

3 March 2026

**ESS' response to the Scottish Environment Protection Agency's (SEPA)
consultation on Safeguarding Scotland's Water Environment**

1. Environmental Standards Scotland (ESS) welcomes the opportunity to respond to SEPA's consultation on Safeguarding Scotland's Water Environment that considers significant water management issues in Scotland. ESS has responded to the questions noted below.

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.

1. To what extent do you agree that we have identified the most significant water management issues affecting Scotland’s water environment?

Neither agree or disagree.

In terms of significance, the water issues highlighted are common major pressures, both at a European level¹ and at the UK level². Parallel significant water management issue (SWMI) consultations across the UK, are broadly similar with the exception of Sea Lice (Scotland), Pollution from abandoned mines (Wales),³ INNS and Climate change (England, Northern Ireland) and Forestry (Northern Ireland)⁴ identified as SWMI in their own right.

In terms of relevance to Scotland, [ESS' Baseline Evidence Review](#) on water found that the top three pressures on freshwater bodies in the Scotland River Basin District (rural diffuse pollution, man-made barriers to fish migration and modifications to physical condition) have remained consistent from 2015 to 2020, with the number of water bodies affected by water use by hydropower and unknown causes (ecology) increasing between 2015 and 2020⁵. Sewage discharge, pollution from pharmaceuticals and climate change are also highlighted as potential issues of significance.

ESS has since progressed analysis on ‘Understanding water quality issues, with an initial focus on progress against River Basin Management plans’ alongside a range of relevant ESS case investigations, which include some of the significant water issues mentioned.

ESS agrees that management and enforcement by SEPA of licencing **Artificial Barriers to Fish Migration** is important. In 2022, ESS received a representation

¹ [Europe's state of water 2024: the need for improved water resilience | Publications | European Environment Agency \(EEA\)](#)

² in the relevant administrations significant water management issue consultations

³ [Microsoft Word - Challenges and Choices C4 for PDF](#)

⁴ [Annex A - Significant Water Management Issues \(SWMI\) report 2025 - Consultation Document.PDF](#)

⁵ [Baseline-Evidence-Review-Water-FINAL-20231025.pdf](#)

concerning the effectiveness of SEPA’s licensing regime for controlled activities in Scottish rivers. Specifically, there are numerous unlicensed weirs in Scottish river catchments and that ineffective licensing of structures in rivers can negatively impact on efforts to improve river habitats. Such structures can create barriers for migratory fish species, disrupting spawning and patterns of upstream or downstream migration. The preferred approach is for unused weirs to be removed to re-naturalise the habitat in line with Water Framework Directive (WFD) commitments⁶.

SEPA has provided ESS with a plan on how it intends to implement the Scottish Government’s commitment to remove all barriers by 2027. In the most recent update, implementation of the programme by SEPA was underway, and considered satisfactory⁷, however, ESS recognises that a large number remain to be addressed.

On **Water Use** ESS agrees that the management of water supplies is a significant issue, “climate change will increase the frequency of water scarcity events and may put pressure on water supplies”⁸. In its risk assessment for Scotland, The Climate Change Committee’s 2023 progress report concluded that there is a high risk of an impact of climate change on freshwater, coastal and marine habitats and species due to anthropogenic pressures. The CCC have highlighted regularly in reports and advice that more action is needed to manage risks brought about by changing climatic conditions and extreme events - including higher water temperatures (which could increase the rate of biological and chemical processes such as algal growth, influence salmon migration, and lead to the loss of species), flooding, water scarcity and phenological shifts⁹.

⁶ [Microsoft Word - ESS - Case summary IESS.21.015](#)

⁷ [Licensing and Removal of Weirs - Interim Case Update - November 2025 - Environmental Standards Scotland](#)

⁸ [Baseline Evidence Review: Water - Environmental Standards Scotland](#)

⁹ <https://www.theccc.org.uk/wp-content/uploads/2023/11/Adapting-to-climate-change-Progress-in-Scotland-Web.pdf>

ESS agrees that management of **Wastewater and Sewer Networks** is a significant and ongoing issue for the freshwater environment in Scotland, with a review of guidance on storm overflows still to be implemented¹⁰. In 2024 ESS published its report on ‘Storm Overflows - An assessment of spills, their impact on the water environment and the effectiveness of legislation and policy’¹¹ which found that action needs to be taken to improve monitoring, regulatory guidance and the operation of storm overflows in Scotland. ESS continue to engage with and monitor progress on the recommendations made to the Scottish Government, Scottish Water and SEPA.

On **Chemicals in the Water Environment**, ESS agrees this is an issue of significance, and is aware of concerns about divergence of the UKs chemical regulation from EU chemical regulations, “in particular, the UK’s ability and capacity to assess new substances and any associated risks to the environment and to human health”¹².

In 2024 ESS published a commissioned review on [antimicrobial resistance in relation to the environment in Scotland](#). This identified several potential risks to Scotland’s freshwaters related to antimicrobial resistance from a variety of sources, including human waste; wastewater treatment plants; and agriculture and aquaculture¹³ which were highlighted as a growing concern in relation to the environment in Scotland, with a need for greater understanding.

Whilst ESS welcomes that the issues are identified as significant ones, there are also changes from previous RBMP rounds. The [Significant water management issues for Scotland - 19.12.2019](#) for example identified both hydropower and invasive non-native species as significant water management issues in their own right¹⁴. It is not clear from the summary provided what the rationale for change is and the relative level of

¹⁰ [Guidance review on storm overflows brought forward - Environmental Standards Scotland](#)

¹¹ [Statement on responses to ESS’ Storm Overflows report - May 2025 - Environmental Standards Scotland](#)

¹² [Letter from Mark Roberts to Edward Mountain MSP - Environmental Standards Scotland](#)

¹³ [Antimicrobial Resistance in relation to the environment in Scotland - Literature Review](#)

¹⁴ https://consultation.sepa.org.uk/rbmp/swmi_scotland/supporting_documents/191219_SWMI_final.pdf

importance of both hydropower and INNS as ongoing issues of significant concern. This seems particularly pertinent in the context of the twin crises, and the Climate Change Committee's 2023 progress report for Scotland, which highlighted that more action is needed to manage the risk of pests, pathogens and invasive species, as these are likely to increase with climate change leading to increased competition with native species, introduction of disease and changes to habitat condition and extent.

ESS is also undertaking analytical work on invasive non-native species and has found, through our call for evidence¹⁵, increased support for early detection and rapid response of invasive non-native species, particularly in freshwater environments. ESS has since called on the Scottish Government for a review of the INNS code of practice, highlighting the impact of INNS found on riverbanks¹⁶ suggesting that this may still be a significant issue. ESS expects to publish a focused report on control of invasive non-native species later in the year.

2. To what extent do you agree that each of the following should be a theme for RBMP4 to support collaboration?

Neither agree nor disagree

ESS welcomes the themes set out in Safeguarding Scotland's Water Environment¹⁷ and agrees that these will be vitally important for RBMP4, Scotland is in a climate and nature emergency, and the next round of RBMP will cover a crucial period for both of these.

RBMP4 would benefit from a clear articulation of outcomes within the themes, how these will be measured and what actions SEPA will take, as part of the wider strategies and programmes to progress to their achievement. Whilst the Treemaps provided in the

¹⁵ [Call for Evidence on the Control and Impact of Invasive Non-Native Species: Summary of Responses.](#)

¹⁶ [Review and update to Code of Practice for controlling invasive non-native species - Environmental Standards Scotland](#)

¹⁷ [Safeguarding Scotland's Water Environment](#)

consultation seek to display information on the themes in a different way, it is not clear what the values or proportions are. In breaking down topics in this way it has obscured the numerical values. It would be helpful to more clearly attribute values and relative proportion to overall water bodies.

The approach taken by the Environment Agency¹⁸ sets out a detailed explanation of the challenges, and signposts to relevant case studies, further evidence and information to aid understanding to help inform the reader.

3. In what ways is river basin management planning currently considered or applied in your work, activities, or community?

Not answered

4. Please share with us examples of participation and engagement which have worked well and could be used for river basin management planning.

Not answered

5. Please share with us examples of where you have used innovative techniques to deliver improvements to the water environment.

Not answered

6. Is there anything else you think is important for us to consider when developing RBMP4?

Whilst Scotland appears to be performing better than other countries (with a higher percentage of waterbodies at good or better status than both any other UK nation and the EU average), 'there remain areas of concern, such as the overall condition of rivers (where the proportion in good or better condition is lower than for other water body

¹⁸ [Significant water management issues - Environment Agency - Citizen Space](#)

types), the state of waters in wildlife conservation areas and missed targets for the condition of water bodies under successive RBMPs¹⁹.

ESS has undertaken scoping work on water quality and identified rural diffuse pollution as a particular pressure. We have since progressed analysis on 'Understanding water quality issues, with an initial focus on progress against River Basin Management plans' alongside a range of relevant ESS case investigations, which include some of the significant water issues mentioned in this consultation.

Targets and pace

Whilst improvements have been made through previous RBMPs, targets have also been missed in Scotland and across Europe. With increasing pressures “presenting serious challenges to water security, now and in the future” positive changes will be needed at scale and pace, to achieve the RBMP4 objectives and “improve its resilience and ensure sustainable freshwater supplies for people and the environment”²⁰.

Access to Environmental information

In ESS' report on SEPA's compliance with its duty to maintain public registers²¹, ESS highlighted the need for access to environmental information, and in particular on regulated activities, which allows for greater transparency and accountability. An “important element of access to environmental justice includes the existence and availability of environmental data and information”²².

It will be important to ensure access to the evidence and monitoring for decision-making is transparent, accessible and available. This is particularly important to allow for public bodies, businesses, and other stakeholders to work effectively together to tackle relevant issues. In RBMP3 the appendices which contain much of the detail and

¹⁹ [Baseline-Evidence-Review-Water-FINAL-20231025.pdf](#)

²⁰ [Europe's state of water 2024: the need for improved water resilience | Publications | European Environment Agency \(EEA\)](#)

²¹ [Maintenance of Public Registers Informal Resolution Report - Environmental Standards Scotland.](#)

²² [ESS-Consultation-Response-Environmental-Governance-Review-Consultation-20231011.pdf](#)

evidence base are not hyperlinked or signposted within the plan itself but sit on the Water Environment Hub website. Including these in the RBMP4 document and signposting to them more clearly would help aid transparency and also potentially help drive delivery.