



Enabling Legislation for National Parks

Response to Public Consultation from Mountaineering Ireland

October 2011

1. Introduction

Mountaineering Ireland (MI) welcomes the consultation on Enabling Legislation for the designation of National Parks in Northern Ireland. This represents an opportunity to put in place stronger mechanisms to manage Northern Ireland's exceptional landscapes, in a way that will enable greater local social and economic benefit.

2. Mountaineering Ireland

MI is the representative body for hillwalkers and climbers on the island of Ireland. MI is recognised as the National Governing Body for the sport of mountaineering by both Sport Northern Ireland and the Irish Sports Council. The term mountaineering refers to a spectrum of activities that includes hillwalking, rock and ice-climbing, rambling, bouldering and alpinism. MI has 10,500 members comprising 153 clubs and over 1300 individual members (October 2011).

The work of Mountaineering Ireland includes:

- Representing the interests of hillwalkers and climbers;
- Providing a comprehensive range of services to members;
- Improving and securing access to Ireland's hills and crags;
- Promoting conservation and responsible use of the mountain environment;
- Encouraging safe practice and promoting skills and leadership training.

3. Responses to Consultation Questions

3.1 What are your views on the proposed aims of national parks?

MI appreciates the complex background to this consultation, and the desire for Northern Ireland to develop a national park model that optimises economic opportunities while conserving and enhancing our most cherished landscapes, and bringing benefit to their communities.

Overall MI has a concern that the consultation document places too much emphasis on tourism and economic factors, and not enough on the protection and sustainable management of special landscapes. Those who are sceptical about national parks are unlikely to be reassured by the economic emphasis. While economic benefit should flow from a national park, this will only happen where a high quality landscape is well managed, otherwise it is a vacuous branding exercise and any gain will be short-term only. This lack of focus can be resolved through some relatively minor adjustments to the proposed aims.

While the aims in the consultation document may not be listed in order of importance, many people will interpret them in that way. It is MI's recommendation that the second aim 'Conservation and enhancement of the natural, cultural and built heritage of the area'.

should be the first aim.

Even with good planning and management, it is inevitable that conflict will occasionally arise between the four aims. To enable management to function effectively, one aim should have precedence over the others. It is MI's belief that where such conflict cannot be resolved, that conservation should take priority. This is the Sandford Principle, as applied in National Parks throughout the rest of the UK. This should be built into the enabling legislation, as it is in Section 9.6 of the National Parks (Scotland) Act 2000.

3.2 What are your views on the proposed criteria for identifying areas that may be suitable as national parks?

MI is supportive of three of the four criteria set out in the consultation document, however the third one (Special Pressures, paragraph 42 of the White Paper) raises some concerns.

It is likely that candidate areas will be experiencing visitor pressure and development pressure, and national park designation should bring benefits in terms of increased funding and management capacity, however it is MI's view that this pressure shouldn't be one of the criteria for designation.

Paragraph 43 refers to other special landscapes being sustained by 'more modest designation and management arrangements'. There has been a significant growth in participation in outdoor recreation activities in recent years and this seems set to continue. This brings health and well-being benefits for participants and healthcare savings for the Exchequer, however it will place greater demands on the special landscapes that attract much of this activity. Northern Ireland also has considerable growth potential in the tourism sector.

AONBs are already under much strain trying to manage existing challenges with very limited resources. It is imperative that the designation of a National Park would not detract from AONB funding. MI recommends that the National Parks legislation should clarify the role of AONBs and also bring more consistency to AONB structures.

3.3 What are your views on the proposed arrangements for consulting on a proposal to designate a specific area as a national park?

MI is one of a number of governing bodies for outdoor sports that rely on special landscapes across the island of Ireland as the key resource for their activities. As the management of recreation is a major function within national parks, it is surprising that the governing bodies for outdoor recreation activities were not included in the list of consultees for this consultation (Appendix 6).

Participants in outdoor recreation activities often have a strong connection with landscapes some distance from where they live, thus representing a 'community of interest'. Paragraph 53 of the White Paper states that the draft order will be circulated to those who appear to be 'representative of the interests of those who live, work or operate a business in the proposed national park area', MI requests that recreation interests are included, perhaps by amending to 'representative of the interests of those who live, work **or recreate** in the proposed national park area'.

Clear and accessible information is essential to allow consultees make an informed decision, and to prevent the growth of fear and mistrust. The language used should be non-technical, and the consultation process should respect the sensitivity of local communities to the possibility of national park designation. Information on the potential economic, social and environmental benefits, and any disadvantages, of national park designation should be compiled and made available. It may also be useful to bring landowners and community representatives from other national parks to speak at consultations.

The National Park Community Futures Programme established to support the communities that were to become part of the Loch Lomond and the Trossachs National Park provides a positive example of how communities can be empowered to contribute to national park planning, and how national park authorities can work in partnership with the local community (Loch Lomond, 2010).

As those areas which might aspire to national park status are in the main already designated as AONBs, care will need to be taken that the designation process is not overly associated with the existing AONB management body, as in some cases there may be distrust or other baggage.

3.4 What are your views on the proposed management framework arrangements for national parks?

MI welcomes the statement in paragraph 56 of the White Paper about the need for integrated and sustained management, a competent management body and adequate funding. It is MI's view that the availability of sufficient funding will be central to successful delivery of national parks in Northern Ireland, and as noted under 3.2 above, national park funding should not be at the expense of AONB funding.

The general costings for Option 5 (paragraph 26) are weighted towards promotional spend. As national park status is likely to attract additional visitors, considerable investment in infrastructure will be required to support sustainable enjoyment of any new national park. For example, well-designed robust trails will be required to fulfil visitor expectations and protect the park's natural heritage. Conservation initiatives are also likely to be required, for instance, to protect endangered species and control the threat of invasive species. It is MI's belief that the costings in paragraph 26 reflect the tourism focus of the document and should be adjusted to place more emphasis on conservation and practical measures to

manage recreation activity. Investment is also likely to be required in the area of community engagement.

3.5 What are your views on the proposed duties, functions and powers of a national park management body?

MI is largely supportive of paragraph 57 of the White Paper, though much more detail will be required on duties, functions and powers before there is consultation on the proposal to designate a national park. The end of paragraph 57 suggests a statutory duty on public bodies to have regard to the national park management plan. It is MI's view that this is not strong enough, and that instead public bodies should have a statutory duty to **comply with** the plan.

3.6 What are your views on the proposed role of a national park management body in planning matters?

MI agrees that the national park management body should be a statutory consultee in the planning process. As with 3.5 above, it is MI's view that the planning authority should **comply with** the national park management plan, not simply have regard to the overarching vision for the future of the plan when preparing development plans.

3.7 What are your views on the governance options?

MI favours option 5, a local independent body for each park and agrees with the advantages listed in paragraph 19. While this may be more expensive than a centralised solution or working through an existing organisation, it should enable the park to garner local support, be more flexible in its operations, and ultimately deliver a higher return on the investment required.

It is interesting to note that the Cairngorms National Park has established a charitable trust to attract funding and carry out works on access infrastructure (DEFRA , 2011, p110). MI recommends that this option be considered within any proposals to designate national parks in Northern Ireland.

3.8 What are your views on the proposed constitution of a national park management body?

MI agrees with the role and responsibilities of the governing board as set out in paragraph 35 and welcomes the proposal in paragraph 36 to have 60% local representation on the board. MI also supports the proposal for 40% Ministerial appointees to represent the national interest. This cohort should include representation from sport and outdoor

recreation. Ministerial appointments should be used to ensure the board has relevant expertise and that there is balance between the different interests in the park.

MI's preference is that Chair should be appointed by the Minister following an open public appointments competition and that the Vice Chair should be one of the 60% local representatives, elected by those members of the board.

MI believes that the Chair should receive an honorarium in acknowledgment of the time commitment and responsibilities associated with this role. It is MI's recommendation that the remaining board members should receive out of pocket expenses only. This will help ensure that board members undertake the role out of a commitment to the park.

3.9 Do you share the Department's analysis in the Partial RIA that national parks will have little or no negative impact?

While MI believes that overall a well-managed and appropriately funded national park will be positive for business in the area, to adhere to its aims, and be effective, the management body will have to make difficult decisions, which could at times have negative consequences for certain businesses. Such decisions would typically be to control or prevent activities which could be detrimental to the park's natural and cultural heritage.

In light of a very significant increase in the number of organised events taking place in Ireland's mountain areas, MI is currently reviewing its events policy. It is clear from the consultation process being undertaken that, in the interest of protecting the natural environment, management bodies in protected areas need to be more proactive in the regulation of fundraising and challenge events. As some events are commercially organised, such regulation could have an impact on businesses, however this should only affect those who are engaged in unsustainable practices and therefore is not an unfair regulatory burden.

3.10 Are there any other comments which you wish to make about the Department's proposals?

Access

MI is disappointed that the consultation document has not dealt more fully with the issue of access to the countryside. It is difficult to see how a national park management body could effectively manage visitor access, as described in paragraph 10 of the White Paper, without having statutory responsibility for access within the national park. It is MI's strong recommendation that the national park management body should be the access authority for the park area.

While the Access to the Countryside (Northern Ireland) Order 1983 provides a range of mechanisms to improve public access to the countryside, the procedures involved are

cumbersome and the legislation doesn't place any obligation on district councils to create and maintain an access infrastructure in their areas. As a result, many of the councils do not exercise these powers and there is no long term certainty regarding access to the countryside, even in iconic tourist areas.

MI believes that the current legislation is inherently flawed, a matter first highlighted by Countryside Recreation Northern Ireland to the Department in the 1994 Access to the Northern Ireland Countryside Report (HMSO ISBN 0-337-08339-8). The process to develop enabling legislation for national parks should be used to address some of the shortcomings with regard to access to the countryside. A right of access to all publicly-owned lands (approximately 6% of Northern Ireland's land area) would be a valuable addition to the legislation. Much of this land is used on an informal basis for recreation. Including a right of access for recreation on public lands in the legislation could assist in gaining the confidence of private landowners that will be required to put national parks in place.

Occupiers liability

Despite the positive claims record, there remains genuine fear in the landowning community about exposure to liability for injuries sustained by recreational users. There is also confusion as to the duty of care owed to those entering private land for the purpose of recreation. It is MI's assertion that landowners whose land is used for recreation, with or without their permission, whether on a *de facto* basis or through any of the provisions of the 1983 Access Order, should not owe recreational users entering their land the higher duty of care owed to visitors. It would be constructive if the new legislation could provide clarity on this point.

Furthermore, it is MI's recommendation that all landowners in national parks should be indemnified for any claims that might arise from recreational use of their land. The indemnity should apply across the park area, and extension to AONBs should also be considered. Mechanisms for landowner indemnity are currently being put in place by the Department of Environment, Community and Local Government in the Republic of Ireland to support a pilot Mountain Access scheme.

Agri-environment support

As the model of national park outlined in the consultation document is based largely on privately owned land, options should be explored, through consultation on the CAP programme, for linkage between agri-environment schemes and the delivery of national park aims.

Public goods value

National parks deliver a range of non-market or public goods in relation to landscape, biodiversity, access and recreation. The benefits to society and individuals, particularly in terms of enhanced opportunities for health and well-being, provide a powerful rationale for government investment in national parks, as noted in DEFRA's working paper on the benefit of national park authorities (DEFRA, 2011, pp27-32). This is all the more important in Northern Ireland as we do not have the legal right of access to the wider countryside that exists throughout the rest of the UK.

4. Closing comments

We are fortunate in Northern Ireland to have in a small area, incredible diversity and rich quality in our landscapes. The development of enabling legislation for the creation of national parks in Northern Ireland is a significant and important step towards the protection and sustainable management of our most cherished landscapes.

While there is the potential for considerable economic benefit to flow from such a designation, this can only be sustained if the national parks legislation and management plans prioritise conservation over the other aims of national parks. MI believes the recreation opportunities and health and well-being benefits associated with national parks should also be to the fore in the drafting of legislation and management plans.

We trust you will take MI's views and recommendations into consideration when preparing the legislation.

5. Further information

MI would be happy to elaborate on, or discuss, any of the ideas contained in this submission.

Please contact:

Karl Boyle (Chief Officer)

Mountaineering Ireland, Sport HQ, 13 Joyce Way, Park West Business Park, Dublin 12.

Telephone: 00 353 1 6251115

E-mail: karl@mountaineering.ie

Website: www.mountaineering.ie

6. References

DEFRA (2011) *National Park Authorities: Assessment of benefits - working paper*, published by Department of Environment, Food and Rural Affairs, London, available online: <http://www.defra.gov.uk/publications/files/pb13533-national-park-authorities.pdf>

Loch Lomond (2010) *Community Futures – Mapping Outcomes from the Community Action Plans 2002-2008*, published by Loch Lomond & The Trossachs National Park Authority in partnership with the Loch Lomond & the Trossachs Community Partnership, available online: <http://www.lochlomond-trossachs.org/living/community-futures/menu-id-200.html>