

ANGUS COUNCIL

4 JULY 2002

SUBJECT: CAIRNGORMS NATIONAL PARK – DRAFT DESIGNATION ORDER

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

Abstract: This report provides the Council's proposed response to the Draft Designation Order for the Cairngorms National Park published by Scottish Ministers.

1 RECOMMENDATION

It is recommended that Angus Council:-

1. note the absence of detailed explanation and justification of the proposals contained in the Draft Designation Order, particularly in respect of the boundary of the National Park and Planning arrangements which differ significantly from the previous recommendations of Scottish Natural Heritage as statutory reporter and statutory advisor on the natural heritage;
2. agree to submit this report to the Scottish Executive as Angus Council's formal response to the Draft Designation Order and in particular to reaffirm the views that Angus Council:-
 - (i) supports the inclusion of part of Angus within the National Park area focussing around the National Scenic Area and National Nature Reserve at Caenlochan, together with immediately adjacent parts of Glen Isla, Glen Prosen and Glen Clova (as illustrated on Map 1 appended to this report);
 - (ii) strongly favours the continued delivery of the planning function and retention of planning powers by the constituent Local Authorities in the Cairngorms with the Park Authority as a statutory consultee;
 - (iii) requires a minimum of one representative nominated by Angus Council to the Board of any National Park Authority which extends into part of Angus;
 - (iv) recommends that, whether outside or inside the Cairngorms National Park, Brechin, Kirriemuir and Edzell be designated as Gateways;
3. agree to also advise the Scottish Executive that the Ranger Service based in Glen Doll is an important element in visitor management, habitat protection, public information and education which should be:-
 - (i) fully funded from Central Government in recognition of the substantial visitor activity and the area's National Nature Reserve and National Scenic Area Status;
 - (ii) managed locally to reflect and provide for the area's needs;

4. note the draft findings of a separate study commissioned by Scottish Natural Heritage, which is currently being undertaken by Consultants, to review the possible impacts on areas adjacent to and in between National Parks and which further supports previous comments by Angus Council that:-
 - (i) provision should be made to enable financial and other resources to be deployed beyond a Park's outer boundary into adjacent areas where the management of activities outwith the boundary needs to take account of the Park's objectives;
 - (ii) proposals for the funding of any National Park should not reduce national or local resources made available for wider countryside management and should not be at the expense of support for rural development elsewhere.

2 INTRODUCTION

- 2.1 Report No. 707/02 to the Planning & Transport Policy Committee, 13 June 2002, indicated that Scottish Ministers on 29 May 2002 had launched the consultation exercise on the Draft Designation Order for the Cairngorms National Park. The report noted that, significantly, Angus is wholly outwith the proposed National Park area, where the park boundary has been drawn to follow the Local Authority boundary with Aberdeenshire. It was also highlighted that the Scottish Ministers have concluded that the National Park Authority should have responsibility for preparing a Park Wide Local Plan (or Plans).
- 2.2 The Planning & Transport Policy Committee agreed that the terms of Angus Council's response to the Draft Designation Order be the subject of a report to the full Council meeting to be held on 4 July 2002.

3 BACKGROUND

- 3.1 Over the past four years Angus Council has continued to comment and participate fully at various stages in the process which has culminated in the current Draft Designation Order for the Cairngorms National Park published by Scottish Ministers. In addition to participation in Working Groups with Scottish Natural Heritage and other Local Authorities in the Cairngorms area, this has included various reports to the Council and Committees of the Council, including:-
 - Report 431/98 (April 1998) responding to the preliminary consultation exercise on developing proposals for National Parks in Scotland;
 - Report 1236/98 (December 1998) providing the Council's formal response to the SNH Consultation Document on National Parks for Scotland;
 - Report 274/99 (March 1999) outlining SNH advice to Government on National Parks and the Government's response;
 - Report 143/00 (January 2000) outlining consultation on the National Parks (Scotland) Bill, and the arrangements made by SNH to develop proposals for consultation on the specific boundaries, powers and representation for a Cairngorms National Park;

- Report 276/00 (March 2000) setting out the terms of the Council's formal response to consultation on the draft Bill introducing primary legislation for National Parks in Scotland;
- Report 301/01 (March 2001) providing the basis for the Council's response to Scottish Natural Heritage's Consultation Document on Proposals for the Area, Powers and Representation for a Cairngorms National Park;
- Report 1149/01 (October 2001) summarising Scottish Natural Heritage's formal advice to the Scottish Executive on the proposed Cairngorms National Park.

3.2 In summary the Council's previous comments to Scottish Natural Heritage and the Scottish Executive respectively during the latter stages of this process, and in advance of the publication of the Draft Designation Order, confirmed that Angus Council:-

- supports the inclusion of part of Angus within the National Park area focussing around the National Scenic Area and National Nature Reserve at Caenlochan, together with immediately adjacent parts of Glen Isla, Glen Prosen and Glen Clova forming the northern section of SNH Sub Area 13;
- strongly favours the continued delivery of the planning function and retention of planning powers by the constituent Local Authorities in the Cairngorms;
- requires a minimum of one representative nominated by Angus Council to the Board of any National Park Authority which extends into part of Angus;
- recommends that whether outside or inside the Cairngorms National Park, Brechin, Kirriemuir and Edzell be designated as Gateways.

3.3 Previous comments arising from consideration of relevant issues have also highlighted Angus Council's views that:-

- provision should be made to enable financial and other resources to be deployed beyond a Park's outer boundary into adjacent areas where the management of activities outwith the boundary needs to take account of the Park's objectives;
- proposals for the funding of any National Park should not reduce national or local resources made available for wider countryside management and should not be at the expense of support for rural development elsewhere.

3.4 The views in paragraph 3.3 above are also supported by the draft findings of a study currently being undertaken by Consultants for Scottish Natural Heritage, which reviews the possible impacts on areas adjacent to and in between National Parks. The Consultants study is being prepared to provide:-

- an overview of National Parks in Scotland;
- a review of the potential edge and in between effects associated with National Parks in Scotland;
- a literature review of experience and response from elsewhere in the UK and overseas;
- a summary of experience drawn from case studies in England and Wales;

- Scottish case study analysis and findings (including the Angus Glens);
- conclusions.

3.5 Among the significant draft findings currently emerging from this study are:-

- access to external funding sources for economic and social regeneration is not necessarily seen to be disadvantaged by a location outside the National Park;
- it is inevitable that national park status will have an impact on areas on the edge of and in between boundaries which are likely to be subject to specific pressures and opportunities;
- in areas which are already environmentally sensitive there could be greater levels of concern about negative boundary effects, whilst in rural areas which are supportive of new development an increase in pressure could provide opportunities and benefits;
- many of the benefits accruing from national parks on surrounding communities have been largely environmentally based, as opposed to more social or economic in nature;
- there may be more scope in Scotland to proactively seek benefits for communities within and outwith national park locations;
- the draft findings suggest that perhaps the best approach is a more flexible one, based on the idea of permeable boundaries, recognising that the National Parks (Scotland) Act 2000 allows National Park Authorities to work outwith the National Park where this is required for National Park operations.

3.6 This study is timely in providing a useful analysis of various issues which can be considered alongside the terms of the Draft Designation Order for the Cairngorms National Park.

4 DRAFT DESIGNATION ORDER

4.1 A copy of the full Draft Designation Order has been placed in the Members' Lounge. Appendix 1 to this report provides a summary of the main provisions contained in the Draft Order.

4.2 While the Draft Designation Order identifies the Scottish Minister's proposals, it does not provide any detailed explanation of or reasoned justification for particular proposals beyond an initial summary statement. In particular it does not fully explain why some of the key recommendations of Scottish Natural Heritage (who were appointed as the statutory reporter) including the favoured area and boundary of the Park have been dismissed in framing the Draft Designation Order. This is of some considerable concern where the previous recommendations of SNH had taken account of a very significant and wide ranging consultation exercise, the results of which have been fully documented.

4.3 It is evident from the consultation exercise previously undertaken by SNH that diverse views are held among different parts of the Cairngorms area; among different national and local bodies, interests and communities; and with different emphasis on various environmental, social and economic aspects including:-

- different perceptions of what a Cairngorms National Park could or should be;
 - perceived advantages and disadvantages arising from National Park designation, including the balance between advantages and disadvantages;
 - the likely merits or otherwise of being within/outwith the proposed National Park boundary.
- 4.4 In the light of this it is somewhat surprising that the Draft Designation Order has significantly departed from the SNH recommendations on boundaries and planning powers which are among the key issues to be addressed. Equally surprising in these circumstances is the absence of anything beyond a limited explanation of the reasoning underlying the proposals of the Draft Designation Order.
- 4.5 Previous reports to members (paragraph 3.1 above) have highlighted that issues arising from boundaries, powers and representation in National Park areas are interlinked. From an Angus perspective the proposals in the Draft Designation Order to omit any part of Angus from the National Park Area and to transfer some planning powers within the National Park Area to the National Park Authority are of particular relevance.

Boundaries

- 4.6 The Draft Designation Order confirms that the Scottish Ministers have decided that the Park area should consist of the main Cairngorms massif and adjacent settlements together with the Grantown-on-Spey area. This translates into a National park southern boundary which follows the Angus Council/Aberdeenshire boundary thereby omitting the Angus parts of the National Scenic Area and National Nature Reserve at Caenlochan. In this respect the boundary appears to follow administrative convenience rather than reflecting the conditions set out in the Act for the identification of the Park which include:-
- that the area is of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage;
 - that the area has a distinctive character and coherent identity;
- 4.7 Map 1 appended to this report indicates:-
- the south eastern section of the National Park boundary proposed in the Draft Designation Order;
 - the area of Angus around the National Scenic Area and National Nature Reserve at Caenlochan previously identified by Angus Council for inclusion in the National Park;
 - the area of Angus previously recommended by Scottish Natural Heritage for inclusion in the National Park.
- 4.8 It is suggested that Angus Council reiterates the Council's previous views that this part of Angus be included within the National Park in order to reflect its high natural heritage value.

Planning Powers

- 4.9 Report 301/01 previously considered in some detail the options for delivery of the planning function within the Cairngorms National Park, including advantages and disadvantages arising from the various options. It also recognised the important links between boundaries and powers, together with the wider relationship with other relevant Local Authority functions. The clear and unequivocal conclusion from this is that the geography and nature of the Cairngorms argues strongly towards the continued delivery of the planning function by the constituent Local Authorities.
- 4.10 This conclusion was previously highlighted to the Scottish Executive drawing particular attention to Angus Council's concern over planning arrangements proposed by Scottish Natural Heritage (Report No. 1149/01 refers).
- 4.11 In response to criticism of a "hotch potch" of proposals for planning powers in the Draft Designation Order, Scottish Ministers have responded in the technical planning press indicating "our proposed split of the planning function reflects the need for constructive partnership working". This adds to the limited reasoning set out in the Draft Designation Order that while Ministers believe that the Local Authorities should retain a significant degree of control, they also believe that for the Park Authority to be able to promote fully the aims of the Park, it too must be in a position to influence planning outcomes.
- 4.12 A central theme of the previous comments submitted by Angus Council and by the other four Cairngorms Local Authorities was the provision of a robust basis for the exercising of the planning function by the Local Authorities. Crucially this would leave the National Park Authority with the necessary focus to address the other key issues which are of national importance, particularly land management, recreation and access.
- 4.13 It is suggested that this should remain the firm position of Angus Council which is of even greater direct relevance in the event that Scottish Ministers were minded to amend the National Park boundary to include part of Angus as a result of representations received on the Draft Designation Order.

Additional Functions

- 4.14 Article 8 of the Draft Designation Order specifies additional functions which are to be performed by the Cairngorms National Park Authority in addition to the relevant sections of the National Parks (Scotland) Act 2000. This includes the function of providing rangers under the Countryside (Scotland) Act 1967, insofar as it applies to the National Park Area. It also confirms that the relevant ranger services shall cease to be exercisable by the Local Authorities concerned.
- 4.15 Angus Council established a Ranger Service in Glen Doll in 1998. Since that time 315, 000 visitors were recorded and formal environmental education was provided to over 9, 000 people. The service responded to some 16 Mountain Rescue incidents. Rangers are also involved with issues associated with:-
- increasing visitor pressure and degradation of the habitat;
 - conflict between recreational users and land managers;
 - conflict between local residents and visitors;
 - environmental education provision;

- conservation and protection of the natural habitat;
- quality countryside recreational experience.

4.16 Depending on whether the heads of the Angus Glens are included or excluded from the final National Park Area, the implications for the Ranger Service would include:-

- transfer of responsibility to the National Park Authority if included;
- possibility of funding contribution from National Park Authority if excluded but still regarded as an important cross boundary issue of relevance to the Park (see paragraph 3.5).

4.17 Angus Council considers that the Ranger Services in the National Park should be delivered locally to reflect local needs, particularly in the Angus Glens as they are remote from centres of administration. It is also recognised that there should be conformity of approach within the Park and it is considered appropriate that local Ranger Services should work to a common National Park Strategy funded by the Park Authority.

4.18 If the heads of the Angus Glens are not included in the National Park Boundary it may still be appropriate to operate the Ranger Service under an overarching National Park Strategy if it delivers local needs. In any event information about the Park should be available to visitors at the Gateway Settlements to the Park and should also be available at the road end in Glen Doll as the majority of hill walkers visiting the Angus Glens will enter the National Park during their visit.

5 FINANCIAL IMPLICATIONS

5.1 There are no financial implications arising directly from this report.

5.2 The Draft Designation Order indicates that “Ministers note the Reporter’s conclusions on the potential costs of the National Park. The annual funding of the National Park Authority from the Scottish Executive will be decided through the normal public expenditure process, as for other Governmental organisations”.

6 HUMAN RIGHTS IMPLICATIONS

6.1 There are no human rights issues arising from this report.

7 CONSULTATION

7.1 The Chief Executive, Director of Finance, Director of Law & Administration and Director of Leisure Services have been consulted in the preparation of this report.

8 CONCLUSION

8.1 Publication of the Draft Designation Order by the Scottish Executive marks an important stage in establishing a National Park in the Cairngorms. The proposals by the Scottish Executive differ significantly from the earlier advice published by Scottish Natural Heritage (Report No. 1149/01 to the Planning & Transport Policy Committee, 11 October 2001 refers). In particular the Draft Designation Order excludes Angus from the National Park Area and also transfers local planning

powers and responsibilities from the relevant Local Authorities to the new National Park Authority.

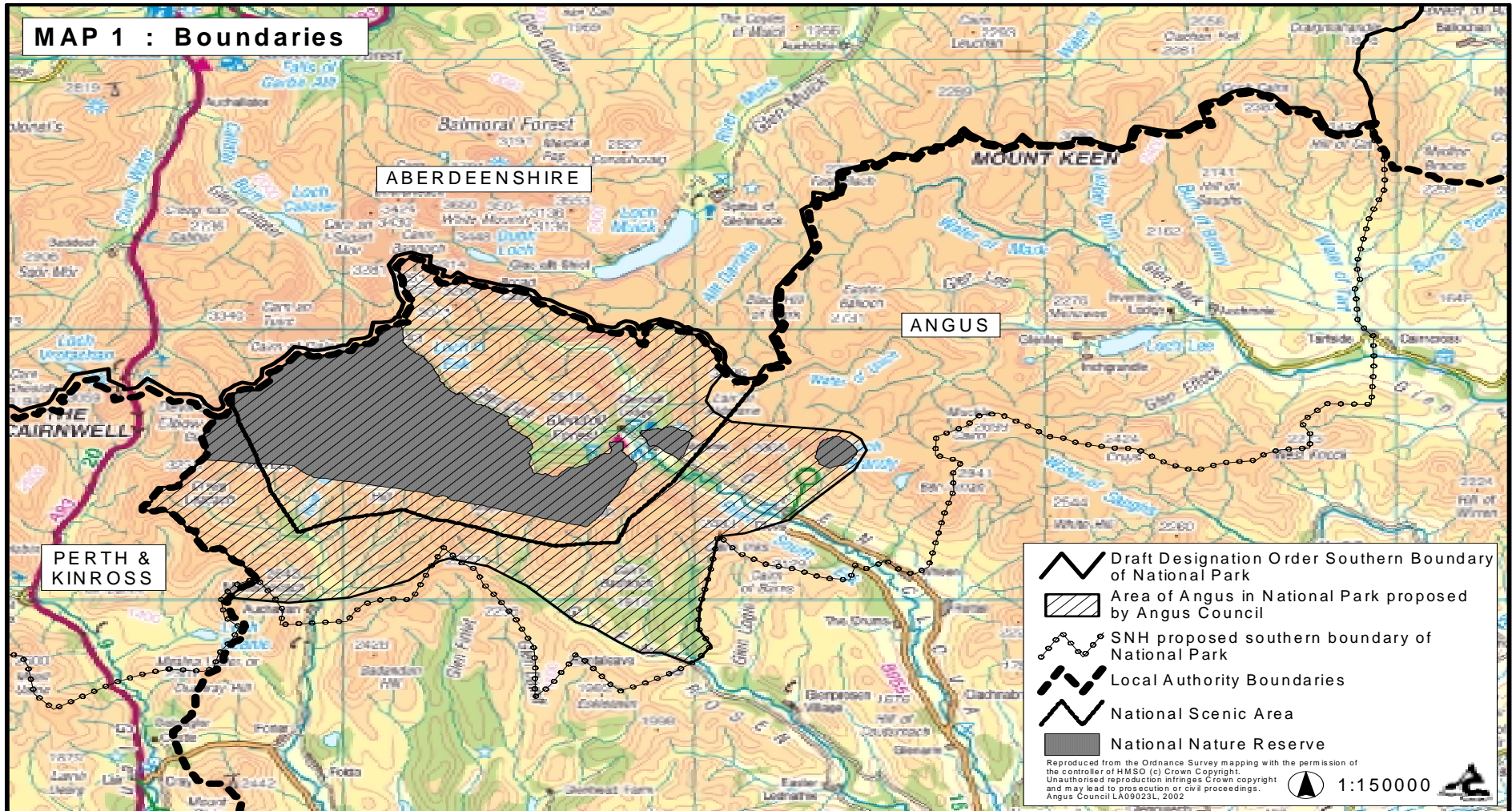
- 8.2 In responding to the Draft Designation Order it is suggested that Angus Council reaffirms its previous views in support of part of Angus to be included within the National Park Area and the retention of all planning powers by the constituent Local Authorities. It is also suggested that the Council reiterate previous comments regarding representation by Angus Council on the Board of any National Park Authority which extends into part of Angus, and the role of Brechin, Kirriemuir and Edzell as Gateways whether outside or inside the Cairngorms National Park.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/CGR/KW
24 June 2002

Alex Anderson
Director of Planning and Transport



APPENDIX 1

THE CAIRNGORMS NATIONAL PARK

CONSULTATION ON DRAFT DESIGNATION ORDER

Background

1. The National Parks (Scotland) Act 2000 (referred to as "the Act") received Royal Assent in August 2000. It is an enabling Act, which sets out the criteria and the process for areas to be designated as National Parks in Scotland and lays out the framework under which all National Parks in Scotland must operate.
2. Under the Act, each National Park is set up by means of secondary legislation known as a Designation Order. The Designation Order specifies the boundaries of each National Park as well as detailing the mechanisms to be adopted for administration of the planning function. Additionally, the Draft Order gives the date of establishment of the National Park Authority, the date on which the Park and the Park Authority become fully operational and details on the composition of the Park Authority.
3. The Act sets out the process which must be followed in setting up a National Park. This started in September 2000 when Ministers published formal proposals for a Cairngorms National Park. At the same time, under the terms of section 3 of the Act, the Scottish Ministers appointed Scottish Natural Heritage as *the 'Reporting Body'* and asked them to consult widely on proposals for a Cairngorms National Park. In doing so, Scottish Ministers directed SNH on the conduct of the consultation. In particular, they required that the consultation should be participatory; that SNH should develop and report on objective criteria; and, in carrying out its role as Reporter, SNH should record and report on the views expressed by consultees, and make quite clear and distinct any views which are those of SNH as statutory adviser on natural heritage matters.
4. SNH reported back to Ministers on 21 August 2001 and their report (and supporting documents) were published. Ministers having considered the report decided to bring forward a Draft Designation Order and that Draft Order is the subject of this consultation.

Draft Designation Order

5. The Scottish Ministers are content that the consultation undertaken by SNH was extensive and thoroughly carried out, and that the report produced met the requirements set. Having fully considered the SNH report the Ministers propose to establish a Cairngorms National Park along the following lines:

The Case for a National Park

6. The Scottish Ministers welcome the Reporter's conclusion that the proposed area meets the conditions for establishing a National Park, as set out in the National Parks (Scotland) Act 2000 and that the level of support for a National Park in the Cairngorms has increased significantly. The Scottish Executive remains committed, as set out in the **Programme for Government "Working together for Scotland"**, to establishing Scotland's first two National Parks by early 2003.

Area/Boundaries

7. The Scottish Ministers have decided that the Park area should consist of the main Cairngorms massif and adjacent settlements together with the Grantown-on-Spey area.
8. The maps attached to the Draft Designation Order reflect these decisions. These maps (at 1:10000 scale) show the boundary at a high level of detail. One of the main aims of this consultation is to clarify and agree the exact line of the boundary to ensure that it is drawn in the most practical and sensible place.

Planning (and other) Powers

9. The Scottish Ministers have noted the polarisation of views on the delivery of the planning function and that the arguments for and against any particular proposal are finely balanced. They have given careful consideration to the advice of the Reporter (which they note is supported by SNH) and believe that the local authorities should retain a significant degree of control. However, they also believe that for the Park Authority to be able to promote fully the aims of the Park, it too must be in a position to influence planning outcomes.
10. The Scottish Ministers have concluded that:
 - responsibility for preparing structure plans should remain with the local authorities but that the Park Authority should be a statutory consultee on their preparation; and
 - the Park Authority should have responsibility for preparing a Park Wide Local Plan (or Plans) and should consult appropriate local authorities and other interests when preparing a Local Plan.
11. As regards development control, the Scottish Ministers intend to leave this function with the local authorities. However, they consider that the Park Authority should be able to call-in for its consideration any application which raises a planning issue that is of significance to the National Park aims under sections of the National Parks (Scotland) Act 2000. This is envisaged as a pro-active rather than a reactive role. It is not intended that the Park Authority will simply step in when a local authority is minded to grant planning permission. Instead, the Park Authority will be expected to intervene at a much earlier stage. The local authorities will have 3 days from receipt of an application to notify the Park Authority of receipt and the Park Authority will have up to 2 weeks from notification to decide whether to call-in the application for its consideration. The Park Authority will be bound by the Town & Country Planning (Notification of Applications) (Scotland) Direction (Circular 4/1997) in the same way as local authorities. It is proposed that local authorities should not have a right of appeal to the Scottish Ministers where the Authority exercises its call-in powers.
12. The Scottish Ministers believe that the local authorities should continue to have enforcement, tree preservation order and advertisement control powers for use in the Park area, but that the Park Authority should share these powers. However, views on this arrangement are sought. They have no strong views, however, on which authority should have the other associated powers under parts III-X and XII-XIV of

the Town & Country Planning (Scotland) Act 1997 which are to be transferred to the Loch Lomond and The Trossachs National Park. Views on whether these should remain with the local authorities, be given to the Park Authority instead, or whether the Park Authority and the local authorities should both have these powers would be welcome.

13. The Scottish Ministers agree about the need for a protocol between the Park Authority and the local authorities for handling planning matters (particularly call-in matters). This will be taken forward without the need for any statutory provision being made.
14. It will be for local authorities to decide whom to nominate to be members of the Park Authority. Training in planning will be given as part of the training programme for members of the Park Authority.
15. We note the strong support from the Reporter and SNH for the proposal in the Review of Strategic Planning that strategic planning issues could be covered in the National Park Plan.

Membership of the National Park Authority

16. Scottish Ministers accept the Reporter's conclusion that the NPA should consist of 25 members. They have also decided that there should be 5 directly elected members, giving a 5:10:10 split of the 25 members (5 directly elected, 10 local authority nominees (who will be appointed by the Scottish Ministers), and 10 direct appointments by Scottish Ministers). The suggested split of the 10 local authority nominees is given below, and provided for in the Draft Designation Order:

5 nominated by Highland Council
5 nominated by Aberdeenshire Council
2 nominated by Moray Council

17. Ministers also accept the Reporter's conclusion that a breadth of experience and knowledge will be important among the members of the NPA, but that places on the NPA should not be reserved for specific public bodies or interest groups. The draft Designation Order therefore makes no specific provision for this.
18. Ministers have decided that the number of appointed members who are required to be "local" (as required under schedule 1 paragraph 3(5) of the Act) should be set at 5 in the Draft Designation Order. This will mean that a minimum of **40%** (10 members) of the NPA will be either locally elected or appointed as local.

Potential Costs of the National Park

19. Ministers note the Reporter's conclusions on the potential costs of the National Park. The annual funding of the National Park Authority from the Scottish Executive will be decided through the normal public expenditure process, as for other Governmental organisations.

Name of the National Park

20. Ministers note the Reporter's conclusion that the name of the National Park should be "The Cairngorms National Park: Pairce Naiseanta a'Mhonaidh Ruaidh". They accept the principle of a bilingual name and are considering how this should be reflected in the drafting of the Designation Order.

Next Steps

21. The National Park will be established under the terms set out in the Designation Order. A draft of that Order is attached, reflecting the policy decisions described in the previous sections, and you are invited to make comments if you wish. As required by the Act, the Order (including the attached maps) will be revised as necessary in the light of comments received, before being laid before the Scottish Parliament for approval. Approval is by means of affirmative resolution. This means that the Order must be debated and approved by the Lead Committee (allocated by the Parliamentary Bureau). The process requires to be completed within 40 days of the Order being laid before Parliament. When it is laid before Parliament, the Designation Order will be accompanied by a report on the consultation and changes made to the draft Order in light of these. The draft Order will specify the date on which the National Park is established; the current plan is for that to be on 24 February 2003.
22. Following approval of the Designation Order, arrangements will be made to hold direct elections to the NPA and make appointments. The provisions for direct elections will be set out in an Elections Order.

The Consultation

23. This is the last consultation on the proposed arrangements for the Cairngorms National Park before going to the Scottish Parliament for approval. The proposed boundary is clearly a crucial element. The maps which are attached to the Draft Designation Order show the proposed boundary at a level of detail which allows the boundary to be related to identifiable features. The intention is that the boundary should follow recognisable topographical features, and should avoid splitting settlements and land holdings *where possible*. In other words, we are looking to establish a long standing, practical and sensible boundary in keeping with the principles set out in SNH's report. However, we recognise that in moving from the Reporter's boundary conclusions to this detailed level of boundary, it has not always been possible to be sure that the boundary **line** is in the most appropriate place in relation to land holdings, **etc.**
24. We are, therefore, intending to use this consultation to talk to those people with land directly affected by the boundary, hopefully to agree with them the most sensible line for the Park boundary. We would, in particular, ask these people to get in touch in the early stages of the consultation so that we have time to consider and discuss any concerns that they may have. All consultees are, of course, most welcome to offer comments.
25. This consultation document is being circulated widely. It will also be available on the Scottish Executive website (www.scotland.gov.uk).

How to Make Comments

Comments on this consultation document should be sent to:

Ruth Montgomery
The Scottish Executive
Rural Affairs Department
Countryside and Natural Heritage Unit
1-J South Victoria Quay Edinburgh EH6 600

Or by e-mail to: npb@scotland.gsi.gov.uk. If replying by e-mail we would be grateful if you would provide your name and address and state whether you are replying on behalf of an organisation or personally.

Ministers may wish to publish the responses to this paper. Should you wish your comments to be treated in confidence, please make this clear. However, all responses may be included in non-attributable summaries of comments received and views expressed.

Further copies of the consultation paper may be obtained by calling 0131 2441562, or by writing or e-mailing to the above address.

Comments should reach us by 22 August 2002