller settlements can be included. There may also be additional considerations in terms of defining the marine extent of an area where this applies.

In thinking about the area, a central question is whether the area is in practice too small or too large for consideration as a National Park. Another key factor may be the extent to which intensive land or sea uses or large-scale infrastructure which detract from the special qualities of the area are included or excluded.

24) *Do you agree with size and coherence as a criterion? Could the clarity of it be improved and, if so, how?*

Size is important insofar as it allows nature recovery on a landscape scale. It should be noted that Scotland's two National Parks are exceptionally large by most European standards. The Cairngorms National Park, for example, is

seven times the size of all six National Parks in the Republic of Ireland combined. There may even be a case for several smaller new National Parks in Scotland than one new large National Park.

Coherence is important for reasons set out in the above explanatory notes: contiguity, definable geographic area, shared heritage, culture and traditions etc.

- *Do you agree with the proposed components? Are any components missing and, if so, what are they?*

We have some concern about the fourth component, particularly the reference to proposed large-scale infrastructure/ intensification of land use. There is no definition here of the word 'proposal' which in a legal and business context essentially refers to an idea put forward for consideration. We do not understand why an idea presented for discussion – presumably in most cases by a developer or private landowner – could effectively amount to a veto over a major decision of national importance.

While we have sympathy with the suggestion that existing infrastructure or intensive land use that undermined the special qualities of the park as a whole would exclude a proposed area, we can anticipate problems with including this as generalised criteria. National Parks, especially on the scale of the Cairngorms, or Loch Lomond and the Trossachs, already have intensive land uses within their boundaries, including driven grouse moors and commercial Sitka spruce plantations. They also have large-scale infrastructure, including major trunk roads, housing estates, major tourist development etc.

We would suggest that rather than including this as a general criterion, each proposal for a new National Park be considered on its merits, weighing up the balance between negative (including inappropriate infrastructure and land use) and positive (such as potential for large-scale nature recovery and carbon sequestration, broad public support for the proposal etc.).

### Need or added-value

These two criteria directly reflect one of the conditions in the National Parks legislation.

iii. How would establishing a new Park help deliver nature recovery and a just transition to net zero in this area?

Possible components

Are there existing issues and/or future opportunities for

- nature restoration?
- transforming land or sea use to contribute to net zero?
- Improving accessibility to nature for all?
- provision of sustainable transport options?

- better visitor and tourism management?
- growing the well-being economy by increasing natural capital, creating nature-based skills and jobs and supporting community capacity and development?

If our ambition for National Parks is to provide leadership and practical action to demonstrate nature recovery and a just transition to net zero, the potential for this should provide a key basis for evaluation of new National Parks. Further consideration will be needed on the “information” or “measures” that could be used to make the case for this.

25) *Do you support the consideration of the potential contribution of the National Park in delivering nature recovery and a just transition to net zero as criterion? Could the clarity of it be improved and, if so, how?*

Agree. The clarity of the phrase ‘just transition’ could be improved by spelling out more clearly what it might look like in practice – e.g. involving local communities in key decisions that might affect them, distributing economic benefits fairly, ensuring that local people and local businesses are prioritised where possible for jobs, training and procurement.

26) *Do you agree with the proposed components? Are any components missing and, if so, what are they?*

Agree.

iv. Is the investment in creating a new National Park Authority for this area justified in terms of these outcomes, or are existing or other approaches sufficient?

Possible components

- Weaknesses or limitations of existing measures
- Costs of existing measures

The Act also requires a dedicated National Park Authority to be created, so a key judgement to be reached is whether the issues and opportunities in an area merit this, over and above other mechanisms or approaches.

27) *Do you support the assessment of the merits of a National Park compared to existing or other approaches as a criterion? Could the clarity of it be improved and, if so, how?*

Yes, we support this.

28) *Do you agree with the proposed components? Are any components missing and, if so, what are they?*

Agree on proposed components.

Degree of support

v. Is there sufficient evidence of local support for this proposal to be considered?

Possible components

- Support by local community or group
- Support by local authority/fit with local authority policy
- Indication of national support/fit with national policy

The degrees of local and national support for a National Park in both Loch Lomond and the Trossachs and the Cairngorms was assessed by the reporter during the statutory designation process. This was tested again during the consultation and Parliamentary scrutiny of the Designation Order. The need for this assessment remains for future statutory proposals, suggesting that the non-statutory evaluation framework should also 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 or other key stakeholders. How this is best captured in the framework and expressed in nominations will need careful consideration.

29) *Do you support the consideration of existing support as a criterion? Could the clarity of it be improved?*

Yes, we believe this point is crucial. How that support is measured/assessed may require further consideration.

30) *Do you agree with the proposed components?*

We agree with the proposed components but as proposed the component on community support needs to provide a clearer idea of how much support within a community counts as sufficient. Community organisations do not necessarily reflect the views of the wider community on every issue. Community land buy-outs require a threshold to be met in a public ballot of permanent local residents before they can apply to the Scottish Land Fund for significant funding. Designating a new National Park can have potential impacts, both positive and negative for local people. For that reason, we believe any decision should have maximum democratic legitimacy, including possibly a ballot of all local, full-time residents.

### Strategic contribution

vi. Would the designation of the area increase the impact of Scotland's National Parks as a whole?



### Possible components

- An area that could provide an opportunity to develop and test different approaches to nature recovery in a way that supports a just transition
- An area which contributes to the delivery of 30x30 commitment
- An area which supports Scotland's strategic approach to visitor management
- An area where the sustainable social and economic development of its communities, that a National Park could support, is of strategic importance

A key role for National Parks is as exemplars of management and good practice. Do we want to increase the relevance of this role by selecting a range of areas that cover the issues and opportunities that come from the different landscapes and seascapes that Scotland has?

31) *Do you support the assessment of the strategic contribution of an area as a criterion? Could the clarity of it be improved?*

Yes, we support this criterion. Clarity could possibly be improved by stating explicitly that any proposed new National Parks will be assessed to measure its potential contribution to the Scottish Government's target of protecting 30 per cent of Scotland's land area for nature by 2030 ("30 by 30").

32) *Do you agree with the proposed components? Are any components missing and, if so, what are they?*

Yes, we agree. The third bullet point could be expanded, or another added, to recognise that visitor management actions can fall into two distinct categories:

- 1) Reducing negative impacts of high visitor pressures by providing additional resources, such as rangers, infrastructure and facilities etc.
- 2) Dispersing and spreading the impacts of tourism, positive and negative, in which case the focus may be on the potential of an area or areas to attract new visitors rather than on managing existing pressures.

The question posed above that suggests 'selecting a range of areas... that cover the different landscapes and seascapes that Scotland has' does imply that the designation of National Parks should become an ongoing process beyond the specific Act now under consideration. If that is the suggestion, then we would support it.

### Selection Criteria – other issues

Further work is needed in developing these criteria as part of the guidance for nominees but a key consideration will be keeping this as short and as simple as possible.

33) *Are there any significant issues that are not covered by the proposed criteria? If so, what are they?*

We would suggest that the potential for any new National Park to become a key focal point for outdoor education, training and skills development should be

given more consideration. We raise this based on our experience of overseeing the John Muir Award scheme, which over the years has worked with local schools, community groups, and a range of other organisations within Scotland's two existing National Parks, helping connect many thousands of young people, including a high proportion from disadvantaged backgrounds, with nature, and providing them with valuable education and skills.

*34) Do you think any of the criteria are more important than others? If so, which ones and why?*

We think that genuine local public support is essential to avoid starting off on the wrong foot, and ongoing conflict. We are also strongly supportive of the criterion that covers added 'need or added value'. This can be interpreted from both a national and local perspective.

Nationally, we have agreed a target of 30 per cent of land to be protected by nature by 2030. National Parks cannot achieve that target alone, but they can act as pace-setters in the race to reach that goal. So for us, that would be a key component.

Local need or added value may be best served by considering which of the two distinct dimensions of visitor management are most pressing i.e. dealing with visitor existing pressures, or boosting tourism in a relatively undiscovered area.

*36) Do you think the selection criteria and proposed components provide the right balance between covering the issues required and simplicity? If not, how could they be improved?*

Yes. No further suggestions not already covered.

*37) Should more of the proposed components be quantifiable? If so, which ones, and how?*

This seems reasonable. Some criteria – e.g. levels of community/public support – are easier to quantify than others. Those that can be quantified should be, but many of the criteria may have to rely on expert judgement.

### Section 3 – Other issues and respondent information (Q38-40)

#### This final section covers other issues and respondent information

This consultation has focused on proposals for the role, powers and functions of National Park Authorities and the criteria for selecting new National Park areas. Future consultations from Scottish Government will follow, seeking views on the detail of any legislative changes Ministers consider are required and on a draft evaluation framework for selecting new National Parks. Following the finalisation of this evaluation framework, a call for nominations for specific areas will then be issued by Scottish Ministers.

38. Are there any other issues about either Scotland's approach to National Parks or the selection of new National Parks you would like to raise in your response at this stage?

First, that the two existing National Parks should not necessarily be a guide to size. While there may be case for one (or even two) large National Parks on similar lines, there may also be an option for several smaller scale National Parks if the right proposals were to come forward.

Second, given that neither of our two existing National Parks has a coastal element we see this process as an opportunity to showcase and highlight Scotland's spectacular coastline, which including islands, stretched 12,000 miles in length. Without necessarily designating an exclusively Marine National Park it may be possible to designate at least one National Park with a coastal/marine as well as a terrestrial dimension.

Finally, can you please provide the following respondent information to allow us to process your response in accordance with our [data policy](#).

39) Are you responding as an individual or an organisation? - required

Individual

Contact Name and email:

Organisation or group

Name of Organisation or group:

John Muir Trust

Contact Name and email:

Alan McCombes; alan.mccombes@johnmuirtrust.org

NatureScot would like your permission to publish your consultation response.

40) Please indicate your publishing preference – required

- Publish response with name
- Publish response only (without name)
- Do not publish response

Please note that 'Publish response only (without name)' is available for individual respondents only. If this option is selected by an organisation, its name will still be published and will be listed as having responded to the consultation in, for example, the analysis report.

**THANK YOU FOR COMPLETING THIS SURVEY**