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# TWO HUNDREDTH and NINTH MEETING OF THE BOARD OF NATURESCOT

## HYBRID: MEADOWBANK HOUSE, EDINBURGH / MS TEAMS – 06 DECEMBER 2023

## CONFIRMED MINUTES

## MEMBERS PRESENT

Colin Galbraith Chair

Aoife Martin Deputy Chair

Ian Gambles Member

Jaboury Ghazoul Member

Peter Higgins Member

Colin McPhail Member

Wayne Powell Member

Heather Reid Member

Jill Robbie Member

Nikki Yoxall Member

## IN ATTENDANCE

Francesca Osowska Chief Executive

Nick Halfhide Director of Nature and Climate Change

Robbie Kernahan Director of Green Economy

Jane Macdonald Director of Business Services & Transformation

Claudia Rowse Deputy Director of Green Economy

Jason Ormiston Head of External Affairs

Graham Boyle Chief of Staff

Sara Lewis Governance Support Manager (minutes)

James Hammond Regional Deer Operational Delivery Manager (item 8)

Clive Mitchell (item 9)

Des Thompson Principal Adviser on Science and Biodiversity (items 9 & 10)

David Johnston Head of Finance, Planning and Performance (item 11)

Niall Campbell Business Services & Transformation Outcome Support Manager (item 12)

Stephen Coulter Planning and Performance Manager (item 13)

## APOLOGIES

Margaret Davidson Member

David Johnstone Member

Stuart MacQuarrie Deputy Director of Business Services & Transformation

Eileen Stuart Deputy Director of Nature and Climate Change

Logan Kelly Central Highland Apprentice (Young Employee Panel Rep)

# AGENDA ITEM 1: OPENING REMARKS AND APOLOGIES

1. The Chair opened the meeting by welcoming everyone to the two hundred and ninth meeting of the Board of NatureScot.

2. Apologies were noted from Margaret Davidson, David Johnstone, Stuart MacQuarrie, Eileen Stuart and Logan Kelly.

1. Chair stated that this had been an incredible year for NatureScot in terms of delivery and staff effort. He updated members on his recent meeting with the Minister for Green Skills, Circular Economy and Biodiversity, along with the Chief Executive. The Minister had been understanding of the challenges the organisation is anticipating as result of the forthcoming budget announcement and was positive and supportive of the work being done by NatureScot.

# AGENDA ITEM 2: DECLARATIONS OF INTEREST

4. Declarations of interest were given by Nikki Yoxall, who is currently working with some estates who have applied for funding through the Nature Restoration Fund as well as the Facility for Investment Ready Nature in Scotland.

# AGENDA ITEM 3: MINUTES AND ACTION POINTS

1. Board members were content to **approve** the minutes of the Board of NatureScot Meeting on the 04 October 2023.

## Action Points

6. The **actions points** were noted:

**Action Point (01/206)** (Provide an Update on the Development of a Biodiversity Metric for Scotland)Members noted that a paper would be brought to the Board during Q4 2023/24, and therefore the action is **ongoing**.

**Action Point (03/206)** (Board Members to be consulted on advice to Scottish Government on recommended statutory nature targets) Members acknowledged that they had taken part in a workshop session after the previous meeting, and that they would continue to be involved as work progressed. Therefore, this action is **ongoing**.

**Action Point (06/206)** (Next Steps/Draft Plan for Kinloch Castle to be Presented to the Board) Members noted that this agenda item had been scheduled for Q4 2023/24, with a date to be confirmed. Therefore, this action point is **ongoing**.

**Action Point (04/207)** (A paper to be taken to a future Board meeting to update on progress with green finance and natural capital, specifically the development of credit-based systems) Members noted that is expected that a paper will go to the February 2024 SLT meeting, and then be presented to the Board at their March 2024 meeting. **Ongoing.**

**Action Point (01/208)** (Chair to discuss with sub-groups how to raise the profile of the sub-groups within the organisation) Members noted that the Chair had met with the Chairs of the sub-groups to discuss, and that action was **ongoing**.

**Action Point (02/208)** (Update to be sent to members after Chair meets with the CE and Deputy Director of Nature and Climate change to discuss disallowed structural funds claims) Members noted that an update had been sent, and this action point was therefore **discharged**.

8. The Chief Executive (CE) added that she had written to the Portfolio Accountable Officer in Scottish Government (SG), about the final structural funds claim which had resulted in additional resource time being offered to help in meeting completion of the evidence required. At the time of the meeting, no additional resource had been made available. The appeals/resolution process in respect of disallowed claims was being investigated, and staff were taking all possible action to ensure the success of the final opportunity to claim. The CE further informed that meetings were planned with SG colleagues to continue discussions.

9. The CE informed that in the event of the final claim being disallowed, possible options included NatureScot being awarded a ‘loan’ by SG to cover the deficit, or that SG themselves may absorb the deficit. It was noted that there was a contingency fund within the NatureScot budget that could also be used to recover only some of the costs if needed. It was agreed that the CE would keep the Board informed after her forthcoming meetings with SG colleagues, and if needed, would request their input.

**Action Point 01/209**

10. The remaining action points were discussed:

**Action Point (03/208)** (Board wider discussion on the core purpose and role of NNRs to take place during 2024) Members noted that this action point had been scheduled for the end of March 2024, therefore the action point remains **ongoing**.

**Action Point (04/208)** (An update to the Board on how the flexible approach of the new organisational model is working in practice) Members noted that an update will be brought to the Board in Q1 2024/25, therefore the action point remains **ongoing**.

**Action Point (05/208)** (A paper to be prepared for the Board regarding gaining evidence through systems thinking and innovation in the environmental arena) Members noted that this action point remains **ongoing**.

# AGENDA ITEM 4: MATTERS ARISING

1. There were no matters arising.

# AGENDA ITEM 5: ITEMS FOR AOB

1. Nikki Yoxall requested the Senior Leadership Team’s thoughts on the latest Scottish Wildlife Trust’s publication on nature-based solutions in agriculture.

# AGENDA ITEM 6 – CHIEF EXECUTIVE’S REPORT

13. Board members noted the contents of the Chief Executive’s report, in particular the following key themes:

* Budget discussions.
* Structural funds challenges.
* Public Services Reform.
* Nature of Scotland awards and site visits.

14. The CE updated on a recent meeting with the Chair and the Minister for Green Skills, Circular Economy and Biodiversity where the challenge of the potential budget settlement was discussed, as well as priorities and progress on various NatureScot work. A further meeting will take place once the budget settlement has been announced.

15. Members queried how the review on licencing would be undertaken – whether in-house or by external reviewer, light touch, or a wider review. A number of options were discussed. Among these, was the suggestion that the Scientific Advisory Committee could undertake an initial assessment of the issues involved and that their findings could then go to an independent reviewer for consideration. However, it was recognised that the Scottish Government would make the final decision on how the review would be progressed. Robbie Kernahan will discuss with SG and update at the next Board meeting in February 2024.

**Action Point 02/209**

# AGENDA ITEM 7: AUDIT AND RISK COMMITTEE UPDATE

16. Ian Gambles, as Chair of the Audit and Risk Committee (ARC) gave a short update on Committee work since the last Board meeting. The Committee met on 02 November 2023 and discussed the following items:

* Structural funds.
* Budget and finance.
* Approval of Annual Report and Accounts to Accountable Officer for signature, and delays in timescale by external auditor Mazars.
* Internal Audit Report on licencing and Deerline systems.
* Deep dive programme.

17. Members were informed that NatureScot has sent a letter of complaint to the external auditor and Audit Scotland due to the delays in completing the audit keeping to the agreed timescale for signing off the Annual Report and Accounts.

# AGENDA ITEM 8: LOCH CHOIRE ESTATE SECTION 7 AND 8 PROGRESSION

18. This paper gave the Board details of the attempts to engage with the Loch Choire Estate on controlling deer numbers, and the unsuccessful efforts to agree a Section 7 Voluntary Control Agreement under the Deer (Scotland) Act 1996 with the estate owner. Members were asked to recommend a Section 8 Statutory Control Scheme to the Minister for Green Skills, Circular Economy and Biodiversity.

19. The Board asked various questions about costs, why the Estate owner had not engaged with NatureScot, the evidence showing the need for reducing deer numbers, and how progress would be monitored via a steering group or via a local game dealer.

20. Having considered the deer numbers, the Sites of Special Scientific Interest, existing forestry and woodland, and impact on neighbouring properties, the Board agreed to recommend that the Minister proceed to approve use of a Section 8 Statutory Control Order. NatureScot colleagues will provide this advice to the Minister and proceed accordingly.

# AGENDA ITEM 9 – halting the loss of biodiversity by 2030 and restoring nature by 2045

21. This paper outlined the issues which have so far emerged during the consultation on the Scottish Biodiversity Strategy and informed on the action to be taken as a result. The advice in the paper regarding sufficiency and opportunities presented in the strategy framework had been given to Ministers.

22. The Board were asked to:

* + a) Advise on leadership, maintaining momentum and managing risks to delivery.
  + b) Agree opportunities for focussed work over the coming year.

23. Nick Halfhide updated that following the feedback on the strategy, the focus of the Scottish Government (SG) is now on the governance of the framework – however further work needs to be done to ensure that this promotes the wider engagement of delivery partners to achieve success. NatureScot would lead on delivery of the strategy by engaging with stakeholders across all parts of society.

24. During discussion, the following key points were made:

* Concern that delays to implementing key measures from the Agricultural and Rural Communities (Scotland) Bill to tackle adverse agricultural impacts on biodiversity.
* The potential that action may not be taken quickly enough due to resourcing and changes to the Agri-Environment Climate Scheme.
* A sub-group of the Board to develop a refreshed narrative/communications on resilience to climate change.

**Action Point 03/209**

* NatureScot must highlight to the Scottish Government areas where the pace of implementation of the SBS needs to increase to ensure the effective delivery of the Strategy overall.

25. Members agreed to continue advising on leadership, maintaining momentum and managing risks to delivery, and agreed the opportunities for focused work over the coming year.

# AGENDA ITEM 10 – SOME REFLECTIONS ON WORKING WITH NATURESCOT – HOLDING THE LINE!

26. This agenda item was led by Des Thompson, Principal Adviser on Science and Biodiversity, and reflected on developments in improving nature during his long and distinguished career with NatureScot.

27. The Board thanked Des for his inspirational work as a global expert in using science for nature conservation and wished him well on his retirement.

**AGENDA ITEM 11 – Q2 2023/24 PERFORMANCE REPORTS**

28. This paper presented Q2 progress towards the delivery of the organisation’s corporate priorities as laid out in the business plan ‘A Nature-Rich Future for All: Year 2’.

29. The Board were asked to approve:

* The overall performance of the Corporate Plan objectives (Performance Report)
* The position of the resource and capital budgets (Finance Report)
* The performance of the corporate risks (Risk Report)
* The overall performance of the People Measures (People Report)

30. The report showed performance as being ‘on-track’ for 14 of the 15 corporate plan objectives. The Resource and Capital budgets were expected to outturn within tolerance at the financial year end. Large programmes continue to be managed and monitored to ensure full budget spend is achieved.

31. There had been two changes to corporate risks during the quarter, risk 586 (Structural Funds) had increased, and risk 21 (Budget Management) had reduced in likelihood but had no overall change in score. In the People report four of the seven indicators were green, and three were amber.

32. Directors gave a summary of highlights and updates since the end of Q2:

Nick Halfhide – Nature and Climate

* Consultation on the Scottish Biodiversity Strategy Framework – continuing dialogue with stakeholders.
* 30x30 framework published.
* Funding awarded to projects under the Nature Restoration Fund and completion of other projects.
* Progress on plans for the new National Park.
* Visitor pressures met by National Nature Reserve staff.
* Marine energy development.

33. Areas of concern included:

* Possibility of de-commitment of funds through the Structural Funds mechanism.
* How to keep the momentum going to achieve improvements in climate change and biodiversity.
* How to balance resource demand with the expected challenging budget settlement.

34. Robbie Kernahan – Green Economy

* Secondary deer management legislation changes approved by the Scottish Parliament, and revisions to primary legislation almost complete.
* Beavers translocated.
* Hunting with Dogs bill is now live.
* Muirburn bill work progressing.
* High demand for planning and casework. Pilot software to help address this is being investigated.
* Complex casework regarding onshore wind being undertaken.
* Expected to meet peatland restoration targets this year.

35. Areas of concern included:

* Lack of progress/clarity on mainstreaming the approach to species support.
* How to mobilise investment in nature through the Facility for Investment Ready Nature in Scotland fund.
* Expected challenging resource position.

36. Jane Macdonald – Business Services and Transformation

* Challenges in finding a balance between business as usual and transformation work.
* Work on digital priorities included shutting down the Silvan House Data Centre, moving business systems to the Cloud, and replacing staff laptops.
* Continuation of Estate Strategy work.
* People Programme Board formed.
* Conclusion of the review on GIS Cloud work with future opportunities highlighted.
* Conclusion of two year pay deal.

37. Areas of concern included:

* Continuing cyber risks.
* Budget and resourcing.

38. Members asked for clarity on the costs involved in implementing plans to achieve 30x30, and whether SG were going to meet those costs. Nick Halfhide informed that implementation plans had been costed and agreed internally, and that SG had yet to agree funding. It was noted that as the plan was part of the Bute House Agreement, the business case to SG had recommended it being funded. The Board requested that the detail of costs be shared with them.

**Action Point 04/209**

39. The Board asked why there was no reporting on the number of hectares of natural habitat put on the road to recovery using private finance. They were informed that this was due to staff absence. Due to the difficulties in reporting on this measure quarterly, it would be included as a corporate plan measure in the annual report in future.

40. Finance

The Head of Finance, Planning and Performance (HoFPP) David Johnston gave the following updates on the current financial position:

* RAG ratings remain unchanged from Q2.
* Resource and Indirect Capital budgets remain on-track.
* Minor slippage on Capital budget but is recoverable.
* Pay settlement now agreed and is reflected in the final budget allocations.
* The financial element of possible de-commitment on Structural Funds claims is not reflected in the financial report.

41. Risk

The HoFPP updated that risk 586 (Structural Funds) had increased. He informed that scenario planning on the different possible outcomes for this risk was taking place, and that a written update would be available to the Board in the new year. If there was the requirement for the Board to meet for an exceptional meeting to discuss the issue, this would be arranged.

**Action Point 05/209**

42. People

Jane Macdonald updated that 3 indicators on the People report were showing as amber. These were staff accident numbers (near miss reports), staff turnover, and the retirement profile. A Strategic Workforce Planning taskforce had been established to address staff turnover and the retirement profile.

43. Members commented that the recent freeze on recruitment had the potential to negatively impact on achieving a more diverse workforce profile. In addition, the agreement not to extend any fixed-term appointments unless funded via ring-fenced funds may disproportionately affect the young employee cohort. It was recommended that this is made known to the Minister for Green Skills, Circular Economy and Biodiversity.

44.The Board agreed tothe recommendations.

**AGENDA 12 – BUSINESS PLAN PRIORITIES, BUDGET SCENARIOS AND FUTURE RESOURCING**

45. This paper gave a progress update on confirming NatureScot priorities for 2024/25. It also included a budget forecast. The Board were asked to agree the planned response to balancing cost increases and budget cuts stated in the paper and note, subject to confirmation of budget, areas which will be impacted.

46. Members heard that 2024/25 may present an unprecedented challenge should an unfavourable budget settlement be made. With the core budget potentially to reduce significantly, it is possible that anything outside of statutory delivery costs will be unaffordable. Prioritisation exercises which identified impacts on NatureScot priorities have been completed. Key areas of discussion were as follows:

* Added potential complication of staff in ring-fenced funded posts transferring to the NatureScot core payroll when those posts end.
* The increasing demand on licencing services without additional resources.
* An external recruitment freeze is in place as a paybill control mechanism. A review of fixed-term appointments is taking place which may result in some not being extended, as a further control measure.
* Public Sector Reform work continues but it will be some time before this positively impacts budgets.

47. The Chief Executive informed that areas of work, risks, and mitigation for prioritisations have been provided to SG. Ministers will then provide feedback on those priority areas of work which are affordable. The wider impact on stakeholders and influencing work was acknowledged.

48. Members questioned whether the option to not extend some fixed-term appointments could negatively impact the future talent pool of the organisation, and whether this was being addressed. The Director for Business Services and Transformation stated that the impact was being assessed, and that while the Senior Leadership Team were aware that this option may limit the diversity and new skills of staff, it is one of limited options in responding to budget pressures.

49. Members further queried the capacity to deliver new legislative functions including those for grouse moor management and muirburn. The Chief Executive suggested that once the Wildlife Management and Muirburn bills are passed by the Scottish Parliament, that either she or the Chair writes to the Minister for Green Skills, Circular Economy and Biodiversity to emphasise that additional resources would be required in order to undertake work under the new legislation.

50. The Board noted that further updates on this issue would be provided at the February and March 2024 Board meetings and agreed the planned response to balancing cost increases and budget cuts stated in the paper and noted, subject to confirmation of budget, areas which will be impacted.

**AGENDA ITEM 13 – RISK APPETITE 2024/25**

51. This paper provided the Board with the current risk appetite level for each risk category. Members were asked to confirm that they were content with the risk appetite level for each risk category as an accompaniment to the discussions on business plan priorities for the year ahead noting the changing operating environment.

52. During discussion, the following key points were made:

* Mixed opinions on increasing, maintaining or decreasing current risk appetite levels.
* Scenario planning would be helpful, giving tangible examples. It was agreed that the Audit and Risk Committee (ARC) would conduct some wider thinking in this area, and that the Chair of the ARC would report back to the Board at the February meeting.
* Future thinking by the Board would be helpful in terms of where the risks may be in two/three/five years’ time.

53. The Board agreed that the action points listed in the paper would provide a stronger basis on which to agree risk appetite levels.

**Action Point 06/209**

Information Papers

**FORWARD PROGRAMME OF BUSINESS**

54. The Board Forward Programme of Business was presented to members. Members had no further updates to make to the programme.

**NATURESCOT BOARD MEMBER ENGAGEMENT**

55. This paper gave a short summary of Board members’ internal and external engagements with NatureScot related work since the last Board meeting.

AOB

56. Nikki Yoxall asked for the Senior Leadership Team’s feedback on the recent Scottish Wildlife Trust’s report on nature-based solutions in Scottish agriculture. Robbie Kernahan commented that he agreed with the findings of the report, with criticism of the Agri-Environment Climate Scheme being fair. He also agreed with some of the nature-based solutions mentioned in the report but was concerned about how NatureScot could financially support the advisory services. Robbie agreed to circulate the report to members.

*Post meeting note – the report was circulated to members.*

57. The Chief Executive informed that David Johnston, Head of Finance, Planning and Performance was leaving NatureScot in the new year. On behalf of the Board, she thanked David for his support to them through the finance, business planning and performance report papers. The Board wished David well for the future.

Date of Next Meeting

58. The next Board of NatureScot meeting is planned to take place on 7 February 2024, at Meadowbank House in Edinburgh.

59. The Chair thanked all those in attendance. The meeting was closed.

# END