

Mark Roberts
Chief Executive
Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

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Standards Scotland
Ìrean Àrainneachdail na h-Alba

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Ramsar Consultation
Biodiversity Unit, Scottish Government
Area 3H-South
Victoria Quay
Edinburgh
EH6 6QQ
biodiversityconsultation@gov.scot

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Consultation on Proposals to Amend Scottish Government Policy on the Protection Afforded to Certain Ramsar Features

1. Environmental Standards Scotland (ESS) welcomes the opportunity to respond to the Scottish Government's consultation on its proposals to amend Ramsar policy, especially in light of ESS' related investigatory work since September 2022.
2. ESS is a non-ministerial office directly accountable to Scottish Parliament. Since 1 October 2021, it has been a component of the system of environmental governance in Scotland following the UK's exit from the European Union and the end of oversight of implementation of European Union environmental law by the European Commission and the European Court of Justice. ESS' remit is to:
 - ensure public authorities, including the Scottish Government, public bodies and local authorities, comply with environmental law
 - monitor and take action to improve the effectiveness of environmental law and its implementation.

Question 1 - Do you agree that all Ramsar natural features should be given the same level of scrutiny when assessing potential effects of any new plan or project by treating all natural features on Ramsar sites in the equivalent way to European sites for the purposes of the Habitats Regulations Appraisal process?

3. Yes. Following a representation in 2022, ESS undertook pre-investigation work on this topic, engaging with Scottish Government policy officials and other relevant stakeholders through 2023 and 2024. As noted in [ESS' Ramsar site protection monitoring report](#) published in July 2024 (see also, original [case summary](#) and February 2024 [monitoring report](#)), ESS has concluded that the perceived gap in protection remains a potential risk to Ramsar sites.
4. The perceived gap of concern relates to Scotland's two-tier protection system, where some Ramsar features are assigned European Site protections (which are more compatible with Ramsar Convention requirements) and others are assigned Site of Special Scientific Interest (SSSI) protections (which are less comprehensive than European Site protections). Under the current system, any Ramsar feature(s) assigned SSSI protections could theoretically be permitted for development (effectively deleting Ramsar areas) without meeting the Ramsar Convention requirements to first prove an 'urgent national interest' and to compensate for any loss of wetland resources when areas are removed.
5. In contrast, European site protections require proving 'imperative reasons of overriding public interest' and compensatory measures to ensure the overall coherence of the network in these situations; ESS considers these protections to be better aligned with the Ramsar Convention requirements.
6. ESS welcomes this proposal and anticipates that it would address the perceived gap in Ramsar protection. However, it is imperative that a clear timeline for implementation is established and delivered. The Scottish Government has been considering revising Ramsar protections since 2021, with little material progress having been made in the interim. The longer the perceived gap remains, the more the likelihood increases that Scotland will contravene the Ramsar Convention.
7. ESS will continue to monitor the implementation of the proposal as part of our investigatory work. ESS will consider what further steps are necessary should it become concerned that the content of the new policy or the Scottish Government's implementation of it fails to effectively address matters.