1 RECOMMENDATION

It is recommended that the Committee:-

1. note the terms and content of the Consultation Document published by Scottish Natural Heritage on the Area, Powers and Representation for a Cairngorms National Park, together with the consultation arrangements being undertaken by SNH;

2. note the extensive background to this Consultation Document, including the previous consideration of a number of relevant issues by members at earlier stages of discussion of National Parks proposals (as summarised in parts 2 and 3 of this report);

3. agree to submit this report as the Council’s formal response to the SNH Consultation Document drawing particular attention to:-

   (i) the broad context underpinning the Council’s comments on the interlinked issues arising from areas, powers and representation in a Cairngorms National Park as summarised in part 5 of this report;

   (ii) detailed comments on key issues as contained in Appendix 1 to this report.

4. Agree to advise Scottish Natural Heritage 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 forming the northern section of SNH Sub Area 13 (as illustrated on Map 1 of 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 (as discussed in detail in Appendix 2 to this report);
(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.

5. Note that a separate consultation paper has also been published by the Scottish Executive on direct elections for National Parks which is the subject of a separate report by the Director of Law & Administration.

2 INTRODUCTION

2.1 On 19 September 2000, Scottish Ministers made a formal proposal under the National Parks (Scotland) Act 2000 to establish a National Park in the Cairngorms area and appointed Scottish Natural Heritage (SNH) to advise Ministers on the proposal.

2.2 In developing its advice to Government, SNH is required to consult widely. As part of this process SNH, on 8 December 2000, published a Consultation Document detailing and seeking views on proposals for the area of the proposed Cairngorms National Park and the powers and membership of the National Park Authority.

2.3 Copies of the full SNH Consultation Document have previously been circulated to all elected members and chief officers of the Council (Memorandum of 15 December 2000 from Head of Planning & Transport Policy refers). Copies of a summary version of the Consultation Document are circulated along with the Committee’s agenda papers.

2.4 Views on the issues raised in the Consultation Document on proposals for a Cairngorms National Park have been requested by 13 April 2001 by SNH. This report sets out the terms of the proposed response by Angus Council.

3 BACKGROUND

3.1 Over the past 3 years the Planning & Transport Policy Committee has considered a series of reports at various earlier stages of discussion of issues relevant to National Parks in Scotland and in the Cairngorms, including:-


- Report 1236/98 (1 December 1998) providing the Council’s formal response to the SNH Consultation Document on National Parks for Scotland.


- Report 143/00 (27 January 2000) outlining consultation on the National Parks (Scotland) Bill, and the arrangement made by SNH to develop proposals for consultation on the specific boundaries, powers and representation for a Cairngorms National Park.
• Report 276/00 (9 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.

3.2 The National Parks (Scotland) Act received Royal Assent on 9 August 2000. The Act sets the broad enabling legislation for all Scottish National Parks, including:-

• The general aims for all National Parks.
• Procedures for the creation of National Parks.
• Size and general composition of National Park Authority.

3.3 Taking account of SNH previous advice to Government in 1999, the formal proposal issued by the Scottish Executive on 19 September 2000 identifies the current Cairngorms Partnership boundary as the basis for consideration of the National Park Area. However it is stressed that the consultation exercise now mounted by SNH is designed to canvass and assess views on the appropriate boundary. Similarly the Scottish Executive proposal reflects previous SNH advice that the local authorities in the Cairngorms area should remain the planning authorities, with the new National Park Authority being a statutory consultee in the preparation of relevant Structure Plans, Local Plans and development control. Again the possibility of alternative planning arrangements is not ruled out at this stage (eg the National Park Authority becoming the planning authority).

3.4 Alongside the Council’s participation in the Cairngorms Local Authorities Group, which has assisted SNH in preparing the current Consultation Document (Report 143/00 refers), discussions and briefings on relevant issues have continued, including:-

• Briefing meeting with SNH for various Angus Council elected members on 11 September 2000.
• Site visit to Glen Clova for all elected members, together with Information Notes and presentations on 1 November 2000.

3.5 In the light of the considerable background summarised above, the following section of this report outlines the broad extent and content of the Consultation Document published by SNH on 8 December 2000.

4 CONSULTATION DOCUMENT PUBLISHED BY SNH

4.1 The Consultation Document by SNH entitled “A Proposal For A Cairngorms National Park” has been widely circulated throughout Scotland. A series of local community meetings is being organised by SNH in consultation with Community Councils in and around the Cairngorms, including in northern Angus, to give people and interested groups the opportunity to debate the proposals and make their views known. In addition six open consultation meetings are being held by SNH in Aberdeen, Inverness, Perth, Dundee, Edinburgh and Glasgow.

4.2 The full Consultation Document (copies previously circulated to all members of the Council) is presented in four main sections covering:-
4.3 In addition to the full Consultation Document and the Summary Version, SNH have also prepared various related material, including:

- National Parks for Scotland Information Pack containing summary information on what National Parks are; common questions about National Parks; what opportunities they will bring; how individuals can be involved; key steps; guide to National Parks (Scotland) Act 2000; what National Parks mean for farmers and other land managers; brief history of National Park proposals.

- Twenty Frequently Asked Questions about the Cairngorms as a National Park (leaflet).

- An electronic bulletin providing updated information on the proposed Cairngorm National Park, including consultation arrangements.

4.4 A copy of this additional material is available for inspection from the Director of Planning & Transport.

5 DISCUSSION

5.1 A detailed response to each of the 14 Key Issues identified in the SNH Consultation Document is contained in Appendix 1 to this report. Comments on individual issues should also be seen in the context of more general observations on the area, powers and representation for the proposed Cairngorms National Park as set out below:-

Consultation Arrangements

5.2 SNH have put in place extensive local and national arrangements for consultation on proposals for a Cairngorms National Park. In view of the timescale up to 13 April 2001 for all interested parties to forward comments to SNH, the Council does not have the benefit of assessing views or feedback from other bodies prior to formulating its own response.

5.3 However, based on experience from responses to previous consultation exercises at various earlier stages of consideration of National Parks issues, including comments made during the passage of the National Parks (Scotland) Bill, it is anticipated that the current consultation will elicit a wide range of views based on:-
• 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.

5.4 It is likely that views may vary 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. For example some may see particular economic advantage in the Angus Glens (or parts of the Glens) being encompassed within a Cairngorms National Park, including the role of Glen Clova in particular as a gateway. Others may view the National Park primarily as a useful mechanism for addressing natural heritage interests mainly or exclusively in the Cairngorms Mountain Core.

Interlinked Issues

5.5 Previous reports to Committee have recognised that issues arising from boundaries, powers and representation in National Park areas are interlinked. For example a tightly drawn Cairngorms National Park area which focussed on the core mountain area would be almost exclusively concerned with natural heritage matters, including a relevant range of powers. Conversely, a widely drawn area encompassing various communities and settlements around the Cairngorms is likely to extend into broader socio economic interests and might have a more extensive range of powers.

Area

5.6 The definition of the geographic coverage is a matter of judgement which should take full account of the aims and purpose of the proposed National Park. Crucially the area must generally conform with the three conditions set out in the Act for the identification of a National Park, namely:-

• 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;

• 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.

5.7 Part of the work undertaken by SNH in developing proposals for consultation involved dividing the widest definition of the Cairngorms area into 29 sub units for analysis purposes. Each sub unit is composed of an area of broadly similar characteristics. Four of the sub units lie within Angus. Three indicative options for the area of a National Park in the Cairngorms have subsequently been identified by SNH for consultation purposes. It should be stressed that these three options, which are based on the inclusion of different combinations of sub units, are not prescriptive and other areas based on different boundaries can also be identified.
5.8 For the purpose of identifying some broad geographical alternatives the indicative options identified by SNH for inclusion in the Cairngorms National Park are:-

- Option A focussing on the mountain core of the Cairngorms and excluding Angus completely from the National Park.

- Option B extending from the head of Glen Isla through Glen Prosen and Glen Clova and across to just north of Edzell in Glen Esk.

- Option C encompassing all of the area of Angus north of Kirriemuir and Brechin including a more extensive area than the current Cairngorms Partnership boundary.

5.9 From the Council’s perspective it is suggested that none of the three indicative options satisfactorily meets all the key national requirements and local interests of either a Cairngorms National Park or the specific parts of Angus effected. Rather, taking account of both the conditions to be met and the relationship among area, powers and representation, it is suggested that the Council should promote and support a fourth option lying between Options A and B.

5.10 This preferred option would include part of the National Park Area extending into Angus, 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. Map 1 attached to this report illustrates the three SNH indicative options together with that general part of Angus which it is suggested the Council should promote for inclusion within the National Park and as a basis for identifying a detailed southern boundary for the Park.

Powers

5.11 Under the National Parks (Scotland) Act 2000, the National Park Authority will have a range of specific functions and powers including, for example, for conservation and recreation management. The legislation, however, provides for some flexibility, notably in the level of involvement a National Park Authority could have in the town and country planning system.

5.12 The Government has proposed that local authorities should continue to be responsible for the planning function within the Cairngorms National Park but that they should consult the Park Authority during the preparation of development plans and when making decisions on some proposed developments. However, there are a range of alternative options which, as with options for areas, are likely to attract a variety of views including some who would favour making the National Park Authority directly responsible for all land use planning matters within the Park.

5.13 Recognising that planning powers are among the most contentious of the key issues, Planning Officers from all five of the local authorities in the wider Cairngorms area have previously jointly prepared a detailed paper commenting on relevant matters. This paper, which is included as Appendix 2 to this report, considers in some depth the options for delivery of the planning function within the Cairngorms National Park, including advantages and disadvantages arising from the various options. Again it
recognises the important links between boundaries and powers, together with the wider relationship with other relevant local authority functions.

5.14 The clear and unequivocal conclusion is that the geography and nature of the Cairngorms argues strongly towards the continued delivery of the planning function by the constituent local authorities. This re-inforces the previous advice of SNH to Government and reflects the Scottish Executive formal proposal. In addition this detailed paper on Planning Powers also identifies several ways in which the current planning arrangements can be further strengthened for the benefit of the National Park.

Representation

5.15 Scottish Ministers have proposed that the Cairngorms National Park Authority should be as large as the Act allows with 25 members. If this approach is followed the National Park Authority Board would be made up of:-

- Five directly elected members.
- Ten members appointed by Ministers on the nomination of the local authorities.
- Ten members directly appointed by Ministers.

5.16 A separate consultation exercise is being undertaken by the Scottish Executive specifically on direct elections for Scottish National Parks which is relevant to the five directly elected members. This is the subject of a separate report by the Director of Law & Administration.

5.17 The balance of representation between the relevant local authorities will vary depending on the size and location of the Cairngorms National Park. The allocation between local authorities could be based on the area within each authority which falls within the Park or on the size of the population in these areas. Table 1 is reproduced from the SNH Consultation Document and illustrates potential representation based on either population or area for each of the indicative options.

5.18 It is worth highlighting that Angus has a maximum of up to two representatives under Option B (Area Based) with either one or no representation under the other options. Angus may therefore be regarded as a “minority player” even under Option C where an extensive part of Angus is included within the National Park.

5.19 It is suggested that the Council should strongly press for a minimum of one member under any option where part of Angus is included in the National Park. This would apply to the preferred area option (paragraph 5.10) where parts of Glen Isla, Glen Prosen and Glen Clova are suggested for inclusion in the Park. The justification for this approach would recognise that the National Park is primarily about the management of land including how this relates to areas outwith the Park boundary wherever this is drawn.

5.20 A breakdown of representation on the National Park Authority is illustrated in Figure 1 including reference to the response to relevant Key Issues as set out in Appendix 1.
FIGURE 1: REPRESENTATION ON NATIONAL PARK AUTHORITY

25 members in total on Board of National Park Authority
(See response to Key Issue 9)

5 members directly elected by those living in the electoral wards covering the Park area
(See response to Key Issue 13)

20 members appointed by Scottish Ministers
(See response to Key Issue 11)

10 members appointed on nomination of relevant Local Authorities

10 members directly appointed

Minimum of 5 members must be appointed as ‘Local Members’
(See response to Key Issue 12)

Allocation of Local Authority membership from constituent Councils
(See paragraphs 5.17 to 5.19, Table 1 and Recommendation 4 (iii))

Separate Consultation Paper by Scottish Executive on Direct Elections for National Parks
(Separate report by Director of Law & Administration)
Table 1 – Possible Allocation of Local Authority Membership of the National Park Authority

<table>
<thead>
<tr>
<th>Local Authority</th>
<th>Estimated Population</th>
<th>Approx % of Park Population</th>
<th>Potential No. of Representatives Based on Population</th>
<th>Area (km²)</th>
<th>Area (% of Total Area of Option)</th>
<th>Potential No. of Representatives Based on Area</th>
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<td>1</td>
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<td>10</td>
<td>7340</td>
<td>100</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: Extract from SNH Consultation Document

6 FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising directly from this response to the SNH Consultation Document. The Scottish Executive have previously indicated that National Parks will be centrally funded with no new financial burdens on local authorities. Angus Council have previously welcomed this commitment to central funding, providing this is not at the expense of support for countryside management and rural development elsewhere (Report 276/00 refers).

6.2 As part of the current Consultation Document, SNH have provisionally updated some previous work on estimated ‘core costs’ of a National Park Authority (ie what it costs to run itself) and its ‘programme costs’ (ie what it spends on projects grants etc). The SNH provisional cost estimates, which are based on a National Park which does not extend into Angus or Perth & Kinross and which does not have land use planning responsibilities, are:-

- Core operating costs £1.96m pa.
- Programme costs £1.5m to £2.5m (third year of operation).
7 CONSULTATION

7.1 The Chief Executive, Director of Finance, Director of Law & Administration and the Director of Recreation Services have been consulted in the preparation of this report. Copies of the SNH Consultation Document have previously been circulated to all Chief Officers of the Council.

7.2 Discussions have also been ongoing with the four other local authorities in the Cairngorms area, with Scottish Natural Heritage, and with the Cairngorms Partnership Management Team.

8 HUMAN RIGHTS IMPLICATIONS

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

9 CONCLUSION

9.1 Publication of the SNH Consultation Document on the Area, Powers and Representation for the proposed Cairngorms National Park represents a significant step in the programme and process toward the establishment of a National Park. If, following SNH’s report and advice, the Government decides to move forward with the designation of a National Park in the Cairngorms area, it will need to consult further on the contents of the statutory designation order. This is the legal mechanism by which the Scottish Parliament will establish the Park. The target date set by the Scottish Executive for establishing the Cairngorms National Park is January 2003 with the designation order approved around February 2002.

9.2 Angus Council’s comments at the present time in response to the SNH Consultation Document are set out in part 5 and Appendices 1 and 2 of this report. This includes:

- emphasising that issues arising from areas, powers and representation in National Park areas are interlinked;

- supporting 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 favouring the continued delivery of the planning function and retention of planning powers by the constituent local authorities in the Cairngorms;

- requiring a minimum of one representative nominated by Angus Council to the Board of any National Park Authority which extends into part of Angus.
NOTE

The following 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.

- A Proposal for a Cairngorms National Park – A Consultation by Scottish Natural Heritage on Behalf of The Scottish Executive under Section 3 of the National Parks (Scotland) Act 2000.

AA/CGR/SC
23 February 2001

Alex Anderson
Director of Planning and Transport
SNH KEY ISSUES AND ANGUS COUNCIL RESPONSE

KEY ISSUE 1

- Whether the general area of the Cairngorms meets the legislative conditions for designation as a National Park.

This relates to the relevant attributes found in the broad location of the Cairngorms area. It does not refer to specific boundaries or options for boundaries. The general area of the Cairngorms does meet the three conditions covering outstanding national heritage importance, distinctive character and coherent identity, and special needs (paragraph 5.6 of main report refers).

KEY ISSUE 2

- The appropriate size of the National Park which would allow for its effective and efficient administration by the National Park Authority.
- The preferred option for the area and the reasoning for this choice.

Options A and C provide the general broad parameters for the minimum and maximum size of the Cairngorms National Park for effective and efficient administrative purposes. Angus Council’s preferred option does not correspond to any of the three indicative options identified by SNH. The Council’s preferred option would include part of the National Park area extending into Angus 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.

This preferred option, which lies between SNH Options A and B, most fully reflects all the conditions set for a National Park, including the outstanding national importance of its natural heritage. It also recognises the role of Glen Clova as a gateway in the context of the four aims established by the National Parks (Scotland) Act 2000. (Paragraphs 5.5 to 5.10 of the main report comment more fully on relevant considerations including interlinked issues, while Map 1 illustrates the Council’s preferred option).

KEY ISSUE 3

- The approach SNH has developed in Annex 3 to assess the area against the conditions set out in the National Parks (Scotland) Act 2000.

Angus Council considers that the approach adopted is logical, practical and helpful in helping to construct and assess illustrative options for consideration, recognising that there are many variations possible between the broad options presented to assist public consultation. The approach was the subject of detailed consideration and discussion as part of the work of the Cairngorms Local Authorities Group on which the Council was represented at elected member and officer level.
KEY ISSUE 4

- Any social, economic or environmental information about any of the sub units within the general area being considered for designation as a National Park which might be relevant to the assessment exercise.

Angus Council holds a broad range of relevant information for the four sub units within Angus, including demographic information previously passed to SNH in the course of the work of the Cairngorms Local Authority Group.

KEY ISSUE 5

The principles which SNH propose should be used to establish the detailed boundary of the National Park.

The principles identified in the SNH Consultation Document appear to be appropriate, practical considerations in establishing and mapping the detailed boundary. These principles will need to be applied to establish the most relevant precise boundary after a decision on a preferred option for the area of the Park is reached. For example this would detail the precise boundary of Angus Council’s preferred option as discussed in Key Issue 2 and identified in general terms on Map 1.

KEY ISSUE 6

- Whether there are any further powers that could be envisaged for the National Park Authority in the Cairngorms.

Excluding the planning function, which is covered in Key Issue 7 below, the summary of key powers in the SNH Consultation Document appear the most relevant for the functions of the National Park Authority particularly in the context of the important land management function.

KEY ISSUE 7

- The merits of Scottish Minister’s preferred option for the planning function remaining with the local authorities.
- The alternative option under which the National Park Authority would become the planning authority, with the local authorities given rights as statutory consultees.
- Other options which could be considered.

Angus Council’s firm view is that the planning function should be retained and continued to be delivered by the constituent local authorities (paragraphs 5.11 to 5.14 of the main report comment more fully and Appendix 2 sets out a detailed paper on relevant matters prepared jointly by Planning Officers from all five of the local authorities in the wider Cairngorms area).

KEY ISSUE 8

- The possibility of establishing a single Local Plan for all or part of the area.
- Whether the local authorities should be required to consult the Park Authority on all development proposals, or just those which have particular importance to the special qualities of the National Park.
• Whether local authorities should be required to notify Scottish Ministers of all development proposals on which they are minded to give planning permission against the wishes of the Park Authority, or just those which have particular importance to the special qualities of the National Park.

The Cairngorms Joint Planning Study, carried out during 1998 by consultants on behalf of the five local authorities and the Cairngorms Partnership, concluded that there was significant commonality among the relevant Local Plans. It also recognised that there was no advantage in pursuing a single Local Plan for all of the Cairngorms area where different parts of the area look outwards and have stronger links with the remainder of the respective local authority area. For example the Angus Glens look toward and are an integral part of Angus covered by the Angus Local Plan. While continuing liaison among the planning authorities is important, a single Local Plan is not required.

The joint planning officers paper on Planning Powers as discussed in Key Issue 7 (Appendix 2 of main report) sets out views on various relevant arrangements, including:

• the categories of application on which the National Park Authority should be consulted.
• the referral of applications to the Scottish Ministers in appropriate circumstances.

KEY ISSUE 9

• The size of the Park Board and the number of its directly elected members.

Agree with the Scottish Ministers proposal for a Park Board with the maximum possible number of members and with the minimum number directly elected. Agree that this arrangement could allow most flexibility in the appointment of the remaining members including those appointed on the nomination of local authorities. Under this arrangement the Board would have 25 members made up of five directly elected members; 10 members appointed by Ministers on the nomination of the local authorities; and 10 members directly appointed by Ministers.

KEY ISSUE 10

• The approaches proposed for the allocation of membership between local authorities, and on alternative approaches that could be envisaged.

An approach based on estimated population within the Park, or on estimated area within the Park, or a combination of both appears the most equitable, subject to each constituent authority having a minimum of at least one representative (paragraph 5.15 to 5.19 and Table 1 of the main report comment more fully on representation issues).

KEY ISSUE 11

• The potential areas of knowledge and expertise of those nominated by local authorities and directly appointed by Scottish Ministers.

The broad areas of interests and experience discussed under each of the aims of a National Park in the SNH Consultation Document appear appropriate. A generic heading of “public service” might also be included.
**KEY ISSUE 12**

- The total number of ‘local members’ on the Park Authority and the number of these who should be nominated by local authorities and appointed by Ministers.

In addition to five directly elected members (Key Issue 9) five further members should be appointed as ‘local members’ to meet the minimum requirements. Each authority having more than one representative should appoint at least one representative as a ‘local member’. In relation to the possible representation indicated on Table 1 of the main report this would ensure a minimum of two ‘local members’ nominated by local authorities and a maximum of three ‘local members’ appointed by Ministers.

**KEY ISSUE 13**

- The timing of the direct elections with respect to the appointment of other members of the Park Board.

It is essential that the election procedures are agreed and in place in adequate time for preparations to be made by election administrators. A separate Consultation Paper on Direct Elections has been published by the Scottish Executive, including discussion of the timings of elections, which is the subject of a separate response by the Director of Law & Administration.

**KEY ISSUE 14**

- The name of the National Park proposed for the Cairngorms area.

“Cairngorms National Park” is the most appropriate title. Indeed this accords with the terms of Angus Council’s general response to the SNH Consultation Document which recognises that the interlinked issues of boundaries, powers and representation clearly point to a National Park which focuses mainly on the core mountain area and is concerned primarily with natural heritage and land management matters.
1.0 **Background**

1.1 This paper considers the options for delivery of the planning function within the Cairngorms National Park, and makes recommendations. However, it is important to bear in mind that this issue cannot be viewed in isolation from the question of the boundary of the National Park. Not only will this affect the number of local planning authorities that will be directly affected, but also the final boundary will affect the relative importance of planning work compared to say land management and ecology. Thus, a wide boundary will include areas of relative development pressure, while a tighter boundary will focus attention on land management and recreational activities.

1.2 Bearing this in mind, the main statutory functions of a local planning authority as laid out in town and country planning and countryside legislation are –

- preparation of development plans (Structure Plans and Local Plans)
- development control
- enforcement
- conservation areas and listed buildings – designation, enhancement and consents
- tree preservation orders
- advertisement consents
- controls relating to hazardous substances
- rights of way protection

1.3 However, local authority Planning Services invariably extend much further than this in their delivery of services. Thus, other powers exercised and advice given by one or more of the planning authorities in the Cairngorms include archaeology, access, countryside rangers, landscape architecture, ecology/nature conservation, building control and environmental improvements.

1.4 Local government functions are also increasingly being integrated, so that for example planning is combined in service delivery with economic development and transportation. This is the situation at Aberdeenshire and Moray Councils. There is also an increasing degree of corporate activity in broad policy and initiative work within local authorities. Current examples include Community Planning, Local Agenda 21 and Social Inclusion Partnerships. Planning authorities within the Cairngorms authorities are playing significant roles within these corporate undertakings.

1.5 The greater complexity of the work of planning authorities in the Cairngorms, and their inter-relationship with other local authority functions and powers, at this stage thus should be noted.

2.0 **Provisions of the National Parks legislation**
2.1 Section 10 of the National Parks (Scotland) Act 2000 provides for three possibilities in respect of planning functions for National Park Authorities –

(a) To be the planning authority for the National Park for the purposes of the Planning Acts.

(b) To be treated as the planning authority for the National Park, but only for such purposes of Part II (development plans) of the Town and Country Planning (Scotland) Act 1997 (c.8) as are specified in the [designation] order.

(c) To have, in relation to the National Park, such functions in relation to planning as the [designation] order may specify.

In the explanatory notes accompanying the publication of the Bill, the third option was clarified by stating – “this option could include, for example, the possibility of the planning function remaining with local authorities in the area, with the National Park Authority being given statutory powers as a consultee”.

2.2 As for any other function of the National Park Authority, Section 16(1) of the Act enables the NPA to arrange for the planning function to be exercised on its behalf by a local authority, which may exercise that function accordingly.

2.3 Also, under Schedule 1, clause 14, a NPA may set up a Planning Committee to carry out the directions of the Authority. This Committee can include appointments by the NPA who are not members, provided that a majority of the Committee members are members of the NPA.

2.4 The National Park Proposal for the Cairngorms National Park favours the planning function remaining with the local authorities, with the NPA having powers as statutory consultee. However, the Proposal requires an analysis of other possible arrangements, and so this option plus others are considered in detail below.

3.0 Option (a): Cairngorms National Park Authority as the planning authority

3.1 Under this option, the functions set out in paragraph 1.2 would be transferred to the National Park Authority. Depending on the eventual boundary of the Cairngorms National Park, up to five local planning authorities would be affected. Assuming a wide boundary, with regard to structure planning, under present local authority arrangements the Cairngorms National Park area is covered by five Structure Plans (Highland, Moray, Aberdeen/Aberdeenshire, Angus/City of Dundee and Perth and Kinross). If this duty was transferred to the NPA, there would be two options for Structure Plan work. It may wish to prepare a single Structure Plan solely for the National Park (as is done by the Peak Park Authority in England). However, this would not reflect the strategic context of the outer Cairngorms areas with their respective hinterlands. Alternatively, therefore, the NPA might wish to take part within joint structure planning arrangements for the Structure Plans of the various local authorities. This would be set out in a Joint Structure Planning Direction by the Scottish Minister.

3.2 For local plans, again assuming a wide National Park boundary, under present local authority arrangements the Cairngorms will be covered by six Local Plans (Badenoch
& Strathspey, Moray, Aberdeenshire, Angus and Perth & Kinross (Highland and Eastern)). If this duty was transferred to the NPA, it is likely that one local plan would be prepared to cover the whole Cairngorms area.

3.3 Development control, enforcement and other associated work would be carried out by the NPA, based on the implementation of these documents together with the National Park Plan, plus other material considerations.

3.4 There are various options for the NPA with regard to staffing for the delivery of these functions. The NPA could employ dedicated planning staff, perhaps transferred from the local planning authorities. Or it could utilise the services of the local authority planning staff on an agency basis (such as the preparation of the Development Plans). Or again it could enter an agreement with the local authorities to exercise aspects of the planning function on its behalf (such as the bulk of minor development control casework).

3.5 Any transfer of staff from local authority planning departments would require careful consideration, since at present many planning functions are carried out on a wider scale basis. For example, listed buildings, conservation area and tree preservation work are each carried out centrally on a local authority-wide basis. Aberdeenshire Council’s Archaeology service covers not only the whole of Aberdeenshire but also acts as an agent to Moray and Angus Councils. Also, Local Plans officers in Highland Council cover not only Badenoch and Strathspey, but also Inverness, Nairn and Lochaber.

3.6 Advantages

- A Cairngorms National Park Authority with full planning powers would provide a very clear signal about the centrality of the National Park in decision making. Applications could be determined by members or officials of the National Park Authority on the basis of policies contained within a Local Plan for the Cairngorms National Park itself and on the basis of a Structure Plan in which the NPA will have played a direct part.

- Decision making would rest with the NPA for all types of planning applications. It would be up to the NPA to agree any agency or delegation or Committee arrangements.

- An opportunity would be provided to forge a cohesive identity in land use and development patterns over the whole National Park area. A common approach over policy and design matters is assured for example in relation to both Strathspey and Upper Deeside. Associated issues, such as transport, could also be considered on a Cairngorms-wide basis through the Development Plan.

- The Cairngorms NPA would be able to speak as a single voice on planning matters in relation to the Cairngorms National Park – for example, in responding to consultations from Government or other agencies.

- The authority would have the same standing in planning terms as National Parks in England and Wales (and probably with the Loch Lomond and Trossachs
National Park). This may be helpful in participating in joint work and joint forums on planning matters.

3.7 Disadvantages

- A separate planning authority for the Cairngorms would cut across the various settlement links that radiate from the central area. The relationships between communities and the higher-level services on which they draw (e.g., employment, shopping, health) will therefore not be reflected in the planning responsibility.

- Different parts of the Cairngorms area have different cultural identities (e.g., the Gaelic traditions of Badenoch & Strathspey; the Estates of Highland Perthshire) and are influenced by different factors (e.g., the proximity of Aberdeen to Deeside; the isolation of Tomintoul). These require detailed reflection in the planning process and so a unified approach across the whole of the Cairngorms area is undesirable.

- The present involvement of local authority planning services in corporate local authority work that affects the Cairngorms would be harder to achieve where this is divided off into another authority.

- A Cairngorms NPA with a statutory right to joint structure planning work with the various local authorities could be contentious, in that the NPA would have a material say in the strategic planning not only of the Cairngorms, but also of such areas as distant as Skye, Aberdeen and (if widely drawn) Dundee.

- A specific Local Plan for the Cairngorms could be perceived as duplicating the work on the preparation of a National Park Plan. It is likely to take longer to adopt, in view of the statutory requirements for Local Plan preparation. It would be a relatively large and diverse area for one Local Plan to cover. Besides which, the degree of development pressure to accommodate in such a Local Plan would be very limited.

- Given the proposed arrangements for representation on National Park Authorities, democratically elected local authority members would lose the right to represent their constituents on planning matters.

- The planning function would represent a major and time-consuming responsibility for the Cairngorms NPA, as much town and country planning decision making is of a very detailed and localised nature and of very limited significance to the overall aims and objectives of National Park designation. The appended table provides detailed information on development control casework in the Cairngorms Partnership area for the year ending March 2000. From this it can be seen that unless some form of agency or delegation arrangement was established with the local authorities, NPA officials in particular and members would require to spend considerable time on planning matters of only marginal significance to the National Park.

- It is unlikely that the NPA would be able to possess the whole range of more specialised expertises involved in the planning function, e.g., listed buildings,
hazardous substances, and so these would still have to be delivered by the local authorities on an agency basis.

- Direct links with other responsibilities and functions exercised by the Cairngorms local authorities (e.g. archaeology) would be either severed or duplicated. In particular, there would be a duplication of staffing with the building control officers of the local authorities, who presently can also carry out a planning enforcement role (e.g. Badenoch and Strathspey).

- Any Planning sub-Committees set up by the NPA to take account of the existing local authority structure would be administratively complicated for the NPA.

- The local authorities may seek a system of consultation and possible referral powers to the Scottish Minister in cases where its opinion on a planning application was contrary to that of the NPA.

### 3.8 Conclusion

For the particular case of the Cairngorms, given its geography of settlements around the perimeter and no roads through the main montane areas, together with the historical development of local authority work across the area, there are significant weaknesses in the case for the planning function being exercised in full by the National Park Authority.

### 4.0 Option (b): Cairngorms National Park Authority possessing the planning function only in relation to Development Plan preparation

#### 4.1 Under this option, the Cairngorms NPA would be responsible for the preparation of a Local Plan and perhaps a Structure Plan for the area, but the local planning authorities would retain the responsibility for development control work and all other planning functions. The comments above as regards development plan preparation for the Cairngorms therefore apply also here.

#### 4.2 This option is considered to be the least practicable, and is therefore not given great consideration here. It is a generally held view that “those who make policies should also be responsible for their implementation” (Report of National Parks Review Panel, 1991). Such examples in England and Wales have been removed by virtue of the Environment Act 1995. Any splitting of the planning function not only loses the inter-relationship between policy and implementation, but also fails to take into account the broader work of planning authorities, such as development briefs, acquisition of land and supplementary guidance.

#### 4.3 Conclusion

This option is not considered to be a realistic proposal for the Cairngorms National Park.

### 5.0 Option (c): Planning function remaining with the local planning authorities, with a defined role for the National Park Authority
5.1 Under this option, a likely scenario (as foreshadowed in the National Park Proposal) would be as follows: The Planning Committee and planning officials of each constituent local authority would continue to determine planning applications in the Cairngorms National Park area. Each would continue to produce Structure Plans and Local Plans that cover parts of the National Park area but (with the possible exception of Badenoch and Strathspey) do not correspond precisely with the boundary. The NPA would be a statutory consultee for Structure Plans and Local Plans wholly or partly covering the National Park area. They would have the right of representation to the Scottish Minister on these Plans, and the Scottish Minister can modify the Plans if he/she thinks fit (NB: for a Local Plan, the Scottish Minister has the power to call it in for his/her own amendment and approval under Sections 17-19 of the 1997 Act if an issue of national policy is involved – which would be the case for a National Park issue). Subject to the details of the designation order, the NPA would be a consultee for planning applications as set out in the order; if the NPA objects to any application, and the planning authority is minded to approve it, consent cannot be granted without a prior referral to the Scottish Minister.

5.2 The National Park Plan prepared by the NPA will be a material consideration in the planning process, including when this continues to be delivered by the local authorities. Section 13 of the Act requires local authorities to have regard to the National Park Plan in exercising inter alia their planning function. Also, Schedule 5, clause 15 requires special attention to be paid to the desirability of exercising the local authorities' planning power consistently with the National Park Plan. Local planning authorities would also continue to be guided by National Planning Policy Guidelines (NPPGs) issued by the Scottish Executive, together with any other guidance issued in respect of National Parks.

5.3 Advantages

- Delivery of the planning function would continue to reflect the settlement pattern of the Cairngorms area and the relationship between communities and facilities required, which extend well beyond the National Park area.

- The distinctive community zones within the Cairngorms area would continue to be reflected in the planning process, thus allowing for their differences, but within an overall strategic framework set out in the National Park Plan.

- The National Park Authority would be able to concentrate mainly on other significant issues within the Cairngorms, such as land management, access and recreation, for which the Cairngorms are nationally important.

- Under agreed planning arrangements with the local authorities, the National Park Authority would be able to concentrate its attention on those relatively few cases where a planning issue of some material significance arose in the Cairngorms, rather than have to deal with all planning casework. As noted above from the data in the appended table, the vast majority of planning applications are “minor”, able to be dealt with already under delegated powers to planning officials. Such essentially local matters can be left to the local planning authorities, leaving the NPA to concentrate under consultative arrangements (see below) on applications of more strategic importance.
Possible duplication and confusion between a Structure Plan, Local Plan and National Park Plan within the Cairngorms would be avoided. The main focus within the National Park area would be the wide-ranging Park Plan, which can concentrate on land management and recreational issues. Development Plans of the local authorities would be complementary to this, dealing mainly with land use development.

The full range of integrated planning services would continue to be available in each local authority area. In this particular case of the Cairngorms, local authorities could draw upon existing expertise in archaeology, historic buildings, landscape architecture and building control. An integrated planning input would also continue to be possible within corporate local authority work that covered the Cairngorms area.

5.4 Disadvantages

- It could be perceived that the planning function would carry on unchanged even after National Park designation for the Cairngorms and the establishment of the National Park Authority. This might be unsatisfactory to those who have advocated reforms.
- Delivery of the planning function by up to five different local authorities would continue to pose the challenge of satisfactory co-ordination and harmonisation of policies and decisions as necessary across the Cairngorms area as a whole.
- The National Park Authority would have to rely on a referral power to the Scottish Minister and support from him/her in order to secure a decision on a planning application where it was at odds with the local authority.
- Research work and monitoring on planning issues in the Cairngorms might not be as focussed where the function is divided over several authorities, who each are responsible for much larger and more diverse territories, than would be the case where a dedicated National Park planning authority existed.

5.5 Conclusion

As concluded in SNH's Advice to Government and as reflected in the National Park Proposal, the geography and nature of the Cairngorms argues strongly towards the continued delivery of the planning function by the constituent local authorities. However, there are several areas where this approach could be strengthened, and these would need to be addressed by the local authorities and within the designation order.

6.0 Proposed Development of Option (c)

6.1 Bearing in mind the disadvantages noted above, the five potential local planning authorities for the Cairngorms have agreed to work to the following arrangements in respect of the Cairngorms National Park area. The local authorities will work to this arrangement as far as possible straight away with the Cairngorms Partnership prior to it coming into full effect once the National Park Authority is established. Parts of this protocol can be repeated in the designation order for the National Park -
The National Park Authority should be a statutory consultee in the preparation of Structure Plans and Local Plans by local authorities wholly or partly covering its area.

In the preparation of Structure and Local Plans, a local authority must consult the other local authorities in the National Park area.

The National Park Authority should be sent weekly lists of all planning applications, and must be consulted on those for which a request is made to the relevant local planning authority. In any case, the National Park Authority should be a statutory consultee on all planning applications in the National Park which are contrary to the Development Plan or National Park Plan, or which are accompanied by an Environmental Assessment. They should also be consulted on other planning applications as the local authorities in any case think fit, which is likely to include all those of more than a minor nature, which may affect the National Park.

Where the National Park Authority recommends refusal of a planning application, which the planning authority is minded to approve, the application should be referred to the Scottish Minister.

The local authorities and the National Park Authority should hold an annual monitoring and evaluation meeting, to ensure the co-ordination of policies and decisions, including within emerging development plans, and to discuss matters of mutual concern regarding overall policy towards effective planning in the Cairngorms.

6.2 It is considered this will provide a robust basis for the exercising of the planning function in the Cairngorms, and will crucially leave the National Park Authority with the necessary focus to address the other key issues of national importance, particularly land management, recreation and access.
DEVELOPMENT CONTROL CASEWORK, APRIL 1999 - MARCH 2000,  
IN CAIRNGORMS PARTNERSHIP AREA  

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Nature of Applications

- **Householder**: 87 (37.2%), 11 (31.4%), 82 (35.0%), 22 (37.9%), 6 (14.0%), 208 (34.4%)
- **Minor Dwellings (<10 houses)**: 56 (23.9%), 7 (20.0%), 56 (23.9%), 11 (19.0%), 12 (27.9%), 142 (23.5%)
- **Minor Business and Industry**: 35 (15.0%), 6 (17.2%), 21 (9.0%), 3 (5.2%), 12 (27.9%), 77 (12.7%)
- **All Other Minor Developments**: 32 (13.7%), 11 (31.4%), 31 (13.3%), 13 (22.4%), 9 (20.9%), 96 (15.9%)

**Total Minor Applications**: 210 (89.7%), 35 (100.0%), 190 (81.2%), 49 (84.5%), 39 (90.7%), 523 (86.6%)

- **Major Dwellings (>10 houses), Major Business and Industry, Minerals, Other Major Developments**: 12 (5.1%), 0 (0%), 8 (3.4%), 2 (3.4%), 2 (4.7%), 24 (4.0%)
- **Other Applications (e.g advertisements)**: 12 (5.1%), 0 (0%), 36 (15.4%), 7 (12.1%), 2 (4.7%), 57 (9.4%)

**Total All Applications**: 234 (100%), 35 (100%), 234 (100%), 100 (100%), 43 (100%), 604 (100%)

**Note:**

- BS = Badenoch and Strathspey
- M = Moray
- Ab = Aberdeenshire
- An = Angus
- PK = Perth and Kinross