

Environmental Standards Scotland (ESS) – Strategy 2026-2031
Accompanying Statement ESS/2026/02

1. Introduction

1.1 This statement accompanies the Strategy that ESS has laid in the Parliament today in compliance with the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ('the Continuity Act'). It has been prepared to meet the requirement specified in Schedule 2, paragraph 2(4) of the Continuity Act and provides information about:

- how ESS consulted on a draft Strategy (henceforth referred to as 'the Strategy')
- the views expressed in response to the consultations
- how those views were taken into account in preparing the Strategy that has been laid before the Parliament

1.2 In addition, this statement sets out ESS' response to the recommendation made by Scottish Ministers in November 2024 following their review of environmental governance that, when reviewing its Strategy, ESS should "give further consideration to the conditions where it would be appropriate to investigate the individual circumstances of a local area, group or community, given the restrictions on the exercise of its functions".

1.3 Furthermore, this statement provides information about the impact assessments that ESS has considered in preparing the Strategy, the conclusions that have been

reached and (where relevant) the next steps to finalise and publish the results of these assessments.

1.4 ESS is grateful to all those who took the time to respond to the consultations on drafts of the Strategy and is pleased that the responses to both consultations were overwhelmingly positive. ESS notes that there was broad support in consultees responses for both the role that ESS plays and our approach to delivering our functions to date.

1.5 ESS notes the support from consultees for it to take on new functions and duties and the concerns that it must be adequately resourced to carry them out. This echoes the view of the Scottish Parliament's Rural Affairs and Islands Committee during progress of the Natural Environment (Scotland) Bill that ESS must have the capacity and resources to effectively carry out the role of Independent Review Body for the forthcoming statutory targets for improving biodiversity. The draft Scottish Budget 2026/27 includes an allocation of resources sufficient to begin establishing and integrating two new scrutiny functions on nature targets and climate change duties.

2. Consultation details

2.1 ESS published a draft Strategy for consultation on 4 June 2025 and we invited responses by midnight on 29 August 2025 (hereafter referred to as the first consultation). An updated draft Strategy was published for consultation on 5 December 2025 and we invited responses by midnight on 9 January 2026 (hereafter referred to as the second consultation).

2.2 Responses to both consultations were invited via Citizen Space, via email or in writing. Details of both consultations and an invitation to respond were sent directly to a wide range of stakeholders, including:

- all public authorities in relation to whom ESS has functions under the Continuity Act; and
- a wide range of organisations in the public, private and third sector with an interest in the work of ESS

2.3 Details of the consultations and how to respond were also promoted to the general public on social media using posts and videos, through local news adverts and on the ESS website. In addition, during the first consultation ESS hosted an online and a hybrid information session to explain the consultation process and what was in the draft Strategy, and to provide an opportunity for attendees to ask questions. These included:

- an online information session on 19 June 2025 which was attended by 21 people
- a hybrid information session on 25 June 2025 which was attended by 23 people

2.4 Furthermore, ESS offered to attend meetings hosted by other organisations to present details of the draft Strategy and the consultation process and ensured that the Strategy consultation was highlighted in a variety of external meetings.

3. Summary of views expressed in the consultations

First Consultation

3.1 35 responses to the first consultation were received (five from individuals and 30 from organisations) and these will be published on Citizen Space where permission to publish was given by the respondent.

3.2 A summary of the responses to the first consultation has been prepared and has been published on our website and provided to the Scottish Parliament alongside the Strategy and this statement. In summary, responses were as follows:

3.3 Vision

- respondents were positive about ESS' vision, as set out in the Strategy
- the vision's emphasis on holding public authorities to account was welcomed, and ESS is considered the right organisation to take on this role
- respondents wanted the vision to go further in terms of outlining its scope, clarity, ambition, and the actions that will underpin it
- a collaborative, whole system approach to achieving the vision was suggested, and some respondents believe working with others is core to achieving this vision

3.4 Principles

- respondents were supportive of the principles set out in the draft Strategy
- the principles of independence, transparency, evidence-based decision making, and engagement were welcomed
- openness and transparency were highlighted as core principles
- evidence-driven working was widely supported, but respondents also called for a precautionary approach
- caution around 'resolving issues through agreement wherever possible' was advised, and ESS need to show they are willing to escalate when needed
- respondents also asked ESS to ensure they do not conflate wide engagement with meaningful engagement
- ESS was asked to provide further clarity on how principles will be implemented, particularly in relation to prioritisation of its work

- there were some concerns about ESS' resource and capacity to deliver all of the principles, which could become a more pressing issue if ESS' role expands
- several additional principles were suggested, focussing on fairness, future focus, and ensuring environmental protections are effective

3.5 Priorities

- respondents were broadly positive about the ESS' approach to prioritisation, as laid out in the Strategy. Priorities were described as logical, timely, and focussed on Scotland's biggest challenges
- however, there were concerns about the priorities in the Strategy appearing to read as a ranked list. ESS should be clear that the list of priorities is not in order of importance, and respondents want clarity on how criteria will be weighted and representations triaged to ensure equity. They asked for a balance between proactive and reactive activity to be struck, and for consideration to be given about how to work on issues of most concern whilst building and maintaining public confidence
- there was also a call for clearer definitions around the prioritisation approach and scope of different priorities, outlining how they will work in practice, and how ESS will coordinate with other bodies when delivering on these priorities to avoid duplication of work
- whilst there was broad agreement with the four priorities, there was a strong call for ESS to remain flexible and open to emerging issues in its approach to prioritising its work, and to not feel fixed to the four priorities set out
- respondents also requested some additions to the priorities – specifically, a focus on air quality and pollution, to strengthen attention to soils, and to consider separating marine and freshwater given distinct drivers and solutions

- there was also a request for ESS to recognise the resource pressures amongst public bodies, who may require support to deliver on actions if held to account by ESS

3.6 Strategic Objectives

There was broad support for, and agreement with, all five strategic objectives.

3.6.1 Objective 1: Securing compliance and improving effectiveness

- respondents asked for clarity and further detail on how ESS will ensure compliance with environmental law and improving the effectiveness of laws. Greater contextualisation of what is meant by 'compliance' was asked for, and concerns about resourcing and capacity amongst public authorities in ensuring compliance were raised
- caution was advised around the approach of seeking agreement in the first instance, as whilst this is supported in many cases, some respondents commented that ESS needs to be willing to use its full range of enforcement powers when necessary
- ESS was asked to be more open and transparent about the resolution actions and measures they take in undertaking their functions

3.6.2 Objective 2: Analysing and investigating environmental concerns

- respondents highlight the importance of investigations being evidence based and informed by both local knowledge and best practice
- there was strong support of ESS' dual role in both responding to representations from the public and undertaking its own proactive monitoring and analysis, but there were also requests for ESS to be clear about processes for managing representations – especially those raised by the public – to ensure resolution efficiently and effectively

- concerns regarding resource and capacity of ESS, to allow it to effectively analyse and investigate concerns, were raised - particularly in situations where public authorities fail to fully implement legislation
- questions were raised about ESS' role in relation to monitoring whether Scotland is keeping pace with EU law and standards – with some being supportive of them taking on this role, and others feeling it is not their responsibility

3.6.3 Objective 3: Monitoring and scrutinising environmental performance

- respondents were in strong agreement with ESS' approach to delivering regular, independent monitoring and scrutiny of environmental performance to hold government and public bodies to account, but sought clarity on how this would work in practice – e.g. how ESS will assess data quality, set threshold for acceptability, etc
- ESS' commitment to engaging with other environmental organisations was welcomed to strengthen monitoring and avoid duplication of work
- the importance of ESS' role in scrutinising delivery of statutory targets, particularly those to be introduced through the National Environment (Scotland) Bill, was raised, and respondents suggested ESS could play a role in ensuring plans and strategies set clear, achievable targets and provide scrutiny at the policy development stage, not just after implementation
- the new role of ESS as Independent Review Body for statutory nature recovery targets (subject to the Natural Environment Bill) was recognised as significant

3.6.4 Objective 4: Engaging and communicating effectively

- respondents asked for ESS' work to be more transparent and visible to the public – with ESS being encouraged to raise its profile significantly as

- awareness of its role, remit, and processes remain low among communities and public authorities
- ensuring communication is accessible, inclusively designed, and culturally and linguistically sensitive is important
- a recurring theme was the need to amplify environmental voices and ensure diverse perspectives are represented
- stronger collaboration with academic, civic, and community actors was widely supported

3.6.5 Objective 5: Being an efficient and effective organisation

- respondents agreed that efficiency is an important objective, but emphasised that it should not come at the expense of depth or meaningful environmental outcomes
- there were some queries around whether ESS has sufficient resources to deliver on its wide remit
- the importance of strong governance, independence, and transparency in how ESS operates, particularly given its role in making judgements on contentious matters, was highlighted
- a small number of respondents request ESS to strengthen its skills in specific areas – such as climate adaptation

3.7 Measuring Performance

- respondents were broadly supportive of ESS' plan to evaluate impact and measure performance through use of a theory of change model, key performance indicators (KPIs), and performance management indicators (PMIs). However, clarity on the different KPIs and PMIs to be used was asked for, to help readers better understand how this approach to measurement will work in practice

- it was suggested that ESS consult with others to determine relevant and robust KPIs and PMIs
- the use of a theory of change model was welcomed, with requests for ESS to review this in an ongoing manner and adapt as necessary
- it was requested that ESS measure its approach through outcomes rather than outputs
- consideration of equity and disproportionate impacts was highlighted as important to build into frameworks and metrics, with regular review and monitoring to ensure this is done in a robust way

3.8 Interim Conclusions on the Impact Assessments (IAs)

- respondents were cautiously positive about the draft impact assessments overall
- core to responses was that IAs should be kept under review as new evidence emerges, and current assessments should not be considered final
- two respondents suggested that ESS change their conclusion on the Business Regulatory Impact Assessment (BRIA) and Islands Impact Assessment (ICIA) from ‘not required’ to ‘under review’, as new evidence may emerge and impacts may be identified at a later ICIA conclusion, suggesting this conclusion overlooks substantial evidence around the burdens and resource constraints on islands
- in relation to the Strategic Environmental Assessment (SEA) ESS was requested to consider indirect impacts from the Strategy, even if direct impacts have not been identified
- the Consumer Duty Impact Assessment (CDIA) was generally supported, and there were no specific concerns linked with this assessment
- whilst there was support for ESS’ Data Protection Impact Assessment (DPIA) conclusion, some disagreement with the conclusion was also identified, with one comment highlighting that data protection is paramount and core to ESS’ purpose

3.9 Response to Scottish Government Recommendations Following the Environmental Governance Review

- in general, the feedback on ESS' response to the Scottish Government was positive, specifically when acknowledging the limitations of its remit
- respondents did ask for some examples/explanations to illustrate what is and is not within its remit to improve public understanding
- whilst the limitations of ESS' remit are understood, there was also a call for ESS to retain flexibility to consider issues which could point to systemic failings
- some concerns were raised about gaps that have arisen due to ESS' lack of enforcement powers. ESS is asked to recognise these gaps and explain any mitigation actions that will be taken
- there is strong support for ESS to take local and community insights seriously, recognising that communities provide valuable information and early warning signs about environmental concerns
- due to ESS' limited size and overlaps with other bodies, the need for ESS to work with relevant organisations was emphasised

Second consultation

3.10 17 responses to the second consultation were received (four from individuals and 13 from organisations) and these will be published on Citizen Space where permission to publish was given by the respondent.

3.11 A summary of the responses to the second consultation has been prepared and has been published on our website and provided to the Scottish Parliament alongside the Strategy and this statement. In summary, responses were as follows:

3.12 Avoiding overlap:

- respondents were supportive of ESS' approach to avoiding overlap with other statutory regimes, administrative complaints procedures, public bodies or parliamentary committees
- a majority of respondents provided suggestions for further improvement and/or called for greater clarification of operational protocols and procedures

3.13 Keeping people informed about representations:

- respondents were supportive of ESS' approach to keeping stakeholders informed while handling representations
- the statements on transparency and open communication were welcomed
- respondents provided further suggestions for improvement focusing on communication and clarity. It was suggested that the accessibility and transparency of information published on the ESS website could be further strengthened
- ESS was asked to provide more information about expected timescales and service standards to manage the expectations of representors
- respondents also stressed that updates and results from formally and informally resolved cases should be reported publicly

3.14 Initiation and prioritisation of investigations:

- respondents were supportive of the approach ESS uses to decide how to initiate an investigation and how these should be carried out and prioritised. The focus on structure, added value and early discussions with public authorities was welcomed
- respondents suggested that more clarity could be provided around the weighting of criteria used, the quality assurance process and how cumulative impacts are taken into consideration
- respondents also asked for more information on timeframes for different stages and outcomes of investigations

3.15 Public authority engagement to resolve concerns:

- there was broad support for ESS' approach to engaging with public authorities to swiftly resolve concerns and agree remedial action. Early engagement and collaboration and ESS' proportionate approach were welcomed
- respondents provided a range of additional suggestions that they thought would strengthen the approach. There was a preference for ESS to publish more information about agreed resolutions and provide indicative timeframes for the different stages of resolution
- concerns were expressed around resourcing for ESS and public authorities. Respondents highlighted that ESS needs adequate resources to carry out these functions, and that there should be consideration of the resources and capacity of local authorities to respond

3.16 Compliance notice versus improvement report:

- there was broad support for ESS' approach to determining whether to issue a compliance notice or improvement report. Respondents welcomed the successes that ESS have had through informal resolution and the proportionate use of its more formal powers to address systemic failures

- respondents sought additional clarity on the triggers for the use of different statutory powers and the differences between these tools. The desire for further detail on timescales and expectations, as in previous questions, was echoed in some responses

3.17 Severity of compliance failure:

- respondents broadly agreed with ESS' approach to determining failures to comply with environmental law and the seriousness of the environmental harm caused for the purposes of applying for judicial review. Some noted that the approach was proportionate
- however, four respondents thought that improvements could be made to the proposed approach, seeking adjustments to the level of complexity and range of failures that this approach would cover, and to how uneven impacts and precautionary concerns would be handled
- individual respondents provided suggestions regarding ESS' interaction with regulators and the handling of cases with cumulative or indirect impacts

3.18 Consideration of different types of information:

- respondents were broadly in agreement with ESS' proposed approach to considering different types of information for the purposes of exercising core functions
- to strengthen the clarity of the approach, some respondents called for greater clarity on the use of evidence and data. In particular, whether ESS welcomed citizen science contributions, protocols for data evaluation and the communication of evidence gaps to the public

4. Summary of how views expressed in the consultations have been taken into account in preparing the Strategy to be laid before the Parliament

First consultation

4.1 Taking into account the responses to the first consultation, the following changes have been made to the proposed Strategy that has now been laid before Parliament.

4.2 In response to suggestions for additions and changes to the principles we have made minor amendments to the wording of those related to engagement and resolving issues through agreement. We have not added an additional principle about achieving equity of environmental outcome for communities, as suggested by a small number of respondents, but have amended text in the Strategy to clarify that ESS will strive to engage with communities and groups who suffer disproportionately from environmental disadvantage. We have also clarified that the spatial distribution of issues and their impact on communities will be considered by ESS when prioritising how we will respond to environmental concerns.

4.3 Given widespread support for our proposed approach to prioritisation of our proactive work we have not made significant changes. However, we have amended the text in the Strategy to clarify that we will continue to follow up on issues that ESS has scrutinised to date (including access to environmental justice, air quality and soils) and that we will continue to accept and consider representations on all topics within our remit. We have also clarified, that more detail on which issues have been prioritised for work, and why, will be provided in annual business plans. We have also made minor revisions to our description of the priorities in response to suggestions from consultees.

4.4 In response to requests for transparency on what action has been agreed with public authorities without recourse to our formal enforcement powers we have amended the text in the Strategy to confirm that this will continue to be published on our website (for example, through individual casework reports and updates).

4.5 Minor additions to the text of the Strategy have been made in response to requests for further information on ESS' approach to assessing whether Scotland is maintaining alignment with the European Union on environmental policy, law and regulation.

4.6 In response to requests for clarification and further detail on our approach to monitoring and scrutinising environmental performance we have amended the text of the Strategy to more clearly signpost readers to operational guidance and other publications that set out ESS procedures, for example, how we quality assure the data and evidence that we use and how research providers can engage with us.

4.7 We welcome the support that respondents gave to current proposals for ESS to take on new functions and duties in relation to the scrutiny of the delivery by local authorities of their climate change duties and the proposed statutory nature recovery targets. Some respondents expressed concern that ESS should be adequately resourced to carry out these new functions. ESS will also continue to make this case to the Scottish Parliament and Scottish Government. The Continuity Act requires that Scottish Ministers must seek to ensure that ESS is sufficiently resourced to carry out its functions and ESS includes a statement in its Annual Report to the Scottish Parliament about whether it considers this to be the case.

4.8 A number of consultees expressed concern that ESS' independence should be assured in relation to any new functions and in response we have added reference to the criteria that our Board will assess proposals for new functions or duties against, including that proposals should protect our independence.

4.9 Whilst respondents were broadly supportive of our proposed approach to engaging and communicating we have amended the text of the Strategy to clarify that

ESS is committed to continuing to engage with under-represented and disadvantaged groups across Scotland.

4.10 In addition, we have updated the Strategy to confirm that ESS is committed to ensuring that our role is well understood and that information on our work is accessible. We have made a number of improvements to ESS communications, including enhanced website functionality and signposting to other organisations, the publication of short, plain English summaries of our reports, making available easy read information about our role and issuing news alerts for interested stakeholders. ESS will also continue to develop our social media content, including graphics, animations and videos, and attend and host stakeholder events to share information about our work. Further details will be provided in our Communication and Engagement Plan, which we will publish alongside our approved Strategy.

4.11 In response to a small number of suggestions on our objective of ensuring that we are an effective and efficient organisation we have made some additions and amendments to the text to provide further information on our approach.

4.12 Respondents were supportive of our proposed approach to measuring our performance. However, we have made some minor amendments to the Strategy to clarify that full details of our Key Performance Indicators and Performance and Management Indicators (KPIs and PMIs) will be published alongside our approved Strategy and that information on our theories of change on how ESS' actions will influence environmental outcomes will be included in relevant publications.

Second consultation

4.13 Taking into account the responses to the second consultation, the following changes have been made to the proposed Strategy that has now been laid before Parliament.

4.14 In response to requests for clarification of some aspects of our approach to avoiding overlap with other bodies we have updated the Strategy to confirm that we will regularly review our Memorandums of Understanding and arrangements for mutual signposting and liaison with other bodies.

4.15 In response to requests for clarification of our approach to keeping people informed about the progress of, and the timescale for resolving, concerns we have amended the Strategy to make clearer that we aim to deal with representations as efficiently as possible and that we will update people in line with our Service Standards. Our Service Standards are published on the ESS website and confirm that we aim to determine whether to take representations forward within 20 working days of receipt, respond to subsequent correspondence within five working days, and update representers on progress regularly.

4.16 In addition, we are committed to continuous improvement in how we respond to representations and how we make information about the progress of cases available. We undertake regular surveys of representers' experiences and have a number of improvements planned to how we report casework information on our website. Furthermore, our set of PMIs include measures of the number of representations received and the proportion that result in substantive casework which are resolved by agreement with public authorities.

4.17 In response to queries about how representations are considered, how ESS determines if they will be taken forward and how investigations are prioritised we have made minor amendments to the text of the Strategy to ensure that this is clear, including confirmation that cumulative impact on the environment is considered.

4.18 In response to requests for clarification of some aspects of our approach to gathering and assessing evidence to support our scrutiny work we have made minor

amendments to the text, including confirming that citizen science will be considered alongside other sources where appropriate.

4.19 In response to requests for clarification of various aspects of our approach to utilising our formal enforcement powers we have carefully considered the text and updated it in a small number of places to ensure that it provides adequate information about our approach. Further information about our operational approach is available on our website but we are confident that the Strategy, as required by the Continuity Act, sets out our approach to determining whether to use a compliance notice, improvement report or to apply for judicial review in sufficient detail. We have also amended the Strategy to confirm that we will publish full details of what proposals for improvement were recommended and agreed with public authorities, and the results of our monitoring of implementation and the environmental outcomes achieved.

4.20 Various other changes have been made to the text of the Strategy to reflect minor points of clarification or correction raised by respondents to both consultations.

5. Response to Environmental Governance Review Recommendation

5.1 In June 2023, Scottish Ministers published and consulted on a report on the effectiveness of environmental governance in Scotland. Our [response to this consultation](#) highlighted that, while the Continuity Act has filled some of the gaps in the environmental governance framework created by the UK's withdrawal from the European Union, gaps remain.

5.2 In November 2024, the Scottish Government [made a statement to the Scottish Parliament](#) summarising feedback from the consultation and set out the recommendations that Scottish Ministers made in response to the views received. The statement recommended that ESS, when revising its Strategy, should:

“Give further consideration to the conditions where it would be appropriate to investigate the individual circumstances of a local area, group or community, given the restrictions on the exercise of its functions”.

5.3 Furthermore, the statement recommended that:

“The Parliament considers this matter in their oversight of ESS’ activities and in particular when reviewing a draft revised strategy in due course”.

5.4 In November 2024, we [wrote to the Scottish Parliament](#) with our initial observations on this recommendation but committed to considering it further when preparing our Strategy.

5.5 The decision as to which matters ESS will investigate or prioritise for analytical work is driven by the terms of the Continuity Act and the principles and factors outlined in our Strategy.

5.6 Section 1.6 of our Strategy explains that ESS cannot act as an appeals body and take enforcement action against public authorities on their individual regulatory decisions. Section 27(a) and section 32(1)(a) respectively of the Continuity Act state that ESS cannot issue an improvement report or a compliance notice (our main enforcement mechanisms) in respect of “a failure to comply with environmental law arising out of any decision taken by a public authority in the exercise of its regulatory functions in relation to a particular person or case (for example, a decision on an application for a licence or a decision on regulatory enforcement in a specific case)”.

5.7 Section 1.6 of our Strategy therefore explains that we will consider whether individual decisions might indicate systemic or cumulative problems with compliance or with the effectiveness of environmental law or how it is implemented or applied.

5.8 Provided a matter raised with us is within our remit in terms of the Continuity Act and aligns with the principles and factors outlined in our Strategy, there is nothing to prevent ESS from considering the individual circumstances of a local area, group or community. ESS can (and does) consider such cases where they indicate systemic or cumulative problems with compliance or with the effectiveness of environmental law or how it is implemented or applied.

5.9 For example, we have considered representations relating to the handling of a licence and the appropriate assessment stage of a Habitats Regulations Appraisal under the Conservation (Natural Habitats, &c.) Regulations 1994 and regarding concerns over how reports of sewage related debris from Waste Water Treatment Works had been handled under the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

5.10 In both these cases our pre-investigation enquiries identified concerns about how these types of decisions were generally handled by the relevant authorities.

We therefore engaged with the public authorities concerned and made recommendations about how guidance and procedures could be improved to ensure better environmental protection. The public authorities accepted and implemented our recommendations.

5.11 We are also required to exercise our functions in a way that avoids duplication or overlap with other statutory regimes and administrative complaints procedures and functions exercisable by other bodies such as Audit Scotland, the Scottish Public Services Ombudsman and the Climate Change Committee.

5.12 We will continue to work within the framework of the Continuity Act and our Strategy when undertaking our work. However, as noted in our response to the Scottish Government's 2023 consultation, ESS was not established to fill all the environmental governance gaps left following the UK's exit from the European Union.

5.13 In particular, Scotland, as part of the UK, is party to the United Nations Convention on Access to Information, public participation in decision making and access to justice in environmental matters (the Aarhus Convention) and has specific obligations under it. Scotland has been found to be in breach of the Aarhus Convention in consecutive findings since 2014 by the United Nations Economic Commission for Europe Aarhus Convention Compliance Committee.

5.14 ESS believes that compliance with the Aarhus Convention is essential. In our response to the Scottish Government's 2023 consultation, we said that a court or tribunal, whether new or a development of existing structures, would help support better compliance with the Aarhus Convention and access to environmental justice for Scotland, provided it was well constituted and issues such as standing, cost and merit-based review were also addressed.

5.15 We would be happy to discuss with the Scottish Parliament how we have responded to the recommendation made to ESS as part of its scrutiny of the Strategy submitted for approval. In addition, we would be happy to consider whether there is any further clarification that we can provide on this matter on our website (for example in [relevant operational guidance](#)).

6. Impact Assessments

6.1 As a public body ESS is under a statutory duty to assess the impact of our proposed Strategy on certain groups, sectors and communities. Even where a specific statutory duty does not exist, ESS recognises the importance of considering the potential impact of our work and upholding the rights and wellbeing of everyone in Scotland, including the most vulnerable groups and those disproportionately impacted by environmental degradation.

6.2 In preparing the draft Strategy we undertook screening (or equivalent) for a number of assessments to enable us to consider the potential impact of our Strategy and how any potential negative impacts could be avoided or mitigated against to improve our approach.

6.3 Respondents to the consultation were largely supportive of our approach to the different impact assessments and our conclusions. Where respondents disagreed or made suggestions as to what more could be done, this has been taken into account in finalising our approach.

6.4 Paragraphs 6.5 - 6.11 provide a summary of the action taken for each impact assessment, our findings and what (if any) further action we intend to take. We will continue to monitor our impact on a variety of groups, sectors and communities, for example through our community engagement programme and feedback surveys from those who have submitted representations to us.

6.5 Equality impact assessment

6.5.1 The Equality Act 2010 requires all public authorities to consider the need to eliminate unlawful conduct prohibited by the Act and advance equality of opportunity and foster good relations between people who share a relevant protected characteristic and people who do not. This is known as ‘the general duty’. Some public authorities (including ESS) also have specific duties under the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, which includes the need to assess the impact of applying any new or revised policy or practice on the general duty.

6.5.2 There is a separate duty on some public bodies under the Equality Act 2010 to consider how they can reduce inequalities of outcome caused by socio-economic disadvantage when making strategic decisions. This is known as the ‘Fairer Scotland Duty’. Although ESS is not covered by this duty, we understand that environmental issues can disproportionately impact people experiencing socio-economic disadvantage and can compound inequalities. We therefore integrate these into our Equality Impact Assessments (EQIAs).

6.5.3 We have undertaken an EQIA for the Strategy and have concluded that the delivery of ESS’ statutory functions under the Strategy will increase the equality of opportunity for those with protected characteristics. ESS have also identified a number of actions that we will undertake to help us meet the general duty, such as communicating in a clear and accessible way and engaging directly with groups most at risk of exclusion or environmental harm. We will publish a summary of our EQIA and the actions identified alongside the final, approved Strategy.

6.6 Business and regulatory impact assessment

6.6.1 A Business and Regulatory Impact Assessment (BRIA) helps to assess the likely costs, benefits and risks of any proposed legislation, codes of practice, guidance, or policy changes that may have an impact on the public, private or third sector. It is not a

statutory requirement to carry out a BRIA, but consideration of a BRIA is part of best practice for any new policy, regulations or guidance. As such ESS chose to consider potential impacts.

6.6.2 Having considered the Scottish Government's BRIA toolkit, associated guidance and insights gathered through the ongoing delivery of ESS' work, we have concluded that a BRIA is not required for the revised Strategy. We will continue to engage with business organisations and representatives of affected sectors as we carry out our scrutiny work.

6.7 Strategic environmental assessment

6.7.1 The Environmental Assessment (Scotland) Act 2005 requires 'responsible authorities' to consider the likely impact of plans, programmes and strategies on the environment. A Strategic Environmental Assessment (SEA) is required where the plan or strategy is likely to have significant environmental effects, if implemented.

6.7.2 We undertook a pre-screening of our revised Strategy through the SEA Gateway and the relevant consultation authorities did not submit any comments or feedback in response. We have therefore concluded that an SEA is not required for the revised Strategy.

6.8 Child rights and wellbeing impact assessment

6.8.1 Section 6(1) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 places a duty on public authorities to act compatibly with the United Nations Convention on the Rights of the Child (UNCRC) requirements when exercising their functions.

6.8.2 To ensure that we are exercising our functions in compatibility with UNCRC requirements, we assessed the potential for any positive, negative or neutral impact on Children's Rights and Wellbeing and have determined that the Strategy is not incompatible with any UNCRC requirement and that a Stage 2 CRWIA is not required.

6.9 Island communities impact assessment

6.9.1 The Islands (Scotland) Act 2018 requires 'relevant authorities' to have regard to island communities in carrying out their functions. Relevant authorities must undertake an Island Communities Impact Assessment (ICIA) where a policy, strategy, or service is likely to have an effect on an island community which is significantly different from its effect on other communities.

6.9.2 ESS is not a 'relevant authority' under the Islands (Scotland) Act 2018. However, we work across Scotland and understand that certain environmental issues can disproportionately affect particular geographical areas, populations and communities. As such, ESS chose to consider any potential impacts on island communities associated with the revised Strategy.

6.9.3 Following screening ESS has concluded that the Strategy is not likely to have a significantly different effect on island communities and therefore an ICIA is not required. However, through our community engagement programme, ESS will continue to engage with island communities to understand their environmental concerns and to ensure that our role and how to submit a representation are widely understood.

6.10 Consumer duty impact assessment

6.10.1 The Consumer (Scotland) Act 2020 requires that, when making decisions of a strategic nature about how to exercise its functions, a public body must have regard to

the impact of those decisions on consumers in Scotland and the desirability of reducing harm to those consumers.

6.10.2 Having regard to Consumer Scotland's guidance we have considered the potential impacts of the revised Strategy on consumers in Scotland and have concluded that the revised Strategy, and its underlying operational procedures, will have a positive impact on consumers. ESS is committed to engaging with stakeholders and ensuring that the experience of those who submit representations to us is positive.

6.10.3 We will continue to engage with stakeholders and expect to publish a short summary of our consideration of the Consumer Duty impact assessment following approval by Parliament.

6.11 Data protection impact assessment

6.11.1 Under the UK GDPR and Data Protection Act 2018 a Data Protection Impact Assessment (DPIA) must be carried out when processing personal data that is likely to result in a high risk to individuals.

6.11.2 ESS did process some personal data during the consultation process and, while unlikely to result in a high risk to individuals, we elected to undertake a DPIA to ensure compliance with our duties and to demonstrate that we are respecting and protecting the interests of the public.

7. Conclusion

7.1 This statement provides details of:

- how ESS undertook consultation on its draft Strategy
- what views were expressed in response to the consultations
- how those views were taken into account in preparing the Strategy that has been laid before the Parliament

7.2 In addition, it also provides details of ESS' response to the recommendation made to it by Scottish Ministers following their review of environmental governance and the impact assessments that ESS has undertaken in preparing this Strategy.

7.3 ESS looks forward to Parliamentary scrutiny of the Strategy and would be happy to provide further details to support its consideration.

Environmental Standards Scotland

5 February 2026