Appendix 6

Open Letter to the Environment Minister Aileen McLeod 3/2/16

The Land Reform legislation of 2002 gave the people of Scotland and visitors not just a right to visit land but a right to stay on it overnight whether in a tent, campervan or bivvying. You are now proposing to remove that right from the most visited areas in the National Park, a National Park that was created with the aim of enabling more people to enjoy the countryside. For a Government that preaches social inclusion and a healthier more active population this is deeply ironic.

Everything that is wrong about your decision to approve byelaws banning camping around the lochs of Loch Lomond and Trossachs National Park is demonstrated by your news release announcing the decision <http://news.scotland.gov.uk/News/National-Park-byelaws-21ce.aspx> and that of Loch Lomond and Trossachs National Park <http://www.lochlomond-trossachs.org/looking-after/minister-approves-plans-to-safeguard-national-park/menu-id-483.html>

The figure that just 3.7% of the Park is affected has been repeated ad nauseam, as if this justifies banning people. What you do not say is the 3.7% covers the lochsides, the very places where most people want to camp.

Your claim that this is for four “hotspot” areas – the four proposed management zones - is contradicted by the Park’s ranger patrol records. These show, for example, that over 23 locations on West Loch Lomond the average maximum number of tents recorded in 2013 was just three per location. There were just half a dozen places where higher levels of camping activity took place. Less than 10% of all ranger visits on West Loch Lomond (130 out of 1379 visits) recorded tents. The byelaws are about clearing people from the land, whatever the levels of use.

You are quoted as saying “The evidence that I have seen of damage caused, particularly in some of the most environmentally fragile spots in the National Park, tells a compelling tale of the need for action.” As Environment Minister you should know that our most environmentally sensitive areas are protected by being designated as Sites of Special Scientific Interest, Special Areas of Conservation or Special Conservation Areas. A map check <http://gateway.snh.gov.uk/sitelink/searchmap.jsp> shows there are NO nature conservation designations covering Loch Ard, Loch Chon, the head of Loch Long, the west side of Loch Lomond north of Tarbert, most of Loch Katrine and most of Loch Earn – all of which are included in the proposed camping management zones. Even where land is designated, the Government’s agency responsible for these areas, Scottish Natural Heritage, has produced NO evidence that the status of these sites is threatened by people camping. The threats that are recorded in SNH’s database for the land based sites are forest operations, invasive species (rhododendron) and most importantly grazing animals, whether deer, goat or sheep. Yet you are treating campers, not the landowners responsible for managing grazing animals, as the threat.

Several of the lochs within the proposed management zones, such as Lochs Lubnaig and Venachar, are part of the River Teith Special Area of Conservation, protected for salmon and three species of lamprey. The main threats recorded here are forestry operations, water management and sewerage. Again no threat is recorded from campers, or even from the anglers who may catch these creatures. Ah you might think, what about camper’s poo, is that not sewerage? Well, research published last year showed there was NO evidence campers along the West Highland Way were polluting our river systems. This is much better evidence than anything supplied by the Park. <http://www.glasgownaturalhistory.org.uk/gn26_2/mcwaters_murphy_whw.pdf>

Nature conservation is important. When I was involved in negotiating access rights on the National Access Forum, prior to the Land Reform Act, the first thing the landowners and public agencies claimed was that access was harmful to nature conservation. The outdoor recreational representatives on the National Access Forum demanded evidence for this. None was produced. This helped persuade the Scottish Parliament that access rights should be enshrined in legislation. There is still no evidence that people fundamentally threaten nature conservation. That people in themselves, just by being on land, threaten nature is a very strange concept anyway. It is a fact that when lots more people used to live on the land in these areas there was a lot more wildlife – but unfortunately, as Minister, you have failed to scrutinise the so-called evidence presented to you by the National Park. In essence this consists of a large number of photographs.

Photos of course say more than a hundred words, as we know from that photo of Aylan Kurdi which did so much to change public perception of refugees. The Park has used and depended on photos to justify its proposals to remove people’s rights. Embedded in its press release – put out by its marketing agency - are 225 photos of “antisocial behaviour/camping”, 16 of “responsible camping” and 4 of “improved camping” <https://www.flickr.com/photos/thisisyourpark/albums/>

I suspect that you, like many members of the public, will have been shocked or disgusted by some of the images in the irresponsible camping folder. Abandoned tents and cookers, upturned tents, sheets of plastic bottles strewn everywhere, wasted food. I agree, they are images of everything that is wrong with our consumer society. It’s obvious these people don’t care or perhaps should I say don’t care when they are out in the countryside having a party. For the images tell us something else about the people doing this. They are not campers in the usual sense of the word. For backpackers or fishermen, tents and camping equipment are prized possessions, not things they would ever abandon. These are people for whom the purchase of a cheap tent and equipment is less expensive and less trouble than a flight to an eastern European city for a booze filled stag weekend. The photos also tell you the Scottish Countryside is a much safer place to drink and behave badly: why risk a weekend in an east European gaol when you can clearly still get away with this behaviour in the Park?

I do not believe that large groups drinking, which we know from the Park’s own research are predominantly young men, are that hard to detect. Have you thought why the Park has only photographed the aftermath, rather than taking photos and car registration numbers at the time? Such photos could have been used as a deterrent and as evidence by the police if any mess had been left. The wrecked camps say as much about the failures of the Park as they do about campers.

While I am a liberal on drinking, and believe there is no harm in an angler or backpacker enjoying a tipple while gazing at the sunset, I wonder too, given there is empty bottle or drink can in almost every one of these photos, why you have preferred to remove the right to camp in preference to asking local Councils to control drinking as Stirling did on east Loch Lomond?

The numbers of photos tell you something else. If this was evidence, the Park should have taken photos every time their rangers recorded people camping when out on patrol. The public could then judge what proportion of people camping cause problems. Instead the Park have presented the problems out of all context. Early last year I asked the Park about what photos they had of people camping “responsibly”. Their answer then was evasive to say the least – I can provide a copy if required. The answer now, judging by the responsible camping folder, seems to be 16 – and of these 12 of the photos were taken in campsites. So, you have taken a decision without any consideration of how many people are camping according to the Scottish Outdoor Access Code. The message, I think, is that the rights of people camping responsibly are unimportant.

In collecting photos to demonstrate “irresponsible camping” however, the Park have been rather casual in their selection of photos. These tell other stories apart from the shock and disgust the Park wanted you to feel so you supported this removal of rights:

* The very first photo in the antisocial behaviour album is taken on the south east shore of Loch Venachar, when the water is low. Who would not be influenced by such a sight? Certainly not it seems, the Park’s Convener, Linda McKay whose home is situated by the pier, known as the Quay, which you can see in the background. In the responsible camping album, the eighth photo, labelled Invertrossachs, is of this same shoreline. If you click on it, you can get a clearer view. There are two cars parked by the edge of Loch Venachar House, the property of Linda McKay which is hidden behind the trees, and what appears to be two tents on the shoreline. The photos don’t tell you that in 2014 the Park recorded 69 tents at the Quay or that the shoreline between the camera and Linda McKay’s House is owned by the National Park. Her house and this shoreline are within one of the proposed zones where camping will be banned. Linda McKay, as Park Convener, has played a key role in driving forward the bye-law proposals. How many people seeing this will believe that she has not been influenced by what happens in her backyard? I have tried to bring this to your attention, without response, but then Linda McKay is a non-Executive Director on the Government’s Strategic Board <http://www.gov.scot/About/People/strategic-board/strategi-board>
* After the shock, a quick flick through the anti-social behaviour photos and its obvious many are of the same site from different angles. Indeed I have counted and there are 44 photos for Loch Venachar West labelled 140615 but you, like me, might not have realised this because some appear at the beginning of the album, some near the end of the first page and some on the second page. So, in what sense is this evidence of the extent of antisocial behaviour? I have not counted exactly but there are far less than 50 different examples in all. The photo “Sallochy”, where camping was banned four years ago, appears to show they cover a period of time. The photo “Inchmoan” is of one of the Loch Lomond islands where the Park says a camping ban is not justified and is outside the proposed management zones. So the Park has collected photos, any photos, to justify its proposals. 50 examples, 10 lochs, 5 years? Perhaps you could tell me and the wider public just how much “irresponsible camping” is required to justify a ban and remove access rights? When these irresponsible campers move elsewhere, will you respond to calls to ban camping there too? So, each time someone leaves a mess, will camping rights disappear? We don’t stop people driving just because they throw litter out of their car windows so how can you justify a camping ban in terms of human rights?
* A significant number of the photos in the camping/anti-social behaviour album – the Park clearly equates the two - illustrate problems that have nothing to do with camping. Several are of fly tipping, for example the photo of a heap of building materials and an enormous Jewson’s bag at the Fallen Tree layby on the A82. This will have required more work to clear than for any of the abandoned campsites, however unpleasant. Fly tipping like littering is already illegal, but the people responsible, almost certainly local residents, are much harder to catch than pesky campers.
* I hope the photo of the overflowing rubbish bin made you think. Similar ones are being used at present to illustrate “irresponsible behaviour” in the Cairngorms National Park consultation on a strategic plan for Glenmore. That all the rubbish is due to campers seems unlikely. Numbers of day visitors are far higher. But what is the mind-set of officials that sees overflowing bins as the fault of visitors rather than an issue for the local authorities who are meant to collect rubbish? Why should visitor be penalised because councils do not have the resources to fulfil their obligations? A number of photos show bags of rubbish left at laybys, including one under a sign that asks visitors to remove their rubbish. An issue yes, but a reason to remove people’s rights? A reason I would say for you to instruct the Park to develop its long delayed litter strategy, issue some consistent messages to the public, both residents and visitors, and sort out the inconsistent practices of Councils, some of which have litter bins at stopping off points and others not. I have previously written to you about this but again had no response.
* A number of other photos concern vehicles. There is a group of vehicles at Rubha Ban – so what I ask? These could be day visitors or campers. It is not an offence under traffic law to **park** your car up to 15 metres off road and it’s up to the landowner to control. Some landowners are happy to allow people to park in such a way but if not they can always fence off their land. If these vehicles were causing problems, the landowner could have asked them to leave and called the police if they had failed to do so. The photos of the tracks in Suie Field, a well-known place for anti-social behaviour, are interesting.…………back in 2010 Luss estates, keen supporters of camping bye laws agreed to take action to stop vehicular access <http://www.lochlomond-trossachs.org/looking-after/national-park-black-spot-litter-blitz-03/12/2010/menu-id-522.html> If these vehicle tracks were indeed caused by campers Luss Estates appear to have done nothing. Such tracks though are often created by land-managers, who, you may be surprised to learn, drive their vehicles off road into all sorts of places. In my experience this often causes much greater ruts than those shown. Perhaps, to address this hypocrisy, the new Land Reform Act which you are leading through the Scottish Parliament should require land-owners to have a licence to drive their vehicles off-road in the National Park? Such licences could then be withdrawn if there is any sign of landowners creating damage. I am sure this would be widely applauded and might just address the problems at Suie Field.
* While a delicate subject in polite society, such as the men and women who run the National Park, everyone needs to crap and, if you have to go in the great outdoors, the responsible way is to bury it. The photo Venachar West “the worst toilet ever seen”, which is of a camp chair with a hole cut through to create a toilet, shows how not to do it. I really do sympathise with the people who cleared this up – not a pleasant job. What the photo does not say though is that almost every visitor management survey ever done by the Park puts lack of public toilets and their opening times top of the list of visitor concerns (see P11 http://www.lochlomond-trossachs.org/images/stories/Looking%20After/PDF/publication%20pdfs/Valuing\_the\_park\_booklet.pdf. Indeed, as I have previously advised you, in the 5 Lochs Visitor Management Plan there was a detailed plan produced to address the problems at this very site, including installation of toilets http://www.lochlomond-trossachs.org/images/stories/Looking%20After/PDF/5%20Lochs/5LochsPlan\_2012\_web.pdf. This was due to be delivered back in 2013-14 but nothing has happened. The message from the Park is that it is now more interested in clearing people from the land than putting in the type of visitor infrastructure that might address such problems in local hotspots such as this. I agree installing toilets might not solve the problem totally as the young men who take pleasure in leaving their shit in prominent places will no doubt continue to do so until the risk of being caught by the police makes it not worth the risk. But to put the matter in perspective, in less delicate times, there were no cludgies and all local residents went outdoors.
* The photos include a number of fires and fireplaces, and while many are clearly associated with camping, including those of tents actually burning, some could as well have been caused by day visitors. I struggle with these photos. I must admit I am personally not a fan of fires. I have seen a tent burn down, accidentally. It took a few seconds and I am not sure how the Park got photos of burning tents without catching whoever did this – but maybe they did, maybe the police were called? I am also green by inclination and think the carbon in trees would better be released slowly into the soil than suddenly into the atmosphere. On the other hand, there is nothing quite like cooking over a camp fire, the flames of a fire against a dark night are wonderful to behold and fire smoke does help keep the midges at bay! So, there are good and bad fires and this is reflected in the law: on the one hand Section 56 of Civic Government (Scotland) Act 1982 reads “Any person who lays or lights a fire in a public place so as to endanger any other person or give him reasonable cause for alarm or annoyance or so as to endanger any property shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [F1level 3 on the standard scale]” while on the other lighting a fire is part of access rights. Advice on fires is contained in the Scottish Outdoor Access Code and part of this advises that no trace should be left of fires. The photos of burned patches and fireplaces clearly are traces but they are generally small – yes, damage, but small scale compared to the widespread use of muirburn on grouse moors, which prevents tree regeneration across much of Scotland. But muirburn, which comes under your brief as Environment Minister, is done by landowners who like to claim how responsible they are, unlike the visiting denizens of Glasgow. Am I alone in thinking the line between responsible and irresponsible is far from clear? The photos demonstrate the Park seems to be in quite a muddle about fires. Among the “responsible” camping photos, the one on the beach along from Linda McKay’s house shows two fireplaces in front of the tent with chopped logs on them while another photo shows charcoal bags. Among the “irresponsible” photos there is one of a brick fireplace, labelled Lochan Lairig Chiele, and another showing barbecue trays which have burned square patches in the grass. So when is a fireplace responsible and when is it not? How did the Park know the “responsible” fireplace would be removed completely? Is this really end of the world stuff or the product of a petty mind-set? When does an irresponsible fire – that burned patch of grass – become a criminal offence of damage? In trying to work these things out, I like to think of the past as it gives perspective: charcoal burning was once widespread here but only the expert can now detect the former mounds of ash; I think of Rob Roy, on the run from the Duke of Montrose throughout this areas, who I am sure must have lit a fire most nights. Do you on the evidence of these photos trust the Park to decide what “damage” and what “likely to cause damage” means? I don’t. In agreeing the byelaws, that appear to shift the current law and make it an offence “to light a fire that causes or is likely to cause damage anywhere in the proposed management zones” perhaps you could tell the people of Scotland and visitors what exactly it is you believe is criminal rather than the merely irresponsible. A far better solution would be for the Park to provide barbecue pits, as they do in other national parks across the world: the existence of such a pit might have prevented that photo of a scorched table top.
* Like many, my heart bleeds when I see photos of hacked trees. Its plain stupid as fresh cut wood does not burn. But a few sawn branches are not proof of a problem. Indeed, almost all the native woodland along the lochsides, which now are protected as sites of Special Scientific Interest, owes its existence to coppicing, the chopping of trees by humans for charcoal and tannin. Looked at from that perspective the amount of chopping is miniscule compared to what it was. It cannot compare with the poisoning of 300 year old beech trees on Inchtavannach in 2015 by Scottish Natural Heritage http://lussestates.co.uk/news/beech-trees-poisoned-inchtavannach-island

Yet a few chopped branches are being used to justify the removal of access rights.

* I wonder if you noticed or asked why 10 of the 14 photos purporting to show responsible camping are taken on National Park campsites? In the Park’s mind-set of course “responsible camping” can only take place out of sight, in a campsite or when it’s under their control. I suggest as Minister you should ask the recreational community to send you all their photos of camping on lochshores in the National Park. It might give you another perspective. Better still why not follow John Muir’s exhortation and go out camping yourself. Alternatively, look at the photo Loch Venachar (N) (3) taken on 4th July 2015: lots of tents certainly, crammed together like in a campsite and a fire is smoking in the background but there are no signs of rubbish around the tents and guess what, that’s a child standing by the shore! Isn’t this the sort of family friendly camping that the Park claims it wishes to promote and being prevented? The absence of photos of responsible camping is the biggest lie.

Reflecting on the photos, I think through education and policing you could prevent most of the problems the Park has illustrated. But let’s accept that not all prevention was successful, I wonder if you have considered the amount of time and cost taken to clear up abandoned campsites as illustrated in the photos? It is not much in the scheme of things. Apart from the case of Loch Venachar West on 14th June 2015, it would probably take 2 people less than an hour to clear any of the sites shown. Contrast this with the many hours the Park will need to employ rangers to police the byelaws. Have you considered how your decision will lead to a total waste and misuse of scarce resources because you are working against visitors, not with and for them? On east Loch Lomond, as I commented to you in my analysis of the deeply flawed review of the byelaws there, the number of ranger patrols has gone up, not down, because rangers now spend their time chasing away pesky campers, including those backpacking the West Highland Way. Indeed there are a couple of photos, entitled “cut alder” dated 7th September 2015 showing Ben Lomond in the background: its difficult to identify the exact location but this must have been in the area covered by the east Loch Lomond bye-laws. Proof that the byelaws there have not worked or simply that many problems are attributable to day visitors? Whatever the case, resources would be far better invested in facilities that would benefit all visitors, whether toilets or litter bins, and in providing consistent messages to the public about how to reduce their impacts on the countryside.

Your press release announces you have reduced the time period the byelaws will apply each year - by just one month. I believe this is a sop to pretend you have listened. The Park’s statistics show there was very little camping, whether responsible or not, outside the summer months and the reduction in the time the byelaws applies just reinforces the fact that your decision is not properly evidence based and has been taken without any consideration of alternatives.

It is clear to me that another agenda has been at play through the entire bye-law process, one that has excluded recreational interests and the citizens of Scotland.  In my view if the so-called evidence was properly scrutinised, as in a Court of Law, it would collapse. Tellingly, Lord Glennie, at the Court of Session hearing for the Holyrood campers a couple of weeks ago was quoted as saying he drove past that campsite every day and “didn’t see any violence or vandalism”. Nor will most visitors to the National Park. Given that the implementation of the proposed byelaws will not be until March 2017 there is plenty of time for this decision to be challenged and for you or your successor to rescind it.