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Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
Standards Scotland
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The Scottish Government
30by30consultation2024@gov.scot

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1. Environmental Standards Scotland (ESS) is a non-ministerial office (directly accountable to the Scottish Parliament), with a remit to monitor and secure improvements to:
 - public bodies' compliance with environmental law
 - the effectiveness of environmental law
 - the implementation and application of environmental law
2. ESS welcomes the opportunity to respond to the Scottish Government's consultation on legislative proposals which will support the implementation of 30 by 30. ESS has responded to specific questions of this consultation, set out below.
3. In considering ESS' response to this consultation, it is helpful to recognise the potential links with other ongoing consultations held by the Scottish Government, including:
 - legislative proposals to introduce enabling powers to allow future amendment of Scotland's Environmental Impact Assessment (EIA) and Habitat Regulations
 - legislative proposals to facilitate marine nature restoration and the application of Marine Conservation Orders to habitats and species undergoing restoration

ESS recognises (and has responded accordingly), that a range of measures and tools are needed to achieve the Scottish Government's overarching biodiversity objectives. These objectives include Scotland's commitment to be nature positive by 2030, to have restored and regenerated biodiversity by 2045 (as outlined in Scotland's Biodiversity Strategy), and to meet the obligations set out in the Global Biodiversity Framework's 30

by 30 target. The range of measures proposed by these consultations (if well implemented), could aid in delivering better environmental outcomes as well as help to foster a more resilient and robust protected sites network.

Question 1 – 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?

4. Yes, ESS agrees with the proposal to allow protected areas to be designated based on important ecosystems in addition to individual natural features. Recognising the dynamic nature of ecosystems and interactions between habitats is essential for effective biodiversity conservation. However, due to the early stage of these proposals, there is a lack of clarity provided on the details of how proposed protected areas would be managed at a practical level and how these legislative changes link to the wider policy framework.
5. The absence of detailed guidance from NatureScot at this point on how sites may be designated based on an ecosystem, creates uncertainty regarding how the designation process will function. ESS recognises the need for continued protection of a site where the original notified feature has changed over time, as well as the protection of overall ecosystems. However, it is crucial that any new designations complement existing protections and ensure the continued conservation of individual natural features.
6. The intent of these proposals appears to be in alignment with the wider 30 by 30 policy framework. The use of Other Effective area-based Conservation Measures (OECMs) to contribute towards the goal of protecting 30% of land has the potential to be a complementary approach to traditional protected areas. However, it is vital to ensure that these designations are made with the appropriate level of protection, governance and management to effectively conserve biodiversity. In particular, while these areas may offer flexibility in their management approaches, they must still be subject to rigorous assessment, monitoring and management to ensure the delivery of long-term, effective biodiversity conservation.

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?)

7. Yes, ESS agrees with the proposal to clarify existing powers to make it clear that this requirement also covers protected areas that are experiencing slow deterioration over a long period of time. ESS recognises the value in extending protection beyond immediate threats to include chronic pressures that impact biodiversity over time.
8. ESS is currently undertaking a call for evidence on the control and impact of invasive non-native species (INNS) in Scotland. Early analysis indicates that existing tools, such as Land Management Orders (LMOs), are underutilised in addressing the issue of INNS, as recognised in Section Two of this consultation. ESS supports the strengthening of tools like LMOs to address longer term pressures on biodiversity. These tools should be used proportionately to target the most detrimental of INNS, promoting appropriate and complementary land management practices.
9. At this stage of discussing the principles of these proposals there is limited detail available on the practical measures that will be in place to support landowners and land managers in fulfilling biodiversity recovery obligations. The concept of long-term agreements is promising. However, effective implementation will require access to evidence and guidance on the most appropriate management practices. It is anticipated that guidance will be produced as these proposals develop.
10. ESS acknowledges the potential effectiveness of tools like LMOs in securing long-term benefits for biodiversity. LMOs should be used as part of a diverse suite of options for the conservation of sites and species. A comprehensive approach is needed which includes voluntary agreements, providing effective advice and guidance, offering well-targeted financial support and where necessary, using enforcement tools to achieve conservation objectives.

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?

11. Yes, ESS supports the principle of expanding existing powers to enforce and incentivise nature restoration beyond protected areas. We recognise the importance of such measures in establishing a robust network of sites for conservation. Several key considerations for the development and implementation of these principles are set out below.
12. It is essential to establish a well-defined and transparent process for identifying relevant areas for nature restoration activities. This should be well evidenced and supported by appropriate guidance.
13. Building a resilient network of sites for nature restoration requires careful consideration of delivery measures and timelines for various conservation actions. It is essential to avoid losing the benefits of restoration efforts due to changes in land management over time. Additionally, the duration of interventions should be carefully assessed to ensure sufficient time for meaningful biodiversity outcomes, particularly considering the long-term nature of many restoration projects.
14. While the potential benefits of a biodiversity credit market are promising, it should be viewed as part of a broader toolkit for conservation. The emerging biodiversity credit market should be robust and standardised, including independent verification and regulation, to ensure its integrity and effectiveness. It is also important to acknowledge that such a scheme will require time to develop and implement, and other financial schemes should be in place to support conservation in the interim.
15. As stated in our response to Question 1, any areas targeted for nature restoration outwith protected sites must still be subject to rigorous assessment, monitoring and management. Effective biodiversity conservation necessitates ongoing evaluation and adaptive management practices.