

Natural Environment (Scotland) Bill

SCNP and APRS Supplementary Evidence on Part 3 of the Natural Environment - learning lessons from the recent Galloway proposal and nominations process

Considering the statutory process for the proposal and designation of new National Parks as set out in the National Parks Act (Scotland) 2000

We submit this supplementary evidence to the Rural Affairs and Islands Committee following the Scottish Government's announcement not to proceed with the Galloway and Ayrshire National Park proposal. Whilst the process leading up to the Ministerial Proposal of a new National Park in 2024 was non-statutory, reflecting on the process, we suggest consideration could be given to reviewing aspects of it and potentially amending the legislation.

1. Consider introducing a requirement for Scottish Government to produce guidance on how an area suggested as a new National Park has to meet the conditions set out in the 2000 Act

The 2000 Act had not been stress-tested for the last twenty years. The two existing National Parks were, in many ways, already in the public mind as National Parks in waiting prior to the legislation coming into being. Perhaps in part because of this, the 2000 Act makes no mention of how an area comes forward to be considered for proposal as a National Park by Ministers (under section 2 of the Act). The 2024-2025 non-statutory nomination process of areas bidding for consideration which led up to the Galloway and Ayrshire proposal, took several years to design, set up and complete. This left only a relatively short period of the parliamentary term for the statutory Reporting process to be completed.

The 2000 Act does set out conditions, at s2(2), that Scottish Ministers must feel appear to be satisfied before they may formally propose an area as a new National Park and put in motion the reporting and designation process. But there is no standing guidance on how it should be demonstrated that the conditions are seen to be met. Having government guidance on how it expects any area put forward for consideration as a potential National Park to meet, or be likely to meet, those conditions and how this should be demonstrated could make the process more effective, and more widely understood. This guidance would need to be reviewed periodically.

Having guidance would mean that the pre-selection process does not have to be re-invented for each potential proposal, making the non-statutory part of the process smoother, and perhaps more time-efficient, compared with the recent process.

The first iteration of guidance could build on the work done in 2024 by the Scottish Government to draft, publicly consult on and then publish, the bespoke evaluation criteria used for assessing the 5 bids in the 2024 nomination process.

Local support is not a condition for proposal in the 2000 Act, but was included in the wording of the government commitment to a new National Park or Parks in the 2021 Bute House Agreement. and the subsequent proposal document for Galloway and Ayrshire.

Neither of these set out how local support should be assessed, nor how the local and National interests should be weighed up. This led to uncertainty, confusion and calls for referendums during the reporting process. The government subsequently seemed to treat the results of the Reporter's public consultation as a referendum, despite it not having been designed as such. Consideration as to how local engagement should be approached and best practice in doing so could be included in government guidance.

We suggest that consideration is given to amending the 2000 Act to require the Scottish Government to produce guidance on how the conditions in section 2(2) of the National Parks (Scotland) Act 2000 must be met and for this guidance to be reviewed periodically, say every 10 years. Introducing a requirement for guidance of this sort might involve an amendment to the NE Bill which inserts a new subsection into section 2 of the 2000 Act which requires the government to produce guidance.

2. Consider adding a fourth condition that an area must be seen to meet before being proposed by Scottish Ministers as a new National Park.

The three conditions in section 2(2) of the 2000 Act are (a) that the area is of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage, (b) that the area has a distinctive character and a coherent identity, and (c) that designating the area as a National Park would meet the special needs of the area and would be the best means of ensuring that the National Park aims are collectively achieved in relation to the area in a co-ordinated way.

We would like to see an additional emphasis here that reflects the urgent need for Scotland to address both the nature and climate crises at scale as well as the leadership role that National Parks can play in doing this. To reinforce this we suggest there should be a fourth condition added to section 2(2) of the 2000 Act that ensures any area proposed can make a contribution to this through sustainable land and sea management practices over a large area. This could potentially be done by referring to sustainable management or by reference to contributing to statutory targets set by the Climate Change Act 2009 and those resulting from Part 1 of the Natural Environment Bill.

We propose that consideration should be given to adding an additional clause to section 2(2) of the 2000 Act after 2(2)(c), with the intention to ensure that any area proposed as a new National Park could make a significant contribution towards addressing the climate and nature crisis through large scale sustainable management of either land or sea, or both.

3. Consider requiring Scottish Ministers to publish a much firmer vision for the proposed National Park at the time of a formal proposal

For Ministers to propose an area as a new National Park, the 2000 Act says they must think the conditions in s.2(2) '*are or may be satisfied*', but the requirement to publish information about what is being proposed at that time is minimal. When a written proposal is made Ministers only have to set out in writing "*in general terms*" (a) the area being proposed and (b) the functions which it is proposed the National Park Authority (NPA) should exercise.

In the recent experience of a proposal and reporting process, there was a gap of around a

month between the Minister's proposal and substantive information emerging, and even then there was a lack of clarity about significant parts of what the government was proposing. This allowed confusion and even misinformation to fill the information void. Once the public consultation document was released many still found that the lack of a firm vision for the proposal and the lack of certainty about key details (eg planning policy on wind farms; whether the relevant legislation was going to change and huge range of potential are covered) made it hard to form a clear view on it or even to discuss it coherently as the scope of possibilities and interpretations was so broad. This meant people potentially had very different ideas of what that Park would involve and some developed entrenched views despite the many variables under consideration. Others disengaged or felt they could wait to take a view once firmer ideas were available and the next 'designation order' consultation. The government had not set out a clear vision for its own national policy proposal and in the subsequent Reporting period there was an unexpected reliance on the work of volunteers to try to explain the potential positives of a National Park. The lack of clarity meant it was easy for doubt to be cast on aspects of a new Park and harder for even firm supporters of a National Park in principle to rebut spurious claims and explain the proposal with certainty to the public.

Consideration should be given therefore to whether at the point of proposal, Ministers should have to publish much more detailed information including a clearer suggested vision for a new Park. This might cover most or all of the required content for a draft designation order but in a more accessible format. In practice we would expect that this supporting proposal document would likely be produced by the government with NatureScot input and provide a much firmer basis for public engagement and consultation. It should also have clear support from the government proposing it. In effect this would require more input from government expert advisers ahead of the proposal being announced. We noted that in NatureScot's recommendations to Ministers on the Galloway and Ayrshire proposal - as nature conservation adviser and as official Reporter - much firmer ideas of how a National Park could have been developed were set out. Something more akin to this level of information at the start of the Reporting process would have been a more solid basis for public consultation. Provision of a firmer concept by the government would not stop the public consultation stage of the Reporting process considering alternatives eg on boundary, functions, governance etc, but would give a much firmer and hopefully more coherent proposal as a starting point, and avoid a repeat of the hiatus and information vacuum after the Ministerial Proposal in 2024.

We suggest that consideration could be given to introducing a requirement into the 2000 Act for the publication of a more detailed proposal by the government at the point of a Ministerial proposal for a new National Park under section 2(1). This could be done by amending section 2(3) of the 2000 Act to require more than just (a) and (b); the removal of "in general terms" and the insertion of a more detailed requirement (c) relating to Ministers expectations for powers and functions, including planning functions, of the proposed National Park.

4. To further consider the role of Reporter

Consideration could also be given to which public body carries out the role of Reporter, and ensuring it has the required expertise and resources. Expertise around National Parks and protected areas sits within NatureScot and the 2000 Act suggests NatureScot for the role, but the Act already allows for alternatives. In the Galloway Reporting process,

NatureScot carried out the independent reporting role and kept its final advice and recommendation as the Government's nature conservation advisor separate from its recommendations as Reporter. This dual role meant that the voice of the government's nature conservation experts was largely not heard publicly promoting benefits for recreation, landscape and biodiversity during the process. If changes are made to the 2000 Act including a requirement for guidance, and the gathering and publishing of more information at the point of a Proposal, then this altered context might influence which body is the most appropriate choice.

Would the Reporting role be made more straightforward if more research and development work by public bodies or government advisors has gone into the preparation of a National Park Proposal before the reporting stage starts? Could the Reporter's role still be carried out by NatureScot staff or would it be appropriate to choose a Reporter with specialist skills in conducting non-confrontational inquiries or processes. This might allow NatureScot to promote its expert view as nature conservation, access and landscape advisers and if appropriate champion the benefits of a National Park in a specific area.

Whichever body takes on the Reporting role, the Act currently sets out the procedures but very few expectations as to how the Reporter should conduct its work. The merits of strengthening sections 3 and 4 could be considered. For example, the Reporter could be required to produce recommendations that are evidence based and developed for the benefit of the people of Scotland (both current and future generations).