

**Natural Environment (Scotland) Bill**

**May 2025**

**Introduction to Scottish Environment LINK**

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organisations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment. Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits.

**Response**

**Part 1 – Targets for improving biodiversity**

**1. Are statutory nature targets needed in Scotland?**

Yes.

Scotland faces inextricably connected crises of climate change and biodiversity loss, both of which significantly impact human society. The State of Nature Scotland Report 2023, endorsed by NatureScot as well as by conservation organisations, outlines the stark reality of nature today, with one in nine Scottish species threatened with extinction.(1) The Biodiversity Intactness Index, which compares the state of today's natural environment against historic baselines, has found that Scotland is one of the most nature depleted countries in the world.(2) Scotland has also failed the biodiversity target for Good Environmental Status and Scotland's Marine Assessment 2020 highlights the many concerns regarding the status of seabirds, extent of physical disturbance to seafloor habitats, plankton, salmon and sea trout and biogenic (living) habitats (3). Without action, climate change threatens to make this situation much worse.

The health of the natural environment is fundamental to our collective health and wellbeing, to our economy, and to important Scottish sectors such as food production. Scottish Government analysis has found that industries reliant on natural capital, excluding non-renewable resource sectors such as oil and gas, support £40.1 billion of economic output and around 260,000 jobs.(4) Nature is one of Scotland's greatest assets and we have a duty to protect it.



It is the view of LINK members that statutory nature targets can play a valuable role in reversing the long-term decline of biodiversity. There are of course limits to what targets themselves can achieve - it is action that counts. But statutory targets can create certainty and clarity across public, private and voluntary sectors, set a level of shared ambition, create legal duties for Ministers to act, drive consistent policy across Government and establish a cycle of monitoring, reporting, and accountability. This is evidenced by the extensive long-term programme of action taken towards meeting the statutory target of net zero greenhouse gas emissions by 2045. The Natural Environment Bill is an important step in putting Scotland on the path to nature's recovery, playing our part in achieving the targets set out in the Global Biodiversity Framework, to which the Government has already committed itself.

It is worth noting that Scotland failed to meet the previous non-statutory Aichi Biodiversity targets and many see the voluntary nature of these targets as being one of the key drivers behind their lack of success. In this context, while phrases such as "Scottish Government must introduce targets to improve biodiversity" are commonly used, it's important to recognise that "improve" is a value judgement. What we ultimately aim for should be defined in terms of enhancing ecosystem function and health—concrete, measurable outcomes that reflect nature's recovery.

- (1) <https://www.nature.scot/doc/state-nature-scotland-report>
- (2) <https://spice-spotlight.scot/2021/06/04/how-does-scotlands-biodiversity-measure-up/>
- (3) <https://marine.gov.scot/sma/>
- (4) <https://www.gov.scot/publications/importance-natural-capital-scottish-economy/>

## 2. Are you satisfied with the proposed topics for nature targets set out in the Bill?

The approach taken in the draft Bill is to require Ministers to set targets on at least three topic areas - which we can summarise as habitat, species, and wider environmental conditions - while providing flexibility in how many targets are set under each heading. There is also a fourth "any other matter" topic providing further flexibility.

Biodiversity is inherently a more complicated subject than, for example, climate change, and it is not possible (and indeed would be counter-productive) to attempt to reduce the targets to a single or small number of metrics. It is therefore reasonable for the Bill to set headline topics to be followed by more detailed metrics set under secondary legislation. LINK's 2023 report on nature recovery targets proposed a similar approach, though with a wider set of topics.(5)

We would however make the following comments on the proposed topics:

- We welcome the inclusion of a target area focused on habitats. As drafted, this allows Ministers to set targets on "condition or extent" of any habitat. It is vital that the suite of targets covers both habitat condition and habitat extent, and the Bill could be amended to clarify this by separating these into separate topics.
- We similarly welcome the inclusion of a species target area, though have considerable concerns of the narrowness of how this is drafted. The term "threatened species" would potentially omit species that are of conservation importance. The species target(s) must



address the recovery of widespread but declining species as well as those that are recognised as threatened. The definition of “threatened species” in the policy memorandum is positive and should be reflected on the face of the Bill.

- The environmental conditions target area is appropriate, as is the “any other matter” power.
- The Bill would benefit from the inclusion of an additional topic area covering the reversal of biodiversity loss against a historic baseline.
- The Bill should include a target to increase ecological connectivity (a “national Nature Network”)
- The Bill should also include a target to improve the condition of designated features and 30 by 30 sites

(5)

<https://www.scotlink.org/publication/report-nature-recovery-targets-statutory-targets-to-drive-the-recovery-of-nature-in-scotland/>

3. Do you have a view on the framework established in the Bill for how nature targets will be governed, including how targets will be set, monitored, reviewed and reported on?

LINK’s 2023 report on nature recovery targets (5) made a number of recommendations in relation to the governance framework for such targets. These were related to the ‘action planning cycle’, advisory functions and implementation. The extent to which the framework proposed in the Bill addresses these matters is considered below.

To establish an ‘action planning cycle’, Part 1 of the Bill introduces nature recovery targets as amendments to Part 1 of the Nature Conservation (Scotland) Act 2004. This means that the existing biodiversity duty and strategy (s.1 & 2 of 2004 Act), together with their reporting requirements (s.2A of 2004 Act), are - in effect - repurposed to become the means of achieving the new nature recovery targets. LINK welcomes and supports this approach; however, there are some ways in which it might be further improved or strengthened.

- The biodiversity duty remains weak. To ensure that all public bodies have to act to meet (rather than simply have regard to) the targets, this should be strengthened as proposed in our answer to Q4. This is especially important in relation to public bodies other than the Scottish Ministers - as the duty to ensure that targets are met (new s.2D(1)) applies only to the Scottish Ministers.
- While the purpose of setting targets (new s.2B) includes “supporting and measuring progress” in relation to the biodiversity strategy, it is unclear if or how the strategy must be produced so as to be a means to meet the targets. While this may be implicit, it might be clearer and more definitive if s.2(1) of the 2004 Act were amended to specify that the strategy (and/or the accompanying delivery plans) were required to set out the actions considered necessary to meet the targets.
- The current delivery plans (referred to above) are a non-statutory supplement to the designated biodiversity strategy. S.2(1) of the 2004 Act should ideally be amended to add a requirement to produce such plans - and to specify that they must set out the actions considered necessary to meet the targets. The reviewing and reporting requirements (s.2A of



the 2004 Act and new s.2.E) should further specify that the reports set out if and how these actions have been carried out.

The advisory functions described in LINK's 2023 report are delivered by the Bill in two ways:

1. New s.2F requires the Scottish Ministers, before making regulations to set targets, to "seek and have regard to" scientific advice. A similar requirement is included in new s.2E in relation to the review of progress towards meeting targets. The Policy Memorandum (para 36-37) makes clear that this scientific advice is currently being provided by the Biodiversity Programme Advisory Group, supported by NatureScot's Scientific Advisory Committee.
2. New s.2G requires that Environmental Standards Scotland (ESS) review and assess the reports on progress towards meeting targets and the manner in which the Scottish Ministers have sought and had regard to scientific advice. The outcomes of these reviews and assessments must be laid before the Scottish Parliament.

Such an approach fulfils, in principle, the aspirations for independent advice and monitoring set out in LINK's 2023 report. However, it also raises a number of questions.

- Notwithstanding the role of ESS in reviewing and assessing the process, the nature/source of the scientific advice (under new s.2F) and the monitoring and reporting (under new s.2E) remain a matter for the Scottish Ministers. Moreover, the Biodiversity Programme Advisory Group and NatureScot's Scientific Advisory Committee are non-statutory bodies, the existence/membership of which is determined by the Scottish Ministers and NatureScot, respectively.
- It is LINK's view that the details of the advisors providing this scientific advice should be published at the time the advice is sought. This would enhance transparency and public confidence in the scientific and technical basis of the targets and related decisions.
- To strengthen the safeguard provided by ESS's oversight of these functions, LINK considers that new s.2G would be improved by clarifying that any report from ESS in relation to these matters which includes recommendations for improvements (or to ensure compliance) must be treated as an "improvement report" under s.26 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (which would 'trigger' the necessary improvement plan and scrutiny mechanisms).
- Finally, proposed new s.2G(4) should be deleted. As ESS is the only statutory, quasi-independent body, accountable to the Scottish Parliament, with responsibilities in relation to environmental law, it would be inappropriate to transfer this function to another person/body by secondary legislation. If such a change were to be contemplated, it should be through primary legislation - which should entail consultation and wider review of ESS's role and functions (as well as any consequential amendments to the 2021 Act).

In relation to the issue of implementation, as discussed in LINK's 2023 report, the provisions of new s.2E fulfil, in part, the monitoring and reporting recommendations. In addition to the comments above (on scientific advice and ESS review), however, LINK would suggest one further improvement that would improve the Bill as drafted.

- In addition to a report setting out progress, as described in new s.2E, there should be an additional requirement if targets have not been met or if progress towards the targets is



insufficient given the passage of time. Such a requirement would be for an additional report setting out what additional steps will be taken by the Scottish Ministers (and, where appropriate, other public bodies), to 'catch-up'. Such a provision would be analogous to s.36 of the Climate Change (Scotland) Act 2009 which provides for 'catch-up' reports in relation to missed climate targets.

#### 4. Is there anything else you would like to say about Part 1 of the Bill on nature targets?

Part 1 introduces nature targets by amending the biodiversity duty section of the Nature Conservation (Scotland) Act 2004. The biodiversity duty requires public bodies and office-holders to "have regard to" the Scottish Biodiversity Strategy. However, elsewhere in this Bill, it is clear that Ministers do not believe that a duty to "have regard to" is as effective in ensuring delivery of a public strategy.

Part 3 of the draft Bill amends a similar duty on public bodies to "have regard to" National Park Plans, strengthening this to a requirement to "facilitate the implementation of" the Plans. It logically follows that if public bodies are required to facilitate the implementation of a Park Plan on a regional level, that it would be appropriate for public bodies to be required to facilitate the implementation of the Scottish Biodiversity Strategy at a national level. We suggest that, as Part 1 of the Bill is an amendment to the biodiversity duty, the opportunity to strengthen this provision is taken.

As drafted the Bill requires targets to be laid within 12 months of section 1 coming into force. If we assume that regulations will be brought forward in the next parliament, this could allow the next Scottish Government to significantly delay the introduction of targets. The Committee should consider whether the Bill should therefore be amended to require targets to be laid within 12 months of the Act receiving Royal Assent. An action planning cycle that links the nature targets to delivery, monitoring and accountability needs to be foremost. The Nature Conservation (Scotland) Act 2004 already has provisions for the Scottish Biodiversity Strategy which should be amended to provide a clear link between this action planning, reporting and delivery of the targets as established by the Natural Environment Bill.

Another area of concern is the lack of compulsion for public bodies to publish their biodiversity reports. These reports should be made publicly available on the websites of the relevant public bodies and also be collated and accessible via NatureScot's website. This would improve transparency, enable public and parliamentary scrutiny, and support more effective monitoring of biodiversity goals.

### **Part 2 – Power to modify or restate environmental impact assessment (EIA) legislation and Habitats Regulations**

#### 1. Do you support the Scottish Government being granted powers to modify or restate EIA legislation and Habitats Regulations?

No.



LINK has concerns over Part 2 of the Bill as it is currently drafted, which would hand Ministers extremely broad powers to make significant reforms to our most vital environmental protections with little scrutiny. Our overall concern with Part 2 of the Bill is that the powers are too broad in scope and have the potential to undermine not only existing important protections but also the achievement of the statutory nature targets. The Habitats Regulations and Environmental Impact Assessments (EIAs) are a cornerstone of environmental protection, legally tested and found robust in protecting valuable habitats and any changes to the scope of powers should not undermine their integrity or application.

### **Environmental Impact Assessments**

EIAs are a vital protection for the natural environment. Development and other changes of use of land and sea are significant drivers of biodiversity loss and it is necessary that, when new development or other proposals are likely to have a significant environmental effect, decision making is informed by an understanding of these impacts, and crucially, ecological mitigation is required. The EIA process is a critical tool to enable public scrutiny on how decisions are made, which upholds our right to participate in public decision-making enshrined in the Aarhus Convention.

The consultation on these proposals, as well as the policy memorandum accompanying the Bill, imply that significant reform to the EIA regime may be pursued. It is our view that any significant reforms to EIAs should be pursued through primary legislation, and that it would be inappropriate for major reform to be undertaken through the use of Henry VIII powers especially as the most changes will be done through the negative process.

### **Habitats Regulations**

The Habitats Regulations are our most vital environmental protection regulations especially for our most rare and vulnerable habitats and species. There is a substantial body of scientific evidence demonstrating that they and the Directives they derive from deliver significant biodiversity benefits including in the context of a changing climate. LINK members acknowledge that in limited cases, some flexibility in site designations may be needed—for example, where a designated feature is no longer present and cannot return due to climate change. However, we believe that the existing provisions within the regulations already provide sufficient flexibility to respond to most climate-related changes.

Moreover, there is an established process for de-notifying Sites of Special Scientific Interest (SSSIs), and most Special Areas of Conservation (SACs) are underpinned by SSSI legislation. Given this, the case for introducing broad new enabling powers is not justified.

In addition, the Habitats Regulations set out a clear procedure, rigorously tested in case law, confirmed to be fit for purpose following multiple legal and government reviews, for ensuring the protection of designated sites, their features and certain species whilst allowing for development, including that aimed at climate change adaptation, to proceed. Where issues arise in the operation of the Habitats Regulations, it is often through lack of understanding or proper application therein - including issues that are in large part due to the [well-documented lack of capacity](#) amongst competent authorities.

We specifically note with concern the section of the policy memorandum which refers to Net Zero and Offshore Wind. We are strongly supportive of the Scottish Government's ambition to reach Net



Zero and the role of renewable energy in achieving this. However, the Scottish Government has been clear that the climate and nature crises are inseparably connected – indeed, this very Bill will put nature recovery on the same legislative basis as climate as a government objective which Ministers will have a duty to meet. Action to tackle climate change and nature loss must be pursued in a manner that supports both objectives, and the Bill should ensure that any changes to EIAs or Habitats Regulations for the purposes of reaching Net Zero are consistent with statutory nature targets. The successful rollout of onshore wind happened under the current regulatory environment, demonstrating that these protections do not prevent the development of renewables.

2. Do you agree with the purposes set out in the Bill for which powers to amend those regimes may be used?

No.

A narrowly defined, specific list of purposes could limit the ability of Ministers to make modifications to the Habitats and EIA regulations. However, the purposes as drafted are so broad and ambiguous that we can take little reassurance that they in any meaningful way will require Ministers to limit the scope of any changes. Given that the government has also opted not to include a non-regression provision or even a requirement to consider the urgent needs of nature conservation, Ministers will not be required to maintain or improve environmental standards when making any changes.

For example, the purpose in Clause 3(c) could be interpreted as allowing for a standardisation with English or UK legislation, regardless of whether this would be a weakening of standards. The purpose under Clause 3(d) in relation to ‘technology’ is extremely vague and not justified. And the purposes in Clause 3(e) and (f) are so broad as to allow almost any change – to ‘improve’ the operation of the law, for example, is an entirely subjective test, and a future administration may consider that a significant weakening of environmental standards would be justified to ‘improve and simplify’ the law.

The Delegated Powers and Law Reform Committee recently published its [report](#) on the Inquiry into Framework Legislation and Henry VIII powers, which includes the finding: “*The Committee considers powers allowing flexibility ‘just in case’ are unlikely to meet the test for the necessity of the power, and as such, be considered inappropriate.*” We believe this strongly reinforces our position on the scope and necessity of the proposed powers, particularly with regard to the Environmental Impact Assessment and Habitats Regulations provisions within the Bill.

3. Is there anything else you would like to say about Part 2 of the Bill on powers to modify EIA legislation and Habitats Regulations?

We encourage the Committee to consider a range of ways in which Part 2 of the Bill should be significantly improved. We suggest in particular that the Committee explores the introduction of a non-regression clause, applicable to all of the purposes included in the legislation. In addition, we propose that Ministers should be required to seek advice from Environmental Standards Scotland on any proposed changes, and for this advice to be published in advance of regulations being laid.

We would also encourage Committee members to explore whether purposes 3(d), 3(e) and 3(f) are necessary. It is our view that these purposes are far too broadly drafted without clear justification on their necessity and risk undermining crucial nature protections, and should therefore be deleted or substantially amended.





There are a number of further concerns around how the powers in Part 2 may operate in practice. For example, it is unclear why the Bill introduces the concept of "standards," a term not commonly used in EIAs or Habitats Regulations Appraisals (HRAs), which raises questions about how these powers will align with existing environmental assessment frameworks.

Finally, there remains a lack of clarity over the procedural safeguards for any changes made under these powers. It is vital to ensure that significant amendments are subject to affirmative parliamentary procedures, rather than the negative procedure, to allow adequate opportunity for scrutiny and public input.

## **Part 3 - National Parks**

### **1. Do you agree with proposed changes to the aims of National Parks in the Bill?**

The proposed changes for National Parks included in Part 3 of the Bill are modest in scope. We recognise that more significant changes to the ways in which National Park, whilst needed, would be more challenging at this late stage of the Parliament and so accept the limited nature of proposals; however, we suggest that the next Parliament should consider next steps for National Parks policy in a more comprehensive way. With that said, we recognise that the urgent need to address nature loss and climate change requires an immediate modernisation of the National Parks aims.

On the specific proposed wording of the 4 aims:

- We welcome the insertion of **‘management’** in the second aim (proposed as: ‘to promote sustainable management and use of the area’s natural resources’).
- We are unsure whether adding **‘and cultural’** to the fourth aim (proposed as : ‘to promote sustainable economic, and social and cultural development of the area’s communities’) will achieve the intentions set out in the Explanatory Notes. If the intention is to “go beyond the focus on cultural heritage captured by the first aim by encouraging arts, literature and culture within their areas. This could include supporting community projects and creative sector networks” we’d suggest alternative wording is considered - perhaps ‘creative’ or ‘creative arts’? The word choice should clearly reflect something additional to that covered in the first aim which covers cultural heritage, and avoid any confusion. Providing a definition of the term used may help allay this concern.

We note the new approach to further informing the aims via the addition of the new subsection (2) with an additional list of things included in the aims. We are glad to see restoring and regenerating biodiversity, and mitigating and adapting to climate change in the Bill wording. Scotland’s National Parks are home to internationally renowned landscapes and wildlife and serve as models of sustainable development. As such, they should play a leading role in actively supporting nature recovery and contributing to a just transition to a nature positive and net zero Scotland. We also welcome the specific mention of access in this list and the inclusion of recreation here - without which the loss of ‘recreation’ from the third aim might have been of concern. We note that clause (f) is intended to promote moves towards a wellbeing based economy, however the wording perhaps could be adjusted to reflect this better. The inclusion of ‘prosperity of individuals’ in (f), (with





connotations of wealth and opulence for individuals) slightly jars with the stated intention of the change, whereas alternative wording along the lines of ‘the overall health, wellbeing and prosperity of people within the area’ might better convey it.

We welcome the retention of section 9(6) of the National Parks (Scotland) Act, the Sandford or National Park principle, which gives more weight to the first National Park aim in situations where there are conflicts between aims.

## **2. Do you agree with new duties around the implementation of National Park Plans that are set out in the Bill?**

To more effectively deliver on the National Park aims, stronger duties should be placed on all public bodies operating within National Parks to actively further the aims of the Park and support the implementation of the National Park Plan. Scotland’s National Parks currently cover 7% of the country’s land area, playing a vital role in addressing both the nature and climate emergencies.

Scotland’s two National Parks have successfully led significant nature conservation projects and recently set a progressive direction for scaling up nature restoration. However, despite these efforts, nature continues to face many challenges within the National Parks. More work is needed to ensure the entire area of our National Parks becomes a model for land managed in harmony with nature, climate, and people. Polling conducted by Survation on behalf of Scottish Environment LINK showed that almost 80% of the public want a stronger focus on restoring nature and addressing climate change within Scotland’s National Parks.

We welcome the proposed strengthening of the duty on public bodies from "having regard to the Park Plan" in the current legislation, to ‘facilitate implementation of’ the Park Plan. This is a more active duty. At present, a publicly funded body could note the contents of a National Park Plan yet carry out activities that work against or weaken the implementation of the plan. An obligation for public bodies to support and contribute to the implementation of National Park Plans would promote greater collaboration and ensure that the decisions affecting and services provided within the National Parks consider the National Park aims, so that the mode of delivery is more sympathetic to the landscape and to nature.

It would be against the public interest for a public body to be working within a National Park and to not be actively furthering the aims of the National Park. This is especially true in the context of nature restoration and tackling climate change, where there is a duty for public bodies to meet the Scottish Government’s corresponding national targets. So, while welcoming the introduction of the new duty on public bodies to “have regard to the NP aims” as a step in the right direction, we would like this to be strengthened (similar to the proposed strengthening of the duty relating to Park Plans). We note that there is a precedent for different wording in UK law; prior to the Levelling Up and Regeneration Act 2023, the equivalent duty on public bodies in England was “to have regard to the statutory purposes of Protected Landscapes” and is now a duty to “seek to further the purposes.” We would prefer to see the Scottish legislation say “to further the National Park aims.”



While the strengthened duties on public bodies is welcome and, as suggested above, could go still further, most land in National Parks is and will continue to be privately owned. Thus, achieving a synergy of aims and activities is as relevant for private bodies as it is between public bodies. MSPs at Stage 1 might seek clarity from Ministers as to how private bodies might better align with the National Park aims and plans.

### **3. Do you support provisions in the Bill enabling the Scottish Government to make regulations for the issuing of fixed penalty notices for breaches of National Park byelaws?**

The Bill makes provision for National Park authorities to issue fixed penalty notices in relation to byelaws which they set. This is proposed as a pragmatic and proportionate approach to enforcement of byelaws given that currently most fixed penalty notices have to be pursued by referral to the Crown Office and Procurator Fiscal Service (COPFS). We understand the logic of what is proposed from the point of view of streamlining enforcement and reducing the burden on the COPFS and engaging the court system. However, the suggested change sheds sharper light on the way in which NPAs engage with the public in the management of park areas; and as the Bill goes through Parliament, further clarity should be sought on the best use of these powers.

The issues of damaging behaviour may be more acute in National Parks, but they are not unique to these areas. Consideration should also be given to how other land managers are expected to tackle these issues without these powers, and what this might mean for how areas of Scotland are seen as permissive or restrictive, and the possible displacement of poor behaviour.

In practice, within National Parks, most frontline engagement with members of the public is carried out by rangers. Some are longstanding and highly experienced - but many are part time and seasonal. They often work alone in isolated areas, in evenings and at weekends, where communications may be limited.

In relation to managing activities such as campfires at times of higher wildfire risk or other anti-social behaviour, the best form of engagement is one-to-one conversations and public education and information distribution, with enforcement only there as a final backstop. The hierarchy of engage, educate, encourage and only enforce at the end of the process is often deployed.

If enforcement becomes the primary 'tool in the box' it undermines those other approaches. Over time, enforcement could become the first choice approach and this would change the nature of the role of rangers and the quality of relationship that the NPA has with the public. While it is perfectly possible for the changes made by the Bill to be consistent with enforcement as a backstop there is a risk that making enforcement faster and less onerous could lead to an enforcement-focused service.

There is a further dimension to the change particularly if the trend in National Parks continues to be towards a 'mixed economy' of rangers, with some employed by the NPA directly, others employed by NGOs or by estates in particular localities. These rangers can have a wide range of functions, but it makes sense, within a National Park for the public to see the ranger services as part of a whole. The Bill makes provision for regulations on enforcement which includes who would be authorised to issue



fixed penalty notices. However, we understand that enforcement powers may only be exercised by rangers directly employed by the National Park authority so if, as a result of the proposed changes, enforcement becomes more front and centre, this would amplify the impression of a two-tier service. So you then get a system where a ranger not employed by the National Park is engaging with people on a problem issue but has to pass to a park ranger to take further steps. This split is already there but the more enforcement becomes the focus, the less seamless the service gets.

We recognise that much of what we say above is about the effective use of byelaws in themselves rather than specifically the addition of an FPN route among the enforcement options. However, that in itself represents a shift along the spectrum towards enforcement and that merits Parliamentary scrutiny. If the Bill continues to provide these new powers, MSPs should seek clarity from Ministers on policy intentions and this should be reflected in guidance and in future monitoring arrangements.

#### **4. Is there anything else you would like to say about Part 3 of the Bill on National Parks?**

We welcome the clarification of including a definition of biodiversity as having the same meaning as “biological diversity” in the [UNEP Convention on Biological Diversity](#).

We very much welcome the proposed tidying up of the Land Reform (Scotland) Act 2003 to allow, via their designation orders, all National Park authorities to be put on the same footing as local authorities under the Act and become access authorities. This simply reflects the policy intention of the first two National Park authorities and future-proofs the legislation.

So while we welcome the Bill's tidy-up of the legal framework to allow all National Parks to be put on the same footing as access authorities, in the same spirit of tidy up we wish to highlight what we believe is a policy anomaly. Our current National Parks have almost all the functions of access authorities except with regard to public rights of way. In Loch Lomond and Trossachs NP, the NPA has authority over public rights of way while that is not the case, in the same way, in Cairngorms NP. It is not uncommon for an access case to involve generic access rights and public rights of way. In the Cairngorms situation that means referring the right of way element to the local authority. This is do-able but given that NPAs can span several local authorities and that local authorities vary as to capacity to deal with access issues, it is clunkier than need be.

If, as we believe, this difference is not a reflection of policy choices made by ministers but simply an unintended consequence of the different statutory planning status of the two National Parks and given further potential variation on the planning model for NPAs, then ministers should be invited to bring forward amendments at stage 2 which, in effect, mean that the rights of way powers may be conferred equally on national parks as access authorities, no matter the statutory planning model of each national park. This would be consistent with the intention of section 8 of the Bill.



## **Part 4 – Deer management**

### **1. Do you agree with the proposed changes in the Bill to the statutory aims and purposes of deer management?**

Yes. The proposals implement the recommendation of the independent Deer Working Group accepted by the Scottish Government. We need to modernise and create more flexible systems of deer management to address the nature and climate crisis. We particularly welcome the focus on habitat restoration and the move away from prevention of damage. Sustainable deer management is a cross cutting theme which benefits native woodland restoration and expansion and prevents damage to peatlands with associated public investment, as well as enhancing habitats for biodiversity.

### **2. Do you have any comments on Section 11 of the Bill regarding NatureScot representation on advisory panels?**

No.

### **3. Do you agree with the proposed changes in Section 12 which changes how frequently NatureScot reviews compliance with the code of practice for deer management?**

We emphasise the key links between the Code of Practice Deer Management and NatureScot and it will be important that the desired outcomes of habitat restoration and enhancement are included and well-described. We expect a new Deer Code to be produced and to reflect the new deer legislation as soon as possible after enactment. We also support regular reports on compliance with the Deer Code, other aspects of implementing improvements to deer legislation, and meeting enhanced cull targets to the Scottish Parliament on either an annual or bi-annual basis. On this basis we agree with the proposed changes however we think routine reporting to the Scottish Parliament on sustainable deer management progress could be enhanced.

### **4. Do you support the new ground for intervention by NatureScot for the purpose of nature restoration, as set out in the Bill?**

Yes, these new powers of intervention by NatureScot based on nature restoration rather than as previously prevention of damage are urgently required if we are to address damage to key habitats such as peatlands and native woodlands as well as to reverse biodiversity declines. Current compulsory intervention powers by NatureScot under section 8 of the Deer (Scotland) Act 1996 have only been used once and are understood to be largely unworkable due to fear of legal challenge. Section 7 voluntary control orders has been used more often but has very rarely delivered what is required even when in some cases such orders have been in place for several decades (eg. Caenlochan in the Cairngorms National Park). We therefore urgently need more workable intervention powers, with clear timetables for action, and reporting to Ministers. We need the facility for more urgent action by NatureScot to intervene and define circumstances when they must intervene to reduce deer numbers; these circumstances might include when deer densities are above 10 per sq km; to enhance protected areas subject to deer damage; and to protect peatland



restoration investment. We support these measures being applied also in areas developed by environmental NGOs for landscape scale conservation projects; for National Nature Reserves; and to enhance key protected areas such as SSSIs and SACs. We also think that communities, environmental NGOs and other affected land managers should have a clear mechanism for calling on NatureScot for deer management intervention where there is evidence of damage to their nature restoration plans, together with a formal response process by NatureScot.

**5. Do you agree with modifications set out in the Bill for the operation of deer management plans, control agreements and control schemes?**

Yes, as above. We seek clarity around the introduction of a formal national cull approval scheme by NatureScot, recommendation 97 of the independent Deer Working Group Report, which we support. We consider that NatureScot should have the ability to sign off deer cull levels by landowners and to increase them if necessary. We need sustainable deer management to take place across the whole landscape to reduce overall numbers and densities and to prevent incursions in areas managed for nature restoration. In summary though NatureScot needs more flexible and workable powers to intervene to reduce deer numbers in the public interest; to protect public investment in native woodland establishment and peatland restoration; and to reduce deer impacts on humans such as Lyme disease and road traffic accidents.

**6. Do you agree with the proposed changes to investigatory powers for NatureScot as set out in Section 21 and Section 22 of the Bill?**

Yes.

**7. Do you have a view on proposals in the Bill for changes to the authorisations issued by NatureScot for:**

- a. the culling of deer during the closed seasons
- b. the culling of deer at night
- c. the use of vehicles to drive deer

We consider that these clarifications are helpful. In advance of this Bill a statement was made by the Minister suggesting that deer seasons would not change. We regret this intervention as premature and suggest that the dates for deer seasons should be subject to further public scrutiny by the Committee and by the Scottish Parliament. NatureScot proposed a single close season for all deer species present in Scotland which seems sensible to us. In our opinion the deer seasons should be set on the basis of evidence and animal welfare specialist advice rather than tradition. Flexibility for culling deer in close seasons and for culling deer at night may be required to support nature restoration or prevention of damage, however most environmental NGO landowners work to deliver required deer culls during the deer seasons. It is right in our view that such specialist work is carried out by competently trained individuals. We agree with provisions around driving deer by vehicles and that this activity should be subject to NatureScot authorisation.



**8. Do you support a new offence of shooting a deer with a shotgun, along with a corresponding ability for NatureScot to authorise the activity in appropriate circumstances?**

Yes. Deer welfare should be a key consideration.

**9. Do you have any comments on Section 28 and 30 of the Bill in regard to the register of authorised persons and requirement to be fit and competent for certain authorisations?**

We agree with these proposals.

**10. Do you agree that a new offence should be created for a person failing to report the taking or killing of stray farmed deer?**

Yes. The straying of deer from farmed escapees presents some health risk to wild deer populations through disease transfer so it is important that this situation is monitored through reporting of killed farm deer which can then be subject to health screening.

**11. Do you agree with provisions which remove the need for venison dealer licences?**

On balance yes. We are in favour of the facilitation of the establishment of small business and local community venison supply and marketing. Barriers to this from happening should be removed, we understand that the application of the Venison Dealers Licence by local authorities is inconsistently applied. Small venison producers should have their premises approved by Food Standards Scotland instead and as many of the requirements for a VDL duplicate. Scottish Quality Wild Venison inspections also ensure high hygiene standards of participating landholdings and venison suppliers so again some elements of duplication and standards here are usually higher than the VDL. It might be more attractive for hunters to register with Food Standard Scotland if the process was simplified.

**12. Is there anything else you would like to say about Part 4 of the Bill on deer management?**

We think there should be a requirement on NatureScot to produce a national deer management dashboard informed by best deer management data and aligned with the Forestry and Land Scotland wildlife management dashboard. NatureScot should also have a legal obligation to publish Habitat Impact Assessment data and other relevant information to support sustainable deer management and to create public open-ness and transparency. We also support annual or bi-annual reporting by NatureScot to the Scottish Parliament on progress with sustainable deer management delivery and informed by the best available data.

**General/aspects not in the Bill**

**1. Are there any areas not addressed by the Bill that you believe should be included? If so, what are they?**



This Bill is an opportunity not just to set targets but to include legislative changes which could support those targets.

There are a number of pieces of existing legislation which should be amended in light of the introduction of statutory targets, specifically:

- Section 57 of the Climate Change (Scotland) Act 2009 should be updated to include achievement of the Scottish Ministers' duties on nature recovery targets as a matter of consideration in the Land Use Strategy. We would also encourage this section to be amended to include objectives related to ecological connectivity through Nature Networks.
- Section 68(7) of the Marine Act is amended to add climate adaptation as a matter for consideration in the designation of Nature Conservation MPAs
- Section 68(9) of the Marine Act is amended to add essential fish spawning habitats and juvenile congregation areas as matters for consideration in the designation of Nature Conservation MPAs
- Section 68 of the Marine Act is amended to introduce a duty to support ecosystem recovery in the development of a network of conservation sites

On marine more broadly, we suggest that the Bill introduces a duty to review MPA site selection guidance and to publish updated guidance by a specified date.

### **Nature Networks**

Delivering ecological connectivity is essential to meeting the goal of reversing biodiversity loss. The responsibility for planning authorities to deliver Nature Networks is intended to provide this connectivity, and the success of these efforts in developing a national ecological network will be crucial. The Bill should introduce a duty on Ministers to report progress on delivering Nature Networks before 2030 (e.g. 2027), in 2030, and on a regular basis afterwards (e.g. every 3/5 years).

### **Peat in horticulture**

The Bill is a good opportunity to introduce the long awaited legislation to end sales of peat in horticulture. We propose that the Bill introduces:

- A clearly defined, fixed date for ending sales of peat in horticulture for a) bagged compost for amateur growers as soon as possible and b) professional growers within two seasons, with only limited exceptions.
- An end to the sale of imported peat and exports of peat from Scotland, both for growing media and for horticultural products grown in peat.

### **Invasive Non-Native Species**

Invasive Non-Native Species (INNS) are a significant driver of biodiversity loss. INNS control should be embedded in the operations of all organisations that own and manage land, particularly the statutory agencies and local authorities. Additional access powers for NatureScot and/or specified bodies should be considered with regard to INNS eradications and control of national importance for biodiversity, in a framework that balances the rights and responsibilities of landowners or occupiers and those of the relevant government agencies. Recognition and emphasis on the rapidly growing problem of non-native commercial tree species seeding out and becoming invasive in important





ecosystems like peatlands and native woodlands is needed, or much of the good work above will be undermined. There are significant costs attached to the removal of trees which have self-seeded and grown into such areas. Solutions to this issue should be explored, including any legislative mechanisms that could be introduced through the Bill to mitigate growing pressures on limited conservation budgets.

The Bill is an opportunity to allow the Scottish Government to design a proportionate system of licensing for non-native gamebird release. Scottish Ministers should be given adequate powers to regulate the release of non-native gamebirds in specific circumstances where environmental damage is occurring or likely, and/or in order to mitigate potential risks around the spread of diseases to wildlife, such as Highly Pathogenic Avian Influenza (HPAI).

### **Community participation in decision-making**

Communities of place and wider stakeholders have a vital role to play in the delivery of nature recovery. Communities possess invaluable knowledge about their local environments and how the environment interacts with social and economic factors. Other stakeholders, including communities of interest such as environmental NGOs, also have key insights into effective delivery and barriers to progress. Inclusive decision-making processes promote parity of participation and community empowerment by ensuring that the voices of all stakeholders are heard and considered and should lead to more effective policy-making.

### **This response is supported by:**

Action to Protect Rural Scotland  
Scottish Wildlife Trust  
The Peat-free Partnership (Scotland Advocacy Group)  
Ramblers Scotland  
Plantlife Scotland  
Trees for Life  
Froglife  
Badenoch & Strathspey Conservation Group  
Cairngorms Campaign  
Buglife Scotland  
Keep Scotland Beautiful  
Soil Association Scotland  
Chartered Institute of Ecology and Environmental Management (CIEEM)  
Scottish Campaign for National Parks  
RSPB Scotland  
Environmental Rights Centre for Scotland  
The Royal Zoological Society of Scotland  
WWF Scotland  
Bumblebee Conservation Trust  
British Ecological Society  
Butterfly Conservation  
Atlantic Salmon Trust



Hebridean Whale & Dolphin Trust  
Marine Conservation Society  
John Muir Trust  
Woodland Trust Scotland

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