

SLA Response to Environmental Standards Scotland Draft Strategic Plan Consultation

1. Do you have any comments on our Vision and Mission Statement, set out in chapter 3?

Our vision is that:

Scotland's communities benefit from a high-quality environment and are protected from harm through the consistent application of effective environmental laws, which are recognised internationally as setting high standards.

Our mission statement is that:

We will ensure that Scotland's environmental laws and standards are complied with, and their effectiveness improved – to achieve Scotland's ambitions for the environment and climate change.

Scotland's Landscape Alliance (SLA) welcomes the development of Environmental Standards Scotland draft Strategic Plan and generally are supportive of ESS Vision and Mission statement.

SLA support the better protection and care of Scotland's landscapes and places to help deliver climate resilience and biodiversity, economic performance and public health and wellbeing. Our vision is a Scotland where the benefits of landscape are recognised and strengthened to support the delivery of our National Outcomes, the UN Sustainable Development Goals and the principles of the European Landscape Convention (ELC).

In the Vision it would be useful to define 'high quality', 'environment' and 'environmental laws' for clarity. We would wish landscape to be included in this definition as Scotland is committed to the principles of the ELC. There is a clear definition of landscape within the ELC and also the SLA High Level Statement – *Landscape and Place for Success*. Environmental standards should be defined and included in the vision.

The definition of communities needs to embrace all people living, working and visiting Scotland. Scotland is known internationally for the quality of its landscape, natural capital and built heritage which drives tourism and supports the economy.

The mission statement implies that existing environmental laws and standards will be focussed on to ensure their effectiveness or their effectiveness improved We would wish that this is expanded to include scope for new legislation or standards where there is evidence of current gaps and to account for our future challenges.

The current vision sees the environment as a human benefit, rather than being fundamental to our and other species existence. The importance of the environment could be stressed by inserting *Scotland's environment is managed and protected through the consistent application of effective environmental laws, safeguarding biodiversity, ecosystems and human health*.

Current laws and standards that do not fit into the term 'environmental' can also have major impacts on the environment and landscape such as decisions on development or large-scale land use change. It would be helpful to include a definition that incorporates impacts on the environment through other legislation or standards so that there is connectivity across policy and legislation.

2. Do you have any comments on our Strategic Outcomes, set out in chapter 3?

Our strategic outcomes are: -

- We have taken effective action to ensure public authorities' compliance with environmental law and to improve the effectiveness of the law.
- We have prioritised and investigated the most important matters of concern and identified the action needed to rectify problems and improve compliance and effectiveness.
- We have engaged in building knowledge on environmental performance, are well informed about, developments in EU and international standards and practice, and have formed effective partnerships with bodies collecting, collating and scrutinising environmental data.
- Our role is widely understood, and we are regularly engaged in work to improve compliance and the effectiveness of environmental law and how it is applied.
- We are an effective and efficient organisation

The SLA are in support of the strategic outcomes but offer the following additions and suggestions for further clarity:

The reference to "environmental law" in the strategic outcomes is unclear and would benefit from definition. See response to question 1 regarding inclusion of landscape and other related legislation and standards. Environmental standards should also be defined and included in the first outcome.

Bullet point 3 should be clarified to maximise work with organisations, communities and bodies in Scotland - *We have engaged in building knowledge on environmental performance in Scotland are well informed about, developments in EU and international standards and practice, and have formed effective partnerships with local, UK and international bodies collecting, collating and scrutinising environmental data.*

The ordering of the outcomes implies a monitoring approach to compliance rather than a proactive drive for improvements to environmental law and standards. We would expect bullet point 3, knowledge building to enable understanding of effectiveness and compliance, to have equal priority with outcome 1.

There is no outcome relating communities that forms part of the vision statement. It would be appropriate to include an outcome for people and communities to raise concerns through the ESS about the right to healthy environments (i.e. not to be harmed by climate change, pollution etc), also the right to have access to safe and high quality greenspace and landscape, and the right to have their community environments and landscapes effectively protected and managed.

3. Do you have any comments on our Values and Principles, set out in chapter 3?

Our Values: -

Others View us as: Independent Transparent, Trusted, Effective,

Our Staff feel: Respected, Included, Innovative, Collaborative

Our principles: -

1. We will target our efforts and resources where we can add most value – focusing where our contribution is needed most or will make most difference
2. We will seek to resolve issues through agreement wherever possible – having recourse to our formal powers where we judge it is necessary to deliver the outcome expected
3. We will be evidence driven – seeking a wide range of inputs and expertise to inform our work and to support our decisions and advice
4. We will be open and transparent – keeping people informed about the progress of our work and providing opportunities to input to and influence it.
5. We will seek opportunities to work in partnership with others – working closely with all relevant stakeholders to ensure that our collective efforts deliver benefits for environmental protection and enhancement

The SLA are generally supportive of the values and principles. However, we would also expect the values of innovative and collaborative to be applied to how external people view the organisation.

The SLA are concerned that Principle 1 appears to limit the ESS approach to added value which is less than aspirational when it comes to our environment. In general, the overall Strategy seems to have a focus on monitoring and responding. The SLA believe that there is the need and opportunity for the ESS to be a leader in Europe and internationally with a proactive approach to drive improvements in environmental enhancement, management and protection for landscape, people and places. Positive and collaborative action is required to safeguard our landscapes and environments with good design and stewardship to maximise the benefits to society and nature now and for the future. Landscape scale design responses are required to tackle the global issues of climate change and biodiversity loss and address the challenges that Scotland faces.

In Principle 3 the SLA agree that the ESS should listen to concerns raised, gather data and work in partnership with Scottish, UK and International organisations and bodies. However it is not clear in the Principles that individuals / members of the community have the right to raise concerns about the environment and impact on their lives. The SLA support the collection and use of data, however ESS should also be alive to areas where data is not being collected, or being collected and not published. These may be areas of particularly weak environmental performance exactly because data is not available.

Principle 5 – Key partnerships should be made public for transparency.

4. Do you have any comments on our proposed approach to resolving matters informally with public authorities, set out in chapter 4?

The SLA agrees that an informal approach to resolving matters with public authorities is appropriate. The example given is one of adherence to existing Codes of Practice and it would be useful to be given an example of how in principle this would work, for example, with a Scottish Government department on the identified need for new policy or legislation to protect the environment through an Improvement Report. In addition information to enable a transparent process information should be made public .

This chapter also appears confusing, and the SLA consider it may be more appropriate to divide this chapter between the ESS approach to dealing with non-compliance with existing environmental law, standards and codes of practice and proposed new legislation and policy using evidence-based decision making from data gathering and partnership working. (See comments below also)

5. Do you have any comments on our proposed approach to determining what constitutes a systemic failure, set out in chapter 4?

The SLA generally agrees with the definition of the ESS in determining what constitutes a systemic failure or as described, a structural flaw in the system. However, the purpose of the ESS from the Continuity Bill is to ensure Scotland's environmental laws and actions do not lag behind the European Union following the UK's departure from the EU. The ESS should look to and mirror the ambitions of the European Union Environmental Principles, or other world renown standards, or develop new statutes based on best international practice -for example as developed by the IUCN World Commission on Protected Areas.

On this basis the SLA would anticipate the ESS would undertake a wide review on the effectiveness of existing legislation and policy in achieving Scotland's ambitions for the environment and climate change. This will require broad consultation and partnership working to determine where there are perceived failings or gaps and what is required to address these failings and not merely monitoring and evaluation. The Improvement Report process set out in Chapter 4 implies this is merely a precursor to enforcement for noncompliance with existing environmental law or standards. In replicating the role of the European Commission, ESS will need to be proactive where a public authority has not implemented the legislation or policy effectively – before any damage occurs.

It is important that a systemic failure is still triggered when other policies or targets regarding climate change, the environment and biodiversity are not met or adhered to.

When assessing systemic failures within local authorities it should also be within the powers of the ESS to ensure local authorities have the manpower and financial capabilities to mitigate environmental failures or non – compliance.

6. Do you have any comments on our proposed approach to determining whether a compliance failure could be addressed more effectively by a compliance notice than an improvement report, set out in Chapter 4?

The SLA consider that Chapter 4 appears confusing and that it may be more appropriate to divide this chapter between the ESS approach to dealing with non-compliance with existing environmental law, standards and codes of practice and proposed new legislation and policy using evidence-based decision making from data gathering and partnership working.

7. Do you have any comments on our proposed approach to determining whether a compliance failure or environmental harm is serious, set out in chapter 4?

The SLA believe that proactively mitigating environmental harm from occurring in the first instance is more effective.

Stating reversibility as a measure of seriousness could be problematic in that its inclusion is suggestive the environmental harm will be allowed to take place. It is assumed ESS, along with other governmental departments and the European Union will do all they can to prevent harm to the environment to safeguard Scotland's people and places and to meet environmental, climate change and emissions targets and aspirations.

8. Do you have any comments on our proposed approach to deciding whether, and how to prioritise and carry out our investigations, set out in chapter 5?

The SLA seeks clarification if this Chapter relates only to noncompliance of existing environmental law or standards or where concerns have been raised about potential harm to communities or the environment through lack of appropriate legislation.

For clarity definitions would be useful for neglect, *serious*, *allegedly serious* and *potentially serious* as well as the methods used to make these assessments.

The SLA are keen to understand that where non-compliance of standards or policy has occurred as a result of public sector financial and manpower limitations how will the ESS secure compliance and effectiveness? The SLA believe that the proper design, management and effective use of all public landscapes and environments should be embedded into the statutory climate change, biodiversity, health and economic duties of all public sector bodies. The SLA recommend the ESS establish a process to utilise revenue budgets to properly resource the management of public landscape and environmental assets to ensure the delivery of environmental policy.

9. Do you have any comments on our proposals for monitoring compliance and effectiveness, and taking account of different types of information, as set out in chapter 6?

The SLA welcome the emphasis in the Strategic Plan on being evidence based as well as through wide partnership working. It would be more transparent if the ESS publish the list of appropriate partners in Scotland and also invite groups like the SLA as well as communities of interest.

The SLA are also aware of data sets that are not yet available that relate to environmental effectiveness, and it would be helpful to know whether the ESS will publish areas of data that have not been available in monitoring compliance and effectiveness. A useful piece of evidence missing highlighted by the SLA in its Position Statement *Landscape for Health and Wellbeing* is the lack of appropriate quality standards and indicators to deliver positive, environmental outcomes to address climate change action and biodiversity, health and wellbeing, inclusive growth and reduced inequalities.

ESS should also be identifying where there are gaps in the data, either in collection, coverage, frequency, or publication and working to see these gaps are closed.

10. Do you have any comments on our draft priority topics for further analysis? Do you have any suggestions for key sources of data and intelligence that we should consider, as set out in chapter 6? We would welcome views on our proposed set of initial analytical priorities and suggestions of any key sources of data or intelligence that we should be considering. We will be undertaking further work during the consultation period to verify, and quality assure our work and will discuss our baseline summaries of the evidence with key data and knowledge partners.

The SLA is a grouping of over 60 organisations with a common interest in raising awareness of the importance of Scotland's landscapes to climate resilience and biodiversity, our economic performance and public health and wellbeing. Our aim is to gain support for the better care of Scotland's landscapes and places to maximise future benefits.

The SLA continues to work with its members to prepare responses a range of issues that impact on landscape and the environment and we would welcome the opportunity to share this knowledge with the ESS. Our latest work includes responses to the 30x30 targets; the Climate Change Plan and the Just Commission's Report; the development of Landscape Indicators; and Landscape and Greenspace that supports resilient and healthy communities in response to the Social Advisory Renewal Report.

Our work can be found here <https://scotlandslandscapealliance.org/news-and-blogs/>

The SLA generally agree with the analytical headlines set out in Chapter 6 but would emphasize that they are all inter-related and interdependent and should not be looked at in isolation from each other. This should also be reflected in legislation and standards and ways of working across public sector bodies and departments.

Further suggestions for areas of expansion in addition those listed include: -

Biodiversity

- Review protected areas in relation to 30x30 targets – consider on a wider scale as core elements and not in isolation
- Review connectivity of habitats across landscapes (30x30 targets) to benefit biodiversity, climate and communities of people as well as connectivity of policy and legislation
- Development of land management objectives (links to land and soil) based on geographical areas / habitat types to maximise gains to biodiversity, climate and people.
- Review of all environments and landscapes for restoration, rewilding of degraded landscapes to improve biodiversity, climate and people

Climate Change

- Developing an understanding of how well designed and managed landscapes in all areas have the potential to deliver climate change mitigation and adaption, increase the resilience of communities and businesses and protect and enhance nature.

Land and Soil

- Review and understand food production for home consumption in relation to food security
- Development of land management objectives based on geographical areas / habitat types to maximise gains for biodiversity, climate and people.

- Review impacts of pressures on land to achieve net zero (woodland and energy expansion) and maximise benefits to communities, landscape quality, biodiversity and our economy.

Population and human health

- Developing an understanding of the impact of heat and in particular urban heat and its impact on human health and ways to mitigate.
- Access to local quality landscape and green space as a right for population health and wellbeing as well as the delivery of multiple benefits (climate and food resilience, community cohesion, education, energy and the economy)
- Developing an understanding of the impact on cultural heritage to communities

Resource Use and Waste

- Prevention of waste crime, including water.

Water

- Create a separate category for marine due to the complexity of the marine environment and policy, impact on the economy and the impact on the wider ecosystem.

11. Do you have any comments on our proposed approach to avoiding unnecessary overlap with other regulators, oversight and scrutiny bodies, as set out in chapter 7?

The SLA consider it essential that ESS link well with other regulators, oversight and scrutiny bodies and stringently resist siloed working in order to efficiently enact the Continuity Bill and offer strong support and guardianship to Scotland's Environment.

We support working closely with wider UK and EU bodies to ensure Scotland is world leading in environmental protection. We agree that ESS should deliver added value, and support efforts to avoid unnecessary overlap. We welcome the commitment to work collaboratively with the Office of Environmental Protection and emphasise the importance of effective oversight of reserved and cross-border issues.

It is also essential that the ESS work closely with organisations and people in Scotland to maximise the importance of local knowledge or research.

12. Do you have any comments on our proposed approach to receiving and handling representations, set out in chapter 7?

Whilst we appreciate this work is ongoing a data gathering exercise using feedback forms may be slow. Perhaps a series of targeted stakeholder workshops with public, private, community and other organisations may be beneficial and avoid a piecemeal gathering of information.

13. Do you have any comments on how we maintain our ambition to be a high performing organisation, as set out in chapter 8?

14. Do you have any comments on our proposed approach to measuring our impact, as set out in chapter 9?

The SLA consider that it would be useful to have guidelines/outcomes to understand the process if public authorities do not to give due consideration to recommendations. At the moment it implies that they do not have to in 9.5.

15. Do you have any comments on our proposed key performance indicators, as set out in Annex B?

The SLA consider that the ESS priority should be in assessing impacts and effectiveness of existing environmental law and standards. This is in the KPI as analysis, but progress appears to be measured by the number of investigations completed and recommendations made. Whilst such benchmarks are important to measure and offer an insight to how effective ESS are performing; it is crucial to have a firm starting point. Statutory targets for biodiversity and climate change should provide a firm foundation for ESS to assess tangible progress.

16. Are there any other factors that you think we should consider before exercising our functions? Our plan has set out how we intend to go about our functions, including for example the factors we will take into account before we investigate or take informal enforcement action.

17. Do you have any other comments on our draft Strategic Plan and our proposed approach to fulfilling our remit?

Our comments on priority topics for analysis under Q10 highlight additional areas the SLA consider the ESS take cognisance of in its Strategic Plan – including the right of people to a healthy environment including access to quality landscapes and greenspaces for health and wellbeing; cultural heritage as a key part of our environment; land management objectives for climate change and biodiversity; and protecting communities from harm by ensuring food security.

18. Do you have any comments on the interim conclusions of our impact assessments, as set out in Annex A?

19. Are there any sources of information that you can suggest we use to assess the potential impact of our Plan?4