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## CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

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### **Title: Changes to Local Access Guidance at Loch Kinord (Muir of Dinnet National Nature Reserve) in Response to Increased Water Recreation**

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#### **Purpose:**

1. To update members on changes to the local access guidance.
2. To seek endorsement of the approach adopted.

#### **Background**

The Park Authority has a duty to promote the Scottish Outdoor Access Code. [The Access Code](#) says that: *Access rights extend to non-motorised water-based activities, such as canoeing, rafting, rowing and sailing. Make sure that the river, loch or reservoir is appropriate for your activity and the numbers involved, take care not to interfere unreasonably with other interests.*

With regard to Nature Reserves the Access Code says: *Access rights extend to these places but remember that they are carefully managed for nature conservation and to safeguard rare animals and plants. Take care to avoid damaging the site or disturbing its wildlife, or interfering with its management or enjoyment by others. Depending on your activity, you might be requested to follow a specific route or to avoid exercising access rights in a specific area. Following such local guidance can help to safeguard the natural heritage of these areas.*

Muir of Dinnet National Nature Reserve has had Local Access Guidance for water users in place for Loch Kinord and Loch Davan since 2009.

In summary, it has asked people not to use Loch Davan because of disturbance to birds. For Loch Kinord visitors have been asked to pick responsible launch points, not to land on the islands, and to avoid getting close to the most sensitive breeding bird areas.

Due to a sharp rise in water-borne recreation and its effects upon breeding birds, additional restrictions are now being added asking people not to use Loch Kinord during the bird breeding season. Even if each individual user behaves well and in line with the current local access guidance, the combined effect of their presence may be such that breeding birds will be disturbed, possibly to the extent that breeding fails or they are displaced to other sites.

#### **Conservation Interests.**

Muir of Dinnet is a Site of Special Scientific Interest for its Breeding Bird and freshwater interests it is also a Special Protection Area for its non-breeding wildfowl assemblage and a Special Area of Conservation for Otter. All wild birds and their nests are protected under the Wildlife and Countryside Act, and some species such as Goldeneye, which is present on the site, are subject to additional protection from intentional or reckless disturbance. The

assemblage of breeding birds SSSI feature regularly includes species such as great-crested and little grebes, mute swan, water rail, spotted crake and sedge warbler, along with wigeon, goosander and goldeneye. In addition, the lochs are also an important feeding site for osprey, which nest elsewhere on Deeside.

### **Recreational Pressure**

Situated on the edge of the Park in the popular tourist destination of Royal Deeside the Reserve currently attracts in the vicinity of 80,000 visitors per year. Its location and relatively easy access, the physical characteristics of the loch and the relative scarcity of nearby alternatives make it attractive for water sports enthusiasts. However until recently numbers have been relatively low. The current number of users varies from day to day but spring 2021 saw single organised groups of up to 7 paddle-boards. One group organiser who was visiting the loch has already voluntarily stopped, for at least the remainder of the bird breeding season, due to his own concerns about disturbance. More recently, up to 16 paddle-boards have been observed at weekends, as well as various other craft (canoes, kayaks, small inflatables) and 'wild swimmers'. Standing paddle-boarders are also more likely to cause disturbance (or disturbance at a greater distance) because of the taller profile compared with for example a kayak.

In the past the distance over which craft need to be carried from a vehicle has been a limiting factor on numbers using the loch. Again, paddle-boards and inflatables are lighter and more easily carried, so this is now less of a disincentive and may have contributed to the increase in the number of users.

Loch Kinord is relatively small (approx. 70ha) and so capacity is limited. Using published guidance, and an indicative disturbance distance of 200m, then even as few as four users (or tight groups of users) could result in disturbance across almost all of the loch. Current usage is often much higher. Recent bird counts undertaken in the early morning are higher than in the afternoon when people tend to be on the water. Although count data is relatively crude and collected over relatively short time period, there seems to be a correlation.

Disturbance on the loch also has to be seen in the context of potential disturbance by visitors on land, which may exacerbate the situation e.g. if dogs are not kept under close control and enter the water or the margins, or significant numbers of visitors depart from paths and approach the water's edge. NatureScot who manage the site are already taking additional measures this year to try to encourage responsible behaviour and reduce disturbance of this sort. This includes additional staff on site to promote good visitor behaviour, and physical measures such as signage and blocking of desire lines.

### **Engagement**

Staff on site have been engaging with water users to encourage responsible behaviour. A press release was issued at the start of April encouraging users to consider going elsewhere and a note was issued to local stakeholders seeking their views on the issue and a proposal to ask people not to use Loch Kinord during the bird breeding season. A follow up online discussion to gather views and suggestions was held on 7 May with representatives of NatureScot, Scottish Canoe Association, Aberdeen Stand Up Paddle boarders, Dinnet & Kinord Estate, Mid-Deeside Community Council, RSPB and the Access Officer from CNPA.

Alternatives to restrictions during the bird breeding season which were discussed were: zonation, a permit scheme, and water-borne voluntary rangering. NatureScot's view is that the relatively small size of the loch would make it impractical to operate zones on the loch. The placing of zone marker buoys would also change the character of the loch and might perversely attract water users. Policing of a permit system for water-borne recreation is considered likely only to be possible under byelaws. On the water rangering by volunteers would raise various issues including one of responsibility for their health and safety. It is also probable that once people are on the water it is likely to be even more difficult to influence their behaviour. NatureScot has the power to create byelaws on NNRs. However this is administratively complicated and would be difficult to enforce in these circumstances.

The message conveyed in April – to '*go somewhere else if busy*' has not brought about a noticeable change in the number of people taking access onto the loch. The message is probably not sufficiently clear, and for many the concept of 'busy' would be far beyond the level of access where disturbance to birds has occurred. Furthermore, to be effective, a clear message needs to be communicated to potential users before they reach the site.

Some stakeholders have requested that there be no access on the water at any time of year. We do not currently believe that levels of use during winter months will be significant, mainly due to the colder weather. Thus we do not consider meantime that a year-round restriction is justifiable. However the loch's protected (SPA) features do include wintering birds, so this will be monitored and kept under review.

## Response

A part of the site's role as a National Nature Reserve is to promote public enjoyment of the outdoors and thus to strike a balance between the nationally and internationally important conservation interests with responsible access. NatureScot's view is that there is a significant risk that disturbance will adversely affect the breeding birds on the site. In order to reduce this disturbance, NatureScot is putting in place new local access guidance asking people not to take access on the water of Loch Kinord during the bird breeding season, 1 March to 31 August. This policy is similar to the approach NatureScot have adopted for land-based visitors to the Reserve for example asking them not to light fires and to keep dogs on leads. Monitoring will continue both of the bird numbers and of visitor numbers and behaviour. The policy will be kept under ongoing review and will be subject to more formal review as part of the production of the next Reserve management plan in 2024. This will be mindful of evolving circumstances including developing patterns of recreation and tourism as we continue to emerge from COVID, and wider recreational fashions/trends (the current paddleboard boom may or may not be sustained). The policy will remain open to alternative approaches and NatureScot will continue to engage with user groups.

The revised guidance will be promoted by local staff, the erection of appropriate signs and a revision to the water user access leaflet. Because it is important to inform people before they arrive at the site, the changes will be communicated online through NatureScot's own online material and through discussion with stakeholders.

NatureScot are keen not to constrain people's enjoyment of the natural heritage however we believe that reasonable steps are required to arrive at a balanced approach to protect the things which make the site special. By changing the local access guidance we are technically narrowing the definition of what counts as responsible access. While in theory this strengthens the land manager's legal position; practically we don't anticipate a difference other than in extreme cases, which would in any case be underpinned by the Wildlife & Countryside Act offence of reckless disturbance. We anticipate the main effect of revised guidance will be to simplify the message and strengthen our position when seeking to influence visitors.