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# CAIRNGORMS NATIONAL PARK AUTHORITY

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## FOR DECISION

**Title:** **PROPOSED COMMON GOOD FUND FOR THE CAIRNGORMS NATIONAL PARK**

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### **Purpose**

The paper seeks agreement in principle to establishing a “Common Good Fund” for the Cairngorms National Park, and seeking guidance on the focus and powers members wish the Fund to have should it be agreed.

### **Decisions Required**

The Board is requested to:

- a) Agree the principle of establishing a Common Good Fund.

Should this principle be agreed, the Board is also requested to:

- a) Consider and give guidance on the principles for operation of the Fund, in light of draft objectives and governance and management principles set out in Annex I to this paper.
- b) Agree further work is undertaken toward establishing a Common Good Fund on the basis of the recommended legal structure of a Scottish Charitable Incorporated Organisation (SCIO).
- c) Agree interim arrangements to set up a separate bank account to hold any receipts and donations made prior to fully establishing a Fund, with administration of those interim arrangements to be undertaken by the Chair of Finance Committee, Chief Executive and Corporate Services Director.

### **Executive Summary**

The paper sets out a proposal to establish a Common Good Fund for the Cairngorms National Park, to hold and build a source of finance that may be utilised to finance projects and activities within the boundaries of the Cairngorms National Park.

The paper proposes that a Scottish Charitable Incorporated Organisation (SCIO) presents the most appropriate legal framework for establishment of such a Fund, and presents an

initial outline of the potential objectives for the Fund and the principles for its governance and management.

The paper seeks views and guidance from Board members on these initial principles for future development of Memorandum and Articles of Association for the proposed Charitable Fund.

The paper also highlights that the proposed development of a Common Good Fund for the National Park sits within a context of fundraising activity already underway or under consideration by other organisations within the National Park. In taking proposals forward if agreed by the Board, consultation with other organisations will be required to ensure the operation of a Fund is complementary to other interests.

Final proposals will be presented to a future Board meeting and this paper also presents interim arrangements for handling any donations and receipts received prior to final establishment of a Fund.

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## **PROPOSED COMMON GOOD FUND FOR THE CAIRNGORMS NATIONAL PARK – FOR DECISION**

### **Purpose of Paper**

1. The purpose of this paper is to support consideration of a proposed “Common Good Fund” for the Cairngorms National Park (CNP).
2. This paper is brought for consideration by the Finance Committee and Board at this point, in order to seek an agreement in principle to taking the work forward to establish a Fund, and to seek guidance on the focus and powers members wish the Fund to have should it be agreed.

### **Objectives of a Cairngorms Common Good Fund**

3. The concept underpinning this proposal is to establish a Common Good Fund to hold and build a source of finance that may be utilised to finance projects and activities within the boundaries of the Cairngorms National Park. The focus of a Fund is therefore to raise and manage funds, and to use those funds and proceeds to invest in projects delivered by others within the National Park. This distinguished the operation of a proposed Fund as a source of finance for activities from other third party delivery agents such as the Cairngorms Outdoor Access Trust (COAT), Cairngorms Business Partnership (CBP) and the emerging Wildlife Partnership, all currently supported by the Authority.
4. The draft proposal put forward is that projects financed by the fund must have a demonstrable, sustainable and long-lasting benefit to the National Park’s residents and visitors, and be in keeping with the vision, principles and objectives of the National Park Partnership Plan (or any successor management plan for the area of the National Park). Sources of income to the Fund are anticipated to be donations, bequests and grants.
5. Ideally, a Fund such as this would operate to hold and invest income received and use the interest from investments to finance contributions to projects. There is a balance to be struck here for any new Fund. It is likely to take some time to draw together sufficient balances to generate investment income of a scale which will generate returns of a magnitude able to finance contributions to projects. This will be exacerbated in the current financial climate of low interest rates. Equally, there may be some pressure to build a momentum for the Fund through demonstrating “quick wins” by funding projects and potentially eroding financial balances and reducing future earning potential. If the Fund is established, this will be a matter over the longer term for those charged with the governance of the Fund to consider. Initially, Finance Committee and Board members may wish to set some guidance around where such a

balance should be struck by adding elements into the Memorandum and Articles of Association for the Fund.

6. A preliminary set of objectives for a Fund together with outline principles for the objectives, governance and management of a Fund is set out in Annex 1 to this paper. If the establishment of a Fund is agreed in principle, these outline principles together with any further suggestions made by members will form the basis for finalising the Memorandum and Articles of Association.
7. **Members' views and comments are sought on the draft principles, set out in Annex 1 to this paper, for the objectives, governance and management of the Fund.**

### **Proposed Legal and Structural Arrangements for a Fund**

8. I have assumed in developing proposals to this stage that any Fund established will be on the basis of a charitable entity. This legal form would appear to maximise potential future funding sources for a Fund.
9. A key consideration in taking this route is, as with the relationship between the Authority and COAT, there will be a loss of direct control exercised by the Authority over the operation of the Fund. The legal entity established to manage the Fund will be an independent body from the Authority. As with COAT, it is likely that the Authority will exercise some influence over the Fund through membership and appointment of some Directors, or Charity Trustees. The influence is likely to represent a minority interest in the operation and management of the Fund.
10. An advantage of this legal position is that there is transparency around any funds donated not being donated to the Park Authority. The donations are to an independent charity, which will make its own decisions on how and where to use the funds at its disposal, within the parameters of those funds being used to further the aims of the National Park.
11. There are three possible routes to establishing a charitable structure as a legal entity for management and administration of a Fund: a trust; a company limited by guarantee; or a Scottish Charitable Incorporated Organisation (SCIO).
12. A description of each of these three legal structures and their advantages and disadvantages in this situation is set out in Annex 2 to this paper.
13. Overall, I suggest that the establishment of an SCIO appears to be the most appropriate route to follow should members agree to establish a Fund. While this is a relatively new form of legal entity, this route would seem to provide the most

appropriate level of assurance for those individuals and corporate members who may be encouraged to assist in the management and delivery of this Fund, while offering some streamlining in terms of regulatory and administrative requirements. The SCIO route involves registration and administration only with the Office of the Scottish Charities Regulator (OSCR) rather than dual registration and regulation through both OSCR and Companies House required by a Charitable Company. While we would wish to be transparent in our management of all income and expenditure, this route also affords greater flexibilities and cost efficiencies in terms of accounting and audit requirements.

14. The SCIO route also offers a greater degree of legal separation for those willing to become involved in the management and governance of a Fund than the establishment of a Trust. A trust does not have a legal identity distinguishable from its trustees for many significant purposes. The trustees, as the people representing the trust's interests, are potentially exposed to liabilities of the trust to third parties. The SCIO route therefore offers a clearer separation of responsibilities for those willing to put time and effort into establishing and administering a Fund.
15. My recommendation is therefore that development of a Fund should explore the route of establishing a Scottish Charitable Incorporated Organisation as the legal basis for management and administration of a Charitable Fund. Any issues arising in the development of this charitable structure should be delegated to the Finance Committee to resolve.
- 16. Members are invited to consider the recommendation to pursue an SCIO route, should establishment of a Fund be agreed in principle, in light of the detailed analysis of potential legal structures and their advantages and disadvantages set out in Annex 2 to this paper.**

### **Interim Arrangements**

17. Members may wish to consider interim arrangements for collecting and holding any funds that may be donated or offered in the period between a decision in principle to establish a Fund and establishment of the legal entity to take that forward.
18. The most appropriate arrangement in this case would appear to be for a separate bank account to be opened for the purposes of holding any contributions intended for the Fund, and for the balance in the account to be transferred to the Fund once the legal entity is established.
19. I suggest that the Authority should establish and administer this bank account, with all accounting for any contributions held identifiably and separately from the Authority's main accounts. Until a legal entity is established to which the finances may be

transferred, I suggest that the Chair of the Finance Committee, the Chief Executive and Corporate Services Director should be responsible for the administration and final transfer of these finances.

**20. Members are invited to consider these interim administrative arrangements.**

21. The next steps on this project will be to draw up a set of Memorandum and Articles of Association, taking account of any suggestions made by Finance Committee and Board, and to seek to establish a legal entity to take forward management and administration of the Fund.
22. Following this, the Board will be asked to consider the nomination and appointment of the initial Charity Trustees / Directors of the Fund who will then take the operation of the Fund forward in accordance with the adopted Memorandum and Articles of Association.

**Wider Context and Policy Linkages**

23. In terms of wider policy linkages, establishment of a Common Good Fund aims to create an entity capable of accepting funding and general donations to finance projects taking forward the aims of the National Park Partnership Plan. This would be distinct from targeted fund raising by specific organisations to support specific, defined activities which may be undertaken by specific organisations or groups. It is worth considering the current operations and activities of some other significant partners in financing and delivering projects within the National Park to evaluate the merits of this distinction. There are a wide range of voluntary and charitable organisation operating within the National Park, this section of the paper seeks to consider the impact of the proposal on some of the main overlapping initiatives also supported by the Authority.
24. The Cairngorms Local Action Group (CLAG) is responsible for management of European and Scottish Government LEADER funds allocated to it, with the National Park Authority acting as Lead Partner for the stewardship, administration and accounting for these funds. The decisions of the CLAG are based on the fit of project applications with the CLAG's Local Development Strategy (LDS). This Local Development Strategy in turn aimed to fit with the aims of the previous National Park Plan from 2007 to 2012 which was in development at the same time as the LEADER Local Development Strategy. The intention is for the NPA to continue to support a CLAG and support a proposal for a further allocation of LEADER funds for the Cairngorms NP under the 2014 – 2020 Programme, and this will be the subject of a future Board paper. For the time being, the proposal for establishment of a Common Good Fund would seem to be complementary to, rather than competing with, the support for LEADER within the National Park. Indeed, a successful fund could be a

key source of partner finance for projects in delivering a future LEADER programme in the National Park.

25. The Cairngorms Outdoor Access Trust (COAT) has recently developed a project seeking voluntary donations to support its ongoing path works and maintenance programme. Also, the Cairngorms Business Partnership (CBP) has, over a period, been considering whether some form of visitor payback initiative may be feasible for implementation within the National Park.
26. There is a distinction in the potential establishment of a Common Good Fund as an available recipient for general financial donations to benefit the National Park, from targeted fund raising by a specific organisation and / or for a specific purpose. A successful Common Good Fund could provide a potential source of funding for projects delivered by COAT and CBP, among a wide range of voluntary and charitable organisations within the National Park. The emerging Wildlife Partnership may also be a beneficiary of the work undertaken by a Common Good Fund in building and managing a source of finances. Again, the Partnership is likely to have a project delivery orientation with a requirement to source finances in order to deliver its objectives.
27. There is therefore potential that a strong Fund providing a source of finance to others would provide a complementary addition to the overall pattern of charitable and voluntary activity within the National Park. If managed sensitively within the framework of other initiatives seeking donations and voluntary contributions, there is a potential that a Common Good Fund can fill a gap to ensure a charitable body exists within the National Park to receive general donations that may otherwise be lost by other more specific initiatives.
28. However, the establishment of a Common Good Fund could be seen as additional “competition” for donations and contributions made to activities within the National Park.
29. Overall, therefore, it appears that a Common Good Fund would provide a charitable vehicle for anyone or any organisation wishing to make a “general” financial donation to the work within the National Park, as opposed to someone who may wish to donate to a specific cause or campaign. Anyone donating would have the confidence of donations being managed by an independent registered charity. The Fund itself could also become a key source of finance supporting and sustaining other charitable and voluntary bodies operating within the National Park.
30. In developing, launching and operating a Fund there will need to be some ongoing attention to ensure that, as far as possible, there is a shared understanding between various organisations on objectives and main income sources targeted. This ongoing

review should ensure that a Common Good Fund is complementary to, and /or occupies a clear niche within the spectrum of fundraising activity taking place within the National Park. Should the Board agree to move forward to develop more detailed proposals for the establishment of a Common Good Fund, this point of seeking to ensure the operation of the Fund is complementary with the development and operation of other schemes and initiatives led by partners within the National Park will require consultation with partners.

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