

Consultation on the Community Empowerment (Scotland) Bill



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Cairngorms National Park Authority

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Forename

2. Postal Address

14 The Square

Grantown-on-Spey

Morayshire

Postcode PH26 3HX

Phone 01479 873535

Email

3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

Yes No

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

3. Please indicate which category best describes you or your organisation (Tick one only). If you are a representative or umbrella body, please tick the category you represent.

Community organisation	<input type="checkbox"/>
Third sector / equality organisation	<input type="checkbox"/>
Private sector organisation	<input type="checkbox"/>
Representative body for professionals	<input type="checkbox"/>
Local government	<input type="checkbox"/>
Community Planning Partnership	<input type="checkbox"/>
Public Body, including Executive Agencies, NDPBs, NHS etc	<input checked="" type="checkbox"/>
Academic or Research Institute	<input type="checkbox"/>
Individual	<input type="checkbox"/>
Other – please state...	<input type="checkbox"/>

Consultation on the Community Empowerment (Scotland) Bill

Response Questionnaire

Chapter 3 - Proposals with draft legislation

Please read the draft Bill provisions before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

Please make sure you also return the Respondent Information Form with your response, so that we know how to handle it.

3.1 Community Right to Request Rights in Relation to Property

Please read Part 1 of the draft Bill (Annex C pages 1 to 9) before you answer these questions:

Q1 Do you agree with the definition of community body at section 1?
Yes No

Do you have any changes to suggest?

For the sake of clarity it is important to emphasise that this definition covers bodies such as Development Trusts and Community Companies, which are often the most appropriate vehicle for management of assets within communities.

As a general point, the role of Community Councils, which can often be one of the few constituted bodies in rural communities, seems to be somewhat underplayed in the proposals. While they are not normally appropriate bodies to own or manage assets directly, their role in the asset transfer process should be clarified and strengthened. Their central position in rural communities as important consultative and leadership organisations at a local level should be reflected throughout the Bill and supporting material. That said, we are aware that Community Councils vary considerably in how they operate and further work is required to make sure they are working effectively on behalf of their communities. Within the National Park we have also worked positively with Community Associations where no Community Council is in place.

It would also be useful for the associated guidance to emphasise that community bodies should take measures to ensure that they have the appropriate skills, training and legal security, particularly when large capital projects and investments may be required.

Q2 Do you agree with the list of public bodies to be covered in this Part at Schedule 1 (Annex C page 21)?

Yes No

What other bodies should be added, or removed?

We support inclusion of National Park Authorities on this list. CNPA currently manages no assets directly (either land or buildings) as our approach over the last ten years since establishment of the National Park has been for other bodies (frequently community-led bodies) to manage such assets. We have already assisted many community-led bodies to take on assets and have promoted capacity building so that they are managed effectively. We are pleased to see this approach will be strengthened and extended.

Q3 What do you think would be reasonable timescales for dealing with requests, making an offer and concluding a contract, in relation to sections 5(6), 6(2)(c) and 6(6)?

CNPA is aware that community organisations, particularly in rural areas can meet fairly infrequently and would hope that any timescales would be flexible enough to reflect the specific context of each request.

Community capacity will be an essential consideration with regard to timescales in this process. There is an important distinction between community “desire” and community “capacity” to take on and manage assets. Public agencies and community/voluntary sector support agencies have a central role to play in this regard to ensure that enthusiasm within a community is matched with capacity, skills and confidence. Capacity is inherently difficult to measure, but is an important factor nonetheless.

National Park Example

CNPA has worked in partnership with Voluntary Action Badenoch & Strathspey and Highland Council (with additional ESF and Robertson Trust funding) to develop a “Strengthening Communities” project. This provides a series of training and capacity building seminars for community bodies (who have already agreed priorities and actions for their communities) in order to help them undertake projects more effectively and with greater confidence. CNPA feels that this presents an excellent model of partnership working across sectors to provide positive outcomes for community-led development.

It is important to recognise the links between this section and that under “Community Right to Buy.” Paragraph 58 specifically mentions the provision under the existing Land Reform (Scotland) Act which allows for the appointment of Land Fund Advisors to support community bodies going through the process. It would be useful to consider making a similar provision within this section, with potential roles for central/local government and third sector agencies in supporting capacity building within communities.

In addition, public agencies will also have to take account of best value and the life cost to the public purse of transferring an asset into community ownership or management. Again, this can be difficult to project, but must be considered. The legislation proposed here needs to complement the existing

national legislation and policy underpinning community capacity building and development.

Q4 Do you agree that community bodies should have a right of appeal to Ministers as set out in section 8?

Yes No

Are there other appeal or review procedures that you feel would be more appropriate?

No comment

Q5 What form of appeal or review processes, internal or external, would be appropriate in relation to decisions made by local authorities and by Scottish Ministers?

No comment

Q6 Do you have any other comments about the wording of the draft provisions?

No comment

Q7 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

As a general point we consider that it is important to take a long-term view of the asset transfer process. It is imperative that there is continued investment to support community bodies in the management of assets that are taken on.

It is important to bear in mind that in some cases community asset transfer is a measure of last resort, as frequently the asset is failing, in poor condition, has been stripped of commercial value, or has real challenges around its development - otherwise the current owner would be exploiting it.

With this in mind potential environmental and social benefits have to be given appropriate weight in any process.

3.2 Community Right to Request to Participate in Processes to Improve Outcomes of Service Delivery

Please read Part 2 of the draft Bill (Annex C pages 9 to 14) before you answer these questions:

Q8 Do you agree with the definition of community body at section 11?

Yes No

Do you have any changes to suggest?

We are pleased to see the specific role for Community Councils (but note our general comments about CCs in Q1).

The broad definition allows a wide range of bodies to potentially exercise this right. Whilst this is positive, CNPA would be keen to ensure that the body is strongly encouraged to provide evidence that it is representative of the community it is claiming to be acting on behalf of.

Q9 Do you agree with the list of public bodies to be covered in this Part at Schedule 2 (Annex C page 21)?

Yes No

What other bodies should be added, or removed?

We note that National Park Authorities are specifically included and welcome this provision. We already have a number of mechanisms in place to facilitate and encourage active community involvement in the public service delivery in the Park (e.g. Advisory Forums), Such mechanisms relate to the both the public services delivered specifically by CNPA (e.g. for the Planning Service and for management of Outdoor Access) and to public service delivery more generally within the National Park (e.g. tourism, and land management).

CNPA is a relatively small organisation and would want to prevent this process becoming an administrative burden, particularly when resources are limited.

Q10 Do you agree with the description at section 13 of what a participation request by a community body to a public service authority should cover?

Yes No

Is there anything you would add or remove?

While supporting the existing description as far as it goes CNPA considers that this provision could be strengthened in two respects. Firstly, by requiring the community body to provide evidence of how representative it is of the community (of place and/or of interest) it is acting on behalf of and how it will link to local democratic structures (e.g. Community Councils, Community Association). This will help ensure local accountability and transparency.

Secondly, it would be important that the community body is asked to set out whether or not it has previously been involved in an engagement activity regarding the specified outcome, what that input achieved and what requires to be done to improve processes. This will ensure that we can build on the success of existing approaches and allow the authority to learn from previous issues.

Q11 Do you agree with the criteria at section 15 that a public service authority should use when deciding whether to agree or refuse a participation request?

Yes No

Are there any other criteria that should be considered?

In line with the comment in Q10, CNPA considers that it should include a requirement for the public body to reflect on the evidence of how representative the body is of the community it is acting on behalf of; and whether or not the community body has previously been involved in engagement activity around the delivery of the outcome. Moreover, greater clarity on what are to be deemed as “reasonable grounds” for refusal would be helpful.

For the purposes of clarity, CNPA assumes that a “request to participate” should be lodged with the public body that leads on the development of the strategic document or process that is being referred to. For example, a “request to participate” in relation to an outcome identified in the Cairngorms Nature action plan, should be directed to CNPA as the lead body for the plan and not Scottish Natural Heritage as the lead body for natural heritage issues at a national level.

Q12 Do you have any other comments about the wording of the draft provisions?

The wording is helpful and reinforces the good practice which CNPA strives to undertake and should help to provide clarity on any issues that arise.

National Park Example

CNPA has worked in partnership with key community bodies and support agencies in over 20 communities across the National Park, to produce Community Action Plans and Vision Statements. These documents have highlighted key priorities for community-led development in the National Park and have informed the development of key strategic documents, including the National Park Partnership Plan and Local Development Plan.

CNPA feels that this is a sustainable and mutually beneficial model of engagement at the earliest opportunity and hopes to build on these existing relationships. Doing so proactively and constructively should help to minimise the need for community bodies to make use of this provision.

It may be useful to consider whether or not to include a clause similar to that provided for in Section 14 of the Freedom of Information (Scotland) Act 2003. This allows for non-compliance in public bodies if the request is vexatious. Additional guidance is provided to set out what this would mean from a practical point of view. Inclusion of something similar in the Community Empowerment (Scotland) Act may help to ensure that engagement through this provision is constructive.

Q13 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

This process should hopefully underpin the effective use and application of resources to improve outcomes, leading to savings in the long-term.

3.3 Increasing Transparency about Common Good

Please read Part 3 of the draft Bill (Annex C pages 14 to 16) before you answer this question:

- Q14 Do you think the draft provisions will meet our goal to increase transparency about the existence, use and disposal of common good assets and to increase community involvement in decisions taken about their identification, use and disposal?

Yes No

What other measures would help to achieve that?

CNPA currently has no statutory responsibility in relation to these issues. However, we appreciate that they can have social, economic and environmental impacts on communities in the National Park and we retain a general interest in these matters.

It may be useful to consider amending 22(5) to include “any network or grouping of community bodies of which the authority is aware” so that collaborative community partnerships could take a collective view, as well as or instead of an individual organisation view.

3.4 Defective and Dangerous Buildings – Recovery of Expenses

Please read Part 4 of the draft Bill (Annex C pages 17 to 19) before you answer these questions:

- Q15 Do you agree that the cost recovery powers in relation to dangerous and defective buildings should be improved as set out in the draft Bill?

Yes No

- Q16 Do you agree that the same improvements should apply to sections 25, 26 and 27 of the Building (Scotland) Act 2003?

Yes No

Consultation on the Community Empowerment (Scotland) Bill

Response Questionnaire

Chapter 4 - Detailed Policy Proposals

Please read the draft Bill provisions before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

Please make sure you also return the Respondent Information Form with your response, so that we know how to handle it.

4.1 Improve and extend Community Right to Buy

Q17 The Scottish Government proposes to extend right to buy to communities in all parts of Scotland, where the Scottish Government is satisfied that it is in the public interest. Do you agree with this proposal?

Yes No

Are there any additional measures that would help our proposals for a streamlined community right to buy to apply across Scotland?

CNPA owns no assets at present and, as such, would not be the subject of a Right to Buy application. However, there are areas of community-owned and managed land within the Park and we are well aware of the benefits that this process can bring to the overall management of the National Park. We generally seek to support organisations going through this process and in their management of the asset.

Q18 Do you think that Ministers should have the power to extend “registrable” land” to cover land that is currently not included as “registrable land”?

Yes No

What other land should also be considered as being “registrable”?

No comment

Q19 Do you think that there should be a compulsory power for communities to buy neglected or abandoned land in certain circumstances?

Yes No

What should these circumstances be?

Conditions should include:

- Public bodies (especially local authorities) have taken all reasonable steps to encourage the land/asset owner to improve the land/asset
- The power should be limited to a constituted community body, which can evidence the extent to which it is representative of the community
- The constituted community body has taken all reasonable steps to encourage the land/asset owner to improve the land/asset
- The constituted community body undertakes to have an independent survey of the land/asset completed to establish state of neglect or abandonment.

Q20 How do you think this should work in practice? How do you think that the terms “neglected” and “abandoned” should be defined?

On the basis of conditions set out in answer to Q19.

Onus should be on the community body to set out their case to be assessed against criteria.

Q21 Do you think that the criteria to be met by a community body in section 38(1) of the Act are appropriate?

Yes No

Do you think that there should be additional criteria? Please set out what changes or additions should be made to the criteria.

No comment

Q22 Do you think that the information that is included in the Register of Community Interests in Land is appropriate?

Yes No

If not, what should that information include?

No comment

Q23 How could the application form to register a community interest in land be altered to make it easier to complete (e.g., should there be a word limit on the answers to particular questions)?

Good guidance, including relevant structured questions and a maximum word limit, would allow applicants to supply the necessary information in an efficient manner.

CNPA feels that the National Forest Land Scheme offers a useful model to

follow in this instance (as well as in Asset Transfer).

Should the questions be more specifically directed to the requirements of sections 36(2) and 38(1) of the Act?

Yes No

Do you have any other suggestions?

No comment

Q24 Do you agree that communities should be able to apply to register an interest in land in cases where land unexpectedly comes on the market and they have not considered using the community right to buy?

Yes No

If so, what changes should be made to section 39 to ensure that such communities can apply to register a community interest in land?

In general terms we support the provision that encourages communities to plan ahead and be proactive about considering the land that they may wish to acquire. However, we generally support the pragmatic proposals in this section. The land/asset owner could be required to place a moratorium on any sale for a period of four weeks, in order to allow a community to begin the process of registering an interest. If this does not happen, then the owner can proceed with a private sale. If it does happen then a limit should be set for conclusion of the procedure so that the existing owner is not delayed in transferring land for an unreasonable period of time.

Q25 Do you agree that the process to re-register a community interest should be a re-confirmation of a community interest in land?

Yes No

Q26 Do you think that the community body should be asked to show that its application is (1) still relevant, (2) has the support of its "community", and that (3) granting it is in the public interest?

Yes No

Q27 What do you think should be the length of the statutory period for completing the right to buy, taking into account both the interests of the landowner and the community body? Please explain the reasons for your proposal.

No comment

Q28 Do you think that some of the tasks within the right to buy (such as valuation, ballot etc) should be rearranged and the timescales for their completion changed in order to make the best use of the time available within the right to buy? Please set out what changes you think should be made and why.

No comment

Q29 Do you agree that Scottish Ministers should organise the undertaking of a community body's ballot and pay its costs?

Yes No

If you disagree, please provide your reasons.

Yes this seems a sensible arrangement to promote transparency and accountability.

Q30 Should Scottish Ministers notify the ballot result to the landowner?

Yes No

Please explain your reasons.

This is not an unreasonable step to take and should not be an onerous process.

Q31 Do you think Ministers should develop a pro-forma for community bodies to set out their plans for the sustainable development of land and community?

Yes No

Please give reasons for your view.

This provision would be especially welcome within National Parks. CNPA has already worked with community bodies throughout the Park to develop community vision statements which have been used to generate the National Park Partnership Plan and the Local Development Plan. Such visions would assist the community bodies to frame their proposals for the land appropriately.

It would be helpful if this process could be linked to the Local Development Plan. Detailed guidance, or some form of toolkit outlining the type of information expected, would be helpful. CNPA would be pleased to assist community bodies with this kind of work within the Park.

In addition, if a proforma approach is supported, communities will need access to better economic, social and environmental intelligence and data to allow preparation of well founded business plans and feasibility studies that demonstrate measurable gains for sustainable development.

Q32 Do you agree that community bodies should be able to define their "community" in a more flexible way by the use of either postcodes, settlement areas, localities of settlements, and electoral wards, or a mixture of these, as appropriate?

Yes, rural communities do not always fit well with administrative boundaries. Community bodies should be allowed to outline their community in as flexible a way as possible.

Q33 Are there any other ways that a “community” could be defined?

Possible options could include use of:

- Data-zones
- Local Development Plan settlement boundaries
- Census Output Areas
- Historic/Cultural Areas
- National Parks
- Recognised geographical areas based on clear topographic features and river catchment areas

Q34 Do you agree that other legal entities in addition to the company limited by guarantee should be able to apply to use the community right to buy provisions?

Yes No

Q35 Do you agree that SCIOs should be able to apply under the provisions?

Yes No

Q36 What other legal entities should be able to apply under the community right to buy provisions – and why?

We assume that this provision would include bodies such as Development Trusts and Community Companies, which are increasingly acting as the main body for asset management in rural communities.

Q37 Do you agree that Ministers should only have to “approve” the changes to Articles of Association for community bodies that are actively seeking to use or are using the community right to buy?

Yes No

Q38 Do you think that the length of a registered interest in land should remain as five years or be changed? If it should be changed, how long should it be – and what are your reasons for making that change?

No comment

Q39 Do you agree that the valuation procedure should include counter representations by the landowner and community body?

Yes No

If you disagree, please give your reasons for your decision.

Communities should have the opportunity to challenge valuations, in particular 'hope' value, which can add considerably to the capital value. Valuations should place most of their weight on current local plans or those in the development process, not an expectation that plans will alter in the future to accommodate speculative opportunities.

- Q40 Do you think that there should be a provision to deter landowners from taking the land off the market after they have triggered the right to buy?
Yes No

Please explain your reasons.

To encourage the process of community ownership of land, striking balance between individual rights and community interests.

- Q41 Do you think that there should there be greater flexibility in a community body's level of support for a right to buy in the ballot result than is currently permitted?
Yes No

- Q42 Do you think that the ballot result should focus on a sufficient amount of support to justify the community support to proceed with the right to buy the land?
Yes No

If yes, please explain how secured community support should be measured

Some form of sliding scale could be enacted, which would require levels of support to be greater among smaller populations. The threshold would then decrease as the overall population increased.

This would reflect the reality that more sparsely populated areas tend to take a greater interest in common matters; whereas areas of larger population tend to have greater levels of apathy towards common matters. However, any thresholds also need careful management, as not voting at all can be used as mechanism to thwart a ballot - effectively leading to a no vote if thresholds are not reached.

Any scale would also need to recognise the potential for significant levels of second home ownership in rural areas, which make skew the result. The electoral roll should remain as the definitive determinant of a person's right to participate in a ballot, as it gives some measure of a person's connection to an area. However, accessing the full electoral roll has proved difficult for many communities.

- Q43 Do you agree that community bodies should be able to submit evidence to Ministers in support of their ballot result where they believe that their ballot has been affected by circumstances outwith their control?
Yes No

- Q44 Do you think that Scottish Ministers should be able to ask community bodies for additional information relating to their right to buy "application" which Ministers would then take into account in considering their right to buy "application"?
Yes No

Please explain your reasons.

If applicants are asked to complete a pro-forma, then this should not be necessary. However, if following guidance, the applicant may not include some information that Ministers would find instructive. This would provide an opportunity for any gaps to be filled.

- Q45 Do you think that Ministers should be able to accept an application to register a community interest in land which is subject to an option agreement (on part or all of the land)?

Yes No

- Q46 If there is an option agreement in place, do you think that the landowner should be able to transfer the land as an exempt transfer while there is a registered interest over that land?

Yes No

Please explain your answer.

To encourage the process of community ownership of land, striking balance between individual rights and community interests.

- Q47 Do you think that the prohibition on the landowner from taking steps to market or transfer the land to another party should apply from the day after the day on which Ministers issue the prohibition letter rather than the day when the owner/heritable creditor receives the notice?

Yes No

Please explain your answer.

This closes a potential loophole and encourages the process of community ownership of land, striking balance between individual rights and community interests.

- Q48 Do you agree that public holidays should be excluded from the statutory timescales to register a community interest in land and the right to buy?

Yes No

- Q49 Do you agree that where a landowner makes an "exempt" transfer, this should be notified to Scottish Ministers?

Yes No

If you disagree, please provide reasons for your decision.

No comment

- Q50 Do you agree that community bodies and landowners should notify Scottish Ministers of any changes to their contact details (including any registered office)?

Yes No

Q51 Do you think that Ministers should monitor the impact of the community right to buy?

Yes No

How do you think that monitoring should be undertaken and what information should Ministers seek?

Some form of impact assessment could be requested, for example the applicant could be asked to provide a social account for the period starting from the purchase. This would allow the body to demonstrate the benefit the buyout has brought to the community in its own words.

Should the monitoring process be a statutory requirement, including provisions for reporting?

Yes No

4.2 Strengthening Community Planning

Q52 What are your views on our proposals for requiring a CPP to be established in each local authority area, and for amending the core statutory underpinning for community planning to place stronger emphasis on delivering better outcomes?

Before addressing each of the specific questions below it is important to be clear about some general points about National Parks and the Community Planning process. CNPA strongly supports the community planning process, the aims and principles of which are defined in statutory guidance as:

Aims

- Making sure people and communities are genuinely engaged in the decisions made on public services which affect them; allied to
- A commitment from organisations to work together, not apart, in providing better public services.

Principles

- Community Planning as the key over-arching partnership framework helping to co-ordinate other initiatives and partnerships and where necessary acting to rationalise and simplify a cluttered landscape
- The ability of Community Planning to improve the connection between national priorities and those at regional, local and neighbourhood levels.

There is a very strong parallel with the principles of the National Parks legislation (National Parks (Scotland) Act 2000) which encourages all partners to work together towards a common set of outcomes within a geographic area that has been designated by Parliament. For those areas of Scotland that are designated as Parks these outcomes are defined by the four aims of National Parks, namely:

1. To conserve and enhance the natural and cultural heritage of the area
2. To promote sustainable use of the natural resources of the area
3. To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public
4. To promote sustainable economic and social development of the area's communities

The relevant outcomes are more specifically set out in the National Park Partnership Plan that is prepared by the NPA in consultation with others. The NP Partnership Plan is prepared for each five year period and is approved by Ministers. All public bodies are then required by the legislation to pay "due regard to" the Plan in exercising their functions.

In considering the community planning arrangements within National Parks it is imperative that the important distinction is drawn between the National Park Authority (the organisation) and the National Park (the place where we all must work collaboratively to meet the four aims set out in the legislation). The delivery of the National Park Partnership Plan is a job that requires effort and commitment of public, private and thirds sectors. The National Park Authority provides leadership and support.

As part of the wider public sector reform agenda, the Scottish Government has sought to shift the emphasis on planning as a corporate process, towards a wider "plan for place." The Scottish Government's guidance on the development of Single Outcome Agreements highlights this, stressing that the SOA should become a "shared, explicit and binding 'plan for place' in each CPP area." This same focus on place is present in the National Park Partnership Plan.

In the Cairngorms NP a number of mechanisms are in place to help plan, deliver and monitor the work including:

- A Strategic Delivery Group of key partners to keep overview of delivery
- An annual partnership meeting convened by the Minister for Environment to review progress of partnership delivery and look ahead
- Six monthly review of delivery through the National Park Authority Board
- Publication of an annual progress report
- Stakeholder involvement though convening Advisory Forums on significant Park related issues including Tourism, Economic Development, Land management and Outdoor Access

It is clear that the CPP process is the primary over-arching partnership framework across Scotland, helping to improve the connections between national priorities and those at regional and local level. While we support the proposal requiring a CPP to be established in each local authority area, there are some issues that require to be managed so that we get the best out of the Community Planning process and the best for our National Parks.

There are six specific strategic themes where, over the last ten years, we have come to an understanding with partners that it makes sense to coordinate the planning and management of activity around the geography of the Cairngorms NP. Strategies and plans have been developed or are in preparation for each theme and each requires a partnership approach to delivery:

1. Planning – CNPA prepares the single Local Development Plan for the Park which guides the nature, scale and design of built development and land use within the Park
2. Economic development – strategy is in preparation
3. Tourism – strategy in place
4. Community- led development – Leader Local Development Strategy in preparation
5. Biodiversity Planning – Cairngorms Nature Strategy in place
6. Recreation and access management – Outdoor Access Strategy in place and Active Cairngorms Strategy in preparation

The diagram attached at Annex 1 explains how we see the system work.

To make the systems that are described above work effectively and efficiently, we need appropriate and efficient governance mechanisms in place. All partners require a good understanding of how the respective of outcomes will be delivered so there is no uncertainty about roles and responsibilities or areas of overlap or duplication of effort.

Thankfully we think that within the National Park there is a relatively good fit between the existing SOAs and the Partnership Plan. And collectively have a good story to tell about the many practical initiatives that have been delivered in order to demonstrate how the CPP process and our National Parks are successfully delivering for Scotland.

For the arrangements to work well within National Parks there are several relatively simple specific requirements that relate to CPPs where part of the local authority area lies within a National Park:

- National Parks and NP Partnership Plans should, whenever possible, be presented as part of the broad Community Planning process, not something different or separate. We particularly welcome the proposal in paragraph 159 of the consultation paper that the emphasis should shift from which organisations are part of CPP Board or thematic groups to the delivery of improved outcomes for communities. We are convinced that a focus on National Parks, particularly as places to address the 6 strategic themes set out above, can help make this a reality.
- CNPA is pleased to note the recognition given to the importance of National Parks and their assets in the proposed National Planning Framework 3. A similar level of recognition around the NPPP in the community planning process would be welcome.
- The CPP should be required to make explicit the account that has

- been taken of the NP Partnership Plan in preparing the SOA
- The NPA should be required to do the same in preparing each NP Partnership Plan
- The Ministerial guidance and reporting arrangements for both NP Partnership Plan and SOAs should promote linkages and common reporting arrangements whenever possible. It should be clear to CPP partners what they are expected to do differently if part of their area falls within a National park
- CPPs should be strongly encouraged to use National Parks as places to demonstrate and celebrate the collaboration that takes place across local authority boundaries.

Q53 What are your views on the core duties for CPPs set out above, and in particular the proposal that CPPs must develop and ensure delivery of a shared plan for outcomes (i.e., something similar to a Single Outcome Agreement) in the CPP area?

See comments in Q52.

The core duties are broadly sensible and ultimately realisable ambitions for community planning.

The development of Single Outcome Agreements needs to move away from a position in which the desire to seek consensus at the corporate level and portray a symbolic partnership, results in existing individual corporate priorities being re-written into a shared document; a problem recognised in Audit Scotland's recent review of community planning. However, this is only likely to happen when agencies are required to bring significant resources to the table and when the list of various statutory responsibilities placed upon individual partners is better understood and, to some degree, shared across the CPP.

CNPA has developed effective partnerships in seeking to deliver the four aims of the Park through the National Park Partnership Plan and associated delivery documents. At the same time, CNPA is aware of its duties in relation to how activities within the National Park deliver against the SOAs and associated delivery documents of the five Community Planning Partnerships. The challenge for CNPA is seeking to ensure that these activities are suitably reflected and captured in the overall working of the Community Planning Partnerships. In addition, CNPA has sought to ensure that it is represented effectively at the most appropriate level within each CPP, however with each CPP having different and rather complex structures, this has proved challenging for a relatively small organisation interacting with five CPPs.

In order to address these issues:

- CNPA propose to develop five shared briefs (one for each Community Planning Partnership) which sets out and recognises how the activities of CNPA support the delivery of the SOA and how the activities of the CPP supports the

delivery of the NPPP. This brief would be signed off by CNPA and the CPP and reviewed on an annual basis.

- CNPA will identify the most appropriate level of representation and engagement with each individual CPP, focussing on social, economic and environmental wellbeing. CNPA Board members may provide an effective linkage at CPP Partnership Board level.

Q54 Do the proposed duties of the CPP support effective community engagement and the involvement of the third and business sectors?

Yes No

What other changes may be required to make this more effective?

CNPA has a strong track record of engagement with community/third sector/business and would seek to build upon these relationships, using the duties as a reference point.

Whilst recognising their limitations in terms of how well they fit the dynamic relationship between community bodies and public agencies, CPPs should be required to reflect upon how their engagement processes measure up against the National Standards for Community Engagement. The use of web-based resources, such as VOiCE, or some equivalent, could be encouraged.

It is surprising that there is no obvious link between the duties set out here and Section 3.2 regarding community bodies becoming involved in improvement processes. Effective community engagement throughout the development and delivery of shared outcomes is central to this whole process.

The implementation of community planning often results in distinctions being drawn between “strategic” community planning involving public sector partners only and “local” community planning which seeks to bring communities together with public sector representatives. The draft Bill provides additional guidance and duties for the “strategic” element, but does not consider the “local” element to any great extent. The local community planning arrangements that are in place in Aberdeenshire, which CNPA has significant experience of in the Marr area, have been particularly successful.

National Park Example

CNPA has supported, through the Strengthening Communities project outlined previously, the establishment of “Town Teams,” specifically in the Badenoch and Strathspey area of the National Park. These Town Teams bring together representatives of key local community bodies, including community councils, business associations and community development trusts (or equivalents) to agree high level priorities for that community, which can be worked on collectively. CNPA feels that this presents a useful model for local collaboration, which if engaged with effectively,

could enhance the “local” element of community planning in terms of its relationship with the “strategic.”

- Q55 How can we ensure that all relevant partners play a full role in community planning and the delivery of improved outcomes in each CPP area? Do the proposed core duties achieve that?

Yes No

What else might be required?

CNPA has sought to play a full role in community planning, and believes that this will be strengthened when the issue around developing closer links between the NPPP and CPPs is dealt with effectively (see Q 52).

- Q56 What are the respective roles of local elected politicians, non-executive board members and officers in community planning and should this be clarified through the legislation?

As outlined in the initial 2006 review of community planning, and again in Audit Scotland report (2013) that this is one of the fundamental issues facing community planning and one of the reasons why significant numbers of politicians, board members and officers find it a particular challenge.

In the formation of the National Parks these issues were addressed through consideration of the composition of National Park Authority Boards. After due consideration the solution was to form boards comprising local authority nominees who are appointed by Ministers (7 in the case of CNPA), national appointees (7) and directly elected members (5). This mix of local and national interests has broadly proved to be effective and provides a degree of connectedness between the management of the National Park and the component local authorities.

One practical suggestion is that for each CPP covering a National Park there should be at least one member of the NP Board invited to attend the relevant Partnership Board.

- Q57 Should the duty on individual bodies apply to a defined list of public bodies – if so, which ones? Or should we seek to take a more expansive approach which covers the public sector more generally?

For community planning to be as effective as it can be, CPPs need to retain an element of flexibility and seek to include all sectors. There are a number of bodies, who may need to be involved for specific actions or outcomes, who are not listed; and others who are listed, who will struggle to ensure all duties are adhered to at all times. As a result, CNPA considers that this should be a broad duty across the sector.

- Q58 Local authorities are currently responsible for initiating, facilitating and maintaining community planning. How might the legislation best capture the community leadership role of Councils without the CPP being perceived as an extension of the local authority?

CPP structures tend to be based on strategic leadership through the Board, with delivery through agreed thematic partnerships. CPPs could be encouraged to ensure that appropriate agencies take on the leadership and administration (where practical) of thematic partnerships, thereby taking the onus away from local authorities, who would retain overall strategic leadership through the Board.

CNPA is willing to play a leadership role with regard to certain issues associated with CPPs as set out in Q52. As already happens within the Highland CPP, Scottish Natural Heritage could potentially take on the leadership and administration of a thematic partnership focussing on the environment; NHS could do this for a health-themed partnership; and Police Scotland could do the same for a thematic partnership looking at issues of community safety.

- Q59 How can the external scrutiny regime and the roles of organisations such as the Accounts Commission and Auditor General support the proposed changes? Does this require changes to their powers or functions?

No comment

- Q60 What other legislative changes are needed to strengthen community planning?

No legislative changes but See Q 52 for changes to policy and guidance required.

4.3 Allotments

- Q61 Do you agree with the proposed definition of an allotment site and allotment plot?

Yes No

How else would you suggest they be defined?

CNPA feels that the suggested definition allows for sufficient flexibility. CNPA is extremely positive about the role of communities in the growing of local food as part of the development of sustainable communities. We already have a Food and Drink Development Plan for the National Park and have supported a number of initiatives related to provision of allotments and related community food schemes. CNPA has no statutory responsibility in relation to these issues, unless there are any planning implications.

Q62 In order to include all existing allotments in the new legislation they must fit within the size range. What is the minimum and maximum size of one allotment plot in your area/site?

No comment

Q63 Do you agree with the proposed duty to provide allotments?

Yes No

Are there any changes you would make?

No comment

Do you agree with the level of the trigger point, ie that a local authority must make provision for allotments once the waiting list reaches 15 people?

Yes No

Q64 Do you prefer the target Option A, B or C and why? Are there any other target options you wish to be considered here? Do you agree with the level of the targets?

A combination of the options seems sensible.

Q65 Do you agree with the proposed list of local authority duties and powers?

Yes No

Would you make any changes to the list?

Some clarification under Duty 4a would be welcome. Encouragement should be given to planning authorities to protect such land from development through identification in Local Development Plans

Q66 Do you think the areas regarding termination of allotment tenancies listed should be set out in legislation or determined by the local authority at a local level?

Legislation

Determined by local authority

Q67 Are there any other areas you feel should apply to private allotments?

No comment

Q68 Do you agree that surplus produce may be sold?

Yes No

If you disagree, what are your reasons?

The seller should have appropriate insurance cover.

Q69 Do you agree with the proposed list of subjects to be governed by Regulations?

Yes No

Would you make any changes to the lists?

No comment

Consultation on the Community Empowerment (Scotland) Bill

Response Questionnaire

Chapter 5 – Wider Policy Proposals

Please read the draft Bill provisions before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

Please make sure you also return the Respondent Information Form with your response, so that we know how to handle it.

5.1 Scotland Performs – embedding the outcomes approach in legislation.

Q70 We invite your views on the proposal to include in the Bill a provision that places a duty on Ministers to develop, consult on and publish a set of outcomes that describe their long term, strategic objectives for Scotland, and include a complementary duty to report regularly and publicly progress towards these outcomes.

We welcome this proposal and look forward to assisting Ministers in demonstrating how National Parks provide an excellent way to deliver national outcomes in particularly special parts of rural Scotland.

5.2 Subsidiarity and local decision-making

Q71 Given the actions that the Government and others already take to enable and support local democracy, together with the additional measures proposed in this consultation, are there any other actions we could take to reflect local democracy principles that would benefit communities?

We would be pleased to share with others our experience of the direct elections and appointment of local people onto the governing boards of National Park Authorities. These innovative arrangements have provided invaluable local input to strategic decision-making. The arrangements have drawn critical interest from overseas about how to stimulate local involvement in the governance of nationally important landscapes. In many respects Scotland is considered to be a world-leader in such matters.

Consultation on the Community Empowerment (Scotland) Bill

Response Questionnaire

Chapter 6: Assessing Impact

Please read the draft Bill provisions and detailed policy proposals before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

Please make sure you also return the Respondent Information Form with your response, so that we know how to handle it.

Equality

- Q72 Please tell us about any potential impacts, either positive or negative, you feel any of the proposals for the Bill may have on particular groups of people, with reference to the “protected characteristics” under the Equality Act 2010.

Community bodies should seek to be as representative of their community as possible – and this should include people who are protected under equality legislation or are disadvantaged on account of their socio-economic status. These groups may need additional support to participate in the opportunities provided in the bill, e.g. through targeted communications, although this may mean additional resource being required.

- Q73 What differences might there be in the impact of the Bill on communities with different levels of advantage or deprivation? How can we make sure that all communities can access the benefits of these proposals?

Typically those communities which would benefit most are those which have greater deprivation issues. However, it is often these very communities that struggle to access these benefits. CNPA has been pleased to be able to support communities to develop their skills, knowledge and experience to assist them in community led-development. If we are sufficiently well-resourced we look forward to continuing this work.

Business and Regulation

- Q74 Please tell us about any potential costs or savings that may occur as a result of the proposals for the Bill, and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

As with all significant change to public sector activity, there is likely to be additional short-term costs to establish the necessary systems.

Implemented appropriately, with greater alignment and streamlining of resources and requirements will help to reduce the administrative burden and potentially achieve savings in the long term.

Environmental

Q75 Please tell us about any potential impacts, either positive or negative, you feel any of the proposals for the Bill may have on the environment.

There may be some implications in terms of the impact on the environment if land or assets are transferred from estates to community ownership but the appropriate regulatory regime is in place to ensure that any adverse impacts are not significant.

Impacts could be positive if they help to improve sustainability through reduced carbon emissions; resilience to the effects of climate change; and supporting biodiversity. These impacts could only be considered at the time any decisions are reached and as a result it may be sensible to screen for environmental impacts as part of the process.

Annex I: The National Park Partnership Plan and the related strategies that influence delivery of outcomes in the Park

