**Joint working arrangement between SEPA and SNH on planning consultations**

**1. Purpose**

SNH and SEPA work with other key agencies and the Scottish Government through the [Key Agencies Planning Group](http://www.scotland.gov.uk/Topics/Built-Environment/planning/Roles/Agencies) to support the delivery of a cultural change in land use planning through improved joint working.

These arrangements have been agreed to ensure that:

* Advice from SEPA and SNH to customers is clear, complementary and avoids duplication; and,
* SEPA and SNH work together prior to responding to planning consultations where there is a joint interest.

**2. Our Roles in the Planning System**

As Key Agencies within Scotland’s land use planning system SNH and SEPA have an important role to play in providing specialist advice on areas within our remit to planning authorities and the Energy Consents Unit.

SNH provide planning advice on the effects of plans, policies and development proposals on Scotland’s natural heritage. This includes our landscape and seascape, biodiversity, geo-diversity and the public enjoyment of the outdoors. [SNH Service Statement - Planning for Development](http://www.snh.gov.uk/docs/A1583964.pdf) provides an overview of how SNH engage with the planning system.

SEPA provide planning advice on the effects of plans, policies and development proposals on flood risk, zero waste and environmental issues as they relate to our regulatory role including impacts on the water, air and the soil environment. [SEPA’s planning portal](http://www.sepa.org.uk/environment/land/planning/) provides further information on the areas we provide advice on and links to our planning related advice and guidance.

**3. Scope of working arrangements**

These arrangements relate to our respective roles in responding to land use planning and Electricity Act consultations. They do not apply to other regulatory regimes administered by the Agencies e.g. CAR licensing by SEPA. Separate arrangements for CAR and Natura issues will be available in due course. Where a project involves multiple regulatory processes including planning or Electricity Act consents, we will work in a coordinated and effective manner in accordance with the principles outlined below.

**4. Principles of Joint Working**

To achieve an effective and complementary service to planning authorities and the Energy Consents Unit we will follow the following principles of joint working:

1. Ensure that all advice requiring a joint approach from SNH and SEPAs is clear, helpful and timely for our customers.
2. Identify areas of potential overlap and associated risks as early in the process as possible. Officers from both agencies should aim to ensure that future risks are not being deferred without discussion. This is particularly important where such risks may undermine the viability of the proposed development.
3. Clearly communicate any areas of potential overlap and associated risks with the relevant SNH case officer or SEPA planning officer at the earliest opportunity. In the early stages of any case SNH Case Officers, SEPA Planning Officers and specialist advisers in both organisations should consider whether a joint approach is needed to provide clear and helpful advice. Table 1 provides guidance on areas of potential overlap and the agreed working arrangements. In such cases the lead SNH and SEPA Officers should make contact (see contact details below) and discuss the case with each other to coordinate the response(s). This applies to both pre-application advice to developers and formal responses to consultations from planning authorities and the ECU.
4. Coordinate respective responses in line with the joint working arrangements outlined in Table 1. Table 1 provides guidance on the working arrangements to be followed where a potential overlap of issues has been identified. Where one Agency is identified as the lead responder, the other Agency will provide the necessary support in a clear and timely manner.
5. In exceptional circumstances where a joint position cannot be agreed the matter should be escalated through the appropriate channels of each Agency as expediently as possible. In SNH, escalation will be to the Area Manager. In SEPA, escalation will be to the Planning Unit Manager. The Managers will coordinate further liaison to reach an agreed position bringing together relevant parties as required. In exceptional circumstances where agreement still cannot be reached a document outlining the differences will be jointly prepared for consideration by more senior management in both Agencies. Very occasionally, despite making every effort to find a solution, SNH and SEPA may be unable to agree. In such cases it is important to clearly document the justification for submitting non-complementary responses.
6. Fully cooperate through the provision of relevant specialist input to planning hearings or inquiries. This applies to both Agencies irrespective of the lead responder to the original consultation.

**SNH staff can find the contact information for SEPA's planning service at:** [**http://www.sepa.org.uk/media/159226/planning\_service\_contact\_list.pdf**](http://www.sepa.org.uk/media/159226/planning_service_contact_list.pdf)

**SEPA staff can contact the relevant SNH area offices via their mailbox at:** [**http://www.snh.gov.uk/contact-us/offices/**](http://www.snh.gov.uk/contact-us/offices/)

**Where available, the relevant planning casework number/reference should be used when making contact. Emails to the SNH area mailbox should be clearly labelled as planning casework.**

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**5. Joint working arrangements**

Table 1 identifies the main areas where a potential overlap of roles is likely to occur. It summarises the remits of both Agencies relating to the issue, potential areas of overlap in advice and the agreed working arrangement to manage the overlap in a way that will best contribute to the overall purpose outlined in section 1 above**.**

**Table 1: Joint working arrangements for planning advice**

**When using the following table please note that:**

1. **the table does not contain an exhaustive list of all areas of potential overlap but just the most commonly occurring areas;**
2. **where other areas of overlap are identified they should be handled in line with the principles outlined in Section 4 above; and,**
3. **the areas are not mutually exclusive and there are interconnections between them.**

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| **Area** | **SNH remit** | **SEPA remit** | **Potential areas of overlap**  | Resolution – who does what |
| 1. **Flood risk**
 | Coastal geomorphology (e.g. impact on natural coastal processes of coastal works, including in relation to the potential inundation of protected sites) | Flood risk as required by Section 72 of the Flood Risk Management (Scotland) Act 2009 | Developments that impact on coastal geomorphology and flood risk | SEPA * lead on all flood risk advice
* liaise with SNH where there are potential impacts on coastal geomorphology that may affect protected areas
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| 1. **Protected Areas\***

**eg – SPA, SSSI, SAC, MPA, NNR, NSA, National Park, Geopark** | Impacts on qualifying features of the protected area affected by the development | Impact on the water environment and the consentability of the development in relation to SEPA regulatory regimes such as: * Controlled Activities Regulations
* Waste Management Licences
* PPC
* Radioactive and contaminated land regulations
 | Developments where there are potential impacts on the water environment or aspects of the environment protected by SEPA regulatory regimes which could also affect a qualifying feature(s) of a protected area. E.g. potential impacts on the water environment or air quality that could lead to a potential impact on a qualifying feature of a protected site. | SNH * lead on all advice on matters that could affect qualifying features of protected areas

SEPA* lead on advice on the consentability of the proposed development under the relevant SEPA regulatory regime(s)

SNH and SEPA* liaise throughout process to ensure consistent and complementary advice is provided

\* for development that may impact on freshwater pearl mussels see note at end of table |
| 1. **Species with special protection\***
 | lmpact of development on species with special protection | Impact on the water environment and consentability of the development in relation to SEPA regulatory regimes such as: * Controlled Activities Regulations
* Waste Management Licences
* PPC
* Radioactive and contaminated land regulations
 | Developments where there are potential impacts on aspects of the environment protected by SEPA regulatory regimes which could also affect a species with special protection. For example impact on the water environment or air quality that could lead to a potential impact on a species with special protection. | SNH * lead on advice on species with special protection

SEPA* lead on advice on the consentability of the proposed development under the relevant SEPA regulatory regime(s)

SNH and SEPA* liaise throughout process to ensure consistent and complementary advice is provided

\* for development that may impact on freshwater pearl mussels see note at end of table |
| 1. **Water environment (any other circumstances)**
 | Water dependent ecological features which are, or could affect a qualifying feature of a designated site or a species with special protection. | Protection and improvement of the water environment to ensure compliance with the Water Framework Directive | Developments where there are potential impacts on aspects of the water environment (such as GWDTEs) which are, or could affect, a qualifying feature(s) of a designated site or a species with special protection. Note: this could include impacts on the water environment which are outwith a designated site but could still affect a qualifying feature within the designated site. | SEPA * lead on advice on protection and management of the water environment

SNH* lead where there is a potential impact on a qualifying feature of a protected site and/or species with special protection (see 2. and/or 3.)

SNH and SEPA* where there is a potential overlap liaise throughout process to ensure consistent and complementary advice is provided
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| 1. **Green infrastructure**
 | Maintenance and enhancement of habitat networks, landscape enhancement and climate change with respect to species adaptation. Where SNH is the responsible authority for River Basin Management Plan measures.  | Delivery of River Basin Management Planning measures and the Flood Risk Management (Scotland) Act 2009, including actions within Flood Risk Management Plans  | Developments where habitat and/or landscape enhancements could impact on the delivery of River Basin Management Planning measures or sustainable flood risk management | SEPA and SNH * submit separate planning consultation responses within clear context of each Agencies remit
* liaise to ensure advice is complementary prior to responding.
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| 1. **Peatlands that are not a qualifying feature of a protected area**
 | Impacts of the development on:* protected areas; and,
* UKBAP priority peatland habitats, with the exception of fens where they are not a qualifying interest of a protected area.

This applies to the provision of advice on a range of supporting documents including peat slide risk assessments, management plans and method statements. | Impacts of development on:* the water environment;
* carbon emissions; and,
* peat re-use and waste management.

This applies to the provision of advice on a range of supporting documents including peat slide risk assessments, management plans and method statements. | Developments where there are potential impacts on aspects of the water environment (such as GWDTEs) which are, or could affect, a qualifying feature(s) of a designated site or constitute significant biodiversity impacts. Note: this could include impacts on the water environment which are outwith a designated site but could still affect a qualifying feature within the designated site. In addition greater clarity on the separation between GWDTEs and UKBAP habitats is needed between the two organisations.  | SEPA and SNH * submit separate planning consultation responses set within clear context of each Agencies remit . SNH should clearly state in correspondence that they are addressing biodiversity issues and SEPA should clearly state the water environment, carbon emissions and/or waste management focus of comments.
* liaise to ensure there is a clear understanding of the focus of each Agencies advice.
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\* Content should be agreed with SEPA and clearly flagged as joint advice which is using SEPA’s standards and the principles agreed through the Joint Position Statement by SEPA and SNH on Freshwater Pearl Mussels in the Cairngorm National Park.

**6. Other areas for cooperation**

In order to foster the good working relationships required to make this work both SNH and SEPA encourage their staff to set up regular liaison meetings to discuss casework issues, lessons learned and issues arising from any guidance produced by both organisations. If necessary any actions should be escalated as necessary using the process noted above.

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