

WLL/CNPA-LDP/IK

**CAIRNGORMS NATIONAL PARK AUTHORITY (CNPA)**

**PROPOSED LOCAL DEVELOPMENT PLAN 2020**

**INITIAL RESPONSE and SUBMISSION**

**on behalf of**

**WILDLAND LIMITED**

Submitted: 5<sup>th</sup> April 2019 – by email only

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## Summary

1. Underlying all of the detailed comments in this response on behalf of Wildland Ltd is a fundamental concern that the proposed Local Development Plan (LDP) is, essentially, a relatively standard urban land use plan rather than a Plan for the whole of what is a designated National Park (and a National Scenic Area). It might be said that there are other Plans available to the Park Authority, as indeed there are, but when it comes to key decision making – such as for electricity grid lines through the Park or wind farms on the periphery of the Park – then it is the policies of the Local Development Plan that define the key determining issues.
2. Therefore, as an overarching principle, Wildland Ltd would look to see a repurposed LDP that anchored all of its detailed policies and proposals around a much stronger natural heritage and landscape policy base (proposed policies 4 and 5), including the related rural land management aspects, as these two planning policy issues are considered to be core to the very nature of the National Park.
3. Three examples that illustrate aspects of the underlying concern can be seen firstly, in the absence of a spatial strategy for the non-urban areas of the Park, secondly, in the approach to tourism which seems to be one of control rather than positive facilitation, and thirdly, the absence of any policies addressing the Scottish Land Commission agenda and the whole topic area of positive community engagement and Estate management plans. Significantly strengthening the two core policy areas and addressing the related issues, as per the three examples, would deliver very significant strides forward in preparing an LDP for a National Park including a designated National Scenic Area (NSA). Wildland Ltd would be an enthusiastic supporter of such a repurposed approach.
4. Having set out this fundamental concern, alongside three illustrative aspects of that concern, Wildland Ltd fully recognise that preparing a Local Development Plan that is genuinely a core issues Land Use Plan for the whole National Park and for the key characteristics of the Park is a new and almost unique challenge. The company wishes to be as supportive as possible in those circumstances. Therefore, Wildland Ltd would wish to submit this as a **formal representation** and then work with the Park

Authority to try to develop a different Plan – a Plan that nourishes and sustains the key characteristics that led to the designation of the National Park in the first place.

## **Background**

5. This Initial Response and Submission in respect of the Proposed Local Development Plan 2020 (LDP 2020) has been prepared and lodged with the CNPA on behalf of Wildland Ltd. The initial response and submission seeks the holding of a constructive dialogue with the Park Authority, as it primarily seeks to raise matters of concern for discussion with the Park LDP team. However, having regard to the formal procedure involved with a Proposed Plan, it is accepted that the response will have to be legally considered as an objection.
6. Wildland Ltd is an owner of significant land and property within the CNPA area. The company currently has its administrative headquarters in Aviemore. The land and property assets of Wildland Ltd include the Glen Feshie and Kinrara estates.
7. The protection and enhancement of the environment, coupled with sustainable investment in land management and tourism, are the key drivers in the long term management of the company's assets. This long term management is also directed at generating local social and economic benefit through effective community engagement, to which the company is fully committed, and through the preparation of Estate management plans for the various properties.
8. This response and submission has been prepared by Ian Kelly MRTPI, a consultant with Graham and Sibbald and a chartered town planner with over 40 years professional experience gained mainly in Scotland but also through work in England and Wales, and in the rural areas of Scandinavia, Iceland and Greenland. All contact in connection with this response should be to Ian Kelly and preferably by email.

## **Response and Submission**

9. The detailed commentary that follows in this response and submission, as set out below, uses the section order and paragraph numbering in the proposed LDP as published on the CNPA web site. This results in a “disaggregated” bullet point format

to the response, but it is considered that this approach will make it easier for all parties to address the matters raised in a systematic way.

10. As a general initial point it is noted that the proposed LDP is some 228 pages long and that the current approach requires the LDP contents to be read alongside other documents including the important Park Partnership Plan. It is considered that this accumulation of documentation might simply be too much text resulting in a lack of focus on key issues. Whilst it is appreciated that there is a need to plan the urban and rural environments within the Park, it is considered that a shorter Plan, that prioritised the absolute key natural heritage and landscape issues for the whole of the National Park, having regard to the four statutory Aims, might be a more effective planning policy document. In that respect it is known that there is a live Scottish Government funded research project looking at the linkages between national planning policy and local planning policy. It might be that there are some early stage lessons that could be taken from that work to assist the Park Authority.
11. The remainder of this part of the response now addresses each of the numbered sections of the Proposed LDP as below.

### **Section 1 Introduction**

12. Para 1.5 – as noted above, the need to forward plan in a structured way is fully agreed. However, having regard to the four statutory Aims, there is a concern that the Proposed LDP has an excessive focus on built development at the possible expense of setting out how the Park Authority intends to positively plan for the natural heritage and landscape attributes of the Park. It is appreciated that there is a balance to be struck and that there will be differing views. However, ultimately, the Park is natural heritage designation rather than an urban designation, whilst the NSA is clearly a landscape designation, and it is considered that these facts should be reflected in the priorities within the proposed LDP
13. Para 1.6 – following on from the above this paragraph helpfully sets out the formal position in respect of the first and overriding statutory Aim for the Park. It is considered that this clear prioritisation should be more identifiably demonstrated

within the proposed LDP through prioritising strengthened policy provisions on natural heritage and landscape.

14. Paras 1.22 to 1.25 and Fig 2 – these paragraphs and the figure set out the links between the LDP and other CNPA strategy documents. What is shown is that there are five other plans or programmes sitting “underneath” the Park Partnership Plan. Again it is suggested that this is potentially an excessive amount of planning related paperwork that leads to a loss of focus on the key natural heritage and landscape issues. Having looked at these other documents in the light of the proposed LDP it is considered that significant editing could easily be undertaken to result in a more focussed approach with perhaps just two short documents – a Park Partnership Plan and an Adopted LDP focussed on natural heritage and landscape – being the core CNPA policy documents. A possible helpful guide might be gained from looking at relevant recent/past major planning and Electricity Act Inquiry reports and the related Ministerial decision letters to see what policy provisions from which CNPA documents are considered material in key determinations

## **Section 2 Vision**

15. Para 2.2 – this paragraph list the three long term outcomes that are sought as part of the Park Partnership Plan. These three long term outcomes, in relation to conservation, visitor experience, and rural development, are fully supported by Wildland Ltd. However, it is unclear how the principles from these planned long term outcomes are then translated into key issues and key policies in the proposed LDP in the absence of strengthened natural heritage and landscape policies. Of particular concern it is unclear how the planned overall scale of housing provision, especially the allocation of very large individual sites (in Aviemore, Kingussie and Newtonmore for example), is considered to be either sustainable or compatible with the three long term outcomes from the Partnership Plan
16. Para 2.3 – this paragraph then lists a series of intentions for the proposed LDP that are said to flow from the Partnership Plan’s long term outcomes. However, the sub paragraphs are not specifically cross referenced/linked to a particular one of the three individual outcomes and it is actually difficult to independently see the clear links.

Indeed it might be argued that seeking to provide sufficient housing land to meet need and demand might be contrary to the conservation long term outcome.

17. Nonetheless, whilst the principle of what these two paragraphs are trying to achieve is fully supported, it is considered that there is a need for a redrafting to explicitly show the linkage flows from the intended outcomes of the Partnership Plan to the directly related priorities within the proposed LDP, and all with a strengthened focus on natural heritage and landscape.

### **Section 3 Spatial Strategy**

18. Para 3.9 – this paragraph is the first mention in the LDP of the An Camus Mor new settlement proposal to the east of Aviemore. Whilst the principle of this development has been established, for the time being, by the decisions of the Park Authority, there are a number of concerns over the implementation. These are addressed later in this response when considering the detailed provisions set out under the LDP section on Aviemore
19. Fig 3 – this figure shows the spatial strategy that is described in the paragraphs that precede it, including a description of the geographical setting of the Park. However, what is immediately apparent is that there is no spatial strategy for the extensive rural and mountains area of the Park. It might be unusual to think in terms of an LDP spatial strategy for such areas, however, rural areas elsewhere are spatially planned in terms of renewable energy or differential approaches to housing in the countryside. Therefore, it is considered that the LDP should at least attempt to visualise, in a figure, what the spatial strategy is to be for the non-urban areas of the Park. As an example of what might be shown the figure could “shade” areas around settlements where some small scale development might be permitted whilst also “shading” the core mountain areas and other Wild Land Areas as meriting a strong priority for natural heritage and landscape protection from significant adverse effects. Such an approach would be commensurate with the basis for the designation of the Park and with the statutory Aims (as well as supporting the policy provisions for the NSA).

## Section 4 Policies

20. Para 4.3 – the linkage to Supplementary Guidance (SG) is set out in this paragraph although there is no actual listing of the various items of Guidance within the policy text. There have been challenging issues with SG in other LDP's especially where it has been asserted that the SG introduces tests or requirements that go beyond the provisions of related enabling policy in the LDP. Partly as a result of this the proposed new Planning Act is suggesting removing the statutory basis for SG. As an alternative approach, for this CNPA LDP, it is suggested that a very much simplified listing of demonstrably key issues and requirements is set out with the text of the relevant policy. It is considered that this should not be difficult to do.
21. Para 4.4 – this contains a generic reference to “more surveys” and “more information”. It is considered that this is not helpful. Parties who are proposing a development of any type within the Park should, preferably, be able to go to the LDP, in the first instance, and see a clear setting out of the supporting information that is likely to be reasonably required. In addition, setting these provisions out in the proposed LDP would have given parties the chance to make representations as to whether or not the information requirements were appropriate and reasonable.
22. Para 4.5 onwards and Figs 4 and 5 – this short paragraph and the two diagrams in the LDP further address the key important matter of the relationship of the LDP with the Partnership Plan. This has already been comment upon earlier in this response. The two tables set out a complex set of interactions in the form of either a score or a tick. However, there is no analytical text of any sort. Whilst the general approach in this response and submission is one of seeking less text rather than more text, it is considered that this interaction between the Partnership Plan and the LDP is so key that there is a need for analytical text that can be assessed by interested parties. It is suggested that such an expanded section and figures, with a focus on strengthened natural heritage and landscape policies, would then be the core of the LDP.

***Policy 1 New Housing Development***

23. Notwithstanding the concern about the sustainability of an approach of allocating single very large sites in some settlements, as set out earlier, there is considerable detail in this proposed policy that merits further comment.
24. Policy 1.2 existing rural groups – this provides general support, subject to guidelines, for adding to existing housing groups. However, the generic imposition of the one third increase within each Plan period is not properly justified and it might be that this is an aspect where a differing approach might be taken in different localities depending on the existing form of the housing group.
25. Policy 1.3 other housing in the countryside – the provisions within this part of the policy for the provision of housing in support of businesses are welcomed. However, there might well be a need for flexibility in the locational guidance to enable new housing to be best located to suit the modern land management requirements of estates that are being managed as a unified group rather than individually. The current locations of houses for Ghillies, for example, might be very poorly positioned for modern effective and secure land management.
26. Policy 1.5 affordable housing – the intentions behind this policy are fully understood. There is an accepted clear need for housing for local people that is permanently retained as such. Housing provided for estate workers is one form of such housing. However, in the absence of a dedicated social housing partner organisation these percentage provisions might well end up being just too onerous with the twin effects of rendering development unviable whilst at the same suppressing development intentions. It is considered that there would be merit in an alternative approach of the local authorities seeking to directly provide significant amounts of housing for rent.
27. Policy 1.7 alterations – the provisions of this policy are supported although it should be noted that there will be circumstances where there is no alternative other than to use the existing access irrespective of the standard of that access.
28. Policy 1.8 conversions – this policy is fully supported.
29. Policy 1.9 replacement houses – the provisions of this policy are, in general, supported. However, it is anticipated that there might be occasions where buildings of the categories specified in the first part of the policy are so derelict or otherwise



incapable of economic restoration that a replacement house would be the preferable environmental outcome. In addition, as noted above, the location of existing housing may no longer suit the current operational/management practices for the land. It is considered that the wording of the policy should allow for these circumstances.

30. Para 4.15 – the generic statement in this paragraph on the approach to the provision of staff accommodation could be seen as helpful but it could also be seen as problematic given the caveat of “meet the policies of the Plan”. It is suggested that a more appropriate approach might be to regard staff accommodation as one of the sub-policy areas (like conversions or affordable housing etc.) and give detailed provisions/criteria on the approach of supporting this type of development which might include small hostel type developments as well as mainstream housing. If Policy 1.9 is adjusted as suggested above then this might well address the concern.
31. Para 4.16 and Fig 6 – this paragraph and the figure address the relationship between this policy and the Park Partnership Plan. This approach is repeated with virtually all of the individual policies. The issue of concern is not the detail of the text itself but rather that the approach being taken in the Plan results in the critically important issue of the relationship between the LDP and the Park Partnership Plan being scattered throughout multiple sections of the LDP. As stated earlier, this relationship with the Park Partnership Plan is considered to be a key issue for the LDP in the context of anchoring the LDP around strengthened natural heritage and landscape policies. Therefore, there would be merit in the various sections being integrated and consolidated to give a short but clear setting out of the relationship demonstrating how it directly influences the spatial strategy and the focussed policy provisions within the LDP.

### ***Policy 2 Economic Growth***

32. Protecting existing economic development and providing positive support for future economic development is fully supported by Wildland Ltd as a matter of principle. However, there is a general concern that the approach to the tourism policies in particular is too much about controlling as opposed to enabling. This is a matter that

might best be discussed with the Park Authority, but beyond that there are only a few points of detail on which comment is made as follows.

33. Policy 2.2 tourist accommodation – the provisions of sub paragraph a) are considered to be too onerous as the test is “no adverse effect”. It is submitted that this should be changed to “no significant adverse effect”.
34. Policy 2.3 other tourism and leisure developments – a similar concern arises with the same “no adverse effect” test used in this policy. Unless the approach is changed, as suggested above for policy 2.2, it is considered that the provisions of this policy could deter otherwise worthwhile investment plans for tourist accommodation and other tourism facilities.
35. Policy 2.4 other economic development – this supportive policy is welcomed. However, in respect of the company’s land assets the existing distribution of working steadings, sheds, stores, and offices (as with staff accommodation) might well be poorly located for current land management plans and practices. Therefore, in the future, it is anticipated that new management buildings and associated facilities might well need to be located in different parts of the estates from the current facilities, but all in accordance with the estates management plans. It is to be hoped that this policy will also enable the provision of these types of business management facilities which will directly support the vitality and viability of the company’s operations.
36. Para 4.29 – this paragraph sets out the relationship between this policy and the Park Partnership Plan. Reference should be made to the comments on the similar paragraph contained within Policy 1.
37. Para 4.37 – this sets out that the standard range of developer contributions will be sought for housing that is provided solely for tourism purposes. It is considered that this is not justified as the occupants of such housing will, for example, not make use of local schools nor will they make regular use of local health care facilities. Such tourist housing development proposals are an essential part of the National Park tourism economy and should be supported as such rather than being subject to additional costs. Nonetheless it is noted that this statement of intent is not currently included within a policy and thus its status is unclear.

### ***Policy 3 Design and Placemaking***

38. The general approach of this policy is supported. However, given the experience of the types of case argued by the promoters of commercial scale wind farms (including wind farms on the perimeter of the Park) it is suggested that the provisions on sustainability, in sub-section 3.3, should not include any reference to climate change. In any event there is no evidence that a particular form of building design or provision within the Park has any verifiable effect on climate. It is recognised that there are strong views on this topic and, therefore, it is possibly best left out of the LDP.

### ***Policy 4 Natural Heritage***

39. The National Park was designated on account of the outstanding natural heritage (with a pre-existing NSA) and, therefore, the provisions of this Policy, and Fig 8 (along with Policy 5 below), should be at the core of the Local Development Plan.

40. Policies 4.1 and 4.2, international and national designations – these policies basically simply restate what is set out in SPP. However, the concept of the effects on “integrity” and the concept of there being outweighing “benefits” have both been extensively debated in major Public Inquiries and, generally, the outcome has been to favour development, especially renewable energy development, at the expense of the natural heritage. It is suggested that the lessons from decision making need to be taken on board and a stronger policy wording devised so as to deliver greater protection for the natural heritage.

41. In terms of the provisions on protected species an aspect that is not addressed in the Plan is one that, whilst common throughout Scotland, is essential in the context of a National Park That aspect is to set out what is to happen by way of planning control if monitoring shows that Habitat Management Plans, required as a condition of a permission or a consent, are not actually delivering the outcomes that were intended or predicted.

42. The other detailed policy provisions tend to be expressed in fairly generic terms with the usual “get out” caveats being expressed all in a format that is seen in Local Development Plans throughout the country.

43. The fundamental concern of Wildland Ltd is set out in the summary at the start of this document. Based on that concern, it is suggested that, for a designated National Park, with an NSA, there would be merit in considering whether there is a case for a stronger approach that is effectively a clear presumption against developments that will produce any significant harm to the specified natural heritage interests. This response is not the place to suggest detailed rewording of policies as that is something to be discussed, but it is suggested that key themes, such as re-wilding, could be taken from the Park Partnership Plan and adapted to the LDP. This could also involve developing policy “tests” which go beyond the SPP tests as these SPP tests have not fully protected the natural heritage of the Park.

### ***Policy 5 Landscape***

44. As noted above the National Park was designated on account of the outstanding natural heritage which includes the outstanding NSA landscape and, therefore, the provisions of this Policy, and Fig 9 (along with Policy 4 above), should be at the core of the Local Development Plan for the National Park. Having said that it is noticeable that the actual policy provisions on landscape only occupy half a page of text. It is doubtful if this properly reflects the importance of this Plan topic for the designated National Park.
45. Policy 5.1 special landscape qualities – it is submitted that the approach needs to be strengthened in order to properly protect the special landscape qualities. This could be done by replacing “or” with “and” in the two main paragraphs of the policy and by replacing the generic text of the two exception sub-paragraphs with more precise impact based tests. Again this is something that could be discussed.
46. Sub-section 5.2 and paras 4.74 to 4.76, private roads and ways - the basic presumption against new tracks is welcomed although Wildland Ltd is of the view that it is as much the location, design, and form of construction of new tracks that is the issue rather than being an outright matter of principle alone. Therefore, it is considered that there is a case for the inclusion of design and construction guidance within the proposed LDP.

47. As with Policy 4 much of the other detailed policy provisions, and the supporting text, tend to be expressed in fairly generic terms with the usual “get out” caveats being expressed all in a format that is seen in Local Development Plans throughout the country.
48. The fundamental concern of Wildland Ltd is set out in the summary at the start of this document. Based on that concern, it is suggested that, for a designated National Park, with an NSA, there would be merit in considering whether there is a case for a stronger approach that is effectively a clear presumption against developments that will produce any significant harm to the specified landscape interests. This response is not the place to suggest detailed rewording of policies as that is something to be discussed, but it is suggested that key themes, such as re-wilding, could be taken from the Park Partnership Plan and adapted to the LDP. This could also involve developing policy “tests” which go beyond the SPP tests as these SPP tests have not fully protected the landscape of the Park and of the associated NSA.

### ***Policy 7 Renewable Energy***

49. Wildland Ltd is fully supportive of the clear policy approach of opposing commercial scale wind turbines/farms within the Park. However, there are two related issues that should be considered with associated adjustments being made to the proposed Policy. These two issues are considered in the following paragraphs in this response.
50. Firstly, there is a very significant issue of commercial scale wind farms being approved on the periphery of the Park despite the very specific provisions on this aspect in the Park Partnership Plan. Clearly these provisions are not being effectively incorporated into wind farm decision making. The previous approval of Dorenell 1 and the recent PLI Report for Dorenell 2 are good examples of this. It is considered that this aspect needs to be addressed before the Park ends up being completely encircled with commercial scale wind farms where, in recent applications, the proposed turbine heights can now be more than 200m to blade tip. To assist in the understanding of this concern Wildland Ltd will provide to the Park Authority, under separate cover, a copy of an up to date map showing the visual influence of wind farms. This map has been prepared by Dr Steve Carver of the Wildland Research

Institute in Leeds University. The map should be regarded as forming part of this response and can be placed on the Park Authority web site alongside the response.

51. Secondly, when assessing wind farms it is now becoming clear that there are significant elements of ancillary infrastructure, grid lines, sub-stations, and “temporary” tracks, that all should properly be assessed at the same time alongside the respective wind farm as without one there would not be the other. With the rejected Allt Duine wind farm proposal the extensive debate around the proposed main access track west from the A9 shows how important such aspects can be. From an earlier time period the consenting of wind farms that are remote from the Park led directly to the approval of the B2D grid pylon line running through the Park. Having regard to these issues it is considered that there would be merit in setting out a policy position on the need to address what might readily be considered as the “whole scheme” when assessing commercial scale wind farms that have significant landscape or natural heritage adverse effects within the Park.

### ***Policy 11 Developer Contributions***

52. What is set out in this policy is all fairly standard but potentially quite onerous especially for developments which might, in many locations within the Park, be economically marginal to start with. Nonetheless, there are no proposed comments on the detail of this policy. However, it is considered, as a matter of principle, that the full detail of the expected contributions, with the justifications, should be set out in the Plan and not in Supplementary Guidance some of which might yet still to be produced and published

### ***Settlement Allocations***

53. Aviemore, An Camus Mor, pages 101 to 103 – this section of the proposed Plan sets out the proposed detailed controls and implementation processes in connection with the implementation of the An Camus Mor new settlement. Although the company did not object to the original planning application, Wildland Ltd has a number of significant concerns about the infrastructure and natural heritage impacts (on both

designations and on adjoining land holdings) that will arise as a result of the implementation of this proposed new settlement. In addition, there is a genuine concern about the current lack of transparency and the lack of consultation with adjoining landowners over the content of the (yet to be finalised) Section 75 Agreement which, in law, cannot bind land not controlled by the applicant or by the application site land owner. Given that basic legal position it is, of course, not possible for the developers of An Camus Mor to seek to affect what happens on Glen Feshie, for example. Furthermore, given that position, it is also considered that it would be inappropriate for the Park Authority to seek to use its powers to facilitate actions or developments that would have such an effect for adjoining land.

54. It is accepted that there are further points of detail about the implementation where these concerns are probably best addressed through responses to later pre-commencement conditions submissions or detailed planning application submissions rather than through commenting on the provisions in the proposed Plan.
55. The issue that Wildland Ltd would wish to raise in this response is a more fundamental one and it is one that ties back to the overarching concern around natural heritage and landscape as set out in the summary section at the start of this representation. That overarching concern leads Wildland Ltd to seriously question whether a new settlement of this scale and location is sustainable development in the context of a National Park which was designated on account of its outstanding natural heritage and much of which is a National Scenic Area. It is submitted that, in principle, smaller scale and well located developments would be a more sustainable way forward to deliver housing for local needs whilst respecting the core issues of natural heritage and landscape.
56. In terms of the other settlements addressed in this section of the proposed Plan, and whilst noting and supporting the approach of defining strategic, intermediate, and rural settlements, the company has no particular comments on the detail at this stage other than the point above as to whether the approach of allocating single large capacity housing sites, for example at Newtonmore and Kingussie as well as Aviemore, is actually appropriate and sustainable for a National Park.

## **Next Stages**

57. Wildland Ltd are generally supportive of what the Park Authority is trying to achieve with the LDP 2020 but there is a fundamental concern. The Plan is not seen as a Plan for the whole of the National Park. Nor is it seen as a Plan which has been grounded on strengthened core policies for natural heritage and the landscape which are the key attributes of a National Park and National Scenic Area where these designations are based on the outstanding natural heritage and outstanding landscape. However, the company is also hopeful that their concerns, which are lodged in the spirit of being a representation, can be addressed by way of careful and productive follow up stages, including detailed discussions on repurposing the proposed Plan. This is said notwithstanding that the provisions of legislation require that the response and submission must be classified as an objection so as to facilitate later stages dialogue.
58. It is considered that the immediate next stage action should be an early meeting between the CNPA LDP team and the Wildland Ltd team to discuss this response submission. Thereafter, it might be that a meeting with other interested parties such as SNH and the Council Planning Authorities might be appropriate.
59. In the meantime Wildland Ltd would be happy to respond to any immediate questions.

[END]

**Submitted 5<sup>th</sup> April 2019**

**On behalf of Wildland Limited,**

**Ian Kelly MRTPI,**

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