

Meeting our '30 by 30' biodiversity commitment on

Terrestrial and Freshwater sites

May 2024

General comments

LINK strongly supports the target to protect at least 30% of Scotland's land by 2030 (30 by 30). 30 by 30 is a key element of Scotland's response to the nature crisis and if delivered effectively will help safeguard our best remaining places for nature as well as supporting nature's recovery.

30 by 30 will also deliver wider benefits, supporting our economy to be more resilient over the long-term, helping our habitats to capture and store carbon, reducing flood risks and increasing the amount of wonderful wildlife-rich places for people to visit and connect with nature. The 2021 Dasgupta Review '[The Economics of Biodiversity](#)' commissioned by the UK HM Treasury found that globally the benefits of protecting 30% of land and ocean would exceed costs and would provide better financial and higher non-monetary benefits than currently.

Our report '[Protecting 30% of Scotland's land for nature](#)' sets out that despite 18% of land being protected for nature, there has been a failure to significantly improve the condition of Scotland's designated features over the past 15 years, with 65.2% of designated features assessed as being in favourable condition in 2023, representing a slight decrease since 2007. The report sets out a number of measures that need to be taken in order to improve our existing protected areas and ensure they are maximising their contribution to nature's recovery. We are pleased that the consultation proposals aim to address several of these actions, including:

- A strategic approach to addressing pressures inside and outside of protected areas;
- Better use of enforcement powers;
- Action to ensure protected areas are resilient and dynamic in the face of climate change;
- Protected areas placed at the heart of a wider programme of ecosystem restoration.

We therefore broadly support the direction of travel set out in the consultation paper. However, overall the package of proposals falls short of our hopes for 30 by 30 legislation. We are particularly disappointed that opportunities were not taken in the consultation to explore:

- Setting new targets for improving the condition of designated features and 30 by 30 sites.
- Strengthening the protections afforded to Ramsar sites to provide internationally important features with adequate protection from damage.
- Requirements for positive active management of 30 by 30 sites.

We hope to see these issues considered by the Scottish Government for inclusion in the Natural Environment Bill.

In addition, there are many key actions we hope will be taken forward under 30 by 30 that do not require legislation. LINK [responded in detail](#) to the draft 30 by 30 framework in the 2023 Biodiversity Framework Consultation. We welcomed the principles and direction of the framework, but it was very high level. Further detail about next steps on 30 by 30 is required to help stakeholders better

understand what this policy will really mean on the ground and to start lining up delivery partners to take forward work to achieve the target.

We hope to see the Scottish Government and NatureScot coming forward soon with an ambitious finalised plan for 30 by 30, including:

- Creation of a stakeholder group to engage with NGOs, communities, land managers, farmers, crofters and other key stakeholders on 30 by 30.
- Robust criteria and site selection and identification process for 30 by 30, including defining criteria for Other Effective Area Based Conservation Measures (OECMs).
- Identification of new protected areas where this would complete our existing suite of statutory nature sites, for example implementing the recommendations of the 2016 JNCC SPA Review or classifying sites that meet qualifying criteria and would particularly improve coverage for species and habitats currently under-represented in the network.
- An action plan for maximising the effectiveness of 30 by 30 sites, including setting targets for condition and rolling out a strategic programme to tackle landscape scale pressures.
- Developing and rolling out a robust new monitoring programme for protected areas.
- A plan for ensuring that 30 by 30 is funded over the long-term through public and private finance, including ongoing site management and monitoring, and a package of incentives that land-managers, crofters and farmers can access to support positive management of 30 by 30 sites where appropriate.
- A clear communications plan for engaging a wide range of stakeholders in the development and rollout of 30 by 30, and better celebrating the value of our best nature sites.
- Clarity for delivery partners about the interaction between 30 by 30 and other key policy areas that are currently being taken forward, such as nature networks, programme of ecosystem restoration and biodiversity enhancement.

Section One: Creating flexibility for designated sites

Question 1: In Scotland, protected areas on land work by identifying individual natural features to be protected on a site (e.g. habitats, species populations or geology). Should the Scottish Government allow protected areas to also be designated on the basis of important ecosystems (including interactions between habitats, which recognise the importance of transitional habitats), in addition to individual natural features?

✓ **Somewhat agree**

Please explain the reasons for your response:

LINK supports the proposal for protected areas to be designated for important ecosystem features in addition to individual natural features. However, we have significant concerns about how such a framework will operate in practice and are disappointed at the lack of detail provided.

We were pleased to see a national programme of ecosystem restoration across Scotland included in the Scottish Biodiversity Strategy to 2045. It is sensible for restored ecosystems and other important ecosystems that are currently unprotected to be candidates for inclusion in 30 by 30 to ensure they continue to be protected over the long term. We therefore support new protected areas being designated for ecosystem features, as set out in Scenario 2 of this section.

It is not clear what ecosystems the Scottish Government consider as ‘important’ and likely to be included in this approach. We support the proposal for NatureScot to draft guidance to complement the SSSI Site Selection Guidelines. This should include:

- The criteria for ecosystem evaluation and selection.
- Information about issues surrounding designation and the broad operational approach.
- A list of important ecosystems that would qualify for designation.

Another purpose for this provision, as outlined in the consultation, involves incorporating ecosystem features into current citations to enhance flexibility in site management. While we generally endorse this approach, there are instances where insufficient details are provided regarding its practical implementation. We are apprehensive about the absence of acknowledgment regarding the necessity for a framework and safeguards to effectively implement this change, ensuring that significant species and habitats remain unaffected.

Ecosystems consist of species, therefore consideration of the species as part of a functional ecosystem should be considered when developing criteria, during management, and monitoring.

The consultation identifies two particular concerns that the Scottish Government aims to tackle with this provision:

- Situations where two designated features on a site have conflicting management requirements, leading to one feature being managed to favourable condition at the expense of the other.
- Changes in species range and within habitat species changes due to climate and other environmental changes.

LINK agrees that these issues are occurring on some sites and that action is required to make our designated sites network more flexible and dynamic. However, an in-depth review of the issues affecting Scotland’s protected areas to better assess the scale and nature of the issues, in order to inform development of the right solutions should be carried out. We are concerned at the lack of qualitative data in the consultation – for example, clarification about how many sites and features are currently experiencing these issues, but also regarding the benefits to nature that are delivered by the current feature-based approach.

It is essential that priority habitats, including those which require active management to maintain them in an early or mid-successional state, are integrated into any new approach to protected sites identification. For example, it would be unacceptable to allow ecosystem processes (through natural succession for example) to cause the loss of ancient species-rich grassland (and the priority species which this habitat supports).

A number of reviews of the protected areas framework at EU, UK and Scotland levels have found issues with the implementation of the legislation, rather than with the legislation itself. Implementation issues in Scotland have included inadequate levels of monitoring to provide data to inform management decisions.

Great care therefore needs to be taken to ensure that the proposed approach is integrated into the protected area system in a way that will not weaken the protections afforded to nationally and

internationally important species and habitats, rather than delivering widespread, unintended changes across the protected area network. However, no consideration of this is provided in the consultation paper and no safeguards are proposed to ensure that changes are proportionate and that decision-making is strategic as well as localised.

In one of the examples, heath is described as being allowed to succeed to woodland - this would be unacceptable if this heath was, for example, internationally rare liverwort heath (e.g. the H21b community). Appropriate grazing levels should be managed to maintain liverwort heath in this scenario.

LINK recommends that nature network mapping is used to help identify appropriate sites and options for connectivity - ensuring that multiple commitments are progressed. It would be helpful to outline how local communities will be included in decision making?

We are also aware of the parallel consultation that the Scottish Government is running on enabling powers to amend the Environmental Impact Assessment regime and Habitats Regulations. LINK has responded to the consultation to raise concerns about the introduction of potentially wide-ranging powers for governments to make changes to our most important environmental protections in the future. One of the potential uses of the enabling powers explored in that consultation is to remove features from citations or amend site boundaries. That proposal is directly linked to this section in the 30 by 30 consultation on increasing flexibility on protected areas, but is not even referenced. We feel that it should have been included as a proposal in this section of the consultation alongside the proposal to add ecosystem features, as that would give a much clearer view of the Scottish Government's intended framework for delivering more flexibility on protected sites and better allow stakeholders to understand and comment on the changes.

It is LINK's view that, across the UK, a robust framework is required to increase the flexibility of designated sites. This framework should include a decision-making process that can be used on a site-by-site basis where there are any issues with the listed features. For example, if there is a decision to remove a feature from a citation this should include:

- A requirement for clear evidence about why a feature is no longer on site to ensure that it is not due to ineffective management or offsite pressures that can be addressed.
- Transparency and accountability – NatureScot must be accountable and oversee these decisions in a transparent and open way.
- Provision for that feature elsewhere to ensure it can meet Favourable Conservation Status – this could be through protecting another suitable site supporting that feature, or through measures in the wider landscape or seascape. The requirement should simply be for NatureScot and the Scottish Government to demonstrate that they are adequately providing for that feature.

Section Two: Proactive Management of Protected Areas and Other Important Areas for Biodiversity

Question 2: Should the Scottish Government clarify the existing powers that require management and restoration of protected areas, to make it clear that this requirement also covers protected areas that are experiencing slow deterioration over a long period of time (e.g. invasive non-native species spreading over native habitats such as woodlands)?

✓ Agree

Please explain the reasons for your response:

LINK supports the intention to clarify enforcement powers for protected areas.

We suggest that a review should be carried out and published, which quantifies the use of enforcement powers since the 2004 Nature Conservation (Scotland) Act was passed, by setting out the barriers to use of the powers. This will clarify if any additional legislative change is required to strengthen enforcement powers in the Natural Environment Bill.

The enforcement powers remain fit for purpose and that barriers to use are likely to be non-legislative, but we do support this proposed clarification to ensure that powers are adequate to tackle landscape-scale/catchment level pressures affecting the condition of designated sites such as Invasive Non-Native Species.

We remain unclear about what is specifically being proposed for inclusion in the legislation and suggest further clarification and supporting data is provided.

LINK supports the need for clarity on enforcement of management and restoration requirements:

- Securing long-term funding for monitoring protected areas is essential - Improve data collection
- Understand why slow deterioration is being allowed to happen – neighbouring landowners
- More clarity needed on what will be included in the legislation – what will be included in the NE Bill
- Needs adequate funding/ incentives to support effective management

Question 3: Should the Scottish Government expand the existing powers to enforce and incentivise management and restoration of protected areas, to cover other land in situations where it has been identified to have significant benefits to be achieved through nature restoration?

- **These powers would be subject to the following conditions:**
- **Such areas would be identified through a defined and transparent process, including publication of the assessment material, consultation with interested parties, and Ministerial approval.**
- **The intervention would only be active for a specified period of time.**
- **There would be mandatory reviews of the progress made during the period it was active.**
- **The agreed conditions of the intervention could be adjusted in terms of their duration or geographical scope.**
- **There would be an appeal process.**

- **Advice would be provided on the available financial support throughout the active period of the intervention.**

✓ **Agree**

Please explain the reasons for your response:

LINK strongly supports this proposal for additional means to require, incentivise and enforce activities to secure nature restoration off protected areas. We agree that such a framework would significantly support increased delivery of nature restoration across Scotland and the programme of ecosystem restoration committed to in the Scottish Biodiversity Strategy.

We are particularly pleased to see reference to the issues of non-native conifer regeneration and support the creation of a mechanism to address that in specified areas.

However, further detail is required as to what is specifically being proposed for the Bill and how that would be operationalised, and further supporting information would be beneficial to better highlight the need for these provisions.

There is also no clarity provided about how this proposal fits within 30 by 30. We are unclear as to whether the mechanism proposed is a model for an OECM or new nature restoration designation. Clarity about the status of these areas must be provided. LINK's report on 30 by 30 highlights that land can only count towards the 30% target if it is protected over the long-term from damage and that nature is demonstrated to be in a good or recovering condition on site. From what is described in the consultation document, we are uncertain that the long-term protection element of the criteria would be adequately covered by the provisions, firstly because the consultation states that 'the mechanism would be active for a specified period of time' and secondly because no mention is made as to how these restored areas would be protected over the long-term once recovery is secured.

This response is supported by:

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