

Branding the Broads
Report by Chief Executive and Solicitor

Summary: This report considers the responses to the Authority's consultation entitled "The Broads National Park – making the most of a brand which is internationally recognised".

Recommendation: That the Authority :

- A. (i) Reviews the comments made in response to the consultation set out in the Appendices.
- (ii) Notes and confirms that the proposal does not involve any change in the legal name or functions of the Broads Authority.
- (iii) Notes the generally positive response from the majority of stakeholder organisations who have responded.
- (iv) Resolves that the use of the brand "Broads National Park" will be conducive to the achievement of the three general duties in section 2 (1) of the Norfolk and Suffolk Broads Act 1988, particularly to the enjoyment and understanding of the Broads special qualities and that the use of the brand will have a positive effect on the factors set out in section 2(4) of the 1988 Act.
- (v) Adopts the brand "Broads National Park" with immediate effect using the powers in section 111 of the Local Government Act 1972.
- (vi) Produces branding guidelines for both staff and other organisations to use and allocates an additional £5,000 to the Communications budget for 2015/16 for the implementation of appropriate signage in collaboration with other organisations where possible.
- B. That if the Authority accepts recommendations (i) to (vi) it also:
- (vii) Resolves, in line with the suggestions from the Broads Hire Boat Federation & the Norfolk and Suffolk Boating Association, not to pursue the ambition in the Broads Plan for the Broads to become a national park in law.
- (viii) For the avoidance of doubt, the Authority indicates that it has no intention of seeking the application of the Sandford Principle to the Broads Authority's functions because it is of the view that the Habitats Regulations provide sufficient protection for the very special qualities of the area.
- (ix) Delegates to the Chief Executive, in consultation with the Chairman as appropriate, the power to take such steps & obtain any advice required to protect the Authority's position & to implement the project in accordance with the resolution.

1 Background

1.1 At its meeting on 26 September 2014, the Broads Authority resolved unanimously that:

(i) In order to capitalise on the status of the area as a national park the Authority welcomes and supports further exploration of the term 'Broads National Park' to promote the area's special qualities and encourage more visitors to Norfolk and Suffolk.

(ii) That the use of the new branding to be confirmed after the Authority has consulted widely to establish:

- *the level of support for a more consistent use of the term the Broads National Park as a branding exercise;*
- *how other organisations would propose using the term the Broads National Park;*
- *what actions the Broads Authority might need to take to support and help other organisations use the Brand; and*
- *to delegate to the Chairman and Vice-Chairman the authorisation of the final form of the consultation document after seeking additional independent advice.*

1.2 Following the meeting, advice was sought from Insight Track, a local market research company, on the consultation document and suggested changes to the document were subsequently authorised by the Chairman and Vice-Chairman. Three questions were asked:

1. How do you feel about a more consistent use of the term the Broads National Park as a brand?
2. In what ways would you envisage your organisation using the term the Broads National Park?
3. Are there any specific actions the Broads Authority could take to support and help your organisation in using the Broads National Park brand?

2 Framework for the Consultation

2.1 The Authority used its standard list of organisations for the consultation (See Appendix B). The Chairman of the Authority wrote directly to Lord de Mauley, the Minister in Defra responsible for National Parks and therefore the Environment Agency and Natural England, which sit under Defra, were not necessary to include in the consultation. The standard period of three months was allowed for responses to the consultation ending on 31 December 2014.

3 Stakeholder Surveys

- 3.1 At its meeting on 11 July 2014 the Broads Authority resolved:
“that ... the four proposed stakeholder surveys proceed using the commercial market research company identified in the report, taking into account the comments made”.

Three of the questions in the survey which, while not included directly for the purposes of the consultation on branding, are relevant to the matter.

- (a) Are you aware that the Broads has the status of a National Park?
- (b) Should more be done to promote the National Park status of the Broads?
- (c) Does National Park status make the Broads more appealing?

The results are shown below in Appendix A. (Note PBOs refers to Private Boat Owners and HBOs to Hire Boat Operating companies).

4 Analysis of Results

- 4.1 The responses received to the Consultation Document are set out in Appendix C. Four responses were received in early January and, although after the closing date, have been replicated in Appendix D for completeness, though not counted in the following tables.

Summary of Responses from the 158 Organisations Consulted

Organisations	Consulted	Responded	Support	Do not object	Against
National Organisations	27	17 (63%)	15 (88%)	2 (12%)	0 (0%)
Regional Organisations	28	15 (54%)	15 (100%)	0 (0%)	0 (0%)
Local Organisations (incl. 93 Parish Councils)	103	21 (20%)	12 (57%)	2 (10%)	7 (33%)
TOTAL	158	53 (34%)	42 (79%)	4 (8%)	7 (13%)

Other Responses Received

	Support	Against
Organisations	4	4
Individuals	6	7

4.2 Some of the differences of view raised in the responses

In relation to the Broads

Tourism – Many of those in support of the proposal feel it could be beneficial to the local tourism industry and questions about the industry's robustness are also raised. Others are concerned about the impact of more tourists on the environment and a low wage visitor economy.

In relation to the Broads Authority

Relationship between the three functions and the Sandford Principle – Different views are expressed on the Sandford Principle, with some respondents advocating it as a longer term ambition, and others concerned that it might be applied to the Broads Authority. Some respondents are concerned that the proposal might lead to a weakening of the Authority's commitment to navigation.

Legal Principle – Concerns are expressed about whether the Authority can call itself by another name – even though this is not part of the proposal. (Detailed answers to the legal points are given in Appendix C.) Others see the use of the term Broads National Park as long overdue and a logical step.
Long-term ambition – There are differences of view as to whether the Authority should maintain the long-term ambition in the 2011 Broads Plan:

"In May 2010, members of the Broads Authority discussed the draft long-term vision for the Broads and supported the objective that, by 2030, the Broads would be a national park where the public legal rights of navigation continued to be respected and embraced. Though this objective would require primary legislation, members considered this an important ambition in support of the long-term vision."

Some respondents are concerned that the proposal is the 'thin end of the wedge' and oppose the long-term aim, largely because the Sandford Principle is, in their view, an unwelcome corollary.

On this particular point, the Broads Authority has never suggested that the Sandford Principle as it applies to the National Park Authorities should apply to the Broads Authority with or without National Park status in law.

The feedback to the branding consultation shows that even though: (a) the Broads Authority has never indicated that it would intend to adopt the Sandford Principle; and that (b) observers struggle to identify occasions when the Sandford provision in the Environment Act has been applied; there clearly is real concern and worry about it, particularly among some members of sailing clubs.

If the Authority decides to implement the new branding, it could take up the suggestions from the Broads Hire Boat Federation and the Norfolk and Suffolk

Boating Association by indicating that it no longer intends to pursue the long-term ambition for the area to be a national park in law and, for the avoidance of doubt, also stating that it does not intend to seek the application of the Sandford Principle to its functions.

It is hoped that such a change would assuage many of the concerns raised in the consultation responses and have the potential to set the relationship with navigation on a new footing. It could, in the words of the NSBA response, *“mean that the relationship between private boaters and the Authority could move on without being constantly distracted by that ambition.”*

5 Matters for Decision

- 5.1 The Norfolk and Suffolk Broads Act 1988, as amended, gives the Authority the following general functions

(1) It shall be the general duty of the Authority to manage the Broads for the purposes of—

- (a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;*
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and*
- (c) protecting the interests of navigation.*

(4) In discharging its functions, the Authority shall have regard to—

- (a) the national importance of the Broads as an area of natural beauty and one which affords opportunities for open-air recreation;*
- (b) the desirability of protecting the natural resources of the Broads from damage; and*
- (c) the needs of agriculture and forestry and the economic and social interests of those who live or work in the Broads.*

- 5.2 S 111 of The Local Government Act 1972, which applies to the Broads Authority, states that:

“Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”

- 5.3 In coming to a decision on whether to implement the new branding the Authority needs first to consider whether the branding will be conducive to the discharge of the functions identified below and its impact on those factors the Authority is required to have regard to, also set out below. Officer advice on these matters is set out in the following table.

Function	Potential Benefit/Impact
<i>(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;</i>	Use of the term Broads National Park when referencing the area will help deliver the Authority's first function by raising awareness of and therefore support for the special qualities of the Broads natural and built environment.
<i>(b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and</i>	The term National Park is well recognised by the general public and its use will help in both promoting opportunities for understanding and enjoyment of the Broads' special qualities. A particular example is in the Authority's educational work with schools and engagement with communities that might not normally take an interest in the countryside.
<i>(c) protecting the interests of navigation.</i>	The hire boat industry is an important user of the navigation area. Use of the National Park brand will assist the companies in encouraging more visitors to come to the area, particularly from overseas where the brand is well known, and thereby supporting the interests of the hire boat companies as users of the navigation area. Navigation is also a unique characteristic of what makes the area special and worthy of being called a national park so will be promoted in the round of raising the area's profile.
Having regard to	
<i>(a) the national importance of the Broads as an area of natural beauty and one which affords opportunities for open-air recreation;</i>	The proposed branding will help raise awareness of the Broads nationally and encourage more sustainable recreation. Work to foster corporate sponsorship and raise awareness of the Broads, under the umbrella of National Parks UK, will only be made effective by use of the branding.
<i>(b) the desirability of protecting the natural resources of the Broads from damage; and</i>	Raising the profile of the special qualities of the Broads with the general public will assist in engendering respect for the protection of its natural assets. Continuing care will need to be taken that increased tourism is managed so that it does not undermine the fundamental qualities of the Broads.
<i>(c) the needs of agriculture and forestry and the economic and social interests of those who live or work in the Broads.</i>	There could be some small local benefit to agriculture through use of the brand to promote local produce. The use of the brand will help with the maintenance of a healthy and vibrant tourism industry which will benefit those who live or work in the Broads.

- 5.4 The legal points raised in the responses are addressed in Appendices C and D. A copy of the Authority's legal advice is contained in Appendix E. This indicates that while Mr Fookes is "*unable to advise that there is no possibility of legal challenge to the proposal to adopt the title "The Broads National Park"* such challenge "*would be unlikely to carry any or any significant liability to damages or compensation*". This is in the context of very significant support for the proposal from approximately 80% of the organisations who responded to the consultation and unanimous support of the 15 National Park Authorities in the UK who arguably have the greatest stake in the brand. Mr Fookes recommends a cautious introduction of the term and the Authority is planning a phased implementation.
- 5.5 The relationship with our Minister and Defra is crucial to the Authority and it is apparent from Lord de Mauley's letter (See Appendix F) to the Chairman of the Authority that Ministers are clear that, regardless of brand, the Broads is not legally a National Park and, given that, are content for the Broads Authority to make a decision on this matter.

6 Financial Implications

- 6.1 The Authority has delayed some expenditure, for example the purchase of replacement protective clothing and the signage for new machinery, until a decision on the branding has been made. In addition it has been proposed that a few carefully chosen sites around the area should be used for signs to welcome the public to the Broads National Park. If the Authority decides to approve the new branding the locations and costs of such signs and the potential for sponsorship by local companies and/or partnership with local authorities, parish and town councils will be investigated. It is proposed that a small sum of £5,000 be allocated to facilitate the implementation.

7 Consultation

- 7.1 The Broads Society has raised some points on the consultation process. The Authority has been careful to ensure that the principles of good consultation have been observed and in particular:-
- ***The consultation should take place when the proposals are at a formative stage.*** We are satisfied that this has taken place. Many of the Authority's key stakeholder organisations were consulted on early drafts of the consultation document and the text was amended to take account of their suggestions and comments. The Consultation Document itself was sent to 158 organisations and their views sought in advance of the Authority taking being asked to take a decision on the matter.
 - ***The information surrounding the consultation and reasons behind it are sufficient for there to be informed and intelligent responses.*** The response material appended to this report clearly shows this to be the case.
 - ***Adequate time for the responses to be made.*** The letters to organisations inviting them to give their views on the proposal were sent out at the end of September and the deadline of the 31st December gave them plenty of time to consult their Committees and Members as they saw fit.
 - ***That the Authority is fully taking into account the detail of the responses in its deliberations.*** The analysis of the consultation and responses by officers is contained in appended to this report and any further assistance needed by members to analyse and take on board the material will be provided at the meeting.
- 7.2 Defra has been consulted on this report and paragraph 5.5 represents the Department's views.

Background papers:	Consultation Document – “The Broads National Park – making the most of a brand which is internationally recognized”
Consultation on the report	Defra
Author:	John Packman, Chris Brown and David Johnson
Date of report:	14 th January 2015
Broads Plan Objectives:	PE1
Appendices:	APPENDIX A. Stakeholder survey responses APPENDIX B. List of organisations consulted APPENDIX C. Responses to the consultation APPENDIX D. Late submissions APPENDIX E. Legal Advice APPENDIX F. Letter from Lord de Mauley

Broads Authority

The Broads National Park:

Making the most of a brand which is internationally recognised

Schedule of Responses to Consultation

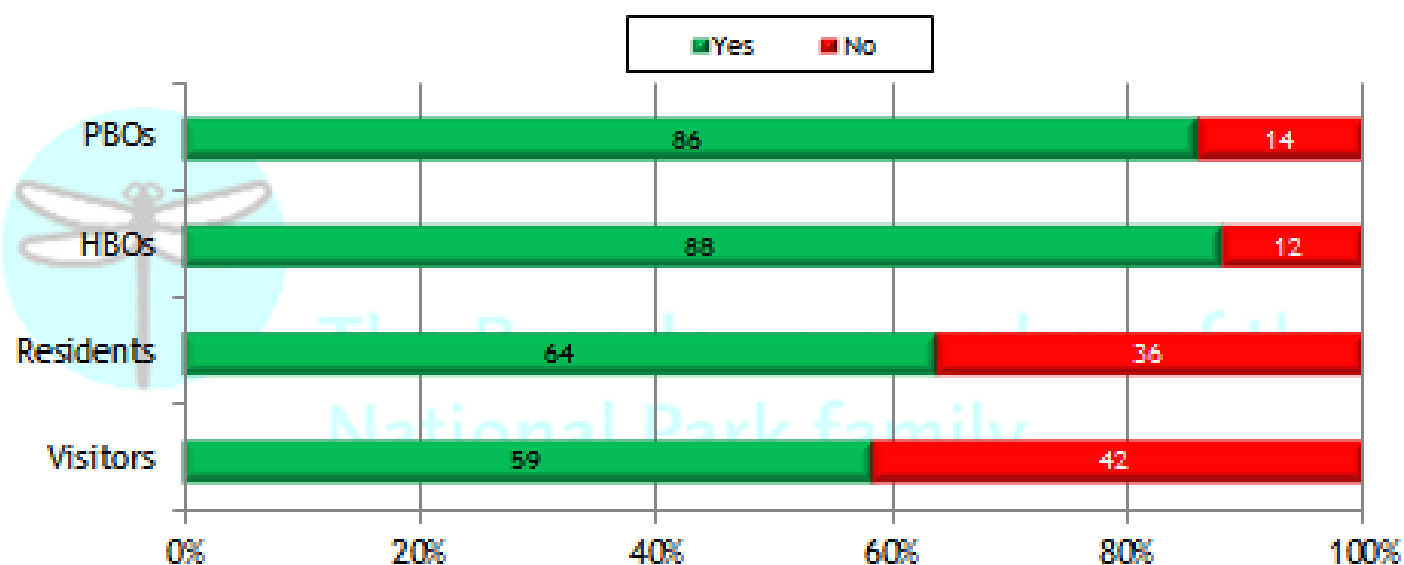
January 2015

Aware that the Broads has status of a National Park?

(prompted) PBOs, HBOs, RESIDENTS & VISITORS

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- The majority of PBOs and HBOs are aware that the Broads has the status of a National Park (although not all)
- Two thirds of residents are aware of the status; only slightly more than the visitor sample



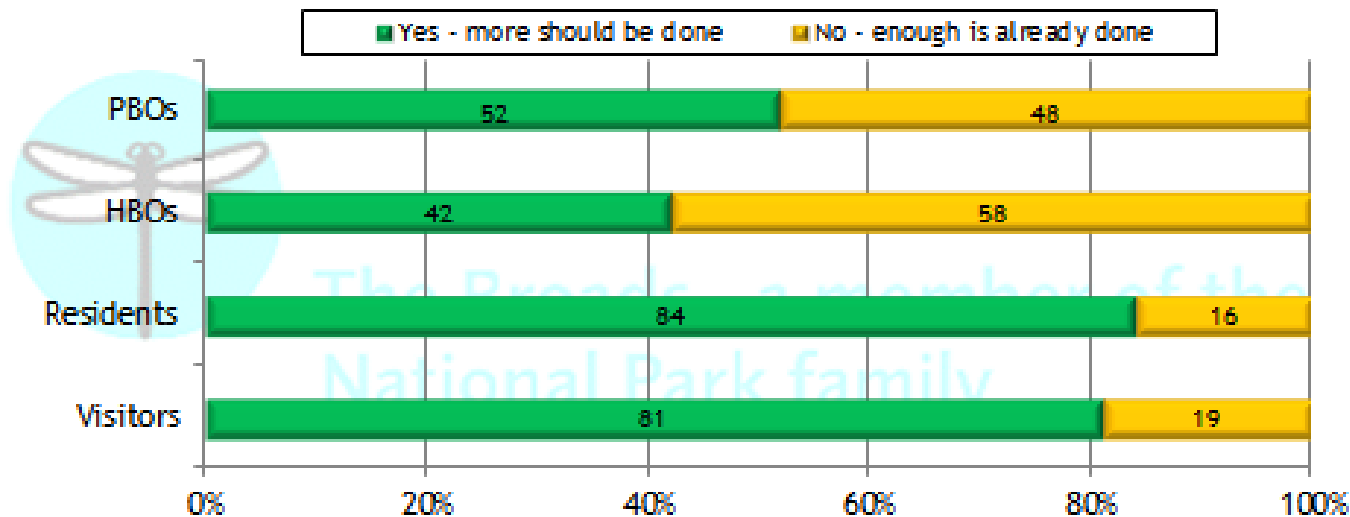
Base: 747 PBOs, 25 HBOs, 250 Residents & 600 Visitors, prompted, single response
Q: Are you aware that the Broads has the status of a National Park?

Should more be done to promote National Park status?

(prompted) PBOs, HBOs, RESIDENTS & VISITORS

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- ➔ Around half of PBOs think more should be done to promote the National Park status of the Broads; and just under half of HBOs
- ➔ The proportion of those who think more should be done increases markedly amongst residents and visitors



Base: 747 PBOs, 25 HBOs, 250 Residents & 600 Visitors, prompted, single response

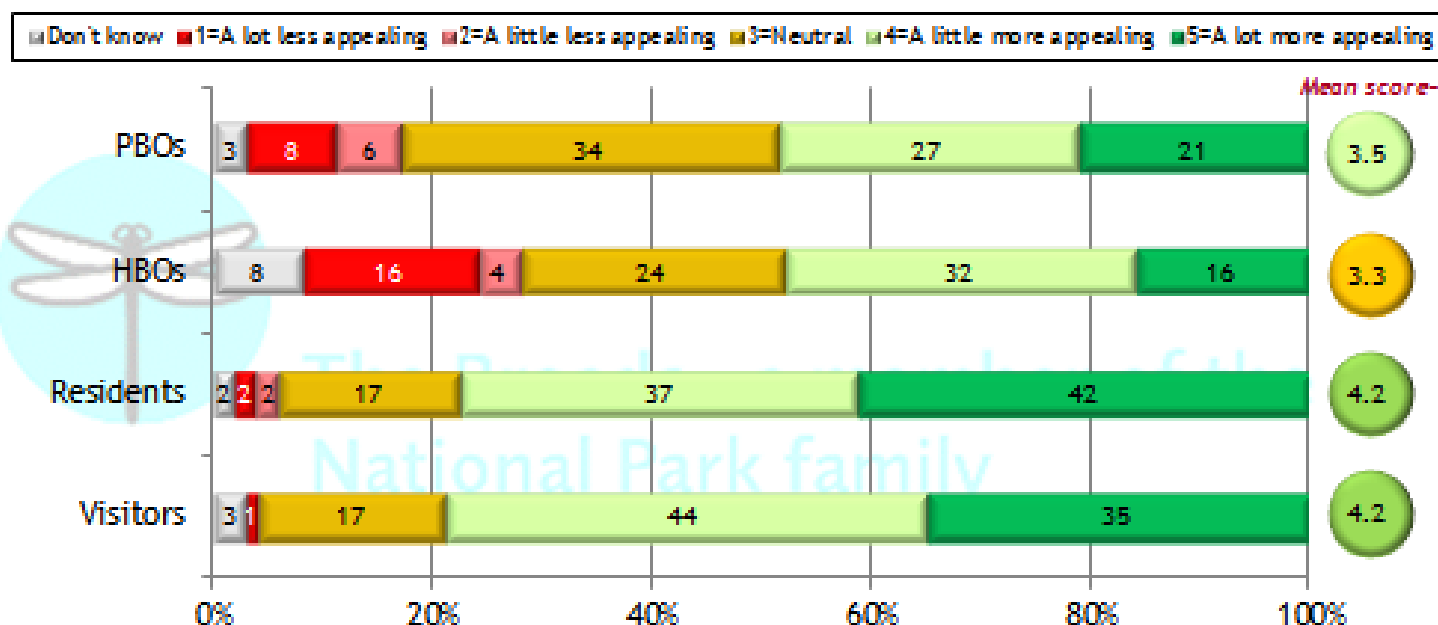
Q: Do you think the Broads Authority should do more to promote the fact that the Broads have the status of a National Park?

National Park status makes the Broads more appealing?

(prompted) PBOs, HBOs, RESIDENTS & VISITORS

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- ➔ The Broads having National Park status is markedly more appealing to residents and visitors than PBOs and HBOs



The Broads

Base: 747 PBOs, 25 HBOs, 230 Residents & 600 Visitors, prompted, single response
 Q: To what extent do you think that the status of the Broads as a National Park makes the area more appealing to visit, on a 5-point scale, where 1 = a lot less appealing and 5 = a lot more appealing? - Mean scores significant at a 95% confidence level > 0.1 - 0.5

insightTRACK

Appendix B Branding the Broads – List of organisations consulted

A. National Organisations and those outside the East of England

1. British Marine Federation
2. Campaign for National Parks
3. Canoe England
4. Country Land and Business Association
5. National Farmers Union
6. National Parks UK
7. Brecon Beacons NPA
8. Cairngorms NPA
9. Dartmoor NPA
10. Exmoor NPA
11. Lake District NPA
12. Loch Lomond and the Trossachs NPA
13. New Forest NPA
14. Northumberland NPA
15. North York Moors NPA
16. Peak District NPA
17. Pembrokeshire Coast NPA
18. Snowdonia NPA
19. South Downs NPA
20. Yorkshire Dales NPA
21. National Trust
22. Residential Boat Owners Association
23. Royal Yachting Association
24. RSPB
25. Visit England
26. The Conservation Volunteers

B. Regional Organisations – scope beyond the Broads

27. Anglian Water
28. CPRE Norfolk
29. CPRE Suffolk
30. Essex and Suffolk Water

Local Authorities

31. Broadland DC
32. Great Yarmouth BC
33. Norfolk CC
34. North Norfolk
35. Norwich CC

36. South Norfolk Council
37. Suffolk County Council
38. Waveney District Council
39. New Anglia
40. Norfolk Association of Local Councils
41. Norfolk Biodiversity Partnership
42. Norfolk Chamber of Commerce
43. Norfolk Constabulary
44. Norfolk Local Access Forum
45. Norfolk Rural Community Council
46. Norfolk Wildlife Trust
47. Suffolk ACRE
48. Suffolk Association of Local Councils
49. Suffolk Biodiversity Partnership
50. Suffolk Constabulary
51. Suffolk Local Access Forum
52. Suffolk Strategic Partnership
53. Suffolk Wildlife Trust
54. Wild Anglia

C. Local Organisations

55. Broads Angling Strategy Group
56. Broads Hire Boat Federation
57. Broads IDB
58. Broads Society
59. Broads Tourism
60. Easton College
61. How Hill Trust
62. Norfolk and Suffolk Boating Association
63. Geldeston PC
64. Postwick with Witton PC
65. Brumstead PC
66. Bramerton PC
67. Claxton PC
68. Rockland St Mary with Hellington PC
69. Neatishead PC
70. Broome PC
71. Ludham PC
72. Filby PC
73. Potter Heigham PC
74. Worlingham PC
75. Belaugh Parish Meeting
76. Kirby Bedon PC

77. Barton Turf and Irstead PC
78. Beccles Town Council
79. Bradwell PC
80. Carleton St Peter PC
81. Halvergate PC
82. Sea Palling and Waxham PC
83. Oulton PC
84. Hickling PC
85. Fritton and St Olaves PC
86. Rollesby PC
87. Fleggburgh PC
88. Thurlton PC
89. Surlingham PC
90. West Caister PC
91. Haddiscoe PC
92. Martham PC
93. Ormesby St Margaret with Scratby PC
94. Cantley PC
95. Thurne PC
96. Caister-on-Sea PC
97. Aldeby PC
98. Coltishall PC
99. Dilham PC
100. Repps with Bastwick PC
101. Smallburgh PC
102. Thorpe St Andrew PC
103. Horning PC
104. Ashby St Mary PC
105. Somerton West/East PC
106. Hales and Heckingham PC
107. Ormesby St Michael PC
108. Stalham Town Council
109. North Cove PC
110. Acle PC
111. Beighton PC
112. Ranworth PC
113. South Walsham PC
114. Upton with Fishley PC
115. Woodbastwick PC
116. Mettingham PC
117. Burgh Castle PC
118. Ellingham and Kirby Cane PC
119. Trowse with Newton PC
120. Ashby with Oby PC
121. Freethorpe PC
122. Bungay Town Council
123. Ingham PC
124. East Ruston PC
125. Hoveton PC
126. Crostwick Parish Council
127. Earsham PC
128. Ashby, Herringfleet and Somerleyton PC
129. Gillingham PC
130. Horsey PC
131. Honing and Crostwight PC
132. Barnby PC
133. Carlton Colville PC
134. Langley with Hardley PC
135. Blundeston and Flixton PC
136. Brundall PC
137. Barsham and Shipmeadow PC
138. Ditchingham PC
139. Loddon PC
140. Norton Subcourse PC
141. Burgh St Peter and Wheatacre PC
142. Catfield PC
143. Sutton PC
144. Horstead with Stanninghall PC
145. Hemsby PC
146. Mautby and Runham PC
147. Stokesby with Herringby PC
148. Brampton PC
149. Strumpshaw PC
150. Belton with Browston PC
151. Reedham PC
152. Winterton-on-Sea PC
153. Salhouse PC
154. Wroxham PC
155. Chedgrave PC
156. The Broads Trust
157. Whitlingham Charitable Trust

Appendix C – Responses received to branding consultation

This schedule of responses relates to the Broads Authority's consultation "Broads National Park: Making the most of a brand which is internationally recognised". The consultation was carried out for a 3-month period closing on 31 December 2014.

National Organisations and those outside the East of England

1. British Marine Federation

Thank you for your letter of the 8 October 2014 inviting the British Marine Federation (BMF) to respond to the above consultation.

The BMF has discussed this matter with the Broads Hire Boat Federation (BHBF) and also took the opportunity to revisit the comments we made during our response to the revised Broads Bill in 2006.

The BMF is in principle comfortable with the rebranding of the Broads Authority to the "Broads National Park" – any opportunity to raise the national and international profile of the Broads is a good thing and to create a destination brand is a positive tourism strategy. We acknowledge the fact that this is a change in branding only and will not alter the statutory responsibilities the Authority has for navigation issues. The BMF would not support any rebranding of the Authority to the "Broads National Park" if it subsequently initiated legislative change resulting in the Sandford Principle, undermining the Authority's statutory responsibilities for navigation.

The BMF looks forward to working with and supporting The Broads Authority as the rebranding exercise progresses. **Brian Clark (Head of External Relations)**

BA Response: We welcome the BMF's offer to work with and support the branding proposal. The proposal is about the branding of the area only. There is no intention to make legislative changes to the Broads Authority and it has never indicated any intention to adopt the Sandford Principle. It is of the view that the Habitats Regulations provide the required level of protection for the biodiversity of the Broads against damaging activities.

2. Campaign for National Parks

1. We believe that a more consistent use of the term the Broads National Park as a brand could bring significant benefits to the area as set out in the consultation paper. In particular the use of the internationally recognised National Park title should help attract visitors from both the UK and overseas and will also ensure that the Broads is able to benefit fully from the work that National Parks UK is doing to promote all the National Parks.
2. The Campaign for National Parks would use the term Broads National Park whenever referring to the area in our publications, consultation responses and other documents. Although we do not currently use that term explicitly, we often refer to the ten National Parks in England in consultation responses and briefings and do not refer to the Broads separately unless there is good reason to do so. We are keen to ensure that the designation of the area is properly recognised when it comes to planning protection and the statutory duties which apply to public bodies when making decisions which affect National Parks. The change of name should assist with this by ensuring that there is greater recognition of the area's status.

3. We recognise that the main motivation for the proposed change is to take advantage of the marketing and promotional benefits arising from greater consistency of the Broads National Park title and we support anything that encourages more people to visit all our National Parks. However in line with our desire to help keep these beautiful places safe for everyone to enjoy in the future, we would like the Broads Authority to use the promotion of the new branding as an opportunity to maximise the additional benefits we have highlighted in response to Question 2. This would mean writing to all the relevant public bodies and statutory undertakers such as the Highways Agency and major utility providers operating in the area to highlight the statutory duties that apply in the Broads.

Other Comments

The consultation paper suggests that there may be opportunities to erect new signs welcoming people to the Broads. While there can be some advantages to making sure people know they are entering a National Park we believe that very careful consideration should be given to the design and location of any new signage. It is important to avoid too much signage to be very carefully located to avoid detracting from the beautiful landscapes. **Ruth Bradshaw (Policy and Research Manager)**

BA Response: We note the comments made by the CNP and understand the point about signage. Any signs will be carefully sited and erected in conjunction with local bodies such as parish and town councils.

3. Canoe England – no response received.
4. Country Land and Business Association – no response received.
5. National Farmers Union – no response received.

6. National Parks UK

The National Park Authorities of the UK fully support and welcome the proposal by the Broads Authority to use the term Broads National Park. This is eminently sensible and will remove the confusion that has existed about how the area is referred to. It will only strengthen the profile of UK National Parks with the general public. **(Executive Committee 15th December 2014)**

BA response: The support of the English, Welsh and Scottish National Park Authorities is noted.

7. Brecon Beacons NPA – no individual response received.

8. Cairngorms NPA

Thank you for your email and attachment. I would welcome the proposed discussion at the December ANPA meeting.

In the Cairngorms National Park we established a Cairngorms National Park brand separate from the Park Authority. This has allowed our partners in the community, public and private sector to adopt the park brand alongside their own identities and to take collective 'ownership' of the park. We would be happy to share our experiences and the feedback from our visitors. Strengthening the National Park brand across Britain can only benefit all of the individual parks.

I will ask CNPA staff to prepare a more formal response to your document in due course - hopefully in advance of the discussion in December.

Duncan Bryden (Convener, Cairngorms NPA)

BA response: We are keen to learn from the experience in the Cairngorms.

9. Dartmoor NPA

Further to the discussion and resolution agreed at the Association of National Park Authorities video conference on 12 December 2014, we write to confirm that the Dartmoor National Park Authority is supportive of your proposal to rename the Broads as the Broads National Park.

We hope that you will be able to smoothly implement the proposal. **Peter Harper (Chairman, Dartmoor NPA)**

BA response: Comments noted.

10. Exmoor NPA

On behalf of Exmoor NPA I am happy to support this proposal. The Broads area is undoubtedly one of England's most treasured landscapes with rich wildlife and cultural heritage as well as considerable opportunities for public enjoyment and understanding. The BA too is a much valued member of NPE and the proposed use of the National Park identity will help us all in communicating about our work. **Andrea Davis (Chair, Exmoor NPA)**

BA response: Comments noted.

11. Lake District NPA

We discussed your proposed use of the National Park name for the Broads and I am pleased to say that there was a unanimous feeling that you should go ahead with that proposed use. Just to make it absolutely clear, the subject was first discussed at what we call our Exec Board and Chairs meeting [full support] and then at our full Authority meeting on Wednesday last [again full support] where Richard gave a full explanation of your proposal. So, all that remains now for me to do is to wish you well with the proposal. **Mike McKinley (Chair, Lake District NPA)**

BA response: Comments noted.

12. Loch Lomond and the Trossachs NPA – no individual response received.

13. New Forest NPA

I fully understand and strongly support your reasons for taking this initiative and I am happy for you to formally record the New Forest NP Authority's support in advance of the UK ANPA videoconference on 15 Dec 2014. **Oliver Crosthwaite-Eyre (Chair, New Forest NPA)**

BA response: Comments noted.

14. Northumberland NPA

Personally I welcome your proposal and I would be surprised if any of my members objected to it, I think it actually adds strength to the National Park brand. **John Riddle (Chairman, Northumberland NPA)**

BA response: Comments noted.

15. North York Moors NPA

I am writing to express my support and that of the North York Moors NPA for your proposal. The Broads has long been seen as a member of the National Park family. It has added strength to that family and the organisation has brought its unique strength and talents which have helped us greatly in our work. At no point can I remember anyone disputing the fact that the Broads should be part of that family or that it should be described as a National Park. I am conscious too that across the globe National Parks have slightly different legislation and sometimes quite different means of operation to suit their local circumstances. In terms of achieving our two purposes, the National Park name is vital and in terms of the economy- which in your case is so bound up with your navigation interest - it is equally important. So I wish you well with your proposal and look forward to seeing your brand in operation.

Jim Bailey (Chair, North York Moors NPA)

BA response: Comments noted.

16. Peak District NPA

First of all, the key issue here is the balance that you are striking between the flexible use of the designation 'national park' and the rigorous protection of that brand as one signalling the conservation of a place that merits the conservation quality and the commitment to managing a place with the conservation of those qualities uppermost. There can be no doubt that the Broads is of sufficient quality as an extensive wetland based landscape on a large scale and coherent in character meets the quality threshold. Added to this is the distinctive cultural heritage and the ease by which people can experience the landscape without harming the character and these values are considerable and the case for designation exceeded.

The second part of the case for the Broads achieving national park status depends on the degree to which there is an unequivocal commitment to the conservation of the landscape and the qualities for which it is designated. Three factors come in to play. Firstly, does the Broads Authority have a strong and credible plan for the Broads with evidenced and appropriate conservation objectives that are widely supported. You do. Secondly, will the additional benefits of national park designation help secure the long term financial viability of the Broads Authority and therefore your continued ability to achieve your objectives. At a time of intense pressure on public sector resources this is an increasingly important factor and advances the case strongly. Thirdly, do your objectives allow the Sandford Principle to apply, i.e. in the event of an irreconcilable conflict between conservation and your other objectives will the conservation objective have primacy. I understand that this may still be difficult for The Broads given your statutorily defined duties on navigation. If I am correct in this, then we would have some concerns about this. However, given the serious risk to your viability of not being branded a national park, the quality of your conservation objectives and the high intrinsic quality of the Broads landscape, the benefits outweigh the risks to the brand of national parks. I would urge you to develop hand in hand with the new branding a renewed commitment to your conservation objectives and especially seek to involve navigation interests in achieving them.

Finally, the benefits of the collectively-owned brand of national parks will only be fully realised when all the national park family members work closely together, probably much more so than currently. Your organisation's and your own personal commitment to that continue to be welcome.

Jim Dixon (Chief Executive, Peak District NPA)

BA response: Comments noted. The proposal does not involve any changes in the legal name or functions of the Broads Authority. The Broads Authority has never indicated any intention to adopt the Sandford Principle because it is of the view that the Habitats Regulations provide the required

level of protection for the biodiversity of the Broads against damaging activities.

17. Pembrokeshire Coast NPA – no individual response received.

18. Snowdonia NPA – no individual response received.

19. South Downs NPA

I was interested to read about the thinking behind the proposed change and your assessment of the impact it will have.
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Having been through the recent development of an identity for the South Downs NP, I understand the challenges involved and the many possible benefits. If we can provide any advice or learning from our own experience please do not hesitate to contact our Communication & Engagement Manager Ruth James, who will be more than happy to help. Margaret Paren (Chair, South Downs NPA)
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BA response: The offer of advice is much appreciated and will be taken up if Members decide to proceed with the branding initiative.

20. Yorkshire Dales NPA

You have the full support of the Yorkshire Dales! I have spoken to David and he agrees that to all intents and purposes you are a National Park and I am sure you will benefit from being so described. Peter Charlesworth (Chair, Yorkshire Dales NPA)
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BA response: Comments noted.

21. National Trust – no response received.

22. Residential Boat Owners Association – no response received.

23. Royal Yachting Association

The RYA is conscious that the Broads are a vital national asset not only as a place of natural beauty but also for open air recreation and specifically for recreational boating, which has a long and proud history in the area.

As the consultation paper acknowledges, the existing management and regulation of the Broads, as set out in statute, expressly recognises this by conferring on the Broads Authority particular navigation responsibilities and a specific duty to protect the interests of navigation, with that duty being given parity with the Broads Authority's other principal duties to conserve and enhance natural beauty and promote the enjoyment of the Broads by the public.
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Protecting the interests of navigation is therefore written into the Broads Authority's constitution and is an intrinsic part of the constitutional arrangements for the Broads. In effect, it is one of the Broads Authority's reasons for being and this distinguishes the Broads from national parks in the UK more generally.

It is vital that this special status is not altered or watered down in any way. Any name change therefore needs to respect this fundamental and distinctive characteristic of the Broads Authority.

We note that your consultation paper clearly states that the name change proposed would respect this unique characteristic. As long as that is truly the case and, for example, it does not become and
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it is not used by the Broads Authority or others as a platform for legislative change or for disregarding the interests and concerns of recreational boating, the RYA would not have any difficulty with it. As you would expect, we certainly wish to be supportive of any measure to enhance recreational boating opportunities on the Broads.

Over the years, as you know, the special status given to navigation in the Broads Authority's constitution has been a key element in helping to ensure that the tensions between conservation and recreation, which naturally arise in the management of such a complex and sensitive space, have been appropriately managed. Even so, there have been occasions when those tensions have given rise to serious disagreements and misunderstandings and a breakdown of trust. If this initiative is carried forward, it will be important to ensure that trust is maintained and that navigation interests do not feel that they are being disregarded. **Gus Lewis (Head of Legal & Government Affairs, Royal Yachting Association)**

BA response: The Authority has no intention of disregarding the interests and concerns of recreational boating and sees this activity as one of the unique characteristics of the Broads that needs to be treasured and enhanced. There is no intention by the Authority to adopt the Sandford Principle and we are of the view that the Habitats Regulations provide the required level of protection for the biodiversity of the Broads against damaging activities.

24. RSPB

The document sets out some clear benefits for promoting wider use of the Broads National Park name and encouraging greater consistency in its application. I fully support much of the thinking outlined in this document as raising public awareness and understanding of the Broads is something that we are also working hard to achieve here at RSPB.

We have recently restructured our Broads Team to provide more focus on an area wide approach, not only for land management, but also for our work with visitors and local communities. Jo Hand is now our Broads People Engagement Manager, and is developing a team of staff and volunteers whose focus is to provide a wider range of opportunities to bring people and wildlife together in the Broads, and to promote these experiences more effectively to visitors and local communities.

Through her work on the Broads Tourism Executive Committee and the Broads Outdoors Festival Steering Group, Jo has been able to promote the value of quality wildlife watching experiences as a crucial part of the Broads tourism offer, and has ensured that the value of tourism linked to landscape and wildlife has become a key driver for RSPB's work in the Broads. Therefore, we whole heartedly support changes that encourage more consistent marketing of the area, that allow the Broads to benefit from national promotional campaigns and that develop a greater sense of place and value amongst local residents, businesses, stakeholders and decision makers.

However, the RSPB is concerned that the Broads will become a National Park without adopting the same principles as the other National Parks in England, Wales and now Scotland, in particular the Sandford Principle.

I know you appreciate that the Broads area is of immense importance for wetland biodiversity. While 25% of the area is notified as SSSI and designated as Special Protection Area and Special Area for Conservation under the Birds and Habitats Directives respectively, the remaining 75% has no statutory or non-statutory protection for wildlife. This in spite of much of the area meeting the criteria for notification as SSSI, and in all likelihood being granted SSSI status, were it found in any other part of the UK.

We believe that the absence of the Sandford Principle, in tandem with the Authority's third purpose of protecting the interests of navigation, results in stalemate situations when there is a potential conflict between conservation and navigation interests, and hinders the search for win-win solutions. The inclusion of the Sandford Principle would give a much clearer direction to all parties, and would greatly facilitate truly integrated management of the Broads area.

The importance of the Sandford Principle for National Parks is to ensure that development is sustainable and that the features that make the area attractive to residents and visitors are maintained. I am sure this is consistent with your vision for the Broads.

As the Broads Plan also highlights:

"The ecosystems of the Broads provide a range of goods and services. These include the provision of water flow, clean water and air, recreation and amenity, palaeoenvironmental and organic archaeological remains, education, jobs, food production, visual beauty and inspiration, flood management and climate regulation, including carbon storage. The costs of investing in the sustainable conservation and enhancement of the Broads need to be counterbalanced with the significant and valuable benefits that the area brings to society as a whole. These benefits will be increasingly important as we meet the long-term challenges ahead. As a custodian of a high value resource and member of the family of National Parks, the Broads has a key role to play as a model of healthy, sustainable living and a low carbon economy." (Paragraph 3, p.13)

The cost of not applying the Sandford Principle to the Broads could have not just environmental implications, but economic and social impacts as well.

Where conflict is truly irreconcilable then it can surely not be intended that the predetermined importance of the Broads natural environment should be harmed. This would be entirely inconsistent with the principles of sustainable development which seek to ensure that we pass on the same level of environmental asset to future generations as those which we currently enjoy.

I would urge the Broads Authority to take the opportunity for the Broads to become a National Park in the truest sense by fully embracing this principle in the way that other members of the family have done. **Paul Forecast (Director, Eastern England)**

BA response: The Authority will be pleased to continue to work closely with Jo Hand, the RSPB's Broads People Engagement Manager, to further its partnership initiatives. The Authority has never indicated any intention to adopt the Sandford Principle and is of the view that the Habitats Regulations provide the required level of protection for the biodiversity of the Broads against damaging activities.

25. Visit England

We fully support the general principles and would be willing to adopt any new messaging within our organisation. The 1950s generation of National Parks (all were in the north and west of the UK) shared a common characteristic with the North American model in that they represented a kind of wilderness landscape, even though they were predominantly agricultural in nature. The locational spread was much criticised at the time and the three subsequent National Parks in England have all been in the South-east and east. The latter generation have all had different iconic characteristics: forest; downs and waterways but lacking the mountain or moorland landscapes of the older generation. As such, the public concept of what constitutes a National Park has had to change. Utilising the established brand of the English National Parks appears to make sense and to provide mutual benefits.

For the Broads it brings a degree of kudos that supports the wildlife, ecology and conservation

priorities of the Authority and for the other National Parks it helps diversify the offer, opens up new markets and spreads their reach. Launching the Broads as a National Park brand is a logical step to take. This consultation document is very much about marketing activity and ensuring consistency of message which is a sensible approach. The challenge as is identified will be ensuring that stakeholders adopt an unified and consistent approach. If this can be achieved it will enable the Broads to deliver a strong destination communication. We might question whether adding National Park to name is enough? A deeper understanding of the barriers and strengths would also be needed to ensure it isn't an idea that sounds great but delivers little additional benefit.

National Parks are like much of the countryside in regards to there being little awareness for many visitors of where they are, where they start and finish and what you can actually do when you are in one. Any communications would need to address this and sharing the motivations and barriers research conducted by VisitEngland would help. In most other respects VisitEngland would see the greater use of National Parks branding helpful on a number of fronts. For example, it enables greater flexibility in terms of linking to the other National Parks for joint campaigns or promotional offers where the qualities of these areas might be highlighted. It will help raise the profile internationally, especially in near European markets which are in Germany and the Netherlands.

It will no doubt assist in terms of obtaining sponsorship or even revenue from other streams such as from charitable donations and endowments. We would also anticipate that the Broads would also achieve greater community buy-in from utilising the National Park brand and it would help instil a greater degree of local pride and acknowledgement of the benefits of tourism. VisitEngland will be happy to provide research findings that might assist the process of rebranding and we look forward to working with you through this process - **James Berresford, CEO**

BA response: The offer of continued support and assistance from Visit England is much appreciated.

26. The Conservation Volunteers – no response received.

Regional Organisations (scope beyond the Broads)

27. Anglian Water

I am very happy to respond to your consultation "The Broads National Park – Making the most of a brand which is internationally recognised", which I have read with great interest.

Question 1: As someone who has worked closely with many people from the Broads Authority and with many of the special places in the Broads over the last 18 years I have always considered that they a hugely important part of our regional and national heritage. Therefore the future use of the name "Broads National Park" in selling this beautiful and unique place is something that I would wholehearted support. I would agree that developing and ensuring a consistent use of the brand will raise the profile of the area and ensure its status in the UK landscape is understood; this not only reflects the environmental importance of the Broads but their contribution to the vibrant local and regional economy.

Question 2: Although we don't have specific land-based partnerships at this point in time we obviously refer to the area in our literature, website and other publically available materials. We would obviously ensure that we would use and change in terminology in future.

Question 3: To make that transition easy it would be useful to know in advance of the change of

terminology and to receive electronic copies of the new branding and logos for future use.

Anglian Water very much supports the change for marketing purposes to the "Broads National Park" and the valuable work that you are doing and the vision that you have set out in the consultation document to promote the UK's National Parks as tourist destinations, raise people's understanding of how special all these parks are and to develop the sense of collective value and ownership. **Andy Brown (Head of Sustainability)**

BA response: Comments noted.

28. CPRE Norfolk

"CPRE Norfolk supports the use of the name "Broads National Park" rather than the more cumbersome "the Broads - a member of the National Park Family". This will primarily help the tourism industry and thus the local economy providing more employment. Hopefully the "National Park" brand will encourage a more discerning and sustainable form of tourism rather than just boost numbers. The "National Park" name will help to raise the status and profile of the Broads nationally and internationally, which in turn may help to attract both private investment and grant funding."

Specifically in answer to your three 'Key Questions': 1. This can only be good for the Broads. 2. This is not really applicable to CPRE Norfolk. 3. No.

Katy Jones (Branch Manager, CPRE Norfolk)

BA response: The reference to sustainable tourism is welcomed and in line with the Authority's ambitions.

29. CPRE Suffolk – no response received.

30. Essex and Suffolk Water – no response received.

Local Authorities

Norfolk and Suffolk Local Authorities

We fully support the use of the term Broads National Park. As well as the predictable economic benefits that will arise from attracting more visitors to Norfolk and Suffolk we consider that use of the National Park name will much more effectively and appropriately raise the profile of the special qualities of the Broads.

Chief Executives of Norfolk and Suffolk Local Authorities & Chief Constables of Norfolk and Suffolk

BA response: Comments noted.

31. Broadland District Council

- 1) The Council welcomes the consistent use of the term The Broads National Park. We believe it will raise the profile of the area and give a clear message as to the importance of the park on a national scale. It will be recognised alongside the National Park family and gain a profile at the other recognised parks.
- 2) The Council regularly promotes the area to visitors through publications and its website and a clearer National Park message will support our endeavours to raise the profile of the area. We are in a position of needing to deliver homes and jobs in the vicinity of the Park

and there is no doubt that use of the new branding will assist in efforts to attract investment to the area. We would request that all new material is Disability Discrimination Act compliant.

- 3) Clearly the Council would expect guidelines and assistance in ensuring that any new signage, promotional material and website presence reflected the new branding. We would also hope that there would be support for existing Broadland communities and businesses to embrace the new branding and foster an understanding of the need to change and “modernise” and the benefits this can bring to the wider area. We would support efforts to research and investigate the potential for Acle to develop its brand as Gateway to ‘The Broads National Park’ and seek investment for a new National Park Visitor Centre.

The Council further notes, with approval, that the proposal did not involve any change in the legal name of status of the area; nor would it affect any of the Broads Authority’s functions and responsibilities as set out in the Norfolk and Suffolk Broads Act 1988 as amended and that the Broads Authority would no formally become a National Park Authority. **Phil Kirby (Chief Executive)**

BA response: The Authority is happy to work with Broadland District Council to ensure that new signage, promotional material and websites make the most of any new branding. The suggestion of a new visitor centre at Acle is an interesting one and further dialogue with officers of the BDC on this would be welcome.

32. Great Yarmouth BC – no individual response received.

33. Norfolk County Council

Consistently branding the Norfolk and Suffolk Broads as the ‘Broads National Park’ is long overdue. It is a helpful, logical and positive step.

We are very proud of our National Park and we in Norfolk have been happy to share it with everyone for well over 150 years. We'd like even more people to know about it and benefit from all it has to offer.

1. *Do you support a more consistent use of the term The Broads National Park?* Incorporating the National Park is a great idea – National Parks mean something to the public. National Park branding on signs would be excellent.
2. *Would your organisation be willing to use the term The Broads National Park?* Not denigrating ‘Britain’s Magical Waterland’ as it was a tool to do a job, but National Park is stronger.
3. *Are there any specific actions the Broads Authority could take to support and help your organisation in using the brand?* We could do a campaign together via Visit Norfolk!

George Nobbs, Leader of Norfolk County Council

BA response: We welcome the County Council’s support. Working with the Council on raising awareness of the Broads among young people is a high priority for the Authority.

34. Norfolk Norfolk District Council

We fully support the use of the term Broads National Park. As well as the predictable economic benefits that will arise from attracting more visitors to Norfolk and Suffolk we consider that use of the National Park name will much more effectively and appropriately raise the profile of the special qualities of the Broads. **Sheila Oxtoby (Chief Executive)**

BA response: Comments noted.

35. Norwich City Council

We are very happy to support the approach being taken by the Broads Authority and very much hope that the city council representative is a valuable member of the authority. **Laura McGillivray (Chief Executive Officer)**

BA response: The City Council representation on the Broads Authority is valued. The Authority is keen to work in partnership with the Council on raising the profile of the Broads amongst the citizens of Norwich.

36. South Norfolk Council

1. The consistent use of the Broads National Park will be very beneficial and will result in a more widely recognised and effective brand. 'National Park' gives the sense of importance on a large scale and a wider use of this term should boost tourism; with having the Southern Broads on our patch we should stand to benefit from this in terms of increased profile and standing. Whilst the approach in the costs section make sense I wonder if greater impact might be achieved through a series of 'launch' events.
2. Yes, we think this would work well with our existing positioning line with key South Norfolk sites linked to the Broads (e.g. Loddon- 'Perfectly Placed' which would work well with being the 'Gateway to the Southern Broads' or the 'Southern Gateway to The Broads National Park'
3. We would welcome the promotion of the key southern locations of the Broads (e.g. Loddon, Chedgrave) in the new branding and more focussed campaigns. We would be more than happy to feed into any marketing and communications development either through our team here or via our work with Visit Norwich. **Sandra Dinneen (Chief Executive)**

BA response: The suggestion of a series of launch events is a good one, and something the Authority would be happy to discuss with the Council along with the marketing of locations such as Loddon and Chedgrave.

37. Suffolk County Council

1. *Do you support a more consistent use of the term The Broads National Park?* Yes
2. *How would you envisage your organisation using the term The Broads National Park?* SCC would use the term the Broads National Park in all its publications and correspondence.
3. *Are there any specific actions the Broads Authority could take to support and help your organisation in using the brand?* Greater 'Broads National Park' profile in & for Suffolk, and working collaboratively with the Waveney Valley tourism forum and any future DMO that arises there, so that offers are complementary rather than confusing. We would also like to be assured that the Broads National Park will work collaboratively with Visit East Anglia and the New Anglia LEP.
Deborah Cadman OBE (Chief Executive)

BA response: The Authority will continue to work with Visit East Anglia, New Anglia and tourism businesses on promoting the area, including the Waveney valley.

38. Waveney and Suffolk Coastal District Council

1. Use of the term "The Broads National Park"

We support the consistent use of this term and believe this to be the best brand for the area in question. Awareness of the Broads as a brand has been declining in recent years, as has the boat hire business itself, and this is in sharp contrast to the steep growth in awareness that has been experienced by the Suffolk Coast brand. Historically, the area was best known as the Norfolk Broads and the parts of the Broads that fall within Suffolk have struggled with this. The proposed term “The Broads National Park” overcomes this long-standing issue and we believe this brand will bring benefits to the Suffolk visitor economy. We would like to see the brand achieve a higher profile within future tourism marketing campaigns, and consistent use of the proposed term “The Broads National Park” would be of significant value in this respect.

2. SCDC/WDC’s willingness to use the term “The Broads National Park”

Both Councils would be very keen to use the term and would ensure that our tourism partner (The Suffolk Coast Destination Management Organisation) also uses the term.

3. Specific action the Broads Authority could take to support and help us in using the brand

The Broads National Park is an important brand to SCDC and WDC. Visitors to The Broads support the economy of a large rural area that is more fragile in economic terms than the south of our district. Moreover, the work of the Broads Authority is vital in safeguarding the unique character of this area. We are therefore very keen to promote the brand and to work more closely with the Broads Authority to achieve this.

We would recommend that the brand is promoted as widely as possible and in particular to new markets. Our recent experience is that the London and South East is a far more important market for us than in the past and visitors from this area tend to have deep pockets! They also tend to have lower awareness of traditional UK brands, perhaps because these visitors have a younger age demographic than traditional visitors to the area. We recommend that this increased promotion is achieved by using existing Broads Authority resources but also through increased activity with partners. Improved liaison between the appropriate Broads Authority officers and ourselves would be welcomed. The New Anglia Local Enterprise Partnership and the local authorities in Suffolk, along with The Suffolk Coast Destination Management Organisation are working together to promote tourism throughout Suffolk and the Broads National Park is an important part of the tourism offer. We would be very keen for the Broads Authority to increase its engagement with these agencies to promote the brand.

Stephen Baker (Chief Executive , Suffolk Coastal and Waveney District Councils)

BA response: We welcome the positive support from the Councils. The Authority will increase its engagement with the Local Enterprise Partnership and the Destination Management Organisation.

39. New Anglia

1. We would be a firm supporter of the adoption and consistent use of the National Park brand for the Broads. The LEP is keen to show leadership in taking forward aspirational brands for sectors and locations across Norfolk and Suffolk and the adoption of the National Park brand is befitting with this approach. We effectively already have a National Park in the area in the shape of the Broads and using this brand would represent a step change in how the natural environment and its economic worth are valued.

The LEP Strategic Economic Plan which was approved by the UK government in July 2014 refers to the Broads as a National Park. This represented the LEPs recognition of the areas important economic contribution and environmental value and the need to manage the area in a sensitive manner befitting to the management approach of a National Park. LEPs priority support for the Tourism sector and for the development of the Green Economy compliments the use of the

National Park brand which will act as an indicator of the quality of the Broads natural environment and its thriving visitor economy. The LEP is also of the view that the Broads are of such significance nationally and internationally that they could be referred to as the "UK's only Wetland National Park", which offers up a unique selling point within the UK's network of National Parks. The LEP's Green Economy Manifesto also recognises the need for improved branding of the Broads.

2. The LEP would be committed to co-develop initiatives with the Broads Authority to promote the Broads National Park brand. The LEP is a significant partner and leader in a number of campaigns such as the current Great Eastern Rail Campaign which although this is a campaign with different subject matter, is still effectively communicating a positive message as would use of the National Park brand.
3. The New Anglia LEP is firmly supportive of adopting the name Broads National Park and we look forward to working closely with the Broads Authority in supporting this positive development.

Mark Pendlington (Chairman)

BA response: The Authority welcomes New Anglia's support. We believe there is considerable potential to promote the area and welcomes the offer of support from the LEP.

40. Norfolk Association of Local Councils – no response received.

41. Norfolk Biodiversity Partnership – no response received.

42. Norfolk Chamber of Commerce – no response received (Nb. The Chamber promoted the consultation via its website).

43. Norfolk Constabulary

On behalf of Norfolk Constabulary I am supportive of your proposals and would want to develop branding opportunities for the Broads beat team. **Simon Bailey (Chief Constable)**

BA response: The Authority is keen to continue its close cooperation with Norfolk Police especially through the Broads. There are considerable benefits to both parties and the general public.

44. Norfolk Local Access Forum

Thank you for consulting us; we considered the proposals at our 15th October meeting. We agreed enthusiastically with the positive measures that you are consulting on, to align the Broads closely with the internationally recognised National Park brand, introduce consistency in the promotion of the area, and to take full advantage of the opportunities being advanced by the UK's National Parks are all really exciting opportunities. From the perspective of the Norfolk Local Access Forum (NLAF) there are clear opportunities to foster greater public interest in access to not only the Broads through these associations with the National Park brand but also to other parts of Norfolk's countryside.

Within the document you asked us to provide you with specific feedback. The NLAF considered the three questions posed at the end of the consultation.

1. *How do you feel about a more consistent use of the term the Broads National Park as a brand?*

The NLAF agree that this will provide better understanding of the offer within the Broads Authority Area. The potential for attracting more walkers and cyclists is a key aim of the NLAF. Given the good connections between the Broads Authority Area and other parts of the Norfolk Countryside, the use of the term National Park will provide a great additional incentive to

access.

2. *In what ways would you envisage your organisation using the term the Broads National Park?*

In terms of promoting access, we can see that using the term National Park will have great potential benefit for our work. We would certainly use it to communicate the world-class status of the Norfolk Countryside. This association is a key one we believe. The Broads Authority Area is really important for demonstrating the unique and special nature of the County's countryside access opportunities in general. We believe like you that this association will have a higher profile and will reach more of an audience through the use of the National Park branding.

3. *Are there any specific actions the Broads Authority could take to support and help your organisation in using the Broads National Park brand?*

Yes, making a clear connection between our work and that of the Broads National Park would help us. This is happening with the co-working between the Broads Local Access Forum and the NLAF. Communicating this relationship through the work behind the County Rights of Way Improvement Plan and more joining of this with the Broads Access Improvement Plan will help with the profile of this important work.

Don Saunders, Chair, Norfolk Local Access Forum

BA response: The Authority welcomes the co-working between the Broads and Norfolk Local Access Forums and the opportunities to do more together in the future.

45. Norfolk Rural Community Council – no response received.

46. Norfolk Wildlife Trust

In general, despite NWT's position regarding the need for BA to adopt the Sandford Principle in line with other National Parks, I find myself personally coming down in favour of the Broads National Park as a brand. It will raise the profile considerably for the organisation formerly known as BA, it will help to boost tourism, but also it will help to raise awareness of and support for the conservation and enhancement of the Broads' unique, but fragile ecosystem.

I am not clear from the paper what BA will be called. In a way, that may not be an issue, because your easiest route around any legislative or procedural issues is to use Broads National Park for marketing purposes whilst BA remains BA. This is what NWT did very successfully whilst the organisation's formal/legal name remained NNT for 20 years...until last year in fact when we formally changed the name fully to NWT. I have a concern that if the organisation does become synonymous with the Broads National Park, it will be shortened by people to BNP. I am sure you have thought of that and others have noticed too! So I think your paper needs to address the vagueness between how the Broads area will be branded and what the name of the current Broads Authority will be.

There will obviously be a significant cost in changing signs, logos, etc., the biggest hurdle being external interpretation. When the change of marketing name from NNT to NWT was introduced (before my time), it did cause significant controversy and debate, protest even from some quarters, but it was "sold" as a low cost exercise with only things like headed paper and publications being affected. It was also agreed that all such materials would carry reference to the real name remaining NNT. What was not calculated for was all the signage and interpretation which needed updating and replacing. Even the patch and mend approach initially adopted using carefully made overlays proved to be an expensive route and a nightmare to deliver. I suspect BA does not have anywhere near the level of interp panels and signs that we have county wide, but it is nevertheless a significant cost and I think the paper should say something about costs. **Brendan Joyce (Chief**

Executive)

BA response: As noted, the proposal is about branding the area and does not involve any change in the legal name or functions of the Broads Authority. If the proposal is adopted, signage and interpretation panels will be replaced or updated over time to minimise costs.

47. Suffolk ACRE – no response received.

48. Suffolk Association of Local Councils – no response received.

49. Suffolk Biodiversity Partnership – no response received.

50. Suffolk Constabulary

I can confirm the Constabulary will support the adoption of the phrase 'The Broads National Park'.

I am confident that communications devised by the Constabulary and the Office of the Police and Crime Commissioner can make reference to our work with you and the importance of creating a strong and safe environment for tourism and wildlife. **Douglas Paxton (Chief Constable)**

BA response: Comments noted.

51. Suffolk Local Access Forum – no response received.

52. Suffolk Strategic Partnership – no response received.

53. Suffolk Wildlife Trust

Suffolk Wildlife Trust is keen to raise the profile of the 'Suffolk Broads' as it is a strategically important area for us in delivering our Living Landscape vision as well as investing in Carlton Marshes as a flagship site.

Clearly identifying the Broads as a National Park would help communicate the quality of the Broads landscape and natural environment – qualities that are seen as integral to the National Park brand. National Parks are also seen as being accessible landscapes for people – a message we are keen to communicate to attract more people to enjoy the special places we manage as nature reserves.

Julian Roughton, Chief Executive

BA response: The SWT's support is welcomed. The Authority is keen to continue to support the excellent work of the Trust at Carlton Marshes.

54. **Wild Anglia** – Late response received – See Appendix D.

Local Organisations

55. Broads Angling Strategy Group – no response received.

56. Broads Hire Boat Federation

At the Annual General Meeting of the Broads Hire Boat Federation held on Wednesday 10th December 2014, the following response to Key Questions in the Consultation Document October 2014 was agreed unanimously:

1. The Broads Hire Boat Federation would support the use of the term “the Broads National Park” for the reasons and benefits described in detail in the Consultation Document.
2. BHBF members would use the term “the Broads National Park” as appropriate in promotion and marketing, but not to the exclusion of the branding “Britain’s Magical Waterland” which is of more direct relevance to the leisure boating business.
3. The Broads Authority must recognise the legitimate concerns of the boating community:
 - (a) by removing from all its policy documents the “long term ambition of achieving full National Park status” and
 - (b) by declaring that there will be no proposal by the Authority now or in the future to introduce legislation invoking the Sandford Principle in its management of the Broads otherwise than in a manner that is acceptable to and settled with boating interests. **Tony Howes (Secretary)**

BA response: The BHBF’s support for the use of the Broads National Park branding is welcomed.

The Authority has no intention of disregarding the interests and concerns of recreational boating and sees this activity as one of the unique characteristics of the Broads that needs to be treasured and enhanced. It has never indicated any intention to adopt the Sandford Principle and is of the view that the Habitats Regulations provide the required level of protection for the biodiversity of the Broads against damaging activities.

The Broads Plan 2011 states that:

“In May 2010, members of the Broads Authority discussed the draft long-term vision for the Broads and supported the objective that, by 2030, the Broads would be a national park where the public legal rights of navigation continued to be respected and embraced. Though this objective would require primary legislation, members considered this an important ambition in support of the long-term vision.”

The Chief Executive’s report to the Broads Authority (23 January 2015) on branding the Broads is recommending that, should Members resolve to implement the Broads National Park branding, they could indicate that the Authority no longer intends to pursue the long term ambition in the 2011 Broads Plan, in view of the anticipated benefits of the new branding. It is hoped that such a statement would assuage the concerns raised by the BHBF.

57. Broads IDB – no response received.

58. Broads Society

You will note that this is a very broad response. Our members have a wide difference of opinion on this matter and our response has tried to reflect this. I am sure that with further clarification on the legal concerns we would be far happier with the proposals but for two points:

- a) We feel that the Norfolk and Suffolk Broads are far more than just a National Park
- b) That this exercise does not turn out to be the first step of the Authority becoming a full National Park with all the implications that might have for navigation. (Robin Godber, Chairman)

Members of the Broads Society share a common purpose to help secure a sustainable future for the Broads as a unique and protected landscape in which leisure, tourism and the local economy can thrive with the natural environment. We feel it is our duty to ensure the continued unique existence of the Broads for future generations.

In answer to the Broads Authority's proposal to call the area *The Broads National Park*, as opposed to *the Broads, a Member of the National Park family*, our members fully appreciate the importance of a thriving tourist industry in the Broads for the future sustainability of the region. We do not, therefore, object to the proposals provided that they do not lead to a watering down of the legal position as defined by the Broads Act 1988 and subsequently amended by the Natural Environment and Rural Communities Act of 2006.

We do, however, feel that the proposal has legal difficulties. These are:

1. There can be no difference between the Broads Authority's legal name and its brand
2. The BA has no legal power to change its name.
3. The proposal misunderstands the statutory functions of the BA.
4. The process of the proposal is flawed. Please see Appendix 1 for clarification.

Satisfactory answers to the above four points would remove much of our concerns over these proposals.

On a positive note our members feel that the Broads are more than just a 'National Park'. Although each National Park has its' own unique qualities, the Broads has the additional magical element of navigable tidal inland waterways and the words 'National Park' do not fully justify this special wetland. We do, therefore, have concerns of the Broads being labelled just another 'National Park'.

We appeal to the Members of the Authority, therefore, that when considering the responses to the Consultation, they take into account the very real concerns of not just ourselves that this is not the beginning of a process of the Broads becoming a full National Park with all the implications, particularly for navigation, that would imply.

Robin Godber (Chairman)

Legal Obstacles to the Proposal

There are four obstacles in law to the proposal to adopt the "brand" of Broads National Park.

1. The attempted distinction between a legal or corporate name and a day-to-day name or brand is impossible.
2. The BA has no power to change its name. To attempt to do so would be *Ultra Vires*.
3. The proposal is based on a false understanding of the BA's statutory functions.
4. The process of the decision is flawed.

1 Brand v Legal Name

Part of the difficulty here is that the term "brand" has no specific meaning in English law, this leads to confusion. The dictionary meaning is, "a type of product manufactured by particular company

under a particular name eg. a new brand of soap powder.” (OED) The proposal attempts to make a distinction between the “legal” or “corporate” name of the BA and its “brand” or day-to-day name. The statute created, “a body corporate to be known as the Broads Authority.” The effect of this is that legally there is no difference between what the Authority is “known as” on a day-to-day basis and its legal name. They are the same thing. So the BA is attempting the impossible.

2 Ultra Vires

Parliament is supreme, what it decides by statute cannot be undone, save by another Act of Parliament.

When a public body attempts to exceed its powers it is acting “Ultra Vires”, which is unlawful. The Consultation Document correctly notes that the statute contains no power to change the BA’s name but then incorrectly asserts that, according to “guidance” it has received, no change in legislation is required to effect the change or “use the term” as it puts it.

The document gives three comparisons of “other organisations which have used a different name from that in the legislation.” First, one notes that this section freely gives away the fact that this proposal is all about a change of name. More importantly, none of the comparisons is valid. Only the Historic Buildings and Monuments Commission for England is a public body named in legislation. The Norfolk Naturalists Trust is a charity. Anglian Water was a public body called the Anglian Water Authority until privatisation. It is now a trading enterprise called Anglian Water Services Ltd which uses a trading name. The Historic Buildings and Monuments Commission for England is different from the BA. It is partly a trading enterprise; some 35% of its considerable income comes from sales. The name English Heritage is - as they have confirmed to us - their trading name. The BA is not selling anything. It doesn’t have a trading name because it does not trade.

3 What is the proposal for? - Statutory Functions

The proposal says the change is for “marketing related purposes”. Exactly what this means is not clearly explained. It asks, entirely appropriately, “What is the legal difference between the Broads and other National Parks in the UK?” The answer given in the document may be summarised as, the BA has the same functions as a National Park plus an additional one of “protecting the navigation” and “equal weight is to be given to all its three purposes.” Both of these assertions are incorrect.

Statutory Functions

The non-navigation functions of the BA do closely resemble those of a National Park, (but only as they were originally constituted in 1949). The National Parks had their functions redefined by the Environment Act 1995 and an additional one was added by s 62 of:

shall seek to foster the economic and social well-being of local communities within the National Park, but without incurring significant expenditure in doing so, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park.

The BA does not have a function of fostering the local economy, though the thrust of the Consultation Document towards “marketing” the Broads assumes that it does.

If one examines the BA’s website these false assumptions become more evident. In the section “Who we are” the website asserts:

We have three purposes:

- *Conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads*
- *Promoting opportunities for the understanding and enjoyment of the special qualities of the*

Broads by the public

- *Protecting the interests of navigation.*
-

It goes on to say:

We must also consider the needs of agriculture and forestry as well as the economic and social interests of those in the Broads.

Function b) refers to:

(b) promoting the enjoyment of the Broads by the public

In this proper context, “promoting” means to improve or advance the public’s enjoyment of the Broads. It does not mean advertising or selling in the sense of marketing. One cannot sell “the enjoyment of the Broads by the public”.

“Equal Weight”

The BA’s statutory functions do *not* give “equal weight” to all three of them. Thus, discussion of the Sandford Principle is something of a red herring. The statute requires the BA, when exercising its navigation function, as follows:

S 10.(1) The Authority shall

(a) maintain the navigation area for the purposes of navigation to others in relation such standard as appears to it to be reasonably required; and to the navigation

(b) take such steps to improve and develop it as it thinks fit.

There is no mention in the 1988 or 2009 legislation as to what should be done in the (somewhat remote) event of a conflict between the functions. However, the 1988 Act goes on to say in reference to its “Part II”, that is, navigation functions (to summarise) tolls for navigation are to be expended on navigation expenses only and the account for navigation revenue is to be kept in balance on a year on year basis. (S 13 as amended in 2009 by Sched. 7). Currently, some 48% of the Authority’s income comes from navigation tolls. The effect of “ring-fencing” the navigation income is to give the BA an entirely separate function of maintaining and improving the navigation to reasonable standards using dedicated funds.

This separation of income makes the BA radically different from a National Park.

4 Judicial Review of Process

The process by which a public body makes its decisions and - where it decides to conduct one - any preliminary consultation embarked on for the purpose, must comply with Administrative Law. If they don’t, they are liable to be overturned by the Administrative Court. We don’t suggest that the Society should waste its limited funds by mounting a legal challenge. It is equally inappropriate for the BA to embark on a controversial decision, which it knows is liable to result in costly legal proceedings, without a clearly understood benefit in mind. They should make a business case first.

History

In order to understand the process of this proposed decision one must be aware of the controversial history. The Chief Executive of the BA has been attempting, in spite of public opposition, to have the BA made into a National Park for many years, including in the bills presented to Parliament in 2007/8. The correct procedure for designating a National Park is for the Countryside Commission (now known as Natural England) to designate the area as such under section 5 of the National Parks and Access to the Countryside Act 1949 (as amended by the Environment Act 1995) whereupon the Secretary of State creates a National Park Authority under

section 63 of the 1995 Act to administer it. People have been arguing since the 1940's, even before Parliament chose the first of the English National Parks, as to whether or not the Broads should be a National Park. Leaving aside the issue of whether or not that would be a good idea - as the Administrative Court will, in the event of a challenge by way of Judicial Review - the *process* is important. If public bodies choose to ignore due process we have anarchy.

It is not a hypothetical issue to consider what might happen if the BA were to be allowed to conduct itself without proper regard to statute. In 2013, the BA courted considerable controversy by attempting, on the basis of "legal advice", to partly fund a Promotion and Marketing post from the navigation revenue. Frankly, the job title gave away the obvious fact that this had nothing to do with navigation expenses. Furthermore, for five years between the 2005/6 financial year and 2009/10, the District Auditor gave the BA only a "qualified approval" to the BA's accounts because it had no accounting provision for depreciation of Fixed Assets. This has led to the wholly unsatisfactory position in October 2014 of the BA proposing to give up substantial Fixed Assets on the navigation, which it has already paid for out of navigation revenue, because it can't maintain them without a considerable increase in tolls.

Because Parliament has decided the process by which an area becomes a National Park no one, including the BA, has the power to usurp the role of Natural England. What the Consultation Document is attempting to do is persuade us that there is really so little difference between the Broads Authority and a National Park Authority that no one should mind if it takes on the title of Broads National Park. This is disingenuous. It is currently the official policy of the BA to overcome the objections previously made to its becoming a National Park. (section 4.4 Strategic Priority Objectives, Projects and Key Milestones for 2013/14) The Chief Executive must be acutely aware of the risk of conflict because, in return for withdrawing formal objections to - what became - the Broads Act 2009, the BA entered into a binding agreement with the Royal Yachting Association and the British Marine Federation under which it promised not to change its name. What this proposal is attempting, by a piece of legal *legerdemain*, is to just make the change without authority and hope no one takes it to court.

Sedley Principles

Public consultations are required to comply with the Sedley Principles, which are:

- (i) Consultation must take place when the proposal is still at a formative stage;
- (ii) Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response;
- (iii) Adequate time must be given for consideration and response; and
- (iv) The product of consultation must be taken into account conscientiously. (The 'Sedley principles' were first propounded by Stephen Sedley QC and adopted by Mr Justice Hodgson in *R v Brent London Borough Council, ex parte Gunning* (1985) 84 LGR 168).

Principle One

It is very noticeable that two of the consultation document's eleven pages are devoted to endorsements, which were obtained before Members of the BA even approved the consultation. They are overwhelmingly from tourism businesses or bodies charged with the promotion of tourism on the Broads. As has already been explained, the promotion of tourism is not one of the BA's functions, in spite of the fact that it clearly believes it is. The BA has entered into a business partnership with an organisation called Broads Tourism which promotes itself as "the voice of Broads tourism businesses." (www.enjoythebroads.com) Two of the endorsements come from Broads Tourism or one of its Executive Committee members.

Principle Two

There is, in public circulation, a copy of a letter from the then Minister Jonathon Shaw MP dated 31 March 2008 which reads:

In regard to the use of the name "National Park", the government has made its position on this very clear. We do not think that the Authority can lawfully take the title of a National Park, nor can the Authority lawfully take the title of a National Park Authority. This is because those titles are bestowed by specific Acts of Parliament, and the Broads legislation is different.

This position, which must be based on legal advice from the civil servants at Defra, is unequivocally at odds with the arguments contained in the Consultation Document. That document includes a statement:

The Authority has received guidance that no changes to the legislation are necessary for the use of the name the 'Broads National Park'.

In order to make "intelligent consideration and response" to the consultation the Society requested, under the Freedom of Information Act, a copy of the legal advice on which it is based and also of the "guidance", which was understood to mean guidance from Defra.

In the case of the legal advice, the Head of Compliance and Executive Assistant declined, giving Legal Professional Privilege as the justification because the advice was given to assess the BA's chances of success in legal proceedings. In the case of guidance from Defra he said that, "we are expecting a formal response from Defra on the proposal as part of the consultation response."

Having taken the decision to consult, the BA is not in a position to conceal the information which lies at the heart of its proposals. It has waived LPP by publicly relying on the legal advice.

Since designation as a National Park is the statutory function of Natural England we asked them for comment. Unfortunately, their response leaves us none the wiser. They tell us that the matter has been considered "at the highest level" and assert - as the Broads Authority does - that no change to the legislation is required, without giving any reasons as to why that is so.

Legitimate Expectation

Ever increasing tourism is not necessarily something which will advance or improve the enjoyment of the Broads by the public. It is significant to point out that more than half of the boats which pay tolls on the Broads are in private ownership. The legally binding agreement not to change the name of the Broads Authority to Broads National Park will have created what is termed in Administrative Law as a "legitimate expectation" that the RYA and BMF would at least be consulted before the BA changes its name. Yet there are no endorsements from any bodies concerned with navigation by private boat owners. The only endorsements from those with any interest in navigation have come from commercial enterprises. As already noted, two come from executive members of Broads Tourism.

BA response: We note the Broads Society's response and the concerns raised. It is noted that individual members of the Broads Society have very differing views on this proposal, but that overall the Society does not "*object to the proposals provided that they do not lead to a watering down of the legal position as defined by the Broads Act 1988 and subsequently amended by the Natural Environment and Rural Communities Act of 2006.*"

In response to the four legal points, these focus on the organisation rather than the area.

Brand v legal name:

The Authority is proposing to change only the way the area is referred to. The proposal does not

involve any change in the legal name or functions of the Broads Authority.

Ultra Vires:

The Authority may adopt a brand name of National Park using the power available to it in section 111 of the Local Government Act of 1972, which enables the Authority to do anything which is incidental or conducive to its other functions. To exercise this power effectively we will need a full Authority decision which identifies the function or functions in question and states why the authority considers the branding to be incidental or conducive to those functions.

What is the proposal for? Statutory functions

The purposes of national parks:

- (a) of **conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas** specified in the next following subsection; and
- (b) of **promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.**

and the functions of the Broads Authority:

- “(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and”.
- (c) protecting the interests of navigation.”

remain very similar. The Authority does have a duty to consider the needs of agriculture, forestry and the economic and social interests of those in the Broads by section 2(4) of the Broads Authority Act 1988. Economic interests link to tourism.

Section 2 (1) (b) refers to “promoting opportunities for enjoyment of the Broads by the public”. We feel that the Broads Society’s response is adopting a rather restricted definition of the function of promoting the enjoyment of the Broads by the public. We consider that within accepted language usage, ‘promoting’ does include advertising and marketing, to make the public aware of the opportunities that exist. If the Authority reasonably believes that adopting a brand name of Broads National Park will promote economic interests via tourism and enjoyment of the Broads by the public, the adoption of a brand name is in furtherance of and incidental or conducive those duties.

Equal Weight

The Broads Authority’s three general functions do have equal weight in section 2 of the Broads Act 1988. It would be correct to say that the Authority’s navigation functions are a distinct function but that does not alter the balance of weight in section 2. Whether the separation of income for navigation or the inclusion of a navigation general duty makes the Authority “radically” different from a national park is a matter of subjective opinion and not a legal issue.

Judicial Review of Process

As mentioned above, the Authority will have to take a decision that adopting a brand name for the area is incidental or conducive to its functions. This is the decision that is potentially subject to judicial review. The Authority’s decision has to be reasonable and the courts give public authorities a wide discretion and latitude when assessing reasonableness. The Authority’s legal advice is that such a decision is unlikely to be found unreasonable by the courts, even if a challenge were brought. The Authority does appear to have a clearly understood benefit in mind set out in the consultation document.

History

The response notes more or less in passing the proposal to fund a promotion and marketing post partly from navigation revenue. The Authority's legal advice at the time was that it would be lawful to part fund such a post from navigation income, on the assumption that the post would benefit the general navigation function in section 2.

The Authority is not usurping the role of Natural England to decide a process by which an area becomes a national park, because it is not claiming to be a national park.

Consultation

Principle 1:

In exercising its s.111 LGA 72 power to adopt a brand name for the area, the Authority is under no statutory duty to consult anyone. The consultation can be regarded as a relevant factor in the Authority's decision but is not a pre requisite to a lawful decision to adopt a brand name. In fact the Authority has taken great care to consult with all the main stakeholder organisations in the formative stage – this included officials at Defra, the leaders of the RYA, BMF, BHBF, NSBA, Norfolk Wildlife Trust, Suffolk Wildlife Trust, the RSPB, Broads Society, all the constituent local authorities, the Local Economic Partnership, Visit Britain, Broads Tourism and others.

Principle 2: The consultation document sets out in some detail the background to the proposal and the reasons behind it. Under this heading the Society refer to the letter from the Minister in 2008. The Minister was not considering this proposal when the letter was written.

Principles 3 and 4: The Society's response does not comment on these. A period of three months was allowed for the consultation, which appears to be adequate. The consideration of the consultation responses is a matter for the Authority report on 23 January 2015.

Legitimate expectations

The agreement with the RYA and BMF does say at paragraph 16 that the Authority will only exercise the power in the Local Government Act 1972 to change its name with the agreement of the BMF and RYA. The Authority is not seeking to exercise the power in section 74 and the RYA and BMF have been consulted on the use of a brand name. As stated above, the Authority is proposing to change only the way the area is referred to and is not proposing to change its legal or corporate name.

The Broads Society is an important stakeholder with its wide membership and the Authority looks forward to an ongoing close working relationship through initiatives such as the Broadsword and the Broads Trust.

59. Broads Tourism

I am in full support of the use of the National Park Branding as I believe that the benefits to our members will be hugely rewarding, both for now and for years to come. Not only will it benefit in being able to use the strength and recognition of the 'National Park' name to promote the Broads to a much wider audience, it will also add weight and integrity to our existing branding work that has worked so well to date in unifying all of the businesses that make up the unique Broads experience. **Katie Lawrence (Chair, Broads Tourism)**

BA response: Comments noted.

60. Easton College - no response received.

61. How Hill Trust

1. How do you feel about a more consistent use of the term Broads National Park as a brand?

The How Hill Trustees feel the Broads National Park would be less confusing than Broads Authority 'Part of the National Park Family', which few people seem to identify with and creates no real sense of identity or location. The proposed rebranding would thus give a more meaningful and understandable identification to the Broads which would put the area on equal status to the other National Parks which are well known and respected. The proposed rebranding will undoubtedly have a positive impact on the economy of the area.

2. In what ways would you envisage your organisation using the term the Broads National Park?

We would use the new branding in all our advertising, website, Facebook etc. The How Hill Trust is currently known as the 'Environmental Study Centre for the Broads'. We would therefore market ourselves as the Environmental Study Centre for the Broads National Park – or something very similar. This can only be a positive change for the How Hill Trust, reinforcing the unique environment in which we operate, and is unanimously supported by all Trustees.

3. Are there any specific actions the Broads Authority could take to support and help your organisation in using the Broads National Park brand?

The Broads Authority already supports the How Hill Trust in many ways for which we are grateful. However, by proactively referring to us as the Environmental Study Centre for the Broads National Park (or similar), would have a very positive impact on marketing the Trust. Sharing a site with the Broads Authority (one of your visitor 'hubs'), the new branding should attract more visitors to the site as a whole. New signage for the How Hill site (promised for over three years!) will be crucial in creating a welcoming and professional visitor experience; the sort of experience expected in existing National Parks. Equally, new branded road signs to How Hill would be very welcome too. This would benefit both the How Hill Trust and the Broads Authority

Simon Partridge (Trust Director)

BA response: Subject to the decision by Members at the Broads Authority meeting on 23 January, officers will work with the Trust to look at signage at the property and the opportunities for brown signs.

62. Norfolk and Suffolk Boating Association

The Norfolk & Suffolk Boating Association has around 1000 individual members and 50 affiliated organisations themselves representing many hundreds of boat owners in the area. It has been representing the interests of private boat owners since its foundation in 1894.

We have been asked to comment on the consultation document "Branding the Broads" dated 26 September 2014 in which the Chief Executive recommends that the Broads Authority adopts the term "Broads National Park" from 2015 onwards. The response which follows has evolved from the views of the NSBA Committee and comments from our membership in general. Three key questions are posed in the consultation document:

1 How do you feel about a more consistent use of the term the Broads National Park as a branding exercise?

2 In what ways would you envisage your organisation using the term the Broads National Park?

3 Are there any specific actions the Broads Authority could take to support and help your organisation in using the Broads National Park brand?

As the consultation document states, it is the duty of the Broads Authority under the Norfolk and Suffolk Broads Act 1988 to manage the Broads for the three purposes of:

- Conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads
- Promoting opportunities for understanding and enjoyment of the special qualities of the Broads by the public
- Protecting the interests of navigation.

National Park Authorities for the National Parks designated under the National Parks and Access to the Countryside Act 1949 have purposes corresponding to the first two purposes ("the National Park purposes"). It is the Broads Authority's third purpose, not shared with National Park Authorities, which marks out the Broads as being different from the designated National Parks. So does the fact that, in the Broads, equal weight has to be given to all three purposes - the two National Park purposes and "protecting the interests of navigation". In contrast, in a National Park designated under the 1949 Act the "Sandford principle" applies whereby greater weight is given to conservation where there is a conflict between the two National Park purposes. The Broads is therefore not simply different from a National Park designated under the 1949 Act. It is more than such a Park.

Whilst our members and boat owners in general share a love of the wildlife and ecology that makes the Broads special and most enjoy the recreational opportunities in some way, it is no surprise that navigation matters are of prime concern to those using boats. Indeed one of the special features of the Broads is that navigation by boat is necessary to access a significant proportion of the area.

It is essential that the Broads retains its special legal status. As the NSBA has long indicated, it would strongly oppose any proposal to change that status. The NSBA welcomes the clear re-assurance given in the consultation document that the Authority's three purposes would remain unaltered by the proposed rebranding, and that the requirement to give equal weight to the three purposes of the Broads Authority would remain unaltered. The NSBA notes, however, that there is a risk that the adoption of the branding proposal could be the thin end of the wedge towards the designation of the Broads as a National Park under the 1949 Act, since, if the Broads National Park name were adopted it may be argued in the future that full transition of status would be easier to achieve. Why should this risk be taken? The continuing existence in the Authority's business plan (latest 2014/15 – 2016-17) of a "long term ambition of achieving full National Park status" merely supports the suspicion that the branding exercise is simply a step in that direction. The Authority must expressly disavow this ambition if this suspicion is to be allayed. Only then could it realistically expect the support of the NSBA for the branding proposal. Moreover, such a disavowal would mean that the relationship between private boaters and the Authority could move on without being constantly distracted by that ambition.

Turning to the three questions posed:

Q1 How do you feel about a more consistent use of the term the Broads National Park as a branding exercise?

It is unclear what the full intentions of the branding exercise are and accordingly there are a variety of comments which may be relevant, in addition to those above.

The initial impression is that there would appear to be little advantage for private boaters in adopting the term Broads National Park. It is appreciated that tourism organisations may see short term benefits in attracting greater visitor numbers to the region, but it is hard to find anything in the consultation document which suggests any benefits to those using private boats.

Its current status as a member of the National Park family already allows the area to benefit in a

number of ways, including inclusion on the National Parks website, access to funds arising from National Park sponsorship agreements and contributing to and benefiting from campaigns at a national and international level. Awareness of the status, quoted in the document at 59%, is already at a similar level to the Yorkshire Dales at 60% (2008 customer survey), so perhaps there is not so much wrong with the status quo in that respect.

Although not at all clear from the document, it is possible that the rebranding will help the Authority to improve public access to parts of the area presently closed off. The NSBA would be fully supportive of any opportunities to increase the area available for recreational boating on the Broads and would welcome an initiative from the Authority towards that objective.

However a major concern is that rather than clarifying the status of the Broads, the rebranding would in fact make matters more confused. By adopting the proposed branding, the Broads will be closer aligned to “ordinary” National Parks and there is a significant risk that the understanding of the all-important additional navigation purpose is lost. In the longer term any possible dilution of the importance of navigation could have a detrimental effect on tourism far greater than any positives achieved by a branding exercise.

To use a wildlife analogy, consider a farmer who keeps chickens and ducks. Whilst they both fly and lay eggs, only the ducks also swim on a pond. Should the farmer “rebrand” the ducks as chickens? Not only confusing, but it might be decided in the future to drain the duckpond as it is no longer required by “chickens”.

The consultation document recognises that the Broads is more than a National Park, it is a National Park “plus”, so why not acknowledge that in its branding, rather than restricting it to being just another National Park.

Q2 In what ways would you envisage your organisation using the term the Broads National Park?
The NSBA does not envisage using the term.

Q3 Are there any specific actions the Broads Authority could take to support and help your organisation in using the Broads National Park brand?
No.

Richard Card (Chairman)

BA response: The comments of the NSBA are noted.

The branding proposal does not involve any change in the legal name or functions of the Broads Authority and it will continue to have three purposes, none of which takes precedence. The Authority sees recreational boating as one of the unique characteristics of the Broads that needs to be treasured and enhanced.

The long-term ambition in Broads Plan 2011 states that: *“In May 2010, members of the Broads Authority discussed the draft long-term vision for the Broads and supported the objective that, by 2030, the Broads would be a national park where the public legal rights of navigation continued to be respected and embraced. Though this objective would require primary legislation, members considered this an important ambition in support of the long-term vision.”*

The Authority’s position has always been that it sees its role as being the integrated management of the Broads, looking at issues in the round, and for that reason in 2006 it promoted the idea that a more modern approach to national park purposes would be to look at the principle of sustainable development. However, while there was some support for the idea, others remained committed to the Sandford approach. It was therefore not pursued.

The Authority feels that the branding proposal is a positive way to bring the benefits of the national park brand to the area while at the same time retaining the current legal status of the Broads Authority. As such, in the report to the Broads Authority on 23 January 2015, officers are recommending that, if the Authority decides to implement the new branding, it could indicate that it no longer intends to pursue the long-term ambition for the area to be a national park in law and, for the avoidance of doubt, also state that it does not intend to seek the application of the Sandford Principle to its functions. It is hoped that such a statement would assuage many of the concerns raised by the NSBA and others within the boating community and, in the words of the NSBA response, *“mean that the relationship between private boaters and the Authority could move on without being constantly distracted by that ambition.”*

Parish Councils

- 63. Geldeston PC – no response received.
- 64. Postwick with Witton PC – no response received.
- 65. Brumstead PC – no response received.
- 66. Bramerton PC – no response received.
- 67. Claxton PC – no response received.
- 68. Rockland St Mary with Hellington PC – no response received.
- 69. Neatishead PC – no response received.
- 70. Broome PC – no response received.
- 71. Ludham PC – no response received.
- 72. Filby PC – no response received.

73. Potter Heigham PC

Following the circulation of this document with the councillors of Potter Heigham Parish Council I have now received back comments relating to its contents which are as follows:

- 1) No objections to the rebranding of the Broads Authority to The Broads National Park. However there are still misgivings over the BA being an unrepresentative body. There are no elected local councillors who can reflect local views and concerns.
- 2) As this is purely marketing it will not affect the running of the BA but may help local tourism businesses, so I see no reason to object to the rebranding.
- 3) I welcome this rebranding exercise as this may attract more funding. I do have concerns about representation on the BA and hope that as per the "Queens Speech", elected representatives will be realized to give a voice to all of us affected by the running of the Broads as a whole.

BA response: The Council's comments are noted. The Government has announced its intention to

consult on a draft bill in regard to direct elections to national park authorities and the Broads Authority. The nine County and District Councillors who sit on the Broads Authority are directly elected and try to reflect local views and concerns.

74. Worlingham PC – no response received.

75. Belaugh Parish Meeting – no response received.

76. Kirby Bedon PC – no response received.

77. Barton Turf and Irstead PC – no response received.

78. Beccles Town Council

I am writing to formally offer the Council's full backing of your proposal to use the term the Broads National Park as a brand for the Broads. The Town Council agreed that National Park status is recognised worldwide and that using such terminology would significantly raise the profile of the area and attract more visitors to this region.

Beccles Town Council and the Beccles Business and Tourism Association produce a number of tourist guides and maps and also contribute to the running costs of the Tourist Information Centre, which is currently located at Beccles Quay and so could use this branding to further publicise to visitors the natural beauty and special qualities of the area, particularly as the gateway to a National Park.

BA response: Comments noted. The Authority is committed to continue working with the Town Council on its problems with Beccles Quay.

79. Bradwell Parish Council

The only problem that this council can identify with your proposal to more greatly utilise the term 'Broads National Park' is that its initials BNP are already associated in many people's minds with the 'British National Party' political movement.

BA response: The Council's support is welcomed. The Authority is aware of the issue about the use of initials for the Broads National Park, although it may be less of an issue than when it was first discussed in 2001. However, should the proposal be adopted, careful consideration will be given to the way the name is displayed.

80. Carleton St Peter PC – no response received.

81. Halvergate PC – no response received.

82. Sea Palling and Waxham PC – no response received.

83. Oulton PC – no response received.

84. Hickling PC – no response received.

85. Fritton and St Olaves PC – no response received.

86. Rollesby PC – no response received.

87. Fleggburgh PC – no response received.

88. Thurlton PC – no response received.

89. Surlingham PC – no response received.

90. West Caister PC – no response received.
91. Haddiscoe PC – no response received.
92. Martham PC – no response received.
93. Ormesby St Margaret with Scratby PC – no response received.

94. Cantley Parish Council
Cantley Parish Council have considered the proposals to rebrand the Broads using the National Park name. The Parish Council feels that anything which promotes the Broads while preserving the core aims and objects such as tourism and jobs, should be encouraged.
BA response: Comments noted.

95. Thurne PC – no response received.
96. Caister-on-Sea PC – no response received.
97. Aldeby PC – no response received.
98. Coltishall PC - Late response received – See Appendix D.

99. Dilham Parish Council
We believe that the use of the National Park Brand would be of no benefit to the Parish Council and it does not support the National Park status for the area.
BA response: Comments noted.

100. Repps with Bastwick PC – no response received.
101. Smallburgh PC – no response received.
102. Thorpe St Andrew PC – no response received.
103. Horning PC – no response received.
104. Ashby St Mary PC – no response received.

105. Somerton West/East Parish Council
<p>If the purpose of this exercise is as stated on page 10 of the document "such a rebrand would draw visa any thousands more visitors to the area" and there is no plan or proposal to improve facilities such as waste collection then this Parish Council strongly objects to the use of the term Broads National Park.</p> <p>Somerton Parish Council would only use the term Broads National Park if there was true local representation in the Broads as currently exists in National Parks i.e. Parish Council representation taking effective part in the decision making process.</p> <p>In view of our comments above, there are no specific actions the Broads Authority can take to support and help us in using the Broads National Park brand since we will not be using it.</p>
BA response: The Council's comments are noted. The Authority is working with the district councils to develop an overall strategy for waste collection in the Broads. The Government has announced its intention to consult on a draft bill in regard to direct elections to national park authorities and the Broads Authority.

106. Hales and Heckingham PC – no response received.
107. Ormesby St Michael PC – no response received.
108. Stalham Town Council – no response received.
109. North Cove PC – no response received.

110. Acle Parish Council

Acle Parish Council objects to the use of the term "National Park" for the Broads.

The councillors felt:

- that they have concerns about attracting even more tourists to the area when there are legal requirements to mitigate the impact of tourism on the fragile and vulnerable Broads
- that it is dishonest to call the Broads a National Park, when they are not
- that the National Park ethos does not support the needs of navigation
- that the Broads are individual and do not need to be absorbed under the National Park umbrella to a greater extent than they are already

The Parish Council would not expect to use the term National Park.

The Parish Council would need funding from the Broads Authority to pay for the change to the signage at the entrance to the village.

BA response: The Council's comments are noted. The Broads has a status equivalent to that of a national park and it is therefore not dishonest to refer to the Broads National Park. Google Maps, local tourism business and the media already do so. There are National Parks that also have important navigation elements – for example Loch Lomond and the Trossachs – where use of the term National Park is seen very positively. All National Parks are unique but have common objectives of conserving for the natural beauty while promoting its enjoyment by the public.

111. Beighton PC – no response received.
112. Ranworth PC – no response received.

113. South Walsham Parish Council

- (1) At the November meeting of South Walsham Parish Council there appeared to be a unanimous objection to the proposed 'Rebranding' of the existing Norfolk Broads.
- (2) Very little concrete information has been forthcoming from the relevant authority as to the benefits that the proposed rebranding would bring to the parishioners resident within the BA confines.
- (3) The only reasons given so far seem to be that this course of action will allow the Broads Authority to alter the balance of Navigation and Conservation firmly in favour of conservation to the detriment of both the navigation committee and its budget which it appears will be opened up to being used for other uses than was originally intended.
- (4) There is no clear guidance as to what new rules and regulations those residing in the proposed National Park will be subjected to in terms of planning restrictions which makes no sense as the cost of adhering to National Park policies may well be prohibitive as in other 'National Park' areas.

- (5) It appears that in common with other Parish Councils within the BA area the only (Non-Elected and therefore without a public mandate) Authority that wants to alter the current position is the BA themselves.
- (6) As has been proven by our own experiences i.e. the attitude of the BA to the problem of disposal of litter and other visitor generated rubbish, how can they be trusted to use the cachet of being a National Park when they show so little interest in the interface between those parties that care about and attempt to use this unique area.

BA response: The Council's comments are noted. The proposal relates only to the branding of the area and does not involve any change in the legal name or functions of the Broads Authority including its three purposes, none of which takes precedence, or its planning function. County and District Councils support the proposal and have a public mandate. We are always keen to improve liaison with local communities and issues or concerns can be discussed either directly with our officers or through other means such as the Broads Forum (which has parish council representation), or at one of the Broads Community Forums. The Authority is aware of issues regarding the provision of refuse collection in the area, and is continuing to work with the District Councils on this matter.

114. Upton with Fishley Parish Council

Upton Parish Council objects to the use of the term "National Park" for the Broads.
The councillors felt:

- that it is dishonest to call the Broads a National Park, when they are not
- that the National Park ethos does not support the needs of navigation
- that the Broads are individual and do not need to be absorbed under the National Park umbrella to a greater extent than they are already

The Parish Council would not use the term National Park

The Parish Council would not need any assistance in using the term National Park

BA response: The Broads has a status equivalent to that of a national park and it is therefore not dishonest to refer to the Broads National Park. Google Maps, local tourism business and the media already do so. There are National Parks that also have important navigation elements – for example Loch Lomond and the Trossachs – where use of the term National Park is seen very positively. All National Parks are unique but have common objectives of conserving for the natural beauty while promoting its enjoyment by the public.

116. Woodbastwick Parish Council

This was discussed at a recent Parish Council meeting. However, it was felt that this exercise is of little value as it would not change the legal status of the Broads and that there are more urgent issues for the Broads Authority to deal with. As a Parish Council with public moorings in the Parish, the councillors feel that there is a greater need to resolve the issues of waste collection and management of the boats using the moorings.

There are also serious concerns about the cost of the consultation and how that money could have been better utilised.

BA response: The Authority is working with the district councils on the issue of rubbish collection. The cost of the consultation has been very modest. Because of the importance of the topic and the desire to encourage organisations to respond, and to explain the complex issues to key stakeholders, 800 copies of the document were printed at a cost of £1,378. An electronic version was also made available on the Authority's website. The staff time and effort associated with the

consultation has also been modest and has often been undertaken alongside regular meetings and discussions on other matters.

- 117. Mettingham PC – no response received.
- 118. Burgh Castle PC – no response received.
- 119. Ellingham and Kirby Cane PC – no response received.

120. Trowse with Newton Parish Council

- 1 We support the more consistent use of the brand name of Broads National Park. We feel it will enhance the image of the Broads both locally and nationally and be an aid to promoting the area as a holiday destination and an area of scientific interest.
 - 2 It will make it easier for the members of the Parish Council and others to be clear about the areas that are being discussed in planning matters and applications for other projects if they fall within the Broads National Park.
 - 3 Once a decision has been made then clear and simple publicity to explain the term National Park and the implications, in terms of planning and rules for the whole area would be helpful. Greater publicity for the general public so that they can understand the decisions that have been made and the benefits both locally and nationally.
- The public need to understand the financial benefits that will arise from joining the family of National Parks.

BA response: The Council's support is welcomed.

- 121. Ashby with Oby PC – no response received.
- 122. Freethorpe PC– no response received.
- 123. Bungay Town Council– no response received.
- 124. Ingham PC– no response received.
- 125. East Ruston PC– no response received.
- 126. Hoveton PC– Late response received – See Appendix D.
- 127. Crostwick Parish Council– no response received.
- 128. Earsham PC– no response received.
- 129. Ashby, Herringfleet and Somerleyton PC– no response received.
- 130. Gillingham PC– no response received.
- 131. Horsey PC– no response received.
- 132. Honing and Crostwight PC– no response received.
- 133. Barnby PC– no response received.
- 134. Carlton Colville PC– no response received.
- 135. Langley with Hardley PC – no response received.
- 136. Blundeston and Flixton PC – no response received.
- 137. Brundall PC – no response received.

138. Barsham and Shipmeadow PC – no response received.

139. Ditchingham PC – no response received.

140. Loddon Parish Council
In response to the 'Branding the Broads' consultation, Loddon Parish Council would like it to be noted that it has no objections to the use of 'Broads National Park' and hopes that any changes would result in an increase in tourism in the area.
BA response: Comments noted.

141. Norton Subcourse Parish Council
Around 20% of dwellings in Norton Subcourse are in Broads Authority area, but there appears to be little support from those residents to live within a 'National Park'. Norton Subcourse parish council would not support the change of name from the Broads Authority to 'The Broads National Park'
BA response: Comments noted.

142. Burgh St Peter and Wheatacre PC – no response received.

143. Catfield PC – no response received.

144. Sutton PC – no response received.

145. Horstead with Stanninghall PC – no response received.

146. Hemsby PC – no response received.

147. Mautby and Runham PC – no response received.

148. Stokesby with Herringby PC – no response received.

149. Brampton PC – no response received.

150. Strumpshaw PC – no response received.

151. Belton with Browston PC – no response received.

152. Reedham PC – no response received.

153. Winterton-on-Sea PC – no response received.

154. Salhouse PC – no response received.

155. Wroxham PC – no response received.

156. Chedgrave Parish Council
<ol style="list-style-type: none">1. The majority of Cllrs were in favour of a more consistent use of the term "The Broads National Park" as a brand.2. The Cllrs would envisage using the term to promote tourism and a sustainable future for The Broads.3. The Cllrs felt that the Broads Authority could provide support and assistance in providing better/improved facilities, including public slip ways for visitors and local people and also help educate local people about the area.
BA response: Comments noted.

157. The Broads Trust

1. The present title, "The Broads, a Member of the National Park Family", is unclear and to an outsider what does it actually mean? The proposed title, "The Broads National Park", is both concise and will also align the area with the National Parks resulting in gaining all the benefits that the other Parks presently enjoy. However, the Broads is a very special National Park, distinctly different, and we would not want the unique features to be ignored in promoting any new branding. We are not 'just another National Park'!

A holiday area cannot be created by a branding exercise: to be successful the branding must reflect the true nature of that area. We believe the work of our Trust in promoting and funding high quality projects throughout the Broads will help to underpin improvements to match the aspirations of being a National Park.

2. Should the proposed title be adopted then the Broads Trust would make every effort to find ways to benefit from the new title whether it concerns the selling of its merchandise or simply advertising the fact that the Trust operates within a National Park. The Trust's own identity and that of our major project, Love the Broads, could sit well alongside any new 'National Park' branding of the area. The new branding also needs to sit alongside and recognise the power of the 'Britain's Magical Waterland' brand which has been in use by Broads Tourism for several years and is well imbedded in much marketing material. We will continue to link to 'Britain's Magical Waterland' through our close association with Broads Tourism.
3. The Broads Authority already gives considerable support to the Trust which we hope will continue if the new title is adopted. We would require an information pack about the new title and where and how to use it as well as appropriate copies of any new logo to use on our website and in our promotional literature. **Nicholas Barne (Chairman)**

BA response: The Trust's support for the proposal is welcomed. The Authority does not see any difficulty in the new brand running alongside 'Britains Magical Waterland'.

158. Whitlingham Charitable Trust

1. The Trust accepts that, given that the Broads is equivalent in status to a UK National Park, aligning it more closely with this internationally recognised brand would be a logical step in raising awareness of its special qualities.
2. Trustees also acknowledge that National Park branding should facilitate advertising of the Broads as a tourist destination as well as helping to taking advantage of corporate sponsorship opportunities. In this context, since Whitlingham represents a prime "gateway" to the Broads from Norwich such branding may well reinforce the marketing of the Whitlingham Country Park.
3. However, the Trust considers that, while there is no inconsistency in having a Country Park within a National Park, we believe that Whitlingham is itself a strong local brand whose potential has yet to be fully realised. Trustees are therefore anxious that branding of the Broads should not dilute the impact of the Whitlingham Country Park brand and would welcome consultation on the use of such branding in practice.

Martin Shaw (Chairman)

BA response: Comments noted.

Other Organisations

Broadland Cycle Hire

I believe that the ability to use the term Broads National Park will enhance the promotion of the area to some extent. However, a brand name needs to reflect the truth about the subject being branded: the nature of the Broads cannot be changed by the use of the term National Park or any other descriptor. If the area does not live up to the name, the message and value will be lost and visitors and locals alike will be disappointed. If the Broads National Park is accepted as a usable title we all need to work hard to make sure that the area lives up to the high standards that the name implies. One of the enduring goals of the National Park movement is to encourage and develop public access in the Parks. In using the term the Broads National Park the Authority must work hard to extend public access to all areas, both on land and water.

The Britain's Magical Waterland brand has been very successful for my business and many others and, as a member of Broads Tourism, I will continue to use this brand material. The term National Park is not unique or specific to the Broads whereas Britain's Magical Waterland effectively captures a beautiful image of the area. It is an appropriate title for the Broads, is more family friendly than National Park and better describes the offering. However, I will be able to use the title the Broads National Park in promotional and advertising literature for my business where appropriate and to convey a specific message about the character of the area.

I will need a full suite of supporting text and images for the brand. The information must show how the term the Broads National Park blends in and supports the Britain's Magical Waterland branding. It will also be helpful to have information about how the Broads fits in to the National Park network and in what ways it is distinctive from the other Parks. The Authority must work hard to develop open access and opportunities for quiet enjoyment, typical of National Parks, alongside responsibility for conservation. In the network of National Parks around the UK there is excellent provision for walking and cycling but this is not the case in the Broads. Although there is a moderate network of footpaths in the area there is very poor provision of shared use, circular walking/cycle paths and there are no cycle paths along the riverside in the Northern Broads area.

Further provision of dedicated 'traffic-free' circular cycle routes is needed to encourage family friendly cycling and to meet the expectations of my customers who may be attracted to the area by the use of the name the Broads National Park.

BA response: Comments noted. Recent research suggests that there is considerable potential for growing quiet recreation such as walking and cycling and the Authority will be considering what more it can do in this regard, in particular through its Integrated Access Strategy and working closely with the Broads Local Access Forum and County LAFs.

Carrow Yacht Club

With regard to the Consultation on the subject I write on behalf of the Commodore Flag Officers, Committee and 106 Members of Carrow Yacht Club to express our strong opposition to the move to re-brand the Broads as a National Park. The Broads are not a National Park and never can be because of the Sandford Principle. Enshrined in National Park legislation is the principle of conservation of natural beauty. However the Broads are not natural but are largely man made. The Broads differ from National Park in that they are an interconnected system of navigable waterways, a system of confined rivers linking flooded medieval peat diggings. So at the heart of the Broads are water related activities such as boating and fishing.

It is essential that navigation remain at the forefront of the Broads Authority's actions. Support for

the re-branding exercise comes from holiday companies, such as Hoseasons, in the belief that calling the Broads a National Park will increase visitor numbers, particularly from abroad. But visitors already bring over £500M to the local economy annually, second only to the Lake District among national parks. But to call the Broads a National Park when it is not so is a deception for commercial gain. Such sophistry is unworthy of the Broads Authority. We therefore call upon the Secretary and the Broads Authority to reject this re-branding proposal outright.

BA response: The Broads is a cultural, living landscape which like all national parks in Britain has been fashioned over hundreds of years by nature and by people. The Broads has already been given a status equivalent to that of a national park and the Authority believes it is appropriate, consistent and helpful to the public to refer to the area as the Broads National Park. In the Broads, recreational boating is one of the unique characteristics that needs to be treasured and enhanced. There are National Parks that also have important navigation elements – for example Loch Lomond and the Trossachs – where use of the term National Park is seen very positively. All National Parks are unique but have the common objectives of conserving for the natural beauty while promoting its enjoyment by the public. The branding proposal is intended as a positive way to bring the benefits of the national park brand to the area while at the same time retaining the current legal status and name of the Broads Authority. The term Broads National Park is already used, by Google Maps, local tourism businesses and the media among others.

Hoseasons

I have no hesitation in supporting the Broads National Park branding, for the simple reason that the term National Park has become so embedded into the English language as an area of recreation, enjoyment, tranquillity and natural beauty that it embodies perfectly this unique and unrivalled landscape and puts it firmly on the map as a 'must see' area for tourism. I have no doubt in my mind that such a rebrand would draw many thousands more visitors to the area, many of whom are blissfully unaware of what the Broads have to offer. It is a vital next step to ensuring the long term prosperity, protection and popularity of this stunning Magical Waterland. **Simon Altham (Managing Director)**

BA response: The support of Hoseasons is noted and welcomed.

Wherry Yacht Charter

The Trustees of Wherry Yacht Charter discussed the proposal to use the name Broads National Park for marketing purposes and there was support for this initiative.

We believe that it will help us with our marketing and remove some of the misunderstanding of using "The Broads-part of the National Park Family". From our perspective, using the Broads National Park in our literature links clearly to our role in conserving heritage and encouraging tourism to a very special area of the UK.

BA response: Comments noted.

Yare Users Association

1. We feel a more consistent identify for the area will be a positive enhancement for businesses either directly in the Tourism sector, or peripheral support services to that sector.
2. It's unlikely the Yare User Association will directly employ the term Broads National Park in an official capacity but our membership is a mixed collective which includes representatives from the marine industry sector. For the purposes of advertising it is possible they may choose to use this brand statement in conjunction with our own identify and logo.
3. The YUA itself would require minimal/zero support to adopt use of the brand 'Broads National

Park', however for those of our membership who operate commercially as hire or tour boat operators we would be keen to see the authority offer financial/resource assistance to those firms who would otherwise incur significant costs for new artwork/publicity materials. Particularly for small firms, these costs can be prohibitive. Any support from the authority would ease that burden whilst increasing the visibility of its newly created 'brand'.

BA response: Should Members adopt the branding proposal, practical support could be provided by the Authority to hire and tour boat operators in terms of making new artwork and publicity material available.

Yare Valley Sailing Club

The Yare Valley Sailing Club, which cruises by sail through the Broads, often reaches the head of navigation of each river every year. We have been doing this since 1948 and several members have been members since the 1950s. The National Parks proposal has been discussed at length with the 39 members who were at the recent AGM and this is their unanimous response.

- 1) The question implies that the decision to adopt the title Broads National Park has already been taken. We do not support the proposal because:
The Broads are not a National Park and even to market them as such is dishonest, deceiving, misleading, illusory, use whatever word you like but such sophistry is unworthy of the Broads Authority.

Almost half of the Broads Authority's income comes from a function which is no National Park has, namely 'protecting navigation'. The income is required by law to be spent only on the navigation. This distinct function is the reason why Parliament has decided repeatedly, since National Parks were first mooted in the 1940s, not to designate the Broads as a National Park. It is our opinion that the Authority should respect the decisions of a democratically elected Parliament and not take on a marketing title by the back door.

The power to designate a National Park belongs, not to the Authority but to Natural England. We believe that should be respected also.

We have been pleading with the Broads Authority for three years to use the tolls income to provide adequate public safety moorings, without success. In fact, the position is getting much worse. Its fixed mooring assets are deteriorating because the BA repairs were undertaken on an ad hoc basis only. Why? Because despite the advice of the District Auditor it did not have a register of fixed assets. However it does mean that many of the moorings that toll-payers paid for over the years are going to be removed because of the lack of proper care. It is essential that the Authority concentrates on what needs to be done rather than going off at a National Park tangent.

- 2) We do not see ourselves using the title.
The Yare Valley Sailing Club believes that there is a risk that the adoption of any branding proposal could be the thin end of the wedge towards the designation of the Broads as a National Park under the 1949 Act, since if the Broads National Park name were adopted it may be argued in the future that full transition of status would be easier to achieve. Why should this risk be taken? The continuing existence in the Authority's business plan (latest 2014/15 – 2016/17) of a 'long term ambition of achieving full National Park status' merely supports the suspicion that the branding exercise is simply a step in that direction. The Authority must expressly disavow this ambition if this suspicion is to be allayed.
- 3) No. Like most toll payers (both in terms of numbers and income generated –

www.aina.org.uk we are private boat owners, not a tourism business. We enjoy meeting and socialising with visitors and assist them where we can be it with local knowledge or helping them moor their boats. We want them to enjoy their boating holiday and hope that they will return year after year, bringing their friends with them. This is no altruism on our part. If tourism continues to thrive and prosper, waterside pubs and businesses will remain open and our tolls will be cross subsidised by tourist boats and the benefits of improved facilities will continue.

We cannot see how the status of the Broads as a National Park would make any difference. The Broads is much smaller in area than any of the National Parks, yet it already generates more tourism income per square kilometre than any of them (Source: www.nationalparks.gov.uk 'facts and figures') It is boats not boots or the notion of a National Park that will encourage tourism. Marketing a National Park will only be another layer or unnecessary cost which the Broads Authority does not need. –**Malcolm Valentine**

P.S This letter is from the 39 of our 80 or so members who were at the AGM and who discussed this topic in depth. Their number should be reflected in the tally of objections.

BA response: The comments and concerns of the Yare Valley SC are noted.

The Broads has already been given a status equivalent to that of a national park and therefore the Authority believes it is entirely appropriate, consistent and helpful to the public to refer to the area as the Broads National Park. The branding proposal does not involve any change in the legal name or functions of the Broads Authority and it will continue to have three purposes, none of which take precedence. You may be interested to view our response to the Broads Society on the legal position of the proposal.

The Authority sees recreational boating as one of the unique characteristics of the Broads that needs to be treasured and enhanced. We are not proposing to remove many of our public moorings but rather have developed a comprehensive Moorings Strategy to ensure that we have the resources to maintain our network of free 24 hour moorings.

The long-term ambition in Broads Plan 2011 states that: *"In May 2010, members of the Broads Authority discussed the draft long-term vision for the Broads and supported the objective that, by 2030, the Broads would be a national park where the public legal rights of navigation continued to be respected and embraced. Though this objective would require primary legislation, members considered this an important ambition in support of the long-term vision."*

The Authority's position has always been that it sees its role as being the integrated management of the Broads, looking at issues in the round, and for that reason in 2006 it promoted the idea that a more modern approach to national park purposes would be to look at the principle of sustainable development. However, while there was some support for the idea, others remained committed to the Sandford approach. It was therefore not pursued.

The Authority feels that the branding proposal is a positive way to bring the benefits of the national park brand to the area while at the same time retaining the current legal status of the Broads Authority. As such, in the report to the Broads Authority on 23 January 2015, officers are recommending that, if the Authority decides to implement the new branding, it could indicate that it no longer intends to pursue the long-term ambition for the area to be a national park in law and, for the avoidance of doubt, also state that it does not intend to seek the application of the Sandford Principle to its functions. It is hoped that such a statement would assuage many of the concerns raised by the NSBA and others within the boating community and, in the words of the NSBA response, *"mean that the relationship between private boaters and the Authority could move on without being constantly distracted by that ambition."*

Individuals

Peter Aldous MP (Waveney)

Thank you for sending me a copy of your consultation document "The Broads National Park". I am grateful both to you for writing to me and to John for meeting me to talk through your proposals, which I fully support.

BA response: Comments noted.

D Ames

As a River Toll payer for some 20 years I would like to express my concern at your proposal for the re-branding of the Broads as a National Park.

The document 'Branding the Broads' was prepared before the Members of the BA adopted the proposal. Hence, it calls itself a draft. However I don't believe there is any change to the final version and your paper precedes it and on the website. Who has been consulted? It says in 5.1 of your own report *"it is proposed that the Authority should between now and January 2015, consult a wide range of organisations and individuals about the change of name"*

Why have not all toll payers been consulted? Particularly as river tolls represent almost 50% of the BA total income.

It also says in paragraph 6.1 *"A range of representatives of key stake holders have been **informally** consulted and the document has been modified to take account of the suggestion and comments made. The overwhelming response has been a positive one...."*

Again I ask, Who were these stake holders and how many are there?

I now draw attention to page 9 of the Draft Broads National Park document. I believe "legal advice" was the advice given to the BA that, as the Consultation Document asserts, this proposal is legal. I understand that this has been requested under The Freedom of Information Act. However, the response received from the BA was that you declined to give a copy of the legal advice on the ground of Legal Professional Privilege. Is this correct? As for the "guidance" so far, has this been given by Defra or Natural England?

Does this therefore mean that this consultation is fundamentally flawed, because it doesn't comply with the recognised principles of consultation? One of which is that the BA have to give all interested parties sufficient information so that we can have an intelligent discussion about the issues.

Last year I believe the Royal Yachting Association (RYA) and the British Marine Federation (BMF) entered into a legally binding agreement as a consequence of which they withdrew their formal objections to the 2009 Act. I understand that the BA promised not to change its name without the consent of the RYA and the BMF. However, the law relating to Judicial Review says:

"where a public body says that it will act in a particular way, that representation may give rise to a legitimate expectation that the public authority will do as it said it would and the court may enforce this"

Because of the rule of "legitimate expectation", you would expect that the consultation document would include everyone's views, besides the views of those people/bodies which endorse the proposal. It isn't there. If you look at the three "key questions" on the back page you will readily see that this is not a real consultation in the legal sense, which requires that the BA is going about the process with an open mind.

I would like to draw your attention to Jonathon Shaw's letter dated 30/03/08 which promised the

BA could not legally take the title of Broads National Park but the consultation document says the BA can.

"In regard to use of the name "National Park", the government has made its position on this very clear. We do not think that the Authority can lawfully take the title of a National Park, nor can the Authority lawfully take the title of a National Park Authority. This is because those titles are bestowed by specific Acts of Parliament and the Broads legislation is different."

Another of my concerns is that the BA wish to re-brand and encourage more visitors on one hand but are on the other is reducing the amount of available free moorings and the loss of many informal moorings due to lack of finances even though the navigation budget should be ring fenced for navigation only. The BA is also proposing to divest itself of the responsibility of the board walk at Paddy's Lane which would prevent access to Barton Turn,. This is one of the most popular moorings on the river Ant and a much used path to access a much wider area of countryside.

There are other proposals to reduce substantially the mooring at the Viaduct mooring in Wroxham; Langley Dyke and Catfield Dyke and the recent loss of Thurne mouth and Boundary Farm moorings. With many other mooring being "renegotiated" or given back. Where are all these extra visitors who hire boats going to moor if they wish to see the Broads by boat?

To put it bluntly, I feel the BA have made a right mess of the accounts (see auditors reports 2005/6 to 2009/10 when the District Auditor only gave qualified approval) and your solutions to abandon a significant portion of moorings, which were paid for out of tolls, because you haven't made a proper financial allowance for their end-of-life replacement.

There is also an issue of the informal moorings on the broads. The attitude from the BA is that we aren't allowed to use these moorings, except perhaps in an emergency. I would like to point out that we are entitled to use them as part of the Common Law right of navigation. But, the BA appears to be in denial that such a Law exists. This begs the question if we aren't allowed to use these Informal Moorings why are they shown on the BA's own official survey of moorings, which was done in 2006?

Last Year the BA illegally attempted to use navigation income to part finance a Promotion and marketing post, which was thankfully overruled. It is such an action as this that undermines the confidence of the River Toll Payers that ring fenced BA navigation income is being used correctly. In summary, I feel that you have not got your priorities right, there is significant work that needs doing in many other areas by the BA rather than it becoming the commercial mouth piece for corporate business.

So therefore my answer to your Key Questions on Page 12 of the draft is.

Q1 I **do not** support a more consistent use of the term the Broads National Park as a branding exercise.

Q2 I do not envisage using the term

Q3 No

BA response: Comments noted.

158 organisations, a number of whom represent private boating interests (including the RYA and NSBA) and commercial boating interests (including the BMF and BHBF), were consulted. Given that everyone has an interest in the outcome of the consultation it was not appropriate to consult just one interest group. Surveys were also carried out of private boat owners, hire boat operators, visitors and residents on a wide range of issues including three questions relevant to the national

park branding issue. The Authority has taken great care to consult with all the main stakeholder organisations in the formative stage – this included officials at Defra, the leaders of the RYA, BMF, BHBF, NSBA, Norfolk Wildlife Trust, Suffolk Wildlife Trust, the RSPB, Broads Society, all the constituent local authorities, the Local Economic Partnership, Visit Britain, Broads Tourism and others. The response was extremely positive. The consultation document sets out in some detail the background to the proposal and the reasons behind it and no organisation or individual has suggested that it is insufficient to allow intelligent consideration and response.

The RYA and the BMF have been consulted on this proposal and their comments are above, together with the Authority's responses which Mr Ames may be interested to read. The agreement with the two bodies states: "The Authority will only exercise the power in section 74 of the Local Government Act 1972 to change its name with the agreement of the BMF and RYA." The Authority is not intending to change its name or legal status.

Mr Shaw did not have the Authority's proposal in front of him when he wrote the letter in 2008 to one of the local MPs, and the Authority's legal advice on this proposal is set out in the consultation document.

We do not accept Mr Ames' comment that the Authority "made a right mess of the accounts". The Auditor's opinion given in 2005/06 related only to the Value for Money conclusion, not the Authority's accounts. The finding was that the Authority had proper arrangements "in all significant respects" *except for* the system of internal control and the management of assets. This opinion was repeated (on similar grounds) for 2006/07, 2007/08, 2008/09, 2009/10. In the Auditor's opinion the information supporting asset management planning was not entirely adequate to provide them with assurance that all liabilities were being taken into account in the Authority's forward planning. The development of the Asset Management Strategy was a response to this, to ensure all assets were captured in the records, but the proposals for future management are driven by prudent planning considerations about funding, needs and the use of assets, rather than this historic audit finding. The Authority now has a comprehensive Asset Management Strategy and Mooring Strategy which seeks to balance the long term liabilities of maintaining its network of free 234 hour moorings with the resources available. No decisions have been taken about the boardwalk at Paddy's Lane but one suggestion is that it should be retained and funded by navigation expenditure.

Mrs K Ames

I am extremely concerned about this initiative and the effect that it may have for the future of the Broads as we know them. I am aware that you spoke on this subject at a meeting in October as if the rebranding was merely an advertising initiative to increase tourism and its associated revenue in the Broads area. Is this part of the Broads Authority's remit? I thought it was '*promoting opportunities for the enjoyment of the Broads by the public*'.

I have now had the opportunity to review your consultation document on the website and would like to comments as follows:

As a private sailing boat owner I am greatly concerned that your intention is to become a National Park by subterfuge that which you have so far failed to achieve by lawful means. There is continuing existence in the Authority's business plan (latest 2014/15 – 2016/17) of a "long term ambition of achieving full National Park status" merely supports my suspicion that the branding exercise is a simple step in that direction.

At the time of the Norfolk & Suffolk Brads Act in 1988 it was made clear that the Broads Authority created by that Act would not be administering a National Park. The objectives of the BA were there-fold with navigation an equal 1/3rd par (with a protected budget). National Parks differ in that they are created according to the provision of a different act of Parliament, have only two objectives (not including navigation) and according to the Sandford Principle these duties are not equal when they conflict.

I would like to draw your attention to the letter from Mr Jonathan Shaw, MP, Minister for Marine , Rural & Landscape Affairs...at Defra dated 30th March 2008: *"In regard to use of the name "National Park", the Government has made its position on this very clear. We do not think that the area can lawfully take the title of a National Park, nor can the Authority lawfully take the title of a National Park Authority. This is because those titles are bestowed by specific Acts of Parliament and the Broads legislation is different."* Thus the current attempt to appropriate the term National Park for the Broads has previously been deemed unlawful by the Government.

My objection to the Broads becoming a National Park is that although it shares two objectives with them it has the peculiarity that it has three objectives, all of which are equal, whereas for National Park one objective (conservation) may be deemed superior in certain circumstances. The Broads is a man-made environment that has been maintained for navigation purposes as well as for the benefit of the local flora, fauna and population and it should remain this way, with no one objective taking precedence. A change of status to National Park would jeopardise this.

I firmly believe that the Brads area is a wonderful resource for not only water activities but walking, painting, bird watching, wildlife and may other pursuits. I enjoy sailing and dog walking all over the broads' area, both on the southern and northern rivers.

I do not believe that the Broads Authority would properly discharge its navigation functions because:

1. There was an attempt to use navigation income to finance 30% of a Promotion and Marketing post in 2013.
2. There have been warnings from the District Auditor for five years that there was no provision for depreciation of Fixed Assets. This has resulted in plans to abandon moorings, which have already been paid for out of toll income (hire boats owners, private boat owners and taxpayers monies).
3. You are giving planning permission for the removal on informal moorings – recognised in your 2006 survey – which are used as part of the Common Law right to moor in the ordinary course of navigation.
4. There seems to be a depletion of facilities when trying to increase tourism. a) Loss of moorings = less room for hire boats/private boats=more stress for both parties. b) Loss of informal moorings = herding private boats onto public moorings which are also reducing. c) Potential loss of the Barton Broad – Paddy's Lane – broad walk. Used by many people on boats with dogs. How could you walk your dogs around this area without the board walk link? Catch the local bus for additional provisions? d) Councils removing facilities such as boat refuse bins, public toilets etc. What environmental consequences will this have!

Now I turn to your questions:

1. My initial impression as a private sailing boat owner is there is no benefit to me whatsoever, only potentially more stress and aggravation. I feel that should this happen the importance of navigation will diluted and eventually lost.

Question 2 and 3 are not aimed at the private boat owner.

Why hasn't there been an open meeting or survey of all stakeholders, i.e. everyone with an interest in the Broad, no matter where they live?

BA response: The Broads has already been given a status equivalent to that of a national park and therefore the Authority believes it is entirely appropriate, consistent and helpful to the public to refer to the area as the Broads National Park. The branding proposal does not involve any change in the legal name or functions of the Broads Authority and it will continue to have three purposes, none of which take precedence. One of the functions is 'Promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public'. This includes advertising and marketing to make the public aware of the opportunities that exist, and the Authority believes that adopting a brand name of Broads National Park will further this purpose. There are differences of view as to whether navigation income should be spent on marketing the area.

Mr Shaw did not have the Authority's proposal in front of him when he wrote the letter in 2008 to one of the local MPs and the Authority's legal advice on this proposal is set out in the consultation document.

Over 150 organisations representing all stakeholder interests were directly consulted on the proposal, and opportunity was given for anyone else to comment in the three-month consultation period. We also commissioned four independent surveys of hire boat operators, private boat owners, residents and visitors, which included questions on the branding proposal.

In the District Auditor's opinion in 2005/6 the information supporting asset management planning was not entirely adequate to provide them with assurance that all liabilities were being taken into account in the Authority's forward planning. This has now been resolved through the development of the Asset Management Strategy.

Areas of piling used for flood protection and informally for mooring have been removed as part of the Broadland Flood Alleviation Project. The Authority has worked hard to retain as many areas of mooring as reasonably possible and the recently completed Mooring Strategy sets out a comprehensive picture going forward.

The Authority is working hard with landowners and the District Councils to retain tourist facilities such as moorings and rubbish collection.

Mrs Linda Doughty (Vice Commodore, Yare Valley Sailing Club)

- 1) I am a Flag Officer of one of the Broads Sailing clubs. Every year we cruise to the head of navigation of all the Broads rivers. As you know, I have been campaigning for three years for reasons of public safety to persuade you to replace the Informal Mooring on the Lower Bure, which the Authority permitted the Environment Agency to remove. I do not accept your basic premise that the three functions of the Authority should be given 'equal weight'. The duty to 'protect the navigation' is to be discharged using navigation income which the law requires you to keep separate. This amounts to almost half the Authority's income. The Broads are not a National Park and the Authority has no right to assume this title.
- 2) I am certain my 'organisation' - my club members- will not wish to use this term. I have asked their views. The Broads have always been called the Broads and we object to any

attempt to re-name them.

- 3) No. Like the majority of toll payers, my 'organisation' consists of private boat owners. We have no wish to use a marketing 'brand'. We aren't selling anything and nor, frankly, should you be. We disagree with your view that 'more needs to be done' to make visitors aware of your "essentially equivalent status" to a National Park. We do not accept that your status needs to be of any concern of interest to visitors or even that it would make any difference to their enjoyment of the Broad. If the Authority were to perform its functions discretely without anyone being aware of its "status" that would not be a bad thing.

BA response: The Broads Authority has a duty to manage the Broads for three purposes, none of which takes precedence. The branding proposal does not involve any change in the legal name or purposes of the Authority. The Authority's navigation income accounts for approximately 45.6% of its total income. The Authority uses this income for appropriate navigation expenditure and will continue to do so. The Authority has been working hard to develop new moorings on the Lower Bure.

This consultation and other public surveys have shown that awareness of national park status does make a difference to decision making by visitors. The feedback from the tourism sector to this proposal has been extremely positive about the benefits that national park branding would bring to the area.

Martin Dunford

I am writing to you with regard to the current consultation document regarding the adoption and regular use of the name Broads National Park.

As you may know I am the former publisher of the Rough Guides series of travel guides and currently run the UK travel website www.coolplaces.co.uk. I live part of the time in The Broads and write regularly on the region and recently produces some materials for the Broads Authority in the form of a Green Guide to the Broads and a smartphone App. I have also recently been invited to become a trustee for the Love the Broads campaign/charity.

I believe I am a strong advocate for the region and have an interest in helping The Broads to maximize its potential as a tourist destination. My answers to your question below.

1. I feel very positively and in fact think it would be perverse not to use such a powerful brand message/marketing tool to attract visitors to the area, particularly as the term summarises very simply and neatly what in part The Broads is all about: nature and outdoors; wildlife; activities; and big skies and open spaces.
2. We would use it more consistently on the Cool Places website and I would use it always in my writing and journalism about the Broads and indeed Norfolk in general.
3. It's not often such a golden opportunity for a re-brand and to some extent re-launch of a region comes along, and I believe the Broads Authority needs to support it with a new website and an accompanying social media campaign to underline what the region is all about. For our part at Cool Places we would help in every way to emphasize the region's new identity both on the website and to our social media followers and large database of registered users. We run a lot of promotional features and could perhaps run a promotion/competition around the relaunch.

BA response: Comments noted and the offer of support welcomed.

Sue and Robin Hines

As long term boat owners, both on the Broads and elsewhere, we are writing to you to express our concern on some issues which we believe are going to cause problems detrimental to the Norfolk & Suffolk Broads.

The first issue is the proposed re-branding of the area as the “Broads National Park”. The Broads are not and cannot be a National Park unless there is a change in legislation, so to call them a National Park is misleading and disingenuous. An increasing number of people who love the Broads believe that to re-brand the Broads as the “Broads National Park” would be the ‘thin end of the wedge’, bearing in mind that it continues to be strategic objective of the Broads Authority that the Broads should become a National Park. If this objective was achieved it would then lead to conflict between boating and conservation, which currently appears to be well balanced, by bringing the Sanford Principle into play. There are already many acres of broads which are not open to the public (of around 50 broads, how many are open to the public?) where conservation takes priority, so to incur the danger of conservation being a priority over public enjoyment by boating, on the relatively small area open to the public would be ridiculous.

We believe that, by supporting the re-branding, the boat hire companies are taking a very short-sighted view as visitors already bringing over £500M to the local economy annually, second only to the Lake District according to National Park figures. In our opinion, the difference between calling the area a “Broads National Park” and calling it “A member of the National Park family” will be entirely lost on most potential visitors. It is difficult to see how the name change will increase visitor numbers, get more government money or have any other benefit. Therefore why is money being spend on consultants trying to put forward a case for the re-branding, in teeth of increasing opposition from many areas.

It is essential that the three equal purposes of the Broads Authority remain at the forefront of the Authority’s duties which would be endangered by any move towards becoming a full National Park.

BA response: Comments noted.

The Broads has already been given a status equivalent to that of a national park and therefore the Broads Authority believes it is entirely appropriate, consistent and helpful to the public to refer to the area as the Broads National Park. The branding proposal does not involve any change in the legal name or functions of the Authority and it will continue to have three purposes, none of which take precedence. One of our functions is ‘Promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public’. This includes advertising and marketing to make the public aware of the opportunities that exist, and we believe that adopting a brand name of Broads National Park will further this purpose. Evidence from stakeholder surveys indicates that national park branding would make the area more appealing.

We see recreational boating as one of the unique characteristics of the Broads that needs to be treasured and enhanced. The Authority has never indicated any intention to adopt the Sandford Principle and consider that the Habitats Regulations provide sufficient protection for the very special qualities of the area. The Chief Executive’s report to the Broads Authority (23 January 2015) on the branding proposal is recommending that, should Members resolve to implement the Broads National Park branding, they could indicate that the Authority no longer intends to pursue the long term ambition in the 2011 Broads Plan to become a national park in law, in view of the anticipated benefits of the new branding.

Bryan Read

I am writing as an individual in response to the consultation document about the use of the brand, Broads National Park.

I have been involved with the Broads in many ways all my life and worked actively in support of the formation of the Broads Authority in the period leading up to its birth. I fully supported the previous Chief Executive who was very keen to use the Broads National Park as a brand. I was very disappointed when some of the navigation interests put pressure on the Authority to stop promoting the area as Britain's Newest National Park.

I fully support the proposal that there should be a more consistent use of the 'Broads National Park' as a brand.

I cannot respond to the other two key questions but I have read some of the responses to the consultation. I will not comment on some of the arguments used which indicate that the writers have not understood the considerable detail set out in the document - and probably do not want to accept the well-made arguments.

The only point I will make is the constant reference to the Sanford Principle which the respondents are inferring will kill navigation on the Broads. Having been involved with CNP for many years, despite the excitement engendered by some interest in the National Park movement, I can only remember two issues where the Sandford Principle might have played some part.

It would be interesting if someone had the time, to look at the major decisions taken by the Broads Authority since its formation and assess where the Sandford Principle would have made any difference. I appreciate that European legislation has in many ways superseded Sandford. In any case, I fully understand that the proposal makes it clear that the three purposes of the Authority, conservation, recreation and navigation will remain of equal value.

I can only confirm my full support for the proposal.

BA response: Comments noted. We confirm that the branding proposal does not involve any change in the legal name or functions of the Authority. The Broads Authority has never indicated an intention to adopt the Sandford Principle and observers struggle to identify occasions when the Sandford provision in the Environment Act has been applied elsewhere.

P J Savage

I am a committee member of one of the Broads sailing clubs and Chair of the Northern Rivers Sub-Committee of the Broads Society. None of my sailing club favour the proposal. One member of my sub-committee does, because he would like the Broads to be a National Park, but even he expressed reservations because it isn't one.

As a lawyer, I find the legal arguments in the proposal wholly unconvincing. Having similar functions to a National Park does not give right to adopt that title, which is the right of Natural England, with ministerial consent, to confer. There can be no difference between the "legal" name and its day to day name because Parliament created "a body corporate to be known as the Broads Authority". Thus the Broads Authority cannot unilaterally decide to be "known" as something else. They have to be one and the same.

Referring to the name written on signage, vehicles and letter heading as a "brand" as if a brand were something different from the BA's name is misleading. These are not "marketing related purposes". Referring to what is proposed as "re-branding" is merely a re-naming the BA by the back-door.

I understand that the legal advice was obtained because the Authority feared it would be taken to court over the proposal. It is wrong to claim Legal Professional Privilege for this advice; by basing the proposal on it, the Privilege has been waived. Without it being made public, the consultation is not a valid public consultation in Administrative Law, because that makes it impossible to consider the reasons for its decision.

I cannot see the term being used unless Natural England designated the Broads as a National Park.

I believe there are three mistaken assumptions in the proposal:

- No evidence has been advanced to show that the proposal would actually promote opportunities for public enjoyment. It is merely asserted as fact.
- “Promoting opportunities for public enjoyment means advancing or improving the experience, not marketing it.
- It is not a statutory responsibility of the Authority to “foster the local economy”. National Parks have that objective, but even they must achieve it without spending any significant additional money. That means they have to bear the effect on the local economy in mind when exercising their duties, not that they are marketing their parks as a business. They are not in business.

It is a stated objective of the Authority to become a National Park. Since this is not the first time this change has been attempted – on each occasion against opposition from those interested in navigation – the Authority needs to accept that this is an issue of trust. Navigation should not be – as the consultation says – give equal weight with the other statutory functions, because its finance is, of should be, separate.

BA response:

In response to the legal points raised by Mr Savage, these focus on the organisation rather than the area. The Authority is not proposing to change the legal name or the day-to-day name of the body created by Parliament to be known as the Broads Authority. The Authority sought legal advice on whether it could use the term ‘Broads National Park’ and that advice is summarised in the consultation document.

The second purpose has, since the very early days of national parks, involved the promotion of the local area including running visitor centres and working with tourism businesses. National Parks and the Broads are national landscape designations and if the public are to enjoy their special qualities then the National Park Authorities and the Broads Authority need to play their part in making the public aware of them. The term Broads National Park is already in widespread use - irrespective of whether the area is designated as a National Park by Natural England - on Google Maps, by local tourism businesses, in the media and in Government announcements. The area has essentially the same status as a National Park and the proposal aims in the long run to reduce confusion about how it is referred to.

The Authority has not attempted to make the Broads a National Park. It has consulted previously on formally changing the name of the area. The Broads Plan 2011 set out a long-term aim that: *“In May 2010, members of the Broads Authority discussed the draft long-term vision for the Broads and supported the objective that, by 2030, the Broads would be a national park where the public legal rights of navigation continued to be respected and embraced. Though this objective would require primary legislation, members considered this an important ambition in support of the long-*

term vision."

The Authority's position has always been that it sees its role as being the integrated management of the Broads, looking at issues in the round, and for that reason in 2006 it promoted the idea that a more modern approach to national park purposes would be to look at the principle of sustainable development. However, while there was some support for the idea, others remained committed to the Sandford approach. It was therefore not pursued.

The Authority feels that the branding proposal is a positive way to bring the benefits of the national park brand to the area while at the same time retaining the current legal status of the Broads Authority. As such, in the report to the Broads Authority on 23 January 2015, officers are recommending that, if the Authority decides to implement the new branding, it could indicate that it no longer intends to pursue the long-term ambition for the area to be a national park in law and, for the avoidance of doubt, also state that it does not intend to seek the application of the Sandford Principle to its functions.

Heidi Thompson, Brundall Parish Council

Thanks for your consultation on the above. I think finally changing the name of the Broads to include national park, is wonderful and long overdue.

Please proceed asap, and do not be deterred by the more extreme elements of the navigation lobby. I own 2 boats (and a further 3 dinghies which are my children's) with broads licences and I couldn't be more happy, or more proud, to think that soon I can sail in a national park.

BA response: Comments noted.

Mrs J F Simmance

I have to object to your proposal to market the Broads as a National Park. It is mainly an agricultural area with very few footpaths and no access to agricultural land, unlike many other counties. For example Hickling Broad is the largest Broad; akin with Mount Snowdon being the largest mountain within that National park, yet there is no public access or right of way to this broad. To even see Hickling Broad one must either do so via the private grounds of the Pleasure Boat Public House or hire a boat from a private enterprise. Which is much like only being allowed to go up Mount Snowdon via the train and staying within the grounds of the Cafe at the summit. Having to pay for access the Norfolk Wildlife Trust or a private enterprise does not make for a National Park. The amount of disappointed visitors to Hickling already is not to be taken lightly and they should not be encouraged to visit somewhere with their children and pets where they are not welcome.

They are not welcome on any of the banks of Hickling Broad, with the agricultural policy allowing the demise of all public areas. So until these are reinstated, Hickling and many of the Broads are no go areas for footfall holiday makers. National Parks are for conservation and public recreation not just for people who can afford a boating holiday. There should be access for all including families who want a free day out and also dog owners (not allowed by the Norfolk Wildlife Trust). We are frequently directing disheartened day trippers to Bacton Woods or Sea Palling and Horsey. Maybe they should be the National Park? Certainly not the 'no go areas' of the Broads. Throughout this country, due to agriculture payments, farmers have become land barons and have much control over the villages their land surrounds. This has allowed them to get away with moving and closing down footpaths and bridleways, even threatening people who dare step on stubble field or tracks. No sir, this is NOT a National Park.

BA response: Comments noted. Public access by footpath and bridleway is also an important feature of the Broads and the Authority, like the National Park Authorities, spends National Park

Grant on maintaining public rights of way and creating circular walks and permissive paths. Recent research suggests that there is considerable potential for growing quiet recreation such as walking and cycling and the Authority will be considering what more it can do in this regard, in particular through its Integrated Access Strategy and working with the Broads Local Access Forum and County LAFs.

Heather Tew

I fully support that the term Broads National Park is used consistently for marketing purposes when referring to the Broads as this will introduce consistency in the way the area is promoted to increase the economic value generated by tourism and local recreation in the area.

I own the small cottage attached to my house in Loddon which I run, throughout the year as a holiday cottage. Local businesses recognise and welcome the significant trade this brings to our community; guests are often new to Norfolk and voice their surprise and pleasure at the scenery and general ambience of this corner of England. I see your proposal as being a very positive move to enhance the opportunity for businesses in the Loddon area, which benefit from tourism quite considerably.

I was pleased to note that this will not involve any change to the legal status of the area and welcome that the consultation document makes it clear that equal weight will continue to be given to all of the Broads Authority's three purposes and therefore the purpose of protecting the interests of navigation will remain equal with the two more common National Park purposes. The proposal therefore makes eminent sense and I look forward to updating my Holiday cottage website.

BA response: Comments noted.

Peter Waller

In selling terms it is a long established requirement to have a USP, a unique selling point, something that the Broads already has. The Broads & Broadland, as names, have been in use for over 200 years now. The Broads is the Broads, a long established and truthful title.

You ask that comments be sent to you as the Chief Executive. It is believed by many that you are the driving force that is calling for the use of the term, Broads National Park. This is a topic that does not enjoy 100% support across Broadland thus, as a consultation, it surely needs to be seen as independent rather than lead from within, as your three key suggestions clearly indicate.

To call the Broads a National Park, when it isn't one, is a lie.

The Broads is the Broads, a fact of history & location.

The Broads have, for over 200 years, also been, known as Broadland, once again, a fact of history. The consultation does not appear to be independent. I believe that it should.

The three key questions should have included a fourth, namely 'Do you support or object to plans to call the Broads a National Park?'

Both Houses of Parliament, & DEFRA, have previously made it clear that the Broads can not call itself The Broads National Park, once again, a fact of history.

This is a fundamental issue for many of us within Broadland. You may well see my comments as being unhelpful. Unfortunately I see this continuing push to be a national park as being at least equally unhelpful.

BA response: Comments noted.

The Broads has already been given a status equivalent to that of a national park and therefore the Broads Authority believes it is entirely appropriate, consistent and helpful to the public to refer to the area as the Broads National Park. The term is already widely used, by tourism businesses, the media and others. The feedback from the tourism sector to this proposal has been extremely positive about the benefits that national park branding would bring to the area. We would reiterate that the branding proposal does not involve any change in the legal name or functions of the Authority.

The Authority sought legal advice on whether it could use the term 'Broads National Park' in relation to the area and that advice is summarised in the consultation document. This includes the advice that the Authority may adopt a brand name of National Park using the power available to it in section 111 of the Local Government Act of 1972, which enables the Authority to do anything which is incidental or conducive to its other functions. More information on this is included in the report to the Broads Authority on 23 January 2015, when a decision on the branding proposal will be taken.

Simon Wright MP (Norwich South)

Thank you for meeting with me to discuss your proposals for a clear 'brand' for the Broads, including the term Broads National Park.

I fully appreciate that there will be benefits from using an internationally recognised brand to raise awareness of the status of the Broads, and that this in turn could support new revenue raising opportunities.

I wish you well in taking this forward through consultation, and as we discussed I would be happy to write a supportive letter highlighting the significance to the region, including Norwich, of being able to promote the Broads with a National Park brand.

BA response: Comments noted.

Appendix D – Late Submission

Wild Anglia

Thank you for the chance for Wild Anglia to comment on the proposed changed outline by the Boards Authority on its name change

Wild Anglia understands and supports the general principles and would be willing to adopt the new branding of the 'Broads National Park' within our organisation. The Broads is an established member of the National Park family and is the only protected landscape in Norfolk and Suffolk that has National Park status. In terms of achieving Wild Anglia's mission to ensure that nature is embedded in decision making and is valued as a core asset of society and economy we believe that a more consistent use of the term 'Broads National Park' as a branding exercise will support the delivery of this mission.

The rebranding indicates that the Broads Authority will rigorously protect the National Park name brand, placing continued commitment to the special natural and heritage conservation of the Broads with the conservation of those qualities uppermost.

Wild Anglia agrees that National Park name is vital not only to enhancing nature and heritage it is essential in terms of creating an economy and society that invests in nature. This is fundamental to Wild Anglia's mission something we hope the Broads Authority would endorse and embrace in its

future work with the natural capital of the National Park

We believe that there is more that the Broads Authority can do to encourage everyone to recognise that nature is everyone's business and a fundamental building block for The Broads. The Authority has made great strides with tourism business now investing in the protection of the areas special qualities. However we believe more change is possible within the navigation and landowning economies and encourages the Broads Authority to further embed nature into the common goals of taking care of Britain's only internationally important wetland National Park.

We encourage the Broads Authority to use this opportunity to demonstrate its commitment to the natural environment set up mechanisms to recognise the national importance of the whole of the Broads area within decision making and not simply rely on the European conservation designation which only protect 25% of the Broads.

We look forward to working with you closer in the future.

BA Response – Comments noted.

99. Coltishall PC

Thank you for your letter concerning the proposal to use the term 'Broads National Park'.

The Parish Council can appreciate the term could be useful to promote the area as a special asset with National Park status. It could encourage tourism and bring revenue to Broads Businesses.

However, there are concerns that in so doing, greater restrictions could be placed on activities in the Broads, which could impact negatively on tourism and current users of both the waterways and the surrounding lands. Coltishall is a Broads village reliant to a large extent on tourism and would not wish to see any changes that would threaten the economic viability of local businesses.

A more consistent use of the term 'Broads National Park' would be somewhat misleading, given that the area is not properly a national park, although it could perhaps help to clarify the unique status of the Broads.

Our Council does not envisage that use of the term would alter its perception of the Broads or their value to the village. We currently have a good working relationship with the Broads Authority and hope that any proposals to promote the Broads will be beneficial to the community. If the name, legal status and accessibility to users of the Broads remain the same, and the responsibilities and functions of the Broads Authority would be unaffected, then the use of the term purely as a brand may be useful : it should not be a precursor to changes that would curtail any current uses of the Broads.

BA response: The proposal does not involve any change in the legal position and rather than any threat to the viability of local businesses, the Authority would envisage that use of the term Broads National Park would support them.

126. Hoveton Parish Council

How do you feel about a more consistent use of the term the Broads National Park as a brand?

Hoveton Parish Council considers that the ability to use the term Broads National Park will help to promote the area.

However, the Council also considers that there are several parts of the Broads that fall below the standard of a National park – eg Hoveton Riverside – and that, if the Authority begins to use the term The Broads National Park, it must seek more funding and resources to ensure the area lives up to the high standards that the name implies. The Council would be an enthusiastic supporter of any plans to improve and enhance the landscape and navigation.

One of the enduring goals of the National Park movement is to encourage and develop public access in the Parks. In using the term the Broads National Park the Authority must work hard to extend public access to all areas, both on land and water, (The Authority will be aware that Hoveton Parish Council has recently purchased Granary Staithe, thus opening an additional area of public access in the village). The Authority must work hard to develop open access and opportunities for quiet enjoyment, typical of National Parks, alongside responsibility for conservation.

Hoveton Parish Council welcomes the clear assurance in the consultation document that the Authority's three purposes would remain unaltered by the proposed rebranding, and that the requirement to give equal weight to the three purposes of the Broads Authority would remain unaltered. However, the existence in the Authority's business plan of a long term ambition to achieving full National Park status tends to support a suspicion that the branding exercise is simply a step towards further changes. We request that the Authority clarifies this position and re-words these ambitions in the Plan to fall in line with the current proposals.

In what ways would you envisage your organisation using the term the Broads National Park?

The Council is unlikely to make much use of the term the Broads National Park other than to include reference to it on the Council's website.

A significant number of tourism businesses are located within the parish and these businesses make extensive use of the Britain's Magical Waterland brand material. The Council would wish that any use of the National Park brand should sit alongside and compliment the established promotional material and that the Authority will continue to use and promote the area, as appropriate, as Britain's Magical Waterland.

Are there any specific actions the Broads Authority could take to support and help your organisation in using the Broads National Park brand.

The Council would require detailed information about how the new name should be used, with supporting text and images.

BA response: The Authority feels that the branding proposal is a positive way to bring the benefits of the national park brand to the area while at the same time retaining the current legal status of the Broads Authority. As such, in the report to the Broads Authority on 23 January 2015, officers are recommending that, if the Authority decides to implement the new branding, it could indicate that it no longer intends to pursue the long-term ambition for the area to be a national park in law and, for the avoidance of doubt, also state that it does not intend to seek the application of the Sandford Principle to its functions.

Northern Rivers Sailing Club

I am writing to you on behalf of all members of the Northern Rivers Sailing Club to express my deep concern at the Broads Authorities recommendation that the Broads should be known as the Broads National Park.

My concern centres on the effective dilution of the Norfolk and Suffolk Broads Act, which has been in force since 1988, by loss of the requirement to protect the interest of navigation. I believe I am correct in my understanding that this would be one of the results of the change to a National Park. You will be aware, I am sure, that regular dredging of the navigation and control of growth along the edges of the navigation is essential if all the rivers and broads are to remain accessible to boats. In particular, many sailing boats have a draught of around 1.5 metres and there are already places where these boats run aground – especially at low water.

You may recall that some years ago you met me at the Norwich Frostbites Sailing Club at Thorpe to see at first hand this problem as it affected dinghies with relatively little draught.

Hire cruisers do not have the same requirements since they are, almost without exception, shallow-draught vessel. Any further reduction in keeping the navigation useable by sailing vessels will seriously disadvantage private boat owners who, in the main, are Norfolk residents who choose to live in this part of the country because of the recreational attraction of the Broads.

I hope that you will be able to reassure me that, whatever the outcome of the proposed changes, there will be a firm and binding commitment to maintain the whole of the navigation in such a manner that it will remain accessible to sailing boats sailed by members of this club and other similar clubs. **Michael Powell Commodore**

BA response: The proposal does not involve any change to the Norfolk and Suffolk Broads Act 1988. S 10 (1) states:

(1)The Authority shall—

(a) maintain the navigation area for the purposes of navigation to such standard as appears to it to be reasonably required; and

(b) take such steps to improve and develop it as it thinks fit.

This requirement will remain in place.

Yare Sailing Club

I am writing to you in response to the consultation on the branding of the Broads, on behalf of the Yare Sailing Club, an organisation affiliated to the RYA and other Norfolk and Suffolk Boating Association and which acts in the interest of owners and sailors of traditional Broads yachts. This issue was discussed by the members at their AGM. We are not replying directly to the questions of the consultation as these are biased and clearly designed to elicit a response in favour of the name change.

The Broads Authority having been only recently instructed by the highest levels of government that the area's re-designation as a National Park would be inappropriate and unacceptable, we are dismayed to see this highly controversial, diversionary and divisive topic raise yet again by the Authority.

The Authority is well aware that its legal duties go beyond those of an ordinary National Park and that on those grounds, National Park legislation cannot be applied to the Broads. Clearly unable to achieve the object of becoming a National Park by legislative means, the Authority now seems intent on adopting the title with no legal foundation for doing so. In our opinion this would leave the Authority open to legal action for "passing off" as something which it is not. Anybody visiting, sponsoring or developing the Broads on the misunderstanding that they were a National Park would be fully entitled to seek redress.

Apart from the legal situation we are unable to see why the Authority is once again intent on pursuing this object. The Broads are so much more than just a bog-standard National Park: in addition to their environmental interest, they are Britain's most established, historic and important inland navigation. In recognition of that fact, The Broads Authority was set up under its own unique legislation, which goes way beyond the narrow strictures of National Park designation.

There is no magic formula which goes with the title National Park. Some such areas do very well in attracting visitors: other ordinary National Parks in this county barely figure as tourism destinations. Success does not depend on sharing this limited brand: it will derive from an imaginative and creative tourism offer, one which stresses the unique attractions of this area. Pretending the Broads are a National Park will weaken their own distinct brand, not strengthen it. The use of the word Park has no relevance in an area with so little land access.

At a time when the environmental decay of the area continues unchecked, with nearly thirty

species having become extinct in the Broads over the last three decades, The Broads Authority has other matters on which to concentrate.

BA response: Comments noted.

The Broads has already been given a status equivalent to that of a national park and the Broads Authority believes it is entirely appropriate, consistent and helpful to the public to refer to the area as the Broads National Park. The term is already widely used, by tourism businesses, the media and others. The proposal is partly to bring a level of consistency as to how the area is referred to in promotional material and partly to raise its profile so that more people understand its special qualities, including its long sailing history. We would reiterate that the branding proposal does not involve any change in the legal name or functions of the Broads Authority.

The Authority sought legal advice on whether it could use the term 'Broads National Park' in relation to the area and that advice is summarised in the consultation document. This includes the advice that the Authority may adopt a brand name of National Park using the power available to it in section 111 of the Local Government Act of 1972, which enables the Authority to do anything which is incidental or conducive to its other functions. More information on this is included in the report to the Broads Authority on 23 January 2015, when a decision on the branding proposal will be taken.

The Broads as a National Park

ADVICE

1. The Broads Authority was incorporated by the Norfolk and Suffolk Broads Act 1988:

"1.— The Broads Authority.

(1) There shall be a body corporate, to be known as the Broads Authority, which shall perform the functions conferred on it by this Act.

(2) In this Act the Broads Authority is referred to as "*the Authority*".

This provision for incorporation is in similar terms to that applied to local authorities under the Local Government Act 1974:

"2.— Constitution of principal councils in England.

(1) For every [non-metropolitan] county there shall be a council.....

(2) For every district there shall be a council....

(3) Each council mentioned in subsection (1) or (2) above shall be a body corporate by the name "The County Council" or "The District Council", as the case may be, with the addition of the name of the particular county or district."

2. In the Norfolk and Suffolk Broads Act 1988 Act there is no provision providing for a change of name. By contrast, there is such a provision in the Local Government Act 1974:

"74.— Change of name of county, district or London borough.

(1) Subject to subsection (5) below, the council of a county, county borough, district or London borough may, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, change the name of the county, county borough, district or borough."

3. The Broads were not designated as a National Park under the National Parks and Access to the Countryside Act 1949, Part 11.

4. There is, nevertheless, a perception that the Broads are a National Park. For example, the Government web-site:

<http://www.nationalparks.gov.uk/learningabout/whatisanationalpark.htm> states:

"Where are the National Parks in the UK?

There are 15 members in the UK National Park family:

- 10 in England - The Broads, Dartmoor, Exmoor, the Lake District, the New Forest, Northumberland, the North York Moors, the Peak District, the South Downs and the Yorkshire Dales.
- 2 in Scotland - Cairngorms and Loch Lomond and the Trossachs.
- 3 in Wales – the Brecon Beacons, Pembrokeshire Coast and Snowdonia."

"When were the National Parks designated?

1951 - Peak District, Lake District, Snowdonia and Dartmoor

1952 - Pembrokeshire Coast and North York Moors

1954 - Yorkshire Dales and Exmoor

1956 - Northumberland

1957 - Brecon Beacons

1989 - The Broads given equivalent status to a National Park

2002 - Loch Lomond & The Trossachs

2003 - Cairngorms

2005 - New Forest

2010 - South Downs"

The DEFRA document "English national parks and the broads: UK government vision and circular 2010" treats the National Parks and the Broads as "the Authorities":

"3. Whilst the National Parks and the Broads are established under two separate Acts of Parliament, the similarities between them are such that this circular has been produced to apply equally to them all. It sets out in relation to the Parks:

- * a vision for the English National Parks and the Broads for 2030;
- * the key outcomes the Government is seeking over the next five years to ensure early progress towards the vision and suggested actions for achieving those outcomes;
- * the key statutory duties of the National Park authorities ('NPAs') and the Broads Authority (together 'the Authorities') and how they should be taken forward;
- * policy on governance of the Authorities;
- * the contributions needed from others."

The Encyclopedia of Planning Law, Vol.1, para. 2-011, p.20020 states:

"There are 13 national parks in England and Wales The Broads (established under the Norfolk and Suffolk Broads Act 1998)" ...

is listed as the thirteenth.

4. The provision relating to a change of name of a local authority in the Local Government Act 1974 does not, in my opinion, mean that without such a provision as section 74 of that Act, a name indicated in legislation cannot be changed. The purpose of the provision is to require a two-thirds majority, rather than a simple majority, to make such a change in the name of a local authority. That does not apply to the Broads Authority.
5. On the present facts there is no proposal to alter the terms of incorporation or of altering the incorporated name of the Broads Authority.
6. I am asked to advise whether, despite the absence of formal dedication, the Broads Authority may use the term 'The Broads National Park' on its letterheads and publicity material with suitable caveats as appropriate and in particular:
 - i) Whether the 1949 Act prevents the use of the term "National Park" by the Broads Authority?
 - ii) What legal action if any might the Authority be exposed to if it did so use the term "National Park"?
 - iii) What legal consequences for the Authority might follow, for example damages?

Does the National Parks and Access to the Countryside Act 1949 ("the 1949 Act") prevent the use of the term "National Park" by the Broads Authority?

7. The 1949 Act, section 114(1) defines "National Park" by reference to:

"5(3) The said areas, as for the time being designated by order made by Natural England and submitted to and confirmed by the Minister, shall be known as, and are hereinafter referred to as, National Parks."

It is not proposed to vary those areas.

8. I can find nothing in the 1949 Act which prevents the use of the term "National Park" by the Broads Authority in the absence of any act or intention to change the incorporated name of the Broads Authority itself to include the words "National Park".
9. Furthermore, nothing in section 111A of the 1974 Act, which treats the Broads Authority as a county council, local planning authority and National Park for certain purposes prevents the use of the term National Park by the Broads Authority in other circumstances where no additional powers are being applied.

What legal action if any might the Authority be exposed to if it did so use the term "National Park"?

10. I have considered:

- i) regulatory control
- ii) civil liability
- iii) judicial review
- iv) criminal liability
- v) complaints to ombudsmen

i) Regulatory control

11. The most obvious forms of control are those exercised over company names, trade marks and copyright. In general, these operate by allowing the use of a phrase or term when lodged unless and until objected to. Upon objection the user of the word or phrase may desist or alter the offending matter or company name but may be liable to the payment of damages. It is not proposed to form a company called 'The Broads National Park'. No one else has registered such a company name. No domestic trade mark has been registered for 'The Broads National Park' (although I have no information whether a European trade mark exists in those terms). No copyright infringement would arise from the use of the term proposed. No unfair trading or misleading marketing that would adversely affect anyone is proposed. The Norfolk Trading Standards Board letter of August 2009 suggests that there might be an infringement if there was an actual legal difference between the Broads Authority and a National Park. There is no significant difference but, in my opinion, it is the factual similarity between the two that is as important if not more important than the legal similarity. The only legal difference appears to be the balanced weight to be given to navigation as against conservation.

ii) Civil liability

12. *Passing Off*. The basis of an action in tort for passing off has been formulated as:

- "1) a misrepresentation
- 2) made by a trader in the course of trade,
- 3) to prospective customers of his or ultimate consumers of goods or services supplied by him,
- 4) which is calculated to injure business or goodwill of another trader (in the sense that this is a reasonably foreseeable consequence) and
- 5) which causes actual damage to a business or goodwill of the trader by whom the action is brought or (in a *quia timet* action) will probably do so."

(Ervan Warnink BV v J Townend & Sons (Hull) Ltd [1979] AC 731).

However, the traditional formulation is:

- i) a reputation (or goodwill) has been acquired by the claimant in his goods, name, mark, etc.
- ii) a misrepresentation is made by the defendant leading to confusion (or deception) causing
- iii) damage to be caused to the claimant.

(Consorzio del Prosciutto di Parma v. Marks & Spencer PLC and Others (1991) R.P.C 351, Nourse L.J. at p. 368) and Reckitt & Colman Products Ltd v Borden Inc [1990] RPC 341 HL. See also the extract from OCH-Ziff para. 152, which I have attached and which considers misrepresentation and diversion of goodwill.

13. On the present facts it is difficult to ascertain who the owner of the goodwill would be and who the trader would be. Presumably, the goodwill would be owned by the body responsible for designating National Parks or by businesses in designated National Parks who trade on the reputation and goodwill of their location in such a National Park. It would be unlikely that the designating authority could show any damage. It is possible that a business could claim goodwill arising from its National Park location¹. However, in my opinion, proving damage would be extremely difficult. It would require such a business to show either that its goodwill had been damaged or that its share of

¹ see Arsenal FC v Reed [2003] 3 All ER 865 at p.883, para.71 as to the possible breadth of the tort.

quantifiable business otherwise coming to that National Park had been diverted to "The Broads National Park". Although such a claim is theoretically possible, it will depend upon the precise nature of the use of the term by the Broads Authority in or incidental to any trading activity.

14. *Negligent misstatement*: A plaintiff under this head would have to establish that there was a special relationship with the defendant under which the defendant (i.e. the Broads Authority) assumed responsibility for statements made. The test for the assumption of responsibility is an objective one and would depend upon the context in which the description of the Broads as a National Park was made. A plaintiff would have to prove reliance on any statement that the Broads was a National Park and would have to establish that identifiable loss from that reliance was proximate, foreseeable and fair. In my opinion, there is a remote possibility that such a claim might arise. Its success would depend upon the purpose of the Board in publishing the statement; the context of the publication, the nature of the plaintiff, the extent and proximity of damages claimed and whether the plaintiff could reasonably have acted upon the publication of the words "The Broads National Park" without having made further enquiries.

ii) Judicial review

15. Any challenge would have to be based on breach of statutory authority or unreasonableness. Even if an applicant could establish sufficient standing or 'locus', such a complainant would have to go on to establish breach of a particular statutory provision or requirement and would be likely to be required to show substantial prejudice. It is difficult to identify a particular prohibition given the references to the Broads Authority being a National Park for various purposes and the absence of any express prohibition upon the use of the term "National Park" in the legislation or by DEFRA.
16. Natural England is the body responsible for making orders identifying areas to become National Parks upon confirmation by the Secretary of State for the Environment, Food and Rural Affairs. Either body could seek judicial review of the adoption of the title of "The Broads National Park". There would not appear to be any breach of a particular statutory provision. Any action would be more likely to be based upon an unreasonable or perverse decision having been taken by the Broads Authority. That is a high threshold to cross. In my opinion, in the circumstances of this

case, it would be unlikely that the necessary substantial prejudice could be established.

iv) Criminal liability

I have not identified any criminal offence that could be charged.

v) Parliamentary Commissioners

In my opinion, the most likely form of complaint that could arise from the public would be one to the Parliamentary or Local Ombudsman. The argument would be that the adoption of the name was confusing to a extent amounting maladministration. Given the references already made to the family of national parks, such a complaint would be difficult to sustain. In my opinio0n, such a complaint, if successful, would be likely to result in a recommendation to desist, at the worst.

What legal consequences for the Authority might follow, for example damages?

17. I have identified:

- i) a theoretical possibility of a challenge by a business in another National Park which claimed that it had lost trade which was identifiably based upon its location within a National Park and which had been wrongly diverted to an area erroneously claiming to be a National Park. Even if successful, it would be difficult to establish significant damages;
- ii) a possible challenge by a business within the Broads that it had relied upon the description of "The Broads National Park" and had been sued by (i) above in respect of trade diverted. Such a business might counter-claim against the Broads Authority. Again, even if made out, the damages would be limited;
- iii) a remote possibility of a claim for damages based on negligent misstatement;
- iv) possible judicial review or ombudsmen challenges which would be unlikely to carry any or any significant liability to damages or compensation. Time for bringing judicial review proceedings would run from a (minuted) decision to use the name.

18. In each case an injunction might be sought against an undertaking in damages.

Conclusion

19. I am unable to advise that there is no possibility of any legal challenge to the proposal to adopt the title "The Broads National Park".
20. I note that the intention is to use the term "The Broads National Park" on public facing literature, letterheads and publicity material with suitable caveats as appropriate etc." It may be that a cautious solution would be a design one which would echo the advice from DEFRA in March 2008 in part:

"The Broads National Park"¹

¹ A member of the National Park Family

21. My reason for suggesting some form of two-part logo is because it answers the question: why could not any Council declare its area to be a National Park? I suspect that any decision-maker would ask such a question and would strain to find some distinction on the face of the literature being questioned.
22. I would also recommend a cautious introduction of the term. In other words, I would not recommend a sudden re-branding and re-printing of all stationery. Rather, it would be prudent to introduce the term progressively, starting with the 2014 25th Anniversary publicity but leaving re-printing and comprehensive use of the new description until the initial use has been reviewed and gone unchallenged.

Francis Taylor Building
Temple
London EC4Y 7BY


R. L. Fookes

7th February 2014

OCH-ZIFF Management Europe Limited, OZ Management LP v OCH Capital LLP, Union Investment Management Limited, Thomas Tadeus Antoni Ochocki [2010] EWHC 2599 (Ch)

Arnold J.

"152 Since I have upheld Och-Ziff's claims for trade mark infringement, I shall deal with the claim for passing off relatively briefly. The necessary elements for a claim in passing off were restated by the House of Lords in Reckitt & Colman Products Ltd v Borden Inc [1990] RPC 341 as follows:

- (1) the claimant's goods or services have acquired a goodwill in the market and are known by some distinguishing name, mark or other indication;
- (2) there is a misrepresentation by the defendant (whether or not intentional) leading or likely to lead the public to believe that goods or services offered by the defendant are goods or services of the claimant; and
- (3) the claimant has suffered or is likely to suffer damage as a result of the erroneous belief engendered by the defendant's misrepresentation.

.....

Misrepresentation

155 In my judgment OCH Capital's use of the signs complained of gives rise to a misrepresentation for similar reasons that I have given in relation to the claim for infringement of the OCH-ZIFF Trade Mark under Article 9(1)(b). It is true that in passing off there is no limit on the relevant circumstances, but I do not accept that it follows that initial interest confusion is not actionable.

156 This question is considered by Professor Wadlow in *The Law of Passing Off: Unfair Competition by Misrepresentation* (3rd ed) at §§5–22 to 5–24 and 7–37 to 7–40. As he says at §7–39 (footnotes omitted):

"In the absence of better express modern authorities switch selling has to be approached from basic principles. First, *Spalding v Gamage* decided that there can be passing off with liability for substantial damages merely by advertising goods for sale, even if none are in fact sold. Secondly, the basis of passing off is a misrepresentation causing damage to the claimant's goodwill and there are few *a priori* limits on what the misrepresentation may be or how the damage may arise: the case in which the defendant's goods are sold as and for the goods of the claimant is now recognised as no more than a special instance of a more general rule. In deliberate switch selling there is necessarily a misrepresentation and the question ought therefore to be whether it is material in the sense that damage arises from it.

'[A] representation made by advertisements that the articles sold at a particular shop are articles manufactured by A.B. (if that is the legitimate effect of the advertisements, which is a separate question) must, in my opinion, be as imperious in principle and may possibly be quite as injurious in operation, as the same representation made upon the articles themselves.'

The success of switch selling as a business practice depends on a potential customer for the claimant's goods being sold the defendant's by a process in which the making of the misrepresentation is an essential step, and damage may therefore be said to arise from the misrepresentation even though the customer has ceased to be misled by the time the transaction is concluded. The general principle is that if the defendant successfully induces the public to do business with him by making a misrepresentation then it ought not to matter that the falsity of the representation would become apparent at some stage. ..."

157 I agree with this analysis. Furthermore, in my view the points made by Professor Wadlow in the first and last sentences of this passage hold good even if the misrepresentation is innocent rather than deliberate.

Damage

158 Counsel for the Defendants submitted that, even if there was a misrepresentation, there was no damage to Och-Ziff since OCH Capital was not in direct competition with Och-Ziff; and that, both for that reason and because any confusion would be dispelled by the time of a contract, Och-Ziff would not suffer any diversion of trade. I do not accept this argument for two reasons.

159 First, it is well established that, even in the absence of competition and hence diversion of sales, a misrepresentation leading to the belief that the defendant's business is associated with the claimant's is damaging to the claimant's goodwill. Secondly, it is also well established that, if there is a misrepresentation which erodes the distinctiveness of the indication in question, then that is damage for the purposes of a claim in passing off. As noted above, both of these points were well explained by Laddie J in *Irvine*, in particular in the following passages:

"34. Expressed in these terms, the purpose of a passing-off action is to vindicate the claimant's exclusive right to goodwill and to protect it against damage. When a defendant sells his inferior goods in substitution for the claimant's, there is no difficulty in a court finding that there is passing off. The substitution damages the goodwill and therefore the value of it to the claimant. The passing-off action is brought to protect the claimant's property. But goodwill will be protected even if there is no immediate damage in the above sense. For example, it has long been recognised that a defendant cannot avoid a finding of passing off by showing that his goods or services are of as good or better quality than the claimant's. In such a case, although the defendant may not damage the goodwill as such, what he does is damage the value of the goodwill to the claimant because, instead of benefiting from exclusive rights to his property, the latter now finds that someone else is squatting on it. It is for the owner of goodwill to maintain, raise or lower the quality of his reputation or to decide who, if anyone, can use it alongside him. The ability to do that is compromised if another can use the reputation or goodwill without his permission and as he likes. Thus *Fortnum & Mason* is no more entitled to use the name *F W Woolworth* than *F W Woolworth* is entitled to use the name *Fortnum & Mason*.

35. The point is particularly clearly demonstrated by the so-called 'champagne' cases, in which the claimants share a reputation in the name under which their type of wine is sold. In such cases a defendant would not escape liability for use of the name 'champagne' on a beverage which is not authentic French champagne by showing either that his product was as good or better than the claimant's or that he had not diverted any measurable sales from them. One type of damage which can support the modern form of passing-off action was explained in just such a case: *Taittinger SA v Allbev Ltd* [1993] FSR 641 . . .

38. . . . If someone acquires a valuable reputation or goodwill, the law of passing off will protect it from unlicensed use by other parties. Such use will frequently be damaging in the direct sense that it will involve selling inferior goods or services under the guise that they are from the claimant. But the action is not restricted to protecting against that sort of damage. The law will vindicate the claimant's exclusive right to the reputation or goodwill. It will not allow others to so use goodwill as to reduce, blur or diminish its exclusivity. It follows that it is not necessary to show that the claimant and the defendant share a common field of activity or that sales of products or services will be diminished either substantially or directly, at least in the short term. Of course there is still a need to demonstrate a misrepresentation because it is that misrepresentation which enables the defendant to make use or take advantage of the claimant's reputation."

160 In my judgment both of these types of damage are likely in the present case..... "



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Our ref: PO360650/SH

20 November 2014

From Lord de Mauley
Parliamentary Under Secretary of State for Natural Environment and Science

Dear Dr Johnson,

Thank you for your letter of 7 October about the Broads Authority's proposals to brand itself as a national park and enclosing a copy of your consultation document.

You have asked for my view on your proposal to adopt the national parks brand on the authority's promotional material. The consultation suggests that promoting the Broads as a national park will offer marketing opportunities to raise the profile of the area both nationally and internationally. The consultation on branding is a matter for the authority and your stakeholders. We want to see rural areas contributing to and benefitting from economic growth, including tourism, whilst ensuring that valuable landscapes remain protected.

In terms of government policy, the Broads is treated as a member of the national parks family although its statutory basis is quite separate and it is not legally a national park. We do not propose to change this position and it is Defra's intention that the three purposes of the Broads will remain of equal standing.

Ys Sincerely
Rory de Mauley

