**Appendix 4**

**No longer a National Park**

**A critique of the Your Park Recommendations and consultation undertaken by the Loch Lomond and Trossachs National Park and recommendations on how to avoid this in future**

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**Author profile**

Nick Kempe was President of the Mountaineering Council of Scotland and a member of the Access Forum which was responsible for developing the proposals which later became enshrined in the Land Reform Legislation. He was subsequently a Board Member of SNH during the time SNH led the development of the Scottish Outdoor Access Code. He is a frequent visitor to the National Park and currently writing a book on the natural and human history of part of the area.

Contents

[1) The proposals submitted to the Scottish Government 3](#_Toc422501851)

[2) Camping and access rights 6](#_Toc422501852)

[3) Camping and the Loch Lomond and Trossachs National Park 7](#_Toc422501853)

[4) The Review of East Loch Lomond camping bye laws 19](#_Toc422501854)

[5) The Your Park consultation process 25](#_Toc422501855)

[6) Partnership Working 33](#_Toc422501856)

[7) The implications of the bye laws as drafted 34](#_Toc422501857)

[8) A comprehensive approach to visitor management in respect to camping 35](#_Toc422501858)

[9) Conclusion and recommendations 37](#_Toc422501859)

[Recommendations for LLTNP 37](#_Toc422501860)

[Recommendations for Government Ministers 38](#_Toc422501861)

[Appendix 1 40](#_Toc422501862)

[The role of the Loch Lomond and Trossachs National Park Local Access Forum in the proposed camping bye-laws – paper from Nick Kempe 40](#_Toc422501863)

[Appendix 2 Your Park Consultation analysis 46](#_Toc422501864)

# The proposals submitted to the Scottish Government

The Your Park recommendations approved by the Loch Lomond and Trossachs National Park (LLTNP) are for bye-laws to be introduced banning camping in four proposed management zones, for the LLTNP to create 59 new camping places in these zones and in addition to create a permit system to allow some wild camping (up to a further 220 places).

The proposals have changed significantly from those issued for public consultation. The scope of the bye laws has been radically reduced and now focuses solely on camping and the lighting of fires. The proposed new all-encompassing offences of damage and nuisance have disappeared as have the draconian powers the LLTNP was hoping to assign to its Rangers. While the total area covered by the bye laws has reduced, this is the result of the removal of forest areas and the percentage of loch shores within the National Park covered by the bye laws has increased considerably. The Management Zones now cover most of the shorelines of the inland lochs in the National Park with the exception of the Loch Lomond islands and much of Loch Long (over 150km in all) as well as the much of the road network (over 200km). The proposal to introduce a permit system is totally new and has therefore not been subject to any consultation and has been sent to Ministers without any consideration by the Local Access Forum who are a statutory consultee.

The reasons why the specific proposals for bye-laws and a permit systems should be rejected by Ministers are:

1. **Permit systems are incompatible with Access Rights**
* Under the Land Reform legislation, the individual has the right to exercise assess rights as long as they do this responsibly in terms of the Scottish Outdoor Access Code. This includes the right to camp wild, which is defined as lightweight camping for a night or two, leaving no trace.
* The LLTNP now wants to decide **where** people can wild camp responsibly within the proposed management zones by creating designated areas and assign the rights to take decisions that currently lie with individuals to itself. The LLTNP Board has approved the proposals for designated areas without even asking about what criteria will be used to determine them. The discussions that led to our access legislation rejected designated areas both in principle (its impossible to define criteria about where camping for example may or may not cause damage because this depends on a multitude of factors which means the situation may change daily) and on practical grounds. Because of this any designated area is likely to be challenged on legal grounds, i.e. the LLTNP will need to be able to show on what basis it has included or excluded ground as being somewhere people can camp responsibly.
* The LLTNP also wishes to assign to itself the right to decide **who** can camp responsibly by restricting numbers and presumably (although no details have been given how the permit system will work) operating a data base of people whom it has determined should not have a right to camp wild. If permits are open to all, whatever their previous behaviour, their only purpose is to limit numbers and, if that is the case, the LLTNP has produced no evidence to show how it has come up with the number of 220 permits. This is rather like saying only 500 people a day should be able to walk to the top of Ben Lomond because of path erosion. There would be a national outcry if that happened, which is why any restriction on camping numbers should be rejected as a matter of principle.
* The Your Park recommendations have retrospectively tried to justify the LLTNP’s approach by referring to its obligations under the National Parks (Scotland) Act 2000 to protect the natural heritage without any reference to how that that Act also requires it to promote enjoyment. The LLTNP has continually asserted it is not against what it calls true wild camping but completely failed to analyse how many wild campers might use the areas covered by the bye laws. There are dozens, whether backpackers on the West Highland Way, canoeists and other boating folk, cycle tourists and many of the people who fish. The LLTNP has also failed to consider the needs of the hundreds of other people who, while not able or wanting to lightweight camp for a night or two under their own steam, say because of disability or having young children, wish to enjoy the loch shores and camp responsibly near their cars.
1. **The proposed permit system has not been thought through and is totally flawed**

No detail has been given was given in of how the proposed permit system might operate and the resources required in either the Your Park Recommendations Paper or at the meeting. The only question asked about this at the Board meeting on 27th April 2015 was by a Board Member who queried whether local communities would be allowed to issue permits – the answer was no, it would be a central system that would also apply to the booking of campsite places.

The existing East Loch Lomond bye law area operates no permit system as such. The maximum permits issued have been two a year and the proposal to issue up to 220 places at any one time would require totally new systems which should have been subject to public consultation, not least with the Local Access Forum as statutory consultee.

The LLTNP has provided no details of how the proposed permit system will work, ranging from the proposed IT system for online bookings to what it envisages by “designated areas”, where these will be located in the proposed management zones and how the 220 places might be distributed. So, we have no idea about how provision may link with demand. It is not difficult to envisage all sorts of issues with 820 groups of campers, the current maximum number of tents recorded, chasing 220 places.

Difficulties are likely to be increased as permit systems lack flexibility and a significant proportion of people enjoying outdoors take decisions at the last moment. The LLTNP’s own figures show this with visitor numbers being determined by the weather in particular. So, in order to camp people will either have to book in advance and risk losing the booking fee or there will be a last minute rush. SNH had experience of all of this through the permit systems it used to run on some of its own National Nature Reserves and which it dropped a long time ago.

The greatest strength of our access legislation is it is not bureaucratic and as a result has costed far less than the system in England for example. The LLTNP has provided no information about the resources it might require to police permits but in the past its justification for the east Loch Lomond bye-laws was that these would be preventive and free up resources. This has been disproved by the experience on East Loch Lomond where the the number of ranger patrols has increased since the introduction of the bye laws despite their alleged success. Increased policing by rangers will now need to be extended throughout the National Park. The LLTNP has referred to a small booking fee for permits but given the resource implications there is likely to be pressure to increase fees (indeed increasing fees would be an obvious, albeit totally inequitable, means of rationing places).

The LLTNP in the Your Park Recommendations paper describes the 59 new campsite places it is proposing (see below) as providing basic facilities while saying permits may be for places with no or “limited” facilities. No facility areas would in effect be “wild camping” areas but its not clear what “limited” facilities would involve and how these would be different from basic facilities in campsites. Indeed, the draft Development Plan approved at the same meeting as the Your Park proposals uses a completely different terminology for Camping of “formal”, “semi-formal”and “informal” camping places which are defined differently – the LLTNP has therefore completely failed to join up the Your Park proposals with its Development Plan.

1. **The LLTNP plans to address the shortfall in camping places are totally inadequate.**
* The National Park has lost camping places in the last few years, partly through the actions of LLTNP in granting planning permission for change of use, with the result that currently, according to its own figures, there are 580 places in all plus another 820 for caravans/campervans making a total of 1400 places. This compares to over 3000 campsite places available in the Lake District and 5515 in all. The LLTNP has made no attempt to benchmark its provision against other areas.
* According to the Your Park consultation on a peak weekend there can be 820 tents on the lochshores in the National Park. The LLTNP has proposed a total of 51 new basic camping pitches in the proposed Management Zones in addition to the 29 it has created over the last two years place (80 in all) with a further 220 tents to be allowed under a permit system. The LLTNP has undertaken no analysis of vacancy rates of other campsites in the proposed zones on popular weekends but it is common knowledge that they are usually booked out. This means that at least 520 tents (or over 1000 people) will be forced to go elsewhere. The LLTNP has made no analysis of the impact of this either on the people concerned or on local tourism contrary to its statutory duty to promote recreational enjoyment. In effect it is proposals will endorse a clearance of recreational campers from the National Park.

# Camping and access rights

Being able to exercise rights of access over land is one of our most important freedoms, as important as being able to speak freely and form one’s own beliefs. Without it, our freedom of movement would be restricted to travel networks such as roads, public parks and to private places which invite our presence such as shops and restaurants. It is not surprising therefore that people value access to the countryside so highly, the feeling of space and potential to choose your own destination and how to get there gives a real sense of freedom. For many people this is enhanced further when one is able to stay out overnight.

The Scottish Parliament recognised this in the Land Reform Act 2003, which enshrined long existing freedoms as legal rights, and was rightly recognised as a world leading piece of legislation. It covered not just walking, but rights to ride a bicycle or horse and wild camping.

Access rights were set alongside and made dependent on responsible behaviour which was set out in the Scottish Outdoor Access Code. At the time, there was considerable discussion on how to deal with irresponsible behaviour and the conclusion that was made was that almost everything that could be described as irresponsible behaviour was already covered by the criminal law. The legislation therefore created no new offences. Consideration of the access provisions of the Land Reform Act were included in the final Report of the Land Reform Review Group in May 2014 which concluded: “ten years after the legislation came into force, the Group’s view is that the new statutory framework should be judged a considerable success that has delivered significant public benefits and is generally working well on the ground”. The Review Group recognised that “some interest groups would like to see some particular aspects of the SOAC change (and gave a list that included wild camping) but “the Group does not consider that a review of the Code is warranted at this point in time”. [[1]](#footnote-1)

The section on wild camping in the SOAC reads as follows:

“Access rights extend to wild camping. This type of camping is lightweight, done in small numbers and only for two or three nights in any one place. You can camp in this way wherever access rights apply, but help to avoid causing problems for local people and land managers by not camping in enclosed fields of crops or farm animals and by keeping well away from buildings, roads or historic structures. Take extra care to avoid disturbing deer stalking or grouse shooting. If you wish to camp close to a house or building, seek the owner's permission. Leave no trace by:

* taking away all your litter
* removing all traces of your tent pitch and of any open fire (follow the guidance for lighting fires)
* not causing any pollution.”

While some organisations and people have criticised this definition as being too broad, there are in fact very good reasons for it. When Michael Russell MSP was asked why roadside camping was part of wild camping his response was that people with disabilities should not be excluded from camping rights. The Scottish Parliament wanted people to be able to experience the countryside at night without trying to limit where this should be as long as the SOAC was followed.

In fact, there had been long traditions of people camping or sleeping out on Loch Lomondside whether for work (the drovers), for travel (e.g. to get to construction projects such as the Blackwater Dam or West Highland Line) or for recreation (e.g. as described in Alastair Borthwick’s book Always a Little Further). So camping was just another of the traditional freedoms that was enshrined in the legislation.

Formal campsites are a much more recent development and while many people are now very happy to use them, they are not for everyone or for all times. There are very good reasons why people might want to camp wild or informally, including:

* people who are backpacking, cycle touring or touring in a boat and wish for the flexibility to stop when they feel ready to do so whether a campsite is available or not;
* people who wish to spend a night out in a favourite place or simply experience a night out away from other people;
* people who want to be able to use a tent as a temporary base e.g. to fish or birdwatch in a particular place

# Camping and the Loch Lomond and Trossachs National Park

1. **LLTNP’s understanding of access rights in respects to camping**

The LLTNP is, under the Land Reform legislation, an Access Authority and like Local Authorities has a duty to uphold access rights. Unlike Local Authorities though, promotion of public enjoyment of the countryside is part of the fundamental purpose of our National Parks and as a result they have been privileged over Local Authorities, both in terms of resources and as exemplars of good practice. This is reflected in the fact that our two National Parks have a dedicated place on the National Access Forum, a reflection of the relative importance of access among the National Parks’ various functions.

One would not, however, have known any of this from the Your Park consultation:

* The consultation did not make not a single reference and provides no analysis of the traditions of camping in the National Park. The issues and proposals are therefore presented totally out of context. One of the ironies of this is that the LLTNP’s Board often meets in the Bob Grieve room, named after one of those who slept out at the Craigallion fire and became a great campaigner for the countryside. This is just the sort of activity that the LLTNP now wishes to ban.
* There was not one mention of the impact of the proposals on access rights. Consideration of access rights has only been made after the end of the consultation as a result of widespread criticism and amounts simply to a dismissal of the points raised by consultees. It is arguable that the LLTNP has avoided having to discuss and consult on access rights by proposing the Bye Laws under the National Park (Scotland) Act 2000 which pre-dated the access rights enshrined in the Land Reform (Scotland) Act 2003.

While the LLTNP has in the past done some good work on wild camping, referencing this to the SOAC and producing an excellent video on wild camping, in the Your Park consultation the LLTNP ignored this strand to its work completely. Instead it appears to have tried to redefine wild camping: “Our bye law proposals will **not** restrict true wild camping outside the zones – over 95% of the National Park’s areas is still available for true wild camping”.[[2]](#footnote-2) And another example, “The term wild camping keeps being used but we are not talking about wild camping. Wild camping is about when people are out walking and intend to camp overnight and take everything with them…..people who are wild camping genuinely wouldn’t go near the places we are talking about”. (Stirling Observer Feb 15) This is simply not true. First, it is not just walkers who can wild camp but canoeists, cyclists and other recreational users including many young people on Duke of Edinburgh or John Muir Award expeditions. Second, the ban has affected all backpackers on the West Highland Way. Third, the definition of wild camping was always very vague and deliberately so because it was not the intention of parliament that camping was only a right to mountaineers and other people able and fit enough to access remote places but should also apply to places like lochsides. This was recognised by SNH in the framework it produced in its briefing on the law and wild camping from 2007:



The LLTNP has therefore through the Your Park consultation tried to redefine “wild camping” to suit its own purposes

* Some of the statements by LLTNP staff appear to display a deep dislike of camping e.g. there are references to “wall to wall camping” being a problem and this appears to have blinded them to the implications for access rights. When the LLTNP then tries to explain the rationale for this it appears to be trading one group of people against another: “At the heart of the Your Park proposals is the desire to encourage a wide range of access, which is currently prevented by high volumes of inconsiderate and excessive camping along our more accessible loch shores.”[[3]](#footnote-3) No evidence has been produced to show that the presence of campers impacts on the enjoyment of day visitors (or indeed vice versa) and statistics the LLTNP quotes, which state that on a busy day on our most popular lochshores we have recorded “5325 people, 2,340 vehicles, 820 tents, 238 fires and 515 rubbish bags” totally contradict this claim. What these figures show is both day visitors and campers are using the lochs at popular times - unless that is there were almost seven people to each tent arriving in three separate cars, a barely credible interpretation of the statistics.
* Having failed to recognise the central importance of access rights, the Your Park consultation then conflates encampments (which clearly have nothing to do with wild camping as defined in the SOAC), with the whole range of other types and reasons for camping set out in the SNH framework. The LLTNP has completely failed to discuss the different legal status of these various forms of camping and the implications of this and has admitted subsequent to sending its proposals to Ministers that “The National Park does not hold records specifically referring to encampments” and “has no policies or procedures for taking action”.[[4]](#footnote-4) In other words it has no means of distinguishing between the different types of camping.
1. **What is the evidence of problems associated with camping in the National Park?**

The lack of any conceptual or analytical framework means that the data the LLTNP has related to camping is almost worthless. Its Rangers record on their patrols the numbers of people, dogs, vehicles, tents, fires, information given out and bags of litter for specific sites on their patrol rounds[[5]](#footnote-5). It is totally unclear what these provide evidence of because the relationships between the data is not explained:

1. The data is provided discretely for each data category so, for example, there is no means of telling if the bags of litter picked up or fires observed relate to camping or day visitors or whether this is unknown.
2. The data analysis headings for “minimum”, “maximum”, “normal”, “busy” and “peak” appear to be automatically populated only if a positive number is entered from a patrol for a particular data category such as number of visitors. The result is that if no record is entered under a category on a particular patrol, e.g. no litter is observed, this is discounted in terms of the data analysis headings. So, rangers could make 50 visits, on 49 of which no litter was recorded but if they collected 6 bags on one occasion this will be recorded as being the “normal”, “busy” and “peak” level of litter. Its clearly only the “peak” level and not normal. To illustrate this for Glen Douglas, sheet 21, for example over 2011-2013 there were between 28-33 visits by rangers but under the data category of tents the record shows minimum, maximum, normal, busy and peak numbers being exactly the same 2 for 2011, 0 for 2012 and 5 for 2013. What appears to have happened is that tents were recorded on two occasions over three years but because the data feeds through to each category, the maximum/minimum numbers are meaningless. Because of this flaw it is impossible to provide any sound analysis of the LLTNP’s data.
3. In addition the data does not indicate why people are camping (e.g. according to the SNH classification) so one cannot tell how long the tents observed have been in place (whether overnight or a week) or by whom (backpackers, fishermen etc). The result is the LLTNP has no evidence on which to plan.
4. Furthermore FOI 2015-25 shows that since Rangers do not record for how long tents have been there it is impossible for the Park to identify where there are problems of encampment, which is outwith the SOAC, and what proportion of campers are staying within the SOAC guidelines that stays of 2-3 nights are within access rights.
5. Furthermore, the data does not provide any information about the impacts of people camping e.g. in respect of fires, whether the camper has brought wood with them, whether it is in a barbecue or fireplace or whether its live wood chopped from a tree. None of the problems the LLTNP has claimed are associated with camping apart from litter, i.e. erosion of ground, chopping of wood and disposal of faeces are even recorded in the data base and as stated above there is no means of linking litter to campers rather than say day visitors.

As Friend of Loch Lomond and Trossachs stated in their response to the Your Park consultation there has been no proper analysis of the evidence.

Yet, the LLTNP did commission some proper research in 2007[[6]](#footnote-6) about camping and impacts and in the absence of any other evidence to the contrary, its findings are still relevant. It found most of problems associated with camping were linked to people camping close to their cars and who had been abusing alcohol. It found these people are in a very small minority. This view is shared by many other people e.g. in the note of the LLTNP meeting with Loch Lomond Fisheries Trust during the Your Park consultation[[7]](#footnote-7).

1. **Issues associated with camping in a broader context**

All the data really tells us is that visiting the lochsides is a popular activity for both day visitors and campers and what total numbers are at peak times (which appear to be hot sunny summer weekends). It does not even allow us to distinguish numbers who are camping and day visitors. It tells us nothing about whether such camping is sustainable or not.

LLTNP has failed to produce any wider analysis to put the problems it has identified into context, for example:

* The photos the LLTNP has produced of abandoned campsites are emotive but do not tell us how widespread a problem this is or even if this a problem. Earlier this year I came across a person at Beinn Ghlas Farm campsite clearing a number of tents that had been flattened in a storm two days before. The group had abandoned them at the time and he had come back 36 hours later to clear up the mess. The best evidence the LLTNP has is the Keep Scotland Beautiful survey of the five Lochs Area in 2012[[8]](#footnote-8) which took place over 8 weeks. It found 44 examples of fly tipping in the 202 sites it surveyed and that the majority of this was camping related. While its not clear what a majority means, there appear to have been four cases a week linked to campers. While this is 4 more than people who care for the countryside would like to see, the LLTNP has given no indication of how much time this takes to clear up (its hard to see it taking more than a couple of hours of ranger time). Does this really justify a camping ban for all? The LLTNP has not answered this question.
* There are other examples of litter within the proposed Management Zones in the National Park which are worse than those presented by LLTNP and are clearly not associated with camping. These include examples of litter around farms and the shoreline at the head of Loch Long, which is covered with marine litter and many believe is a national disgrace, and flytipping. No-one is suggesting we ban farming or boating or local people from living in the LLTNP because they fly tip.



Farm litter, Loch Venachar



Marine Litter Loch Long Flying tipping Loch Long

* The photos of chopped trees produced by LLTNP do not tell us how great a problem this is. Much of the woodland around the lochsides used to be chopped regularly as part of coppicing and on a visit to lochside sites in May 2015 I found far more evidence of trees being chopped as part of road maintenance than by the lochshores. What we do know, from scientific work, is that it is levels of grazing that have the greatest impact on lochside woodland.
* The LLTNP has made exaggerated claims about the impacts of camping on ground vegetation. Where tents are in place for only a night or so vegetation quickly recovers. The total imprint of 800 tents on a popular weekend is only a couple of hectares and the total amount of ground where erosion could be attributed to tents is probably less than a hectare. The LLTNP has produced no evidence about this and its sweeping statements provide a total contrast to the way impacts of grazing deer have to be evidenced before SNH can take action to reduce grazing levels. A scientific approach to evidence of impact on vegetation is therefore required. It is equally clear from the LLTNP’s photos included in the Your Park consultation of a couple of areas before and after the east Loch Lomond camping ban, that vegetation recovers quickly. This suggests in most cases the problem could be easily resolved by temporary signs asking people not to camp. This has not been tried and instead the LLTNP asserts camping is at unsustainable levels. It has made no attempt to distinguish erosion by day visitors from erosion caused by camping nor why the former is so much more tolerable. In fact the evidence suggests erosion by day visitors is far more extensive.
* Unburied human faecal waste is very unpleasant and can, in certain circumstances, such as where deposited close to watercourses, be a public health hazard. While we know that human faecal waste along the lochshores can be an issue, so can faecal waste from dogs, but the LLTNP has provided no evaluation of the relative impacts. What is clear from the LLTNP visitor surveys is that the highest priority for the public to improve the visitor experience is better toilet provision. So, it appears that the most likely reason for human faecal waste in the outdoors is not any badness on the part of visitors but a consequence of there being very few public toilets in the National Park, and even fewer that are open 24 hours a day 365 days of the year: the inevitable consequence is people defecate outdoors. This applies as much to day visitors as campers. Indeed it is lightweight campers who are probably the most single aware group of outdoor enthusiasts in terms of the potential health hazards and need to bury waste. Unfortunately at present the only educational advice about this is produced by and for mountaineers so is perhaps not likely to be known to other visitors.
1. **Campsites**

An overview of the lack of camping places compared to potential demand and the plans of the LLTNP to address this was given in section 1. Campsites will not meet the needs of all campers for the reasons given in section 2 above.

It is important also to appreciate that campsites or even camping under permit will not in themselves address the problems identified by the LLTNP. For example, unruly groups who decide to go camping and use their tents for partying are as likely to do this in formal campsites as when “wild camping”. This is a common problem in the Lake District but also occurs in Scotland and the operator of the new Loch Lubnaig campsite told me that she had had issues with a camper there using an airgun in a manner likely to alarm other people. As another example, campsites concentrate tents on certain pieces of ground so can increase erosion in particular places – so ironically erosion could actually increase in some areas as a result of camping provision.

Despite these caveats there is a clear need for increased campsites, providing both for tents and caravan/campervans and the LLTNP’s proposals for a range of such provision have generally been welcomed.

* 1. Reduction in Camping Capacity

The Friends of Loch Lomond and the Trossachs[[9]](#footnote-9) gave an excellent summary of the reduction in the number of camping places since the LLTNP was created and the failures in planning policy that are its responsibility:

“Historically, there has been a significant reduction in the number of holiday parks in the National Park catering for tents, touring caravans and camper vans as a result of emerging trends and market forces with many parks trading up and replacing camping pitches and touring caravan and camper van stances with more profitable types of accommodation such as static caravans and luxury lodges. This is best illustrated on West Loch Lomondside and at the head of Loch Long where several holiday parks now exclude campers, touring caravans and camper vans and where several camping and caravan parks have been replaced by clusters of luxury holiday lodges and a large hotel with no substitute provision of camping and touring caravan facilities in what have traditionally been popular areas for camping and caravanning.

This major reduction in camping and caravanning provision has exacerbated the problems referred to in the Your Park consultation document and it would have been useful to include information in the document charting the scale of the reduction. This, until recently, has been due partially to a failure in planning policy with relaxations in the mix of accommodation types on holiday parks and limited planning conditions relating to the retention of existing and provision of new camping and touring caravan facilities to adequately address the shortage in, or near, ‘hotspot’ areas.”

One could add a similar situation prevails around Loch Earn, the most popular loch for fishing.

* 1. Current numbers of camping places

The LLTNP in their Recommendations Paper produced accurate figures on camping places for the first time, i.e. after the consultation had closed. This stated there were 26 camping/caravan sites in the National of which 19 accept tents and provide a total of 580 camping and 820 caravan/motorhome pitches. This is in the case of camping places almost 50% less than what the Park estimated existed in the Your Park Consultation[[10]](#footnote-10): “At present, we estimated there is formal camping provision for up to 1045 tents and 1,375 touring carvans/motorhome pitches in the National Park…………we estimate an investment of approximately £10m is needed over the next ten five years to deliver a significant increase”. 15 of the existing sites are within the proposed Management Zones but no breakdown was given of the number of camping places available within these. The contrast in availability of provision compared to the Lake District is stark – data for the Lakes indicates c3000 camping pitches are available.

The LLTNP has undertaken no analysis in the Your Park consultation about the number of places it would need in each location if it was going to meet demand rather than divert it elsewhere where there are far less resources.

* 1. Meeting demand

In response to the reduction in camping places in the National Park the LLTNP has managed to sponsor the creation of two new campsites, one at Sallochy run by the Forestry Commission for Scotland (22 pitches) and one at Loch Lubnaig (9 pitches). This is a drop in the ocean compared to the LLTNP’s own figures of over 800 tents being present on lochshores on popular weekends. The main issue with a camping development plan is the lack of capacity and it is totally unclear how many places the LLTNP intends to develop after the first year when it plans 51 new places or where these might be. Clear and transparent targets are required linked to demand not just within the areas covered by the proposed Management Zones but across the National Park, as advocated by organisations such as the Friends of Loch Lomonds and Trossachs.

* 1. Appropriate facilities

LLTNP’s illustrative campsite design[[11]](#footnote-11) shows a campsite built on a hillside with wooden platforms – this appears to have been done by someone who has little experience of camping. How campers will put in pegs to platforms is not shown and there are a number of health and safety issues relating to ensuring the platforms remain in sound condition, have sufficient means to secure tents etc. The campsite created at Sallochy is a much better example of the type of facility needed and according to information provided by the LLTNP is well used.

The LLTNP’s thinking about campsite design appears to be at a very early stage despite its experience at Sallochy and Loch Lubnaig where there have been considerable challenges and costs associated with providing electricity and flushing toilets. The Your Park recommendations referred to campsites with “basic” and “limited” facilities (see 1 b above) without defining what these are. The National Park Plan approved for public consultation at the same meeting as the Your Park proposals has sections dealing with camping as campsites require planning permission. It refers[[12]](#footnote-12) to informal sites which it describes as “temporary, seasonal, no lighting, water or drainage but may have temporary or composting toilets” and to semi informal sites which are same as informal ones except they may have low level lighting.[[13]](#footnote-13) This plan also refers to seasonal restrictions on informal sites so these can only operate 1 March to 31st October. None of this has been cross-referenced with the Your Park proposals with the result there is completely different terminology being used and its unclear from the letter to Ministers whether the LLTNP has decided whether ALL the new camping places it is proposing should be seasonal.

* 1. LLTNP’s ability to deliver campsites

LLTNP’s record on delivering camping places does not inspire confidence:

* + The Five Lochs Visitor Management Plan set out a clear timetable for the delivery of new camping places. To date, just Loch Lubnaig has been delivered, two years behind schedule. FOI requests have now established that the proposal to develop 9 new places on land owned by the LLTNP on the north shore of Loch Venachar have been dropped (the latter apparently during the Your Park consultation) and this also appears to be the case for Glenoglehead[[14]](#footnote-14). Further information about why this has happened has been requested from LLTNP.
* 

The area owned by LLTNP on North Loch Vennachar where they have abandoned their plans for a campsite. Note the barbecue brought by the fisherman.

* + Other FOI requests have established that the LLTNP has been considering a campsite at Rowardennan for several years and that the National Trust for Scotland offered a site in March 2014 but the LLTNP did nothing to progress this in 2014.[[15]](#footnote-15)
	+ The LLTNP appears to have recognised this in advertising a lead post to progress the project planning in terms of campsite delivery (interviews at end of June).

There is very good evidence therefore to support the concerns of organsations such as SNH, which although supporting the bye laws, recommended that none should be implemented until adequate places had been delivered. Before any further consideration is given to bye laws, the Government should require LLTNP to consult further on the adequacy of its camping development plan.

* 1. Public enjoyment or commercial exploitation?

The new senior post created by LLTNP to oversee the development of campsites has been given the title of “commercial director” which strongly suggests the LLTNP’s focus is less on developing new places than on the commercial opportunities this raises. Widening the income base of the LLTNP appears to be a major concern of the LLTNP Board and has been recorded in Board Minutes. That a commercial agenda may be present is also suggested by the LLTNP’s linking its proposals for new campsites to the creation of bye laws “We believe the Bye Laws will create demand for the planned network of managed camping areas and sites by restricting unmanaged lochshore camping within the zones”. This again conflates two different issues. The first is that there are a significant number of people who would use campsites if these were available: the evidence for this is demonstrated by the great success of the campsites at Beinn Ghlas Farm and Auchtertyre. The second though is people want to wild camp for legitimate reasons and along the loch shores: this includes anglers (evening and dawn are the best time for fishing), backpackers, cyclists and canoe tourers. The LLTNP has made no attempt to assess the impact of its proposals on these groups.

1. **Other Infrastructure to support road and lochside camping**

LLTNP has produced no proposals for infrastructure other than campsites to support visitor management and reduce the impact of visitors.

The most important of these is to increase toilet provision. As well as permanent toilets the LLTNP could be providing portaloos over the most popular summer periods which would help both campers and day visitors and would be much more cost effective than permanent installations.

The LLTNP also needs to ensure existing toilets remain open (see section 4 (e) for evidence of the LLTNP’s poor record on east Loch Lomond).

The other major issue is the LLTNP’s lack of a litter strategy. The one that was planned for the Five Lochs Area has never been delivered and there are very different arrangements for litter collection through the National Park. So, Perth and Kinross Council provides litter bins at every stopping off point around Loch Earn but Argyll and Bute provides none in the laybys along the A82 despite the constant presence of bags of litter there. The lack of a litter strategy has resulted in a lack of signage in most places – with the exception of some local initiatives – so in effect the LLTNP has taken almost no preventive action to address the issues.

There has also been a failure to mention the resources required to address litter, which are not necessarily great. It was Kevin Findlater, former Chief Inspector for the police, who introduced the community payback scheme in the Trossachs as a means of addressing litter on the loch shores. Given that bin lorries already have to travel the roads in the National Park to collect domestic refuse, extending this to cover say the A82 laybys could be done with little extra resource.

1. **Encampment**

Encampment was the number one issue raised by local communities in their response to the Your Park consultation who gave a number of examples of people taking over laybys or other areas with caravans, campervans and tents for long periods. Local Communities also provided evidence that these are longstanding problems and their support for proposed bye laws appears to be based on the belief that at long last there might be a means to address this.

In fact there are other means to address this as the sign shows: 

Since it was erected, the problems of encampment on the Loch Earn laybys appear to have been largely addressed due to the initiative led by Drummond Estates.

The LLTNP however has done absolutely nothing to facilitate such an approach being taken across the National Park. An FOI request[[16]](#footnote-16) has established that its rangers do not record on their patrols how long tents or caravans are in place so the LLTNP has no evidence which could be used as a basis for removing encampments under the Criminal Justice and Public Order Act. This also stated “The National Park Authority does not have powers to take action with respect to long-stay caravans, tents or motor homes and therefore has no policy or procedure for taking action”. This is shocking. The LLTNP has a partnership plan and the point is its staff should have guidance about what to record in respect of encampment and when to contact the police who do have powers. The response goes on to say the LLTNP has no means of identifying or recording when complaints are received about encampment. It is no wonder some of the responses to the Your Park consultation from local communities said the LLTNP has been failing to address the issues for years. The result is that over the course of 2013 and 2014 it appears that just two cases of encampment have been addressed in the National Park, one on the A82 and one on north Loch Earnside as a result of the initiative from Drummond Estates.

What makes this even more surprising is that a significant proportion of the issues identified by the LLTNP appear to be associated with encampment. The Keep Scotland Beautiful Audit of the 5 Lochs Area[[17]](#footnote-17) found that “The source of problems categorised as Long stay were noted 37 times during the audit. It has a disproportionately high impact on the area with sites surveyed including flytipping and human faeces”. Moreover, “Long stay caravan owners, who may stay for a number of nights and in some cases weeks, tended to be a source of flytipped domestic waste. Day trippers and overnight social visitors were mainly responsible for general littering”.

Morever, the LLTNP’s claims of camping preventing other visitors from enjoying the lochsides, while fairly incomprehensible in respect of say people fishing, are much easier to understand if they relate to encampments blocking off laybys for lengthy periods as described by local communities.

The clear implication of all this is that LLTNP needs to be instructed to develop a clear framework for recording and analysing the impacts of encampment and implement procedures to address this. It can and should do this without any need for bye laws.

# The Review of East Loch Lomond camping bye laws

The LLTNP appears to have decided to conduct the Your Park consultation and develop its proposals in the Your Park consultation as a result of its claim that the bye-laws prohibiting camping on East Loch Lomond were the reason for improvements there. [[18]](#footnote-18) As former Chief Inspector Kevin Findlater stated in his response to the consultation, if this was wrong, then a substantial part of the LLTNP’s case would collapse. This probably accounts for the extraordinary attack the LLTNP made on Kevin Findlater after his response became public.[[19]](#footnote-19)

The LLTNP’s Board approved a formal Review Report of the East Loch Lomond bye-laws in March 2014 for Scottish Ministers. When the camping bye-laws came into force on 1st June 2011 the published version included a statement that they would be reviewed at the end of 2014. This date was brought forward in the LLTNP Plan to the end of 2013 for reasons which are unclear[[20]](#footnote-20). The Review Report therefore covered from 1/6/11 to 30/10/13 (the bye-laws being in force from March till October each year). The LLTNP has confirmed that the Review Report was acknowledged by Scottish Ministers but they have had no other response.

The Review Report was *not* included as evidence in the Your Park consultation and there was no link to it[[21]](#footnote-21) although this has been subsequently added as a result of representations from the public. Instead the Your Park consultation presented East Loch Lomond as a Case Study.

The introduction to the Review Report states that the camping bye-laws were part of a suite of measures to address entrenched antisocial behaviour (ASB) and environmental degradation associated with camping. That suite of measures included Operation Ironworks, alcohol bye laws, creation of a clearway, specific actions at problem points, improvements to infrastructure and educative measures.

1. **Operation Ironworks**

Operation Ironworks was a policing operation developed to address issues in the Central Scotland Police area of the National Park and led by Chief Inspector Kevin Findlater. It started over two years prior to the camping bye laws and covered a much wider area operating across almost all of the National Park and not just on East Loch Lomond. The Your Park consultation Operation makes no reference to the Police Statistics which show there was evidence of a 60% reduction in ASB in the area covered by Operation Ironworks prior to the introduction of the bye-laws.[[22]](#footnote-22) The LLTNP contributed to the cost of Operation Ironworks and continue to do so.

The Review Report used the figure in the 2012 Operation Ironworks reports to state that there had been an 81.5% reduction in ASB on East Loch Lomond. The body of the Review Report made no mention of the fact that the police statistics were for a wider area than that covered by the camping bye-laws, extending to Drymen, although the extract from the Ironworks report which was included as an Appendix clearly stated this. LLTNP staff have subsequently acknowledged they knew this was the case but apparently decided to undertaken no further checks on the validity of the statistic. This is quite extraordinary as the LLTNP staff and Board must have also been aware that the main centres of population in the East Loch Lomond police report area, with the exception of Balmaha, lie outwith the area of the bye-laws and therefore that the statistic must have included crimes committed by the local population as well as visitors (not just campers).

Even more seriously, the LLTNP omitted from the Review Report another part of the same Ironworks Report for 2012 that showed there has been a 42.4% reduction in ASB in the Central Scotland Police part of the LLTNP, i.e. there had been a significant drop in ASB that could not be attributed to bye-laws. [[23]](#footnote-23) If the Review had included this fact it would have undermined its claim that “operation ironworks did not have enough impact alone”.

Subsequently during the Your Park consultation Kevin Findlater, who has now retired, has pointed out that other factors such as the weather and the cancellation of the Drymen show in 2012 had a considerable impact on these figures.

At the end of March Police Scotland provided the Mountaineering Council of Scotland with the data behind the statistic.[[24]](#footnote-24) This showed the number of incidents of ASB was very small and there had been a drop from 27 to 5 ASB crimes (and 112 to 56 calls about alleged ASB from the public) from 2009 – 2012 for the whole of East Loch Lomond. Small numbers of course can easily produce statistical anomalies, like the claimed 81% drop, but much more important is a comparison of the numbers of incidents per head of population on East Loch Lomond to Scotland as a whole. This shows that the East Loch Lomond area had, prior to the drop, c1 ASB offence for every 54 people[[25]](#footnote-25) compared to the Scotland average of 1 ASB offence to 16 people.[[26]](#footnote-26) So, according to the official figures East Loch Lomond was already one of the safest places in Scotland and yet the Park has been giving the impression that bye-laws are needed to deal ASB. On this basis we would lose access rights across all of Scotland. Other Ironworks Reports make it clear that the National Park generally experiences very low rates of crime.

The misuse of the 81.5% statistic is now one of the reasons recreational organisations are calling for an investigation into the Your Park Consultation.

1. **Alcohol bye-laws.**

These were introduced by Stirling Council in 2011, after a request from the Community Council, and was the first ban on public alcohol consumption in a rural area in Scotland. They were apparently not well advertised in the first year. While the Review Report accepts most of the problems on East Loch Lomond were linked to alcohol it claims they did not have as significant an impact as the camping ban because people could have still drink alcohol in their tents. This contradicts the East Loch Lomond Visitor Management Plan[[27]](#footnote-27): "Alcohol bye law is in place.  This has had a significant impact on the incidence of anti-social behaviour".    This totally undermines what the LLTNP has said in the current consultation on camping bye-laws.   It also begs the question about whether people drinking in their tents would be such a problem and if it was, why the law should not be changed to allow Local Authorities to create bye laws banning drinking of alcohol in tents – a preferable alternative to removing access rights.

1. **Clearway.**

A clearway was introduced in 2011 between Balmaha and Rowardennan to address the problems of dangerous parking by cars. This in effect made car-borne camping impossible, except for those paying for the car park at Rowardennan. The LLTNP’s own research on issues related to camping showed these were linked to cars and on average each tent concerned was only 23m from a car. The creation of a Clearway thus appears in itself to be a sufficient explanation for why problems identified by the LLTNP reduced on East Loch Lomond. Despite this, there is no assessment of the impact of the Clearway in the Review Report.

1. **Targetted actions.**

There is no mention in the Review Report of specific actions which were taken to address specific issues. One cited by Kevin Findlater was the blocking off of off-road parking at Lochan Maol Dhinne car park lay a mile or so North of Sallochy which had one of the worst records of environmental damage and was the scene for illegal partying. The problem was solved when the Forestry Commission placed very large boulders across the entrance to the site after declaring the car park closed and the police took action against those who parked on the roadway in contravention of Clearway. This solution would have enabled backpackers to use the site again if the Bye Laws had not been introduced.

1. **Infrastructure**

The Review Report listed some infrastructure developments but provides no overall analysis of what is required, progress against this and therefore of the overall success. While the lack of camping facilities has had partial recognition in the Your Park consultation, the LLTNP has now been considering a campsite at Rowardennan since at least 2012 without any apparent progress. Despite the NTS offering to make its land available for a campsite at the East Loch Lomond Visitor Management Group Meeting on 25/3/14 the LLTNP has confirmed that there have been no meeting or dialogue with the offer made by NTS despite other meetings taking place where both participated[[28]](#footnote-28).

Another example is toilets, where there is no mention of the fact that the toilets at Rowardennan operated by the LLTNP are closed for almost half the year despite the visitor numbers: this has not prevented the LLTNP claiming that faecal waste is a problem in the Review Report. There is no explanation of its own role in this. The East Loch Lomond Visitor Management Plan notes the lack of toilet facilities is the number one issue raised by public but it then strangely ignores this evidence and concludes that current provision is reasonable. How this fits with other statements by the LLTNP that it is looking at addressing the opening hours of the toilets at Rowardennan is uncertain.

The Visitor Management minutes for East Loch Lomond appear to indicate a chronic failure of co-ordination between public authorities at Rowardennan: so NTS would like to assist with campsite but the issue is that Stirling council refuses to collect litter from beyond road end and NTS and the SYHA already have to pay for this to be removed privately; FCS seems to get considerable income from carpark all year round but somehow this is not being used to keep the toilet open; FCS is not providing sign posts for the Ben Lomond paths which are on NTS owned land from the car park. The LLTNP was partly created to knock heads together in situations like this but is not being transparent about the lamentably slow rate of progress it has made.

1. **Impact of bye laws on responsible campers**

The Review Report claimed the lack of referrals to the Procurator Fiscal and that tents had reduced to a small number as evidence of the success of the bye-laws. It did not fully report on the numbers of people trying to camp who had been moved on (and therefore affected by the bye-laws) but only on the case that had been reported to the Procurator Fiscal as a consequence of someone refusing to move on. A more complete picture has been obtained through FOI.[[29]](#footnote-29) Between 2011 and 2014 a total of 474 campers have been moved on by LLTNP Rangers and in 2014 the figure still included 66 campers. There are likely to be more who have simply not been recorded or asked to move on because they have camped in more isolated spots or waited till later in the evening after Rangers have stopped patrolling.

The figures indicate that Rangers are finding campers and asking them to move on almost every second day between May to August when most camping takes place. In terms of interpreting these figures, the most likely explanation is that the Bye Laws have had a significant impact on backpackers along the West Highland or people without cars who want to climb Ben Lomond (which is almost impossible to reach by public transport without an overnight trip). This point is confirmed by the Nov 2013 minute of the East Loch Lomond Management on the ranger service[[30]](#footnote-30); Jim Downie when asked which people had been unlawfully camping "confirmed the majority were WHW walkers” and went on to say who should probably be aware of the issues on the east side of Loch Lomond".  Just how the LLTNP expected all the people from European countries or even Scotland should be aware of situation of East Loch Lomond is unclear. Anyone who has walked the Way will know many people walk from Milngavie to Balmaha on the first day. Yet there is nowhere to camp at Balmaha, Milarrochy is not a campsite that is suitable for backpackers and so the only place to stay is at the Sallochy campsite which is more than a day’s walk from Milngavie for all but the fittest. The “displacement” mentioned around Ardess is unlikely to be displacement but rather a reflection that backpackers have nowhere to go (and there is nowhere to camp at the foot of Ben Lomond). It is not surprising unlawful attempts to camp are continuing. What is surprising is that the LLTNP has failed to acknowledge just how many responsible campers are being adversely affected by the Bye Laws.

1. **Resources**

The Review Report stated that “significant public resources were being used to contain the issues through high frequency of police and ranger patrols” (para 2.2). It also went on to say that: “The National Park rangers initially established a high presence with a two shifts a day rota during all of the 2011 season, this was adjusted to single shift pattern in 2012 which was repeated in 2013 due to the reduction in incidents encountered, and high level of compliance with the bye-laws. FOI Response 2015/09 shows that numbers of ranger patrols were:

1. 208
2. 670
3. 321
4. 389

While the Review Report does refer to a high level of patrols in 2012 as being a result of poor weather, which meant Rangers encountered fewer visitors and so were able to undertake more patrol, the data for the other years clearly shows that Ranger patrols have increased rather than decreased as suggested in the Review Report.

1. **Overview east Loch Lomond bye laws**

The Review Reports included a snapshot Visitor experience survey from 2013 which was overwhelmingly positive with 98% for example stating they had no experience of ASB.

The Review of the East Loch Lomond bye-laws failed to produce any evidence to show that improvements in the area had been caused by the camping bye laws as opposed to other measures[[31]](#footnote-31) and the LLTNPs research which showed problems were associated with car-borne campers drinking alcohol strongly suggests that the combination of clearway and alcohol bye-laws would have in themselves been enough to achieve further improvements to those achieved by Operation Ironworks.

The Review Report also fails to report properly on the background to the Bye-Laws and as a result a significant shift in position on the part of the LLTNP has been obscured. In the 2010 the East Loch Lomond Visitor Management Plan clearly states that Alcohol bye laws were intended to deal with ASB and camping bye-laws for over use and proposed separate reviews of these.[[32]](#footnote-32) This has not happened and instead the LLTNP is attributing improvements to the camping ban.

In conclusion, the Review Report has both totally underestimated the impact of the bye-laws on “responsible campers” and the legitimate demand for wild camping in the area due to the West Highland Way and presence of Ben Lomond and also falsely attributed improvements on East Loch Lomond to the bye-laws rather than other measures. There appears to be a strong case that the current camping bye-laws are no longer required or desirable. It is recognised the local community, who has been misinformed by the LLTNP about the role of the bye laws particularly in relation to ASB, will have apprehensions about this and therefore it is suggested the byelaws are phased out on a trial basis. A start would be to allow people to wild camp for one night only as long as they were 100m from a dwelling house.

# The Your Park consultation process

The National Park Plan (Action VE 2) committed the LLTNP “if appropriate, following review, to consult on Camping Management in the National Park based on the experience of the East Loch Lomond Camping Management byelaws”. The process was initiated by a paper to the LLTNP’s Board in December 2013 on Visitor Management which agreed “That the National Park Authority should prepare and consult on a suite of visitor management proposals as a single process in 2014. These proposals will include regulatory options for visitor management across the National Park Area”.

It seems clear that the whole process was meant to be wide ranging and encompassing all aspects of Visitor Management yet the proposals put to the Board in October 2014 and issued for consultation were focussed on camping and regulation, to the exclusion of everything else. This change in focus does not appear to have been discussed at any of the Board meetings between Dec 2013 and October 2014. It is unclear therefore just how or why this change of focus happened.

The LLTNP had drafted byelaws by mid-August 2014[[33]](#footnote-33) despite there being no reference to this at the Board meeting in June 2014. An FOI established this decision was taken by a Project Board made up of staff but also that there be extensive non-public meetings where Board Members discussed the Your Park proposals.[[34]](#footnote-34) The LLTNP has refused to divulge the contents of those meetings, a decision which is now subject to a formal FOI review, and until they do so there will be a suspicion that a parallel non-public process has driven decision making. This is not in the public interest.

Along with this significant shift in focus, there have been a number of deficiencies in the actual consultation process.

1. **Failure to consult recreational organisations and interests properly**
	1. The LLTNP has totally side-lined the Local Access Forum from the process despite it being a statutory consultee in terms of access rights (see Appendix 1 for details on this). The LAF met only once in 2014 and that only after the Your Park Consultation proposal had been drafted and then not again until after the Board had made its recommendations to Ministers (the LLTNP cancelled a meeting scheduled one week before the LLTNP Board met.
	2. The LLTNP has side-lined the recreational voice (representing visitors) from the consultation, misinformed them and has tried to discount the responses from recreational organisations and their representatives. Examples include:
	* A meeting took place between LINK, represented by Helen Todd (chair LINK, Charles Strang (convenor National Parks Taskforce) and Charles Dundas (Woodland Trust) and Gordon Watson (then Director of Operations) on 13/08/14. The LINK participants then approved a note of the meeting for internal use[[35]](#footnote-35) which recorded that Gordon Watson had stated the LLTNP had no intention to introduce bye-laws. Yet we now know bye-laws had been drafted by around this date.
	* A meeting took place between Gordon Watson and the Ramblers Association in August, i.e. after the byelaws had been drafted, where no mention was made of the need for bye-laws.
	* A meeting with the Mountaineering Council of Scotland was first offered by Bridget Jones from the National Park in an email on 17/09/14 and took place on 7/10/14 when Bridget Jones met David Gibson (Chief Officer) and Andrea Partington (Access Officer) from MCofS. At that meeting Bridget Jones said explicitly no bye laws would be introduced until 300 camping places were provided. Gordon Watson directly contradicted this in his meeting with Nick Kempe (09/03/15)[[36]](#footnote-36) when he claimed bye laws were required to get people to use campsites and the statement and that is confirmed by the statement in the Your Park Consultation quoted at end of section 2 above “We believe the Bye Laws will create demand for the planned network of managed camping areas and sites by restricting unmanaged lochshore camping within the zones”.
	* The Loch Lomond Association representing water users (lots of whom camp) asked the LLTNP to reconvene the Loch Lomond stakeholders group to discuss proposals but this was ignored.[[37]](#footnote-37)

It seems clear therefore that the LLTNP had made up its mind well before meeting the recreational organisations.

1. **Misuse of data and images and false claims**
	1. The Your Park consultation focussed on delivering the message that camping has lots of adverse impacts and is closely associated with anti-social behaviour. The facts contradict this and there is lots of evidence to demonstrate that the message has been based on spin and manipulation of both images and data. Gordon Watson, newly appointed as Chief Executive, was quoted on Scotland Outdoors in an article posted 2nd February 2015[[38]](#footnote-38) that there was a consensus among the main Partners of the LLTNP about the need for camping bye laws despite knowing Sportscotland had objected and SNH expressed major caveats. The author submitted formal complaints about this, which the LLTNP had investigated by someone who was not a Director, contrary to its procedures and the appeal was then held by a person directly managed by Mr Watson. Unsurprisingly the complaint was not upheld and after the Scottish Public Service Ombudsman refused to investigate the complaint because no personal injury or harm had been offered, the author has written to Ministers what the public is expected to do in such circumstances.
	2. The Your Park consultation materials gave considerable prominence to images of wrecked tents and abandoned campsites, both on the website and in the powerpoint presentation the LLTNP gave to many groups. There was no attempt to put these images in any context, for example how often did these events take place or what percentage of camping resulted in such outcomes. Scrutiny of the images show that they appear to be multiple images of a couple of abandoned campsites. By contrast the consultation contained a single image of what could be called responsible camping. The LLTNP were asked under FOI what proportion of campers are irresponsible and what responsible. Their response indicated they hold no data on this.[[39]](#footnote-39)
	3. Furthermore, there was no attempt to put the litter problem in context although there was a reference to this being a Scotland wide issue. Any objective comparison of the issues would show there is a lot less litter in the National Park than other areas and indeed there are far worse problems outside the proposed Management Zones in other areas of the National Park. There is a massive problem of marine litter for example at the head of Loch Long, that have nothing to do with recreational use, and which the LLTNP has failed to address (there appears to be an unresolved dispute between the LLTNP and Argyll and Bute Council about whose responsibility it is to address this).
	4. The Your Park consultation also showed three images of a patch of ground heavily used by campers which had been bare and where regeneration of vegetation had taken place since the ban. This phenomenon is no different to what takes places on campsites, including that at Sallochy for which the LLTNP has modelled its future proposals. The LLTNP makes no mention of this and its message appears to be that erosion of vegetation by campers is objectionable unless it takes place in a campsite. Again there is no context given and these impacts of campers are small and superficial compared to that which has been caused by other recreational use (e.g. the bare ground around the Rowardennan car park) or works authorised by the LLTNP (e.g. creation of new tracks for hydro schemes in Glen Falloch). The LLTNP appears to be applying far higher standards to wild camping than to almost any other type of land-use and the fact that the land recovers so quickly demonstrates this is a relatively minor issue.
	5. The figure of an 81% reduction in ASB on East Loch Lomond has been taken out of all context and spun to appeal to people’s emotions being given a very prominent place in the consultation. When challenged about this the LLTNP has tried to offload responsibility to Police Scotland: “We have used all evidence available to review the first three seasons of operation of the [East Loch Lomond Byelaws](http://www.lochlomond-trossachs.org/visiting/east-loch-lomond-camping-byelaws/menu-id-611.html). The important thing to stress here is that much of the information we have used comes directly from [**Police Scotland**](http://www.scotland.police.uk/)’s own records not the National Park’s.”[[40]](#footnote-40) There is no attempt here to answer the obvious point that at the very least the Park needed to consider which of the ASB crimes were associated with camping and which not: it totally failed to do so. It should have done under the Code of Practice for the Use of Official Statistics but has dismissed complaints on this and therefore these matters are now subject to complaints to external authorities.
	6. The LLTNP used statements from Kevin Lilburn on the two press releases it issued on the Your Park consultation. No-one doubts that Mr Lilburn has worked very hard to improve the shores of East Loch Lomond where he lived. He appeared on BBC TV however, presumably organised through the LLTNP, talking about how he had opened his front door one day and found a turd on his doorstep. The interviewer did not question how he could attribute this to campers and no evidence was provided for this. Mr Lilburn appears to have become carried away and started to attribute everything bad that happens locally to camping and the LLTNP has used this to promote its agenda.
	7. When questioned about whether there was any other evidence apart from the Police Statistics to support some of Mr Watson’s assertions to the media, the LLTNP responded “Additional information to support Mr Watson in his media interviews has been provided by the local community and businesses”. When this was followed up by a Freedom of Information request the response was to send informal notes of meetings with community organisation which the response stated provide “valuable information about the issues and concerns of people living in the LLTNP area”.[[41]](#footnote-41) The evidence does not justify this conclusion:
		* There are no minutes of meetings, just comments of staff, and it is not clear in many of the cases if the community organisations would agree with staff views. A failure to take and agree minutes of meetings, whether with recreational or community organisations, is a consistent feature of the consultation process and leaves it wide open for people’s views to be misrepresented.
		* The observations of staff do show that some community organisations clearly do not agree with the direction of travel by the LLTNP and many suggested alternative solutions. None of this was included in the Your Park Consultation.
		* Where community organisations appear to be agreeing with the LLTNP, it is not clear whether they came to this conclusion because of one-sided information issued by the LLTNP.
2. **The consultation questions**

The Your Park consultation as stated focussed solely on camping and regulation and consisted of 5 fixed questions, 2 on camping investment and three on bye-laws. There was no opportunity given to anyone to suggest other options and this is likely to have seriously biased the whole consultation response. This view is shared by many people, for example the Friends of Loch Lomond and the Trossachs whose response stated: “We would add that we are concerned that the specific questions in themselves are quite narrow in focus and are quite closed in nature.” Furthermore this approach was likely to have polarised the consultation responses into those who are for and those against and means no evidence will have been gathered about other ideas for addressing issues. The LLTNP in effect is likely to have created conflict when there was no need to do so. Thankfully, many people ignored the framework set by the questions but that has not stopped the LLTNP as interpreting the responses as being in favour or against – the reality is far more complex (see below). To give an example the SNH response to the bye law questions avoided yes or no for two questions, and where it actually answered yes, in respect to the wording of the byelaws, it in fact suggested major changes in wording that have been accepted by LLTNP and totally change the scope of the byelaws now being proposed.

1. **Failure to consider alternative options**

There is a long list of alternative options that the LLTNP could have consulted on but didn’t, which could have provided the basis for a completely alternative package of measures:

* 1. The LLTNP has had no discussion with local Councils about the use of alcohol bye laws despite all their research showing the greatest problems are associated with alcohol abuse.[[42]](#footnote-42) A further FOI response[[43]](#footnote-43) shows that two Community Councils in the Trossachs area had approached Stirling Council to request alcohol bye-laws and the LLTNP knew this before the Your Park consultation but nevertheless did not include it among possible options. The LLTNP has in effect ignored alternative solutions to address problems that are being proposed by local communities.
	2. There was no consideration of car parking issues in the Your Park consultation despite this being one of the measures in place in the East Loch Lomond bye-law area. The 5 Lochs Plan (p38) proposed a Clearway approach on south Loch Earn, Balquidder Glen and south Loch Venachar in 2012-13. There was no mention of this in the Your Park consultation though subsequent FOI requests indicate proposals have now been developed in the Five Lochs Area. The LLTNP has provided no analysis of what the impact of these might be in terms of camping.
	3. The LLTNP gave no consideration to targeted actions and site specific measures in the Your Park consultation, despite the evidence of the importance of this on East Loch Lomond and despite the inclusion of 17 site specific plans in the Five Loch Plans of 2012. These covered everything from parking places, toilets, camping places, landscaping for each site. The LLTNP should have provided evidence of to what extent it had achieved the actions in the Plan and the impact of this. What we do know is that in 2013 the layby on Loch Earn that was full of caravans that were there for the season and was the source of the greatest problems was addressed by Police Scotland working with the LLTNP and the landowner. This demonstrates that all the problems of encampment mentioned in the Your Park consultation could be addressed using existing laws.
	4. The LLTNP has failed to consider any other options for how bye-laws might control camping apart from a complete ban on the proposed sites from March to October. This is despite their own research showing that the problems are concentrated on a few weekends over the summer period. There are also many alternatives models in place in national parks in other parts of the world. The LLTNP itself suggested to the Land Reform Review Group that camping should take place over 50m from the road. There was nothing to prevent them suggesting this for the proposed management zones but they have failed to do so though this of course would hit people with disabilities who want to experience what wild Scotland has to offer.
1. **LLTNP’s analysis of the Your Park consultation and presentation of the outcome to Ministers**
	1. The LLTNP’s analysis of the outcome of the Your Park consultation is totally flawed and raises serious issues regarding wilful disregard of the content of responses, misuse of statistics and presentation of the results. This is set out in Appendix 2. In itself it provides all the evidence Ministers require to order an investigation into how the consultation process has been conducted by the LLTNP.
	2. Still, it is important to acknowledge that the extensive and well thought out criticisms of the original proposals have had an effect and the LLTNP has completely changed what it is proposing so it now wishes to control camping through an (undefined) permit system rather than provision of new camping places. While a number of respondents to the consultation suggested some sort of permit system as an alternative to blanket bans on camping, the permit system itself has NOT been subject to any consultation as such. This is a statutory failure as the LAF should be consulted about all proposals that affect access rights and this is a new proposal. As importantly though the LLTNP has no way of telling what the general view of respondents would be on the legal implications or workability of a mass permit system, even for people who suggested this be considered (as permit systems could take many forms). So, while the initial consultation is very relevant to those parts of the original proposals that remain (a camping ban and a small number of new camping places) it says nothing about permit systems. This means that the Government if they approved the bye laws would be laying themselves open to legal challenge about the whole process.
	3. In its Letter to Ministers LLTNP puts particular emphasis of support from some key partners outwith the consultation process, sending to Ministers copies of letters from SNH, Police Scotland and the three councils that failed to respond formally to the consultation. The letters do not provide evidence for support as the LLTNP claims:
		* SNH maintains its position that sufficient camping places require to be in place BEFORE any bye laws are implemented
		* Police Scotland makes a point of reminding LLTNP it remains committed to Operation Ironworks before stating it supports the bye laws. It provides no information on the operational implications.
		* The three councils make vague general statements of support: West Dunbartonshire does not even refer to the bye laws but says it supports efforts to ensure the National Park is well managed. None of the Councils have given any consideration to what part they could play in improving the National Park (see section on Partnership working) and there is no mention of resource issues and how these have contributed to the lack of infrastructure to support visitors.
2. **Reasons why the LLTNP can no longer be trusted.**
	1. When East Loch Lomond bye-laws were introduced part of the justification was that this would only be a temporary measure.[[44]](#footnote-44) The Review of the East Loch Lomond bye-laws avoided any mention of this.
	2. The five Lochs Visitor Management Plan did not articulate any need for new bye-laws. The LLTNP produced a written report to the National Access Forum on Visitor Management in 2012 which stated under the 5 Lochs Visitor Management Plan “Bye laws are not being considered at this time” (point 15).
	3. The LLTNP has made no mention of its submission to the Land Reform Review Group in 2013 which argued for removal of all roadside camping from access rights with access authorities being given power to make exemptions[[45]](#footnote-45). The effect of this would be to remove camping rights from far more of the LLTNP yet no mention was of this was made in the Your Park consultation.
	4. The LLTNP claimed in the Your Park consultation that the bye laws only cover 5% of the land area in the National Park. It now claims in its letter to Ministers that this is just 3.7%. Again this is playing with statistics, it’s a far greater percentage of the campable ground (in response to an FOI request the Park states it does not keep data on where camping is possible). The point is the proposed Management Zones covers almost all the most popular places for camping, over 150km of shoreline along the lochs and over 200km of roads.
	5. The LLTNP wishes to introduce bye-laws under the National Parks legislation rather than Land Reform legislation. The original East Loch Lomond bye laws were proposed under the Land Reform legislation but at the last moment the LLTNP changed this and introduced them under the National Park’s Act. The failure of the Your Park consultation to mention the impact of the proposals of impact on access rights contrasts with previous bye-laws and the Five Lochs Management Plan where planning has explicitly taken place within a framework of access rights.
	6. Levels of support from community organisations are not nearly as high as suggested by the LLTNP (see Appendix 2).
	7. Gordon Watson stated in Stirling Observer before the current proposals for permits that “The bye-laws are not completely inflexible, for example school groups and scout groups can have exemptions for camping”. The Review of the east Loch Lomond byelaws indicated that at most there had been two exemptions in any one year. There has been no attempt to advertise this facility to backpackers who are most affect by the ban so at the time this statement was totally misleading.

# Partnership Working

The LLTNP was set up as a partnership, with the Board made up of representatives from Councils, elected community representatives and nominees of Scottish Ministers. This structure now however appears to be failing and the LLTNP to be no longer working with anyone apart from some local community representatives. Evidence for this includes:

* The LLTNP have admitted they have had no discussions councils about extending alcohol bye-laws despite this once being seen as part of a package of measures to address ASB.
* The LLTNP have not been talking to Police Scotland, either about what their statistics really say or about the potential to strengthen rural policing in the National Park. With crime dropping nationally and police numbers being maintained, there is clearly an opportunity to consider redeployment of police resources to rural areas where this is needed. The cost to the LLTNP of Operation Ironworks and the National Park police officer is tiny.[[46]](#footnote-46) Yet despite the obvious role for policing to address criminal behaviour within the National Park, the LLTNP does not even know how many police there are working in the area: “The Authority does not hold information about the numbers of police officers that Police Scotland may deploy in the National Park”.[[47]](#footnote-47)
* The LLTNP appears to have given up on working with Riparian owners even though most of the problems it is concerned with appear related to people fishing[[48]](#footnote-48). In response to an FOI the LLTNP indicated there had been six meetings with angling/riparian interests as part of the consultation but the LLTNP has made no reference to this in the consultation or what opportunities there might be in this area. This contrast with a written report given to the National Access Forum on 18/4/12 which stated that “Working with the private landowners to improve on fishing compliance and any links that can be made to responsible camping and firelighting is seen as a significant part of the solution on the managed lochs”.[[49]](#footnote-49)
* Organisations representing recreational interests are no longer being treated as part of the solution. For example, Sportscotland was and is still involved in the 5 lochs Plan but there was no recreational representation in developing the most recent east Loch Lomond Visitor Management Plan or Stakeholder Group.

Some of the explanation for this breakdown in Partnership working, particularly with other public authorities, probably lies in the current pressure of government finances. In theory the best means of addressing current financial pressures is to work more closely with other Public Authorities. In practice however what appears to be happening is each authority retreats to what it sees as its core area of business. The result has been that instead of asking or requiring other partners to take action, the LLTNP has resorted to doing things that are under its own control and the main thing it can do in relation to visitor management is to try and regulate visitors. In doing so however it is just going to cause more problems for itself as the increase in numbers of Ranger patrols on east Loch Lomond demonstrate.

# The implications of the bye laws as drafted

The LLTNP has provided no analysis of the implications of the bye laws as drafted, either for its ranger service or the police or local communities.

**a) Resources**

Forest Enterprise Scotland in their response made it quite clear that they could not offer any resources to police the bye laws and a number of respondents to the Your Park consultation made comments about the resources required – these have been ignored. What is quite clear if the proposal were to be approved by Ministers is that first the area where camping is banned will be extended considerably and second, that if numbers of ranger patrol increase as they have done on east Loch Lomond, the resources devoted to enforcing the bye laws will need to increase considerably. The LLTNP in its corporate risk register suggests that one way of guarding against the risk of the Your Park proposals being rejected is if it can show that it will reduce demand on resources. It has provided no evidence to date to support this and any assertions by the LLTNP on this in future should be thoroughly examined and a complete cost benefit analysis required.

Indeed, the change from a complete camping ban to one where camping is permitted in certain places with permits would just increase the need for enforcement because the LLTNP would need to visit every tent it detects on patrols to check whether the camper/s have a permit or not.

The LLTNP has provided no consideration of what this means for its ranger service which, with the exception of east Loch Lomond, is currently focussed on providing education and advice rather than enforcement. The need to consider this is even great because of the potential for the LLTNP to give its rangers powers to issue fixed penalty notices for litter. If both byelaws and fixed penalty notices become part of the role of rangers, the service will have in effect been transformed from an educational service to LLTNP’s own private police force and are likely to do little else. It is hardly surprising that the Scottish Countryside Rangers Association objected so strongly to the Your Park proposals.

As worryingly, the LLTNP appears to have had no discussions with the police about how they would work together to enforce the bye laws. What would happen if a person without a permit refuses to move – are the police going to have to shift resources from tackling actual crime to helping enforce the bye laws?

**b) Economic implications**

The LLTNP has asserted that it believes banning camping will result in more visitors to the National Park but has provided no evidence for this. There is some evidence to suggest that the bye laws boundaries have been drafted in a way so as to try and force people to use commercial campsites e.g. at the head of Loch Lomond in the mistaken belief people only use campsites if forced. The Beinn Ghlas campsite at the head of Loch Lomond is in fact already well used and there is lots of evidence good campsites are very popular.

Indeed on busy weekends in the summer, it is impossible to book places, so the implications of the proposed byelaws is that instead of being able to camp or park by the road people will be forced elsewhere and, given the popularity of lochsides, are likely to move out of the National Park. The responses to the Your Park consultation provide several examples of how economic activity will move from the National Park (from the person who after eating at their favourite restaurant spends the night in their campervan) to the contribution of fishermen to keeping local shops open.

The LLTNP appears to have proceeded with its Your Park proposals without any consideration of the economic consequences. A proper economic analysis is now needed although there is already lots of Scotland wide data on the contribution of people like hillwalkers to local economies.

# A comprehensive approach to visitor management in respect to camping

The Your Park consultation has failed to give any proper context for the problems it depicts and then focussed on just one potential solution, a ban on camping. There are a significant number of other potential solutions that the LLTNP has just ignored (which is very different to how it approached visitor management in the past). These require the LLTNP to reconsider how it can make partnerships work. The following, which have been hinted at throughout this report, should be considered as part of a comprehensive approach to visitor management:

1. The LLTNP needs to work with recreational organisations, including those representing fishing interests, and include them in developing and managing solutions
2. A fundamental principle behind any visitor management proposal is that byelaws should be a last resort. All realistic alternatives, whether educative or application of the existing criminal law, should be tested and shown to be failing before any consideration is given to reducing access rights through the development of bye laws. In any case where proposals are developed, the access authority should provide a proper assessment of the impact of the ban on everyone who may be affected, e.g. people with disabilities, cycle and canoe tourers, etc.
3. In developing solutions, recognition should be given, as it was in the access legislation, that anti-social behaviour is primarily a matter for the criminal law. What this means is that there requires to be a proper analysis of the extent of criminal behaviour in any one area, what the causes of this are and – where this is associated with visitors – what police resource is required to address this. While this takes commitment, the evidence from when Kevin Findlater was Chief Inspector of the Central Scotland Police with responsibility for policing in a significant part of the LLTNP is that this can and does work.
4. The one place where byelaws on camping might be justifiable might be within the boundaries of village communities. In cities and towns camping is often banned in Parks and other public areas and it is recognised occasionally in the National Park groups have camped close to public houses and this has created problems. The test of this should be whether any reasonable recreational camper visiting the countryside would wish to camp in such places.
5. The National Park should be able to give further consideration to the role of other byelaws which do not restrict access rights as such, such as bye laws requiring campers to carry means of disposing litter or burying human waste, or if they restrict activities associated with access rights (lighting a fire for example) do so for a justifiable conservation reason (e.g. in protected oak woods – the current bye laws would simply ban fires everywhere in the proposed Management Zones and undermine the work that has been done by landowners who have sold wood from sustainable sources to fishermen).
6. Work with fishing interests and riparian owners to address problems associated with fishing, which the Keep Scotland Beautiful Survey for example was the main source of litter. If riparian owners fail to co-operate, it would be quite possible to fast track land reform legislation and give LLTNP right to assume fishing rights where landowners behave irresponsibly and expect others to clear up the mess they have allowed to happen on their land.
7. In addition to a properly thought out camping development plan, there is considerable scope for the LLTNP to take a much more proactive and creative approach: for example promote with government the use of rural programme subsidies for recreation to finance temporary campsites in fields at peak times; use portaloos during the summer periods; use its compulsory purchase powers to provide campsites where they are needed if landowners fail to provide them (e.g. Balmaha, the Loch Lomond islands).
8. Re-establish trust with the recreational community through a phased withdrawal of the bye laws on east loch Lomond
9. The LLTNP needs to be reformed to make the participation recreational interests central to its work. The means that recreational interests need to be properly represented on its board, in its Partnership Plan, proper liaison mechanisms must be put in place and the LAF allowed to function again by giving it far more autonomy than it has had.
10. Consider the role of alcohol bye laws around village settlements. Great care needs to be taken with this because one of the pleasures of being in the countryside is being able to have a drink and with the reduction in alcohol limits for driving, this has become harder. The LLTNP has claimed that alcohol bye laws don’t work because people who camping can simply dive into their tents when they see the police coming. First, there is no evidence for how great a problem this is. Second, if this the issue answer is to give police powers to address this specific issue which pertains to a minority of campers rather than ban all campers.
11. Re-invigorate the local planning approach started in the east Loch Lomond and Five Lochs Visitor Management Plans which developed plans to address issues on a site specific basis – now sadly partly abandoned without explanation by LLTNP
12. Re-affirm the importance of education instead of claiming, as the LLTNP has done, that this has not worked. Evidence is that behaviour does change as for example has happened with dog owners bagging poo as a result of both education coupled with enforcement when necessary. City parks have been transformed as a result.

# Conclusion and recommendations

The evidence of the Your Park consultation is that the National Park has moved from taking a strategic approach to the management of visitor impacts to focussing on just one issue, camping. It solution is to ban camping. This could address some, but by no means all, of the issues but the price would be the removal of rights from many in the National Park. It is difficult to predict consequences but either people will move elsewhere, which will shift pressures to areas with far fewer resources than the National Park, or stop a whole group from enjoying the countryside, which is contrary to the National Park’s objectives.

There are lots of alternatives to this scenario which return to the vision of the access legislation which saw criminal issues being addressed by policing and other issues by a combination of specific management measures and education.

## Recommendations for LLTNP

**The LLTNP should:**

a) Develop an approach to camping which is based on respect for access rights but also matches the development of camping places to demand. This should include:

1. Obtain more and better information about the incidence of, and motivation for, wild camping in the National Park;
2. Establish a data base of camping places in the National Park along with historical trends and the reasons for these changes in order to inform development of new campsites.
3. Assess the extent of the relative demand for wild and more "managed" camping;
4. Identify where additional "managed" camping provision is required throughout the National Park (not just in the proposed management zones) and explore the best ways of meeting the need (including the use of appropriate grant funding but not excluding the possibility of compulsory purchase if landowners prove intransigent);
5. Characterise and establish more clearly the link between motivations for camping and types of campers and the various social and environmental problems the LLTNP has identified, including in particular ;
6. Abandon its proposed management zones and take a far wider approach to development of campsites including places like Balmaha and the Loch Lomond islands
7. Actively push for rural grants to support new campsites but where landowners fail to provide land use its compulsory purchase powers

b) Review its failures to work in partnership with other public authorities, environmental and recreational organisations and re-animate its partnership plan. The Partnership Plan should be reviewed immediately to give a place to recreational organisations.

c) Work with Police Scotland to ensure the effective enforcement of existing legal sanctions against irresponsible and anti-social behaviour wherever it occurs in the National Park and ascertain what police resource is required to ensure that the criminal law is upheld with respect to visitors in the National Park.

d) Take a site by site approach to visitor management following approach developed in the 5 Lochs Plan which should include involvement of riparian owners.

e) Develop a plan with riparian landowners to manage the impacts associated with fishing.

## Recommendations for Government Ministers

**Government Ministers should:**

1. Reject the proposed byelaws as drafted, and instruct the LLTNP:

i) to develop proposals to amend the East Loch Lomond camping bye-laws as soon as possible

 and allow wild camping according to SOAC to be phased back on a trial basis.

1. to consider the need for bye laws to stop camping within village boundaries except at recognised campsites or exempt such areas from access rights
2. that outside the boundaries of villages the Government will only consider bye laws to tackle gaps in the existing criminal law in relation to irresponsible behaviour, e.g. lighting of fires using native wood in protected areas or the need to carrying a trowel when camping to bury human waste according to SOAC
3. require LLTNP to consult further on the adequacy of its camping development plan and produce a cross-park plan that meets demand for places in campsites
4. review the composition and governance of the LLTNP Authority to ensure effective partnership
5. ask Local Councils represented on the LLTNP Board to contribute to the development of visitor management plans and fulfil their responsibilities to resource this adequately
6. ask Police Scotland to provide a proper assessment of crime levels in the National Park and the adequacy of the police response and then consult local communities and recreational interests on any proposals arising from this.
7. Consider the following options for the next Land Reform Bill or other legislation relating to Land Reform:
8. Amend National Park’s legislation so that National Parks are no longer able to introduce bye-laws that remove access rights and that any measures which reduce access rights should only be proposed under the Land Reform legislation.
9. Give Local Authorities the power to assume responsibility for issuing permits for fishing where riparian owners fail to ensure that people who buy fishing permits fail to abide by SOAC and fail to clear up afterwards.
10. Strengthen the requirement for access authorities to operate independent Local Access Forums and to consult these prior to developing any proposals that might restrict access rights.
11. Instruct LLTNP to work with Local Authorities to develop a coherent and consistent litter strategy across the National Park within six months, including siting and design of litter bins and use of on the spot fines for littering.
12. Instruct the LLTNP to develop a policy and procedures to address encampment timeously along with Police Scotland and the Local Authorities
13. Ask the National Access Forum to produce further advice under SOAC, for both managers and visitors, on how, outwith formal campsites, people can reduce their impacts from camping (eg strengthen further advice on disposal human waste so this is not just a message from the Mountaineering Council, produce advice on how to reduce wear and tear to vegetation).

# Appendix 1

# The role of the Loch Lomond and Trossachs National Park Local Access Forum in the proposed camping bye-laws – paper from Nick Kempe

**The legal framework**

Under the Land Reform Legislation the Loch Lomond and Trossachs National Park (LLTNP) has the same powers and duties as a Local Authority in respect of access rights. One of these powers is to establish a Local Access Forum is an access authority and has a statutory obligation to set up a Local Access Forum who functions are defined in clause 25 (2).[[50]](#footnote-50) The first of these is to advise the local authority and any other person or body consulting the forum on matters having to do with the exercise of access rights. Local Access Forum are also listed in clause 12 (7) (d) as one of the bodies the access authority must consult if it is considering bye-laws (whether or not these directly affect access rights). The Guidance on Local Access Forums[[51]](#footnote-51) states that Local Access Forums are statutory consultees in relation to Access Rights. The LLTNP appears to recognise this in the statement on their website that “The Local Access Forum's main function is to advise the National Park Authority and/or the public on issues relating to the right of responsible access provided by the Land Reform (Scotland) Act 2003 “[[52]](#footnote-52)

While the LLTNP originally proposed to introduce the bye-laws prohibiting wild camping, which come under access rights, on East Loch Lomond under the Land Reform Legislation, they eventually did so under the National Parks Act and their current proposals for further bye-laws are under the National Parks Act. While there is no explicit requirement to consult the LAF under this Act (hardly surprising, since the legislation establishing LAFs had yet to be enacted) there is in S.9 (1) (c) (ii) an obligation to consult representatives of those who engage in recreational activities in the byelaw area. However, the LLTNP’s power to make bye laws is the same as local authorities under Sections 202 to 204 (byelaws) of the Local Government (Scotland) Act 1973 and Local Authorities had a duty under section 30 of the Land Reform legislation to ensure all bye-laws were consistent with access rights.

**The facts**

The LLTNP had operated a Local Access Forum for a number of years, which met 4-5 times a year. During the development of the proposed bye-laws on East Loch Lomond the minutes of the LAF show this was on the agenda or discussed at every meeting August 2009 until the bye laws were implemented. The minutes also record that the LAF provided feedback and it appears that as a result of this feedback a number of provisions were changed.

In December 2013 the existing Local Access Forum was wound up, the same month that the LLTNP Board agreed to develop visitor management proposals across the Park. The plan, reported to the Board, was to replace the LAF by a smaller Forum through a recruitment and selection process conducted by staff. A training event for new Forum members took place in June 2014.[[53]](#footnote-53) The first meeting of the new LAF took place on 29th September 2014, just over a week before the proposals for new bye-laws were presented to the Board i.e the Park had already formulated its proposals to remove certain access rights BEFORE undertaking any consultation with the LAF. The minute for this meeting was made public on 26th March or thereabout following an FOI request.[[54]](#footnote-54)

The minutes of the meeting of the LAF on 29th September show that information on the proposed bye-laws was given under an item headed “Visitor Management Update” which recorded the Forum were informed of plans for new bye-laws. The Park invited individuals to respond to the consultation and stated it would facilitate a workshop to “formulate a group response”. This took place at the end of the year and arising out of this the LAF submitted a response to the LLTNP. In this they made very clear their desire to be consulted and involved in commenting on proposals.

The next meeting of the LAF was scheduled for 23rd April just four days before the Special Board meeting on 27th April to consider the Board’s response to the Your Park consultation. It was cancelled by the National so that there was NO consultation with the LAF on these prior to a decision being made.

**The Park’s breach of its statutory duties in respect of Access Rights**

The proposed bye-laws contained in the Your Park consultation would restrict access rights under the Land Reform legislation, both in terms of the proposals to prohibit wild camping and to give Park rangers new powers in respect to anything they considered to be “damage” or “nuisance”. While the LLTNP is proposing to introduce the bye-laws under the National Park’s legislation, it is clear any bye-laws need to be consistent with the access legislation (because of S30) and there is a clear implication therefore the Local Access Forum should be treated as a statutory consultee as it would be under the access legislation. The Park would appear to accept this as there is a statement on its website which says that the most important function of the LAF is to provide advice in relation to access rights. If the Park were now to dispute this, however, and claim its right to make bye-laws under the National Park legislation was different, it would in effect be asking to be treated differently to every other access authority in Scotland save the Cairngorms National Park. If such a claim were to be successful in the courts it would indicate that there is a serious loophole in the Land Reform legislation because it omitted to amend the bye law provisions in the National Park’s Act. If such a loophole existed it could be removed as part of the current review of the Land Reform legislation.

Statutory consultees have a really important role. The LLTNP appears to have recognised this in respect of the Strategic Environmental Assessment it undertook as part of developing its proposals when it consulted SNH and SEPA at a very early stage in the process. However, in respect of its proposals to develop bye-laws, it has completely failed to engage with the LAF as a statutory consultee only calling a meeting once it had already decided on its proposals. The LAF might have been able to propose alternative solutions to restricting statutory access rights but the Park appears never to have asked it about this or given members an opportunity to consider this properly. It is evident from the minutes of LAF meetings that the Park followed a completely different process when developing the East Loch Lomond bye-laws where it did engage with the LAF at all stages of the process. This demonstrates that the Park had previously treated the LAF as a statutory consultee in respect of proposals to restrict access rights taken under the National Park legislation.

There is therefore significant evidence to indicate that the current consultation by the LLTNP on its proposed bye-laws has failed to meet statutory requirements.

Footnote - the legislative framework for Local Access Forums

1. Land Reform Act

Section 25 Local access forums

(1)Each local authority shall establish for its area a body, to be known as the “local access forum”, to carry out the functions set out in subsection (2) below.

(2)Those functions are—

(a)to advise the local authority and any other person or body consulting the forum on matters having to do with the exercise of access rights, the existence and delineation of rights of way or the drawing up and adoption of a plan for a system of core paths under sections 17 and 18 above;

(b) to offer and, where the offer is accepted, to give assistance to the parties to any dispute about—

(i) the exercise of access rights;

(ii) the existence and delineation of rights of way;

(iii) the drawing up and adoption of the plan referred to in paragraph (a) above; or

(iv) the use of core paths,

towards the resolution of the dispute.

Section 12 Byelaws in relation to land over which access rights are exercisable

 (1)The local authority may, in relation to land in respect of which access rights are exercisable, make byelaws—

(a) making provision further or supplementary to that made—

(i) by sections 2 and 9 and under section 4 above as to the responsible exercise of access rights; and

(ii) by section 3(2) and under section 4 above as to the responsible use, management and conduct of the ownership of the land;

(b) specifying land for the purposes of section 6(j) above;

(c) providing for—

(i) the preservation of public order and safety;

(ii) the prevention of damage;

(iii) the prevention of nuisance or danger;

(iv) the conservation or enhancement of natural or cultural heritage.

(2)Byelaws made under section (1) (c) above may, in particular—

(a)prohibit, restrict or regulate the exercise of access rights;

(b)facilitate their exercise;

(c)so as to protect and further the interests of persons who are exercising or who might exercise access rights, prohibit or regulate—

(i)the use of vehicles or vessels;

(ii)the taking place of sporting and recreational activities;

(iii)the conduct of any trade or business;

(iv)the depositing or leaving of rubbish or litter; and

(v)the lighting of fires and the doing of anything likely to cause a fire,

on the land.

(3)Byelaws made under this section shall not interfere with the exercise of—

(a)any public right of way or navigation; or

(b)the functions of a statutory undertaker.

(4) Sections 202 to 204 (byelaws) of the Local Government (Scotland) Act 1973 (c. 65) apply to byelaws made under this section as they apply to byelaws made under that Act, but with the following modifications and further provisions.

(5)The references to one month in subsections (4), (5) and (7) of section 202 shall be read as references to such period of not less than 12 weeks as the local authority determine.

(6)The local authority shall, at the same time as they first make the proposed byelaws open to public inspection, consult the persons and bodies mentioned in subsection (7) below on the proposed byelaws.

(7)Those persons and bodies are—

(a)every community council whose area includes an area to which the proposed byelaws would apply;

(b)the owners of land to which the proposed byelaws would apply;

(c)such persons as appear to them to be representative of the interests of those who live, work, carry on business or engage in recreational activities on any land affected by the proposed byelaws;

(d)the local access forum established by them;

(e)every statutory undertaker which carries on its undertaking on land to which the proposed byelaws would apply;

(f)Scottish Natural Heritage; and

(g)such other persons as they think fit.

on the proposed byelaws.

1. National Parks Legislation

Byelaws etc.

8(1)A National Park authority may make byelaws for the National Park for the purposes of—

(a)protecting the natural and cultural heritage of the National Park,

(b)preventing damage to the land or anything in, on or under it,

(c)securing the public’s enjoyment of, and safety in, the National Park.

(2)In particular, a National Park authority may make byelaws under sub-paragraph (1)—

(a)to regulate or prohibit the lighting of fires,

(b)to prohibit the depositing of rubbish and the leaving of litter,

(c)for the prevention or suppression of nuisances,

(d)to regulate the use of vehicles (other than the use of vehicles on a road within the meaning of the Roads (Scotland) Act 1984 (c.50)),

(e)to regulate the exercise of recreational activities.

9(1)Where a National Park authority proposes to make byelaws under paragraph 8(1) it must—

(a)publicise the proposed byelaws in such manner as it thinks fit,

(b)make copies of the proposed byelaws available for public inspection for such period (which must be at least 12 weeks) as it may determine, and

(c)consult—

(i)every local authority and community council any part of whose area is within the area to which the proposed byelaws would apply (“the byelaw area”),

(ii)such persons as appear to them to be representative of the interests of those who live, work, carry on business or engage in recreational activities in the byelaw area, and

(iii)such other persons as they think fit,

on the proposed byelaws.

(2)The National Park authority must, when making the byelaws, take into account—

(a)any views on the proposed byelaws expressed by those consulted under sub-paragraph (1)(c), and

(b)any comments on them received within the period referred to in sub-paragraph (1)(b).

(3)Sections 202 to 204 (byelaws) of the Local Government (Scotland) Act 1973 (c.65) apply to a National Park authority as they apply to a local authority, with the following modifications—

(a)in subsection (3) of section 202, the reference to byelaws being authenticated with the common seal of the local authority is omitted,

(b)for subsection (13) of that section there is substituted—

“(13)A National Park authority shall send a copy of any byelaws made by it to the proper officer of the local authority for any area to the whole or any part of which the byelaws will apply.”

# Appendix 2 Your Park Consultation analysis

**Introduction and Summary**

The LLTNP presented the outcome to the questions it asked in its Your Park Consultation to its Board on 27th April in a paper entitled “Your Park Recommendations”. A fuller analysis of the consultation responses was given in Appendix 2 to this the “Consultation Report”. At the Board meeting on Monday 27th April not one member raised questions about staff’s analysis of the consultation process despite the information in the Consultation Report raising serious doubts about what was said in the Your Park Recommendations report. The LLTNP then wrote to Ministers on the 18th May, including the appendices to the Your Park recommendations report but not the report itself.

Subsequently the response to a Freedom of Information request (FOI 2015-22) provided new information that shows staff classified the support of many *organisations* whom the Park has claimed support its proposals as “conditional”. It is clear from an analysis of the consultation responses posted on the Park’s website a week after the Board meeting that in many cases these conditions have not been met in the proposals submitted to Ministers and therefore that the Park has totally misrepresented the levels of support for its proposals from organisations. While the Park has not provided information about how it classified responses from individuals, it is clear from analysing these that many of those classified as supportive are also conditional. The result is that it appears that c75% of respondents should be classified as opposing the proposals sent to Ministers.

The LLTNP presented the outcome to its consultation as being 49% in favour and 50% against with 1% neutral. It appears to have done this first by classing any response that did not oppose bye laws in principle as supporting the proposals. So, many responses indicated that in certain circumstances they would not be against bye laws banning camping. The obvious question then is whether those circumstances had been met. Analysis of the actual responses shows that a large number of respondents clearly stipulated caveats in their responses *which have not been met* in the final proposals. The LLTNP has made no reference to this in its letter to Ministers and only publicly admitted many responses were conditional in response to my Freedom of Information Request.

The second way the Park has been able to present 49% of respondents as supportive has been to treat the answers to two very different sets of questions, one on bye laws and one on increased camping provision, as a single response in which positive responses to the camping provisions questions are used to cancel out any reservations expressed about the bye-laws. This is a total misrepresentation of the outcome of the consultation and a manipulation of the facts.

In addition, in the reports to the Board and Ministers the LLTNP has simply ignored many of the themes emerging from the responses including evidence which contradicts that presented by the LLTNP as to the nature of the problems and which suggest alternative solutions. The strong message that emerges from responses, whether from recreationists or local people, is that there is a clear distinction between wild camping and encampment and large scale support that the former should continue.

Analysis of the consultation responses has passed being an operational matter and the Government now needs to intervene to ensure there is proper and objective analysis about what the consultation exercise actually tells us. This report, which is based on an analysis of the figures presented by the LLTNP, FOI 2015-22 and a reading of every single response that has been made public to date, is intended to demonstrate why there is a need to do so.

1. **Analysis of Your Park recommendations Report and Consultation Report - Overview**

The LLTNP’s overview – which was presented to Board members at the meeting in a powerpoint slide and has now been included in the Letter to Ministers – was that of the total responses received 49% were in favour, 50% against and 1% neutral. Para 3.5 sets out the methodology for how this was done: “An overall assessment was made of reach response received………..of the 336 responses received, 165 (49%) were classed as supportive, 167 (50%) objecting and 4 (1%) neutral.

Hidden in the Consultation Report (Appendix 2 to the Recommendations Report) was information that demonstrates that the LLTNP’s summary of how people and organisations responded to the consultation is completely misleading and a total misrepresentation of what respondents were actually saying. The evidence for this is set out below.

There were 5 questions:

Q1 was “Do you agree that bye laws should be introduced?” According to the Report there were 263 responses of which 112 were for and 137 against a total of 249. No mention is made of the 14 missing responses but the analysis shows a clear majority against the bye laws.

Q2 was “Do you agree with the wording of the bye laws?”. The Report shows there were 172 responses but gives no breakdown of these. One can safely assume that a clear majority were against because the LLTNP has dropped many aspects of the original bye laws as drafted.

Q3 was “Do you agree with the proposed zones for the bye-laws”? The Report shows there were 181 responses with no breakdown given of for and against.

Q4 was about increased investment in camping and Q5 was about areas of opportunity for this and were dealt with in Section 5 of the Consultation Report. While numbers of respondents to these questions are not given in the Consultation Report the Recommendations Report states there were 248 people who responded (Its not clear from this if “people” includes organisations). No breakdown of numbers was given but instead two graphics used to show 79% were in favour of more investment and 70% in favour of the proposed area.

**It appeared from analysis of the reports that the ONLY way the LLTNP was able to present 49% of respondents supporting its proposals was by amalgamating the responses to two very different sets of questions one about bye-laws, where there is a clear majority against, and one to do with campsites where unsurprisingly the vast majority of people want new campsites.** These issues were raised with the Chief Statistician for Scotland who stated while he believes the principles set out in the Code of Practice for Official Statistics (UK statistics authority) are “good practice for wider trust in figures published in Scotland”, the production of statistics by the LLTNP is not classified as an official statistic and therefore he has no role to investigate this.

Further light is shown on this by the information in Appendix 1 to FOI 2015-22 which was made public on 27th May but was not sent to Ministers (there are questions that now need to be asked about when this table was produced and whether or not Board members were aware of its contents).

In this the Park provides a further breakdown of how its overall classification of responses (there is still not breakdown of responses to each question) including columns headed “conditional support” and “conditional object”. 26 out of the total 74 responses the LLTNP has classified as being from organisations are listed as “conditional” support. The number of conditional yes responses vastly outnumbers the single conditional no response. **It appears what has happened is that unless a respondent has specifically answered no to a question or has somewhere in its response stated that they are not opposed to bye laws in principle the LLTNP has classified that response as being supportive.**  **The LLTNP’s only motivation to do this can have been to try and maximise the levels of support it could claim for the bye-laws.** There are plenty of examples that support this analysis. So John Muir Trust (respondent 421), which sent a mailing to its supporters stating it objected to the bye-law proposals has been classed as conditionally supporting them, presumably because it stated it would accept bye laws as a last resort. Transport Scotland (respondent 422), whose interest was stated in the response to relate to trunk roads and has no interest or remit for camping per se is classed as an unconditional supporter of the proposals simply because it stated it had no objection to the bye laws in principle. **The major question now is whether ANY of these respondents classified as conditionally supporting the proposals in the original consultation actually support the proposals put to Ministers.**

The LLTNP made major play about vast majority of organisations, as opposed to individuals, supporting its proposals. If the one or two person businesses which the LLTNP has classified as organisations (e.g the B & Bs which could just as well be classed as individual responses and will have been where the proprietor has responded as an individual rather than business owner) are removed from the list it is quite clear that over half the organisations classed by the LLTNP as supporting the proposals have only done this conditionally. Further analysis is given below that shows these organisations cannot now be claimed to support the proposals.

There are a number of other subsidiary questions that need to be answered about the Recommendations and Consultation reports:

* Why have no figures been given in response to breakdown of responses to questions 2-5?
* Why has the LLTNP given such prominence in the form of graphics to the positive responses to camping provision but failed to use such graphics to show the majority of people opposed the bye laws?
* What has happened to the 14 responses to the first question on the need for bye-laws? In the Your Park Recommendation Report the LLTNP stated only 4 responses were neutral.

There are also a number of questions about how the LLTNP has classified responses as listed in FOI Response 2015-22. For example the National Park Service USA (respondent 487) has been classed as a neutral response when its actual response stated National Parks in principle should not be able to make bye-laws. Friends of Loch Lomond and Trossachs have been classified as “Support +” when their response made clear they only supported the bye laws as an interim measure – they should therefore be in the conditional support column. The LLTNP’s claim that “the six landowners who responded were in support of the proposals” (para 3.4 Consultation Report) is contradicted by respondent 496 (download 5) who states: “I am not prepared to accept a model that requires me to ask your permission before allowing people to camp on my land”. It appears the LLTNP has only classified respondents as landowners when they were private organisations rather than individuals.

1. **Analysis of responses from organisations supporting and objecting to the proposals.**

The responses are available at <http://www.thisisyourpark.org.uk/downloads/> . The responses are presented and numbered in order of submission in 8 downloads in pdf format and all personal details redacted.

Analysis of individual responses that I made prior to receipt of FOI 2015-22 indicated strong opposition from the following organisations: Ramblers Scotland, Scottish Sports Association, Scottish Canoe Association, Scottish Countryside Ranges Association, Mountaineering Councils of Scotland, John Muir Trust, Walk Highland, Scottish Federation of Course Anglers, Loch Lomond Association, Sportscotland, National Park Service USA (11 responses). While the number tallied with those presented by the LLTNP, I had missed a number of organisations whose names had apparently been redacted (Mountain Rescue, Travelling Danglebury’s). When these are added to my list the number of objections exceeded 11. Further analysis showed the Park has totally misclassified certain responses, for example the Scottish Federation for Coarse Angling is classified as a conditional yes when its response could not have been clearer: “we appreciate the reasons why these bye laws are being put forward….however we do not believe the strategy proposed represents an appropriate response to the situation”. So, for recognising there were problems that needed to be addressed, SFCA has been classified as supporting proposals.

A number of other organisations avoided stating yes or no to many of the questions which has allowed the LLTNP to class them as supporters. However, it is clear from the content of the responses that they expressed a number of major caveats (most of which are reflected in the Park’s conditional support column) which are not met in the final proposals and therefore that they should not be classified as supporting the proposals made to Ministers. For example:

1. National Trust for Scotland, Loch Lomond Sailing Club, Duke of Edinburgh Award Scheme and the Loch Lomond and Trossachs Local Access Forum **all said camping should be allowed for people camping according to the Scottish Outdoor Access Code**. The proposed permit system does not follow the SOAC limiting the places where people can camp and therefore these organisations cannot be said to support the proposals.
2. Scottish Council for National Parks, Friends of Loch Lomond and the Trossachs, Partners of the Great Trossachs Forest all said **they would only support bye laws as an interim measure.** There is no suggestion in the LLTNP’s final proposals that they are an interim measure and no proposals to repeal bye laws for East Loch Lomond where originally proposed as an interim measure.
3. A number of organisations made their support dependent on sufficient new camping provision. These include Drummond Estates, Scottish Natural Heritage, Forest Enterprise, Trossachs Community Council, Arrochar Community Council, It is difficult to see in the absence of a camping development plan how the 51 new places currently being proposed meet that requirement and therefore whether these organisations would support the letter to Ministers.
4. A number of other organisations made their support dependent on the bye laws being part of a wider package of measures (not just camping): Paths for All, Destination National Park Group, Police Scotland. Since no proposals are made apart from bye laws and new camping provision its difficult to see how this stipulation has been met.
5. The Woodland Trust and a number of landowners supported the bye laws providing landowners could grant provision for camping under SOAC or at their discretion – there is no such provision in the final proposals.
6. **Examples of what the responses are actually saying which has been ignored by LLTNP**.

The LLTNP in its Recommendations Report and letter to Ministers has totally ignored many of the messages coming out of the consultation and has as a result totally misrepresented the issues: this includes evidence that contradicts what it has presented to Ministers and ignoring suggestions about alternative solutions.

1. Community Councils and local communities. While no Community Council objected to the bye laws and the majority of local residents supported them, very few Community Councils answered all the questions and it is abundantly clear from the content of their responses that they have very specific concerns. For example, one clear message, particularly from communities around Strathearn, is that they have supported the bye laws as a means of dealing with encampment after years of inaction. The Community Council responses that state this are East Strathearn, St Fillans, Crieff, Port of Menteith and Comrie. East Strathearn Community Council (respondent 460 download 4) reads:”We absolutely support any actions that will discourage any action that will discourage semi-permanent occupation of areas of our foreshores. These areas ought to be looked after in a way that encourages all visitors to enjoy our countryside”. It is clear from these responses that the major problem around Loch Earn is about caravans parked permanently in laybys for long periods. There are already existing powers to address such issues (a further FOI request has been made to the LLTNP about this) and Drummond Estates has now put up a sign along all these laybys stating anyone staying over three days may be removed under Section 61 of the Criminal Justice and Public Order Act 1994. A recent visit indicates this has addressed the problem. *It would appear that the communities have only supported the bye laws because the LLTNP has not explained or proposed to use the other powers that are available*

Arrochar, Luss and Trossachs Community Councils all make positive cases for further camping provision and a significant number of local residents state they are not against responsible camping on the loch shores. The LLTNP has failed to mention this although FOI 2015-22 shows it has now classified three Community Councils as only conditionally supporting the bye-laws.

1. The LLTNP has totally ignored the many examples given by recreational organisations and individuals in their responses that first, contrary to the LLTNP’s claims, there are many people who wild camp in the proposed zones and there are many responsible campers who have been affected by the existing east Loch Lomond bye-laws, and second the very good reasons why this should continue.
2. A common theme shared in many responses from both local residents and visitors is there is a distinction between responsible and irresponsible camping, with many examples of recreationists deploring irresponsible camping and many examples from local residents supporting wild camping. One would not know this from the LLTNP’s analysis but it suggests an alternative way forward where the LLTNP focussed solely on addressing problems caused by people not camping according to the Scottish Outdoor access Code.
3. A large number of responses are concerned with and present evidence for displacement within and outside the National Park which again has been totally ignored by the LLTNP. The message is that bye laws will not solve issues, only displace them and a significant number of responses contradict the claim by the LLTNP that there has been no displacement as a result of the east Loch Lomond bye laws. A sub-set of these respondents make the point that the LLTNP should be setting an example here by tackling the issues rather than displacing them elsewhere.
4. A number of responses raise questions about the resources necessary to enforce a camping ban and doubts about whether these will be forthcoming. Nowhere in the consultation or the letter to Ministers does the LLTNP provide any analysis of the resources necessary to enforce its proposed ban or a cost benefit analysis.
5. A number of respondents present a clear case for increased camping provision throughout the National Park and not just in the proposed camping management zones: Friends of Loch Lomond and Trossachs, SCNP, Love Loch Lomond. This is partly in response to concerns about displacement but is also about taking a wider view of recreational need that does not just focus on problem areas. The LLTNP makes no mention of this and has not adapted its plans for camping provision which are confined to the proposed management zones.
6. The LLTNP did not mention in its Recommendations Report which explicitly listed FES as a strong supporter (now classified as a conditional supporter) that FES explicitly stated in their response that they did not have resources to contribute either to capital investment or revenue (if they stated they could play no role in bye law enforcement) and the LLTNP would need to pay all the costs for this. If this is the case, the only discussions the LLTNP can be having with Forest Enterprise is about use of their land for campsites.
7. There is plenty of other evidence to show that the LLTNP has quoted from organisations when they have said what they want to hear but ignored anything that is critical. So, despite the critical comments of Friends of Loch Lomond, Love Loch Lomond and the Area Destination Group all are quoted as supporting the proposals in the letter to Ministers. This is unacceptable.
8. **Organisations that have not responded**

Ofthe four Councils covered by the LLTNP, only one, Perth and Kinross formally responded to the consultation. The other three, West Dunbartonshire, Argyll and Bute and Stirling did not formally respond. The LLTNP has provided no comment or explanation of this.

What is striking is that if the bye laws are part of a wider package of measures, as the LLTNP continues to assert, then Councils need to be engaged. For it is only Councils not the Park Authority which have the powers and resources to address certain issues such as alcohol bans, clearway orders and litter collection.

Questions now need to be asked about whether these Councils have not engaged with the process for fear that they may be required to contribute further resources.

1. <http://www.gov.scot/About/Review/land-reform/events/FinalReport23May2014> paras 210-211 [↑](#footnote-ref-1)
2. Your Park Consultation [↑](#footnote-ref-2)
3. Gordon Watson Your Park blog http://www.thisisyourpark.org.uk/the-real-situation-on-the-ground/ [↑](#footnote-ref-3)
4. FOI 2015-25 response [↑](#footnote-ref-4)
5. FOI 2015-01 Ranger Patrol Data Sheets [↑](#footnote-ref-5)
6. Loch Lomond and the Trossachs National Park Authority Informal Camping Research 2007 Final Report IBP Strategy and Research [↑](#footnote-ref-6)
7. FOI Response 2015/010 [↑](#footnote-ref-7)
8. Appendix 1 to LLTNP submission to Ministers “Overview of Evidence”. [↑](#footnote-ref-8)
9. Friends of the Loch Lomond and Trossachs response to the Your Park consultation [↑](#footnote-ref-9)
10. Page 18 Your Park Consultation [↑](#footnote-ref-10)
11. Appendix 7 accompanying letter to Ministers [↑](#footnote-ref-11)
12. Live Park proposed Local Development Plan Visitor Experience Planning Guidance P16 [↑](#footnote-ref-12)
13. Live Park proposed Local Development Plan Visitor Experience Planning Guidance P15 [↑](#footnote-ref-13)
14. FOI 2015-26 Response [↑](#footnote-ref-14)
15. For more details see section 4 and FOI 2015-009 [↑](#footnote-ref-15)
16. FOI 2015-25 Response [↑](#footnote-ref-16)
17. Appendix 1 Overview of Evidence provided to Ministers 2012 [↑](#footnote-ref-17)
18. Case study in Your Park consultation materials and the National Park Plan “By end of 2014, if appropriate following review, consult on the management of camping…………….based on the experience of the East Loch Lomond bye-laws” (Action Visitor Experience (VE) 2). [↑](#footnote-ref-18)
19. Your Park blog [↑](#footnote-ref-19)
20. FOI response 2015/001 “The reason for bring the date forward was as the result of the significant changes that took place in the first three years of operation, ie 2011,2012 and 2013”. A further FOI asked what these significant changes were and received following response in FOI 2015/10 which stated “members of the Board would have been aware of the impact of the camping bye-laws prior to their endorsement of the Partnership Plan”. [↑](#footnote-ref-20)
21. The Review was available on the internet among the LLTNP Board papers for March 2014, but hard to find. It was but subsequently in (March?) 2015 added it to the Park Authority section of the website so it is now fully public. When asked “Why was the Review, which was already a public document, not included in the consultation documents? “ the response of the Park was “There was no requirement to include the report on the operation of the East Loch Lomond bye-laws within the consultation for Your Park, since this Report was already in the public domain, and is on our National Park website”. (FOI Response 2015/01). [↑](#footnote-ref-21)
22. Information from former Chief Inspector Kevin Findlater in response to Your Park Blog [↑](#footnote-ref-22)
23. The Park in response to FOI requests about the 81% statistic consistently stated this came from Police Scotland and they had no other information. However, in Response to my Complaint (COMP 2015 001 Stage 2 Response) on misuse of statistics they supplied me with a copy of a letter from Kevin Findlater giving an update on Operation Ironworks which included the 42.4% statistic. [↑](#footnote-ref-23)
24. Mountaineering Council of Scotland “Loch Lomond and the Trossachs National Park Summary of Information and Crime Statistics” submitted as evidence to Scottish Ministers. [↑](#footnote-ref-24)
25. The Police Scotland FOI data shows following ASB offences for East Loch Lomond: 2009 - 27; 2010 - 34; 2011 – 16; 2012 - 5. Information from the Park website shows the population for Drymen to be c820 and Buchanan, including Balmaha c 610 or a total of 1430. While this is probably an underestimate if there were 27 records of ASB in 2011 this gives a ratio of one offence per 54 people, well below the Scottish average. [↑](#footnote-ref-25)
26. Management Information for the year end for Police Scotland shows that there were 627.5 offences of ASB reported per 10,000 population in Scotland or a ratio of 1:16 *www.****scotland****.****police****.uk/.../management-information-year-end-2013-14* [↑](#footnote-ref-26)
27. East Loch Lomond Visitor Management Plan 2014 heading 9 on Issues, point 4 on Anti-social behaviour FOI response 2015/002 http://www.thisisyourpark.org.uk/freedom-of-information/- [↑](#footnote-ref-27)
28. FOI 2015/002 Appendix F under Point 4.5 on NTS and FOI 2015 009 which provides a non-answer to what had been done to follow this up. [↑](#footnote-ref-28)
29. FOI 2015/009 response [↑](#footnote-ref-29)
30. FOI 2015/002 response Appendix E point 4.5 [↑](#footnote-ref-30)
31. The Review of the East Loch Lomond bye laws stated that of all the measures in place “it is evident that camping bye laws contribute most” without citing the evidence on which this statement was made or the reasons why this might be the case. In response to an FOI request which asked “Has the statement about the impact of the bye-laws being evident been validated in any way and if so how and by who?” the Park stated “The Park Authority previously completed a Review for Scottish Ministers. This report reviewed the operation of the East Loch Lomond bye-laws. This report has been made That publicly available. I enclose a copy of the Report for your information”. (FOI Response 2015/001). It is not clear why the Park thought I needed a copy of the bye-laws when I had quoted from them but the response totally failed to answer the question. It would appear therefore that is safe to conclude there is no validation for the claim made in the Review. [↑](#footnote-ref-31)
32. East Loch Lomond Visitor Management Plan October 2010 FOI 2015/002 Point 6.1 [↑](#footnote-ref-32)
33. FOI 2015/007 Meeting Notes 1 Page 10 email to Perth and Kinross Council offering them confidentially sight of the draft bye laws [↑](#footnote-ref-33)
34. FOI 2015-21 Response. Appendix 1 provides the list of non-public meetings where the Board considered the Your Park proposals. [↑](#footnote-ref-34)
35. The meeting was at the request of LLTNPA to discuss their visitor management plan proposals.  In reality it was entirely focussed on their plans to manage camping and motorhome parking around the National Park, as Gordon Watson said these were far and away the major issues the park was dealing with and they were keen to engage with all interests before going to consultation.

 Extract Link Note

“The camping byelaws on East Loch Lomond (ELL) had been reviewed last year and reported to the board in March.  The general feeling was that the whole exercise had been extremely successful, combining an approach of increased investment in the provision of facilities, greater management of the area and all backed up by regulation in the form of the bylaws.  This has massively decreased the problems of anti-social behaviour and the cumulative impacts on the environment of having these unmanaged honeypot areas.  As a result, the police and park authority were actually spending less on the site now that patrols and clean up activities could be reduced, since previously it had taken a lot of resources to manage the area.  Not much evidence of displacement elsewhere in the park.

They now want to roll out similar approaches at other roadside areas across the park BUT it was stressed that there would be no more use of byelaws at this stage, no restrictions to access rights, and it would not stop true ‘wild’ camping elsewhere in the park. “ [↑](#footnote-ref-35)
36. Nick Kempe is still awaiting a written note of this meeting but recorded the whole meeting on a digital voice recorder where this is clearly stated. [↑](#footnote-ref-36)
37. Point 7 from the LLA response to the consultation reads as follows: “7. Whilst the LLA was asked for views on the status quo of current issues seen as problematic by the NPA during the pre-consultation period, once again (as in the 2012 byelaw review), no attempt was made to discuss the NPA proposed remedies (prior to release of this byelaw consultation paper) to establish that the Park's proposals were appropriately scaled and targetted. The LLA proposed at the outset of this pre-consultation that the Loch Lomond Stakeholder Group (LLSG) should be re-constituted by the NPA as a forum for informed discussion of all such issues amongst stakeholders (many different categories of water and shore recreational users use the loch and lochside). Our suggestion in regard to LLSG re-activation was ignored.” [↑](#footnote-ref-37)
38. <http://www.scotoutdoors.com/features/gordon-watson-new-national-park-chief-speaks-to-scotland-outdoors> [↑](#footnote-ref-38)
39. FOI re camping images [↑](#footnote-ref-39)
40. Gordon Watson Your Park Blog [↑](#footnote-ref-40)
41. FOI 2015/007 response [↑](#footnote-ref-41)
42. “The Park has not commenced discussions with external parties about extending alcohol bye-laws or overnight camping restrictions. The Park does not have the powers to introduce Bye-laws controlling the consumption of alcohol in public places” (FOI Response 2015/001) [↑](#footnote-ref-42)
43. FOI Response 2015/007 Meeting Notes 1 and 2 [↑](#footnote-ref-43)
44. See Kevin Findlater response to bye-laws and David Rosseter on the Your Park blog [January 11, 2015 11:10 pm](http://www.thisisyourpark.org.uk/the-real-situation-on-the-ground/#comment-140)  “As a previous member of the LLTNP Access forum when the original bylaws were being written I stated then that it was about education. They were only ever stated that the byelaw would be for a short time to give opportunity for education” [↑](#footnote-ref-44)
45. [www.gov.scot/Resource/0043/00432864.pdf](http://www.gov.scot/Resource/0043/00432864.pdf) The submission does not appear to be available on the Park’s own website. [↑](#footnote-ref-45)
46. FoI response 2015/001. Ironworks 2011/12 £35,000, 2012/13 £27,000 2013/14 £29,000 National Park Police Officer £35,000 a year [↑](#footnote-ref-46)
47. FOI response 2015/001. When asked “What evaluation has the National Park taken on the effectiveness of the deployment of police resources as opposed to Rangers to tackle anti-social behaviour (as opposed to the educational role of rangers)?” the Park responded “The Park works closely with the police is tackling all types of anti-social behaviour, however the Park Authority is not responsible for the deployment of police resources. Where the Ranger service encounter anti-social behaviour information is passed to Police Scotland in order for them to use the powers they have at their disposal to take appropriate enforcement action. Both Police Scotland and the Rangers undertake an educational role…………….”. (FOI response 2015/001). Again, this did not answer the question and the conclusion is the Park has undertaken no evaluation of effectiveness of Police as opposed to Ranger resources. [↑](#footnote-ref-47)
48. What efforts has the Park made to ensure that the owners of riparian fishing rights “police” the permits they issue? The Park replied “’The Park does not have responsibility for managing or monitoring the use of fishing permits”. [↑](#footnote-ref-48)
49. Visitor Management in the Loch Lomond and Trossachs National Park” paper to National Access Forum by Bridget Jones 18/4/12. [↑](#footnote-ref-49)
50. See Footnote [↑](#footnote-ref-50)
51. Guidance on Local Access Forums Second Edition SNH and Paths for All [↑](#footnote-ref-51)
52. http://www.lochlomond-trossachs.org/looking-after/local-access-forum/menu-id-407.html [↑](#footnote-ref-52)
53. Board Paper Visitor Management Update 6/10/14 [↑](#footnote-ref-53)
54. FOI 2015/10 [↑](#footnote-ref-54)