



## Annex 2

### Byelaw wording changes proposed and considered with subsequent amendments.

Query / suggestion grouped by theme	Change considered and conclusion reached
<b>Definitions</b>	
1 In the definition of “Fireplace” it is suggested that the final words “or other material” are not required.	Considered whether this aided the definition and concluded no change required as this avoided limiting the definition based on construction materials.
2 Fireplaces – does this include portable items such as firepits or bowls.	Considered whether these should be prohibited in the same way as open fires. In terms of risk those used outdoors are similar to fires or barbecues where flammable materials / sparks can escape are likely so agreed to include these as prohibited items. Use on private property with permission is already exempted so this would still allow organised group use on purpose built sites.
3 Stove – more clarity / clearer definition required on what is included as some have similarities with fires eg solid fuel or wood burning stoves.	Considered whether different stove types should be permitted. As with 2 above, risk is higher so agreed they be prohibited. Stoves now defined as “a camping stove manufactured as a camping stove or cooker (excluding any wood or coal-based system)”.
4 Stove – does this include a portable camp wood burner (these can include a flue fitted to a tent so is not an “open fire”).	Considered whether these are treated in the same as with bothy fireplaces but concluded that as with 2 and 3 above they should still be prohibited as they are used in the



		outdoors with attendant risk. While some are used for heating purposes eg a “hot tent” use would mostly be from October to March when byelaw does not apply, and landowner permission exemptions could still allow this at other times for the likes of organised groups.
5	Stoves - are those in vehicles eg motorhomes or campervans included / excluded.	Considered whether any fire source in a vehicle should be permitted. As with 2, 3 and 4 above agreed gas stoves or similar are permitted but others should be prohibited as they are not in a building. Off season use for heating would mostly be outside byelaw period. At other times campsite exemptions would apply allowing this on managed sites and landowner permission could allow this in other circumstances eg a temporary event campsite.
6	Curtilage as used in the draft wording doesn't fit the definitions used in Scottish Outdoor Access Code (SOAC).	Considered whether this might add to confusion and have updated wording accordingly. Definition now includes both curtilage of buildings that are not a dwelling (SOAC 3.18) and sufficient adjacent land for privacy around a dwelling (SOAC 3.14-3.16).
7	“Avoidable damage” appears in the definitions but is not then used elsewhere in the draft wording.	“Avoidable” doesn't add a significant benefit and was not used elsewhere in the draft wording so wording changed to simply “damage”.
8	Tenant - definition is restricted to leases of a year or more, but some leases are commonly given for periods of less than this or a licence may be used instead of a tenancy. This is particularly the case with	Considered whether the timeframe was necessary and concluded it wasn't so wording updated to exclude any timeframe.



	seasonal agricultural tenants that may use fires for land management	
<b>Inconsistency or potential ambiguity</b>		
1	Use of terms land manager, landowner could cause ambiguity	Considered benefits of using both terms “land manager” and “landowner”. As “land manager” was not subsequently used in the draft wording land manger definition is removed and all references use the term landowner.
2	Different building / property types are referred to which can create potential for ambiguity. Included the suggestion that holiday properties could be treated the same as dwelling houses.	Considered benefit of including buildings used for holiday accommodation in the definition of dwelling house and agreed to change this to aid clarity around all buildings used for habitation.
3	Slightly differing wording for section 4 - Fires and section 5 Barbeques – “It shall be an offence under these byelaws for any person without lawful authority to light or use a barbecue <u>anywhere</u> in the National Park” – the word “anywhere” appears in section 4 but not in section 5.	Considered rewording and agreed to remove word “anywhere” as its use didn’t add any significant benefit.
<b>Nature of the offence</b>		
1	Suggestion that use of gas barbecues should be included in prohibited activities	Considered suggestion and concluded it be disregarded as gas barbeques have a built-in fuel container which does not allow flammable materials to escape as is possible with a traditional barbeque.
2	Suggestion we should allow disposable barbecues used	Considered suggestion and concluded it be disregarded as these are still an open fire source where flammable materials can



	responsibly, removed and disposed correctly	escape and cause ignition. A further factor is that their disposable nature means many are not used responsibly causing wider environmental issues.
3	Suggestion that wording should specifically include wilful fire raising	Considered merits of rewording to include this but concluded that as this is already an offence punishable under other national legislation further inclusion in a byelaw is not required.
4	Suggestion that wording in section 4 should specifically include cigarette	Considered merits of rewording to include this but concluded that cigarettes are adequately covered by “any other thing so as to be likely to cause a fire” and listing every possible ignition source individually would be unrealistic.
5	Suggestion that wording should cover damage or danger to domestic animals or livestock where “person or wildlife” are referred to.	Considered this would be useful and so updated wording to include livestock.
6	Police Scotland advice is that Park Authority staff would not have enforcement rights on private property where privacy rights apply under the Scottish Outdoor Access Code eg gardens.	Considered rewording and agreed to accept Police Scotland advice. Wording updated to remove any references to restrictions on fires / barbeques in locations such as private gardens. Where any activity is believed to cause significant danger (including during a period of high fire risk) other nationally applicable legislation already allows enforcement by Police Scotland or Scottish Fire and Rescue Service.
7	Suggestion that we remove the part about not having a fire or	Considered both complexity around relating prohibition to times of high fire risk and



	barbeque in own homes / property during time of high fire risk.	Police Scotland advice in 6 above. Agreed to reword to exclude high fire risk references.
8	Suggestion that byelaw should exclude fires within a bothy during periods of high fire risk so as to align with caravan sites.	Considered but suggestion no longer relevant in view of changes that will remove references to periods of high fire risk as described in 7 above.
<b>Period for which byelaw applies</b>		
1	Multiple responses suggested different variations to the byelaw period including changing to all year.	Suggestions not considered relevant to this consultation as they don't directly relate to wording and this element has already been consulted on and the time period approved by the Board having considered the range of responses and the evidence provided for the earlier consultation.
2	Multiple responses suggested some issues with using periods of high fire risk as part of the byelaw – in part due to potential differences across the area but also whether this was appropriate in areas such as private gardens.	Addressed through decisions around removing high fire risk references described under “Nature of the Offence” sections 6, 7 and 8 above.
<b>Enforcement</b>		
1	Suggestion that offence is widened to include being “in attendance at” or “tending a fire” so as to allow enforcement where multiple people are in attendance and a single person cannot easily be identified as the one that lit the fire.	Considered and accepted Police Scotland advice that wording needed updated. Following further legal advice this has been reworded to make the offence “light, have or tend a fire in the National Park”.
2	Provision of details – suggestion that further information should be gathered such as date of birth and car registrations.	Considered and compared with similar byelaws and subsequently updated to include date of birth and contact details. Car registrations not included as ownership /



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		registration of a vehicle doesn't necessarily aid identifying an individual who is present.
3	Suggestion that the proposed level of fines is inadequate and should be higher.	Levels of fines are set by the Scottish Government so not within the control of the Park Authority.