

OUR REGULATORY FRAMEWORK

Historic Environment Scotland's approach to our regulatory and advisory services in the planning and other consenting systems

1. ABOUT THIS FRAMEWORK

2. WHO WE ARE

3. OUR REGULATORY ROLE

4. OUR DECISIONS AND ADVICE

5. OUR REGULATORY PRINCIPLES

6. MEASURING OUR PERFORMANCE AND IMPACT

7. FURTHER INFORMATION

GLOSSARY

1. ABOUT THIS FRAMEWORK

This framework describes our approach to taking decisions and providing advice on managing Scotland's [historic environment](#). It is for anyone who engages with the services we provide or wants to understand more about the decisions we take and the advice we give.

We undertake this role across a wide range of activities, some of which are required by law and some which form part of our wider responsibilities as a public service organisation. In every process we're involved in, our overarching aim is to support and enable good decision-making about changes to the historic environment.

There are two key purposes to our regulatory and advisory role. The first is to protect and seek positive change for the [historic environment](#). The second is to demonstrate how the historic environment can make a real difference to people's lives: to our health, to our economy, to our culture, to our environment. Above all, we want to empower people and enable good decisions.

This framework includes a number of key pieces of information. You can jump straight to these topics by clicking the links below.

Key information

[Who we are](#)

This section includes information about [what we do](#), [our goals](#), and [our responsibilities](#), focussing on the work of our heritage directorate.

[Our regulatory role](#)

This section sets out the [legal basis for our regulatory and advisory services](#), including links to relevant acts of parliament. It gives the [wider context for our work](#), and sets out [our governance process](#), which ensures our services are high-performing and robust.

[Our decisions and advice](#)

This includes our roles in [designation](#), [building survey](#), the [planning system](#), [World Heritage](#), [dangerous buildings](#) and [scheduled monuments](#). Each section explains our process and safeguarding measures for the role.

[Regulatory principles](#)

This sets out our principles of being transparent, accountable, consistent, proportionate and targeted. More information about how we make our decisions transparent is in specific sections on [designation](#) and [works to scheduled monuments](#).

[Monitoring](#)

This includes how we assess our performance, seek feedback from service users and stakeholders, and how we use this to improve our services.

Throughout this framework, you'll see some very specific and technical language. Where a term is not in general use it's explained in the text, but you can also click on any word underlined in orange to go to the [glossary](#) and read a full definition.

2. WHO WE ARE

We are a public body leading the way in protecting, understanding and sharing Scotland's [historic environment](#), for today and for the future. We were established by the [Historic Environment \(Scotland\) Act 2014](#). We are a non-departmental public body with charitable status, and we are directed by a Chair and a Board of appointed members.

In every aspect of our work we strive to follow our five organisational values – we are **collaborative**, **professional**, **innovative**, **open**, and **respectful**.

What we do

- We are at the forefront of investigating and researching the historic environment, and addressing the impacts of climate change on its future.
- We help to develop the knowledge, skills and materials that Scotland needs to look after our heritage.
- We make a strong contribution to the economy, and to building a fairer, more sustainable future for Scotland.
- We award millions of pounds each year to local communities to repair, revitalise and reuse their historic environment, helping to foster social cohesion and a strong sense of place.
- We support the conservation and reuse of Scotland's historic environment by providing advice and technical expertise.
- We seek to grow understanding of our historic assets, the benefits they bring and the diverse stories that make up our shared histories.
- We look after over 300 sites of national importance, more than 41,000 objects in the collections and five million archives on behalf of the people of Scotland.
- We manage change to our most significant heritage assets while providing the protection they need.

It is our role managing change that this framework focuses on. We do this through several processes. We give advice on strategic plans and policies and development proposals affecting the historic environment. We administer consents for scheduled monuments, and we designate historic sites and places. In this way, we ensure these invaluable resources are available for generations to come.

You can find out more about what we do and our vision and wider outcomes in our corporate plan, [Heritage for All](#).

Our goals

Our regulatory work contributes to the goals in our corporate plan, but we have also set ourselves the following goals for our regulatory work. These long-term goals help deliver our vision and give a shared understanding of what success looks like. Focussing on these goals keeps our work targeted and relevant. Each goal sets out a specific focus, so that our work delivers for our [historic environment](#), the people of Scotland, and our long-term future.

Recognising and valuing our heritage

We will identify, record and manage change at historic sites and places for the benefit of both current and future generations. We will work towards an ever more inclusive understanding of the [cultural significance](#) of the historic environment.

Equality and diversity

We will help to create opportunities to significantly improve equality and accessibility in our places and eliminate discrimination through positive change to the historic environment and the diversity of our workforce.

Circular economy

We will champion the reuse of our built environment. We will support owners, occupiers, and developers to repurpose and adapt historic buildings, and sustainably enhance our environment.

Our changing climate

We will help Scotland's places to thrive within the planet's sustainable limits. We will seek to maximise new economic and wellbeing opportunities offered by a just transition to a net zero nation. And we will support environmentally positive and [carbon conscious places](#), with increased resilience to our changing climate.

Restoring biodiversity

We will support land managers and communities to address [biodiversity](#) loss. We will enable good decision-making, focussing on the multiple benefits that can be realised through the sustainable management of our cultural heritage.

Placemaking and communities

We will help to sustain a sense of place in our communities, retain regional and local distinctiveness and forge connections between people and the places where they live and visit. We will support the [Place Principle](#) and enable change in a way that helps to grow the economy sustainably and inclusively. We will do this through two mutually supportive ambitions – to boost Scotland's competitiveness and to tackle inequalities.

Our responsibilities

This framework focusses on the work we do in our [heritage directorate](#). It covers our responsibilities to identify, record and protect a wide range of historic sites and places and manage change to our most significant heritage assets. The aim of this work is to provide the protection they need, and make sure this resource is available for generations to come.

To do this we:

- shape, influence and develop policy
- designate historic sites and places
- record threatened buildings
- give advice across various consenting systems
- authorise works to scheduled monuments
- give management advice and take enforcement action for scheduled monuments

We also provide support and advice to all of Scotland's six World Heritage Sites, which are inscribed by [UNESCO](#). We work with partners locally and internationally and coordinate the management plans for the [Frontiers of the Roman Empire: Antonine Wall](#) and the [Heart of Neolithic Orkney](#) World Heritage Sites.

3. OUR REGULATORY ROLE

Our [heritage directorate](#) is responsible for the day-to-day regulatory and advisory services we provide within the planning and other regulatory systems. This document covers both our regulatory and advisory services. Some of these are requirements under law and some of these are discretionary for us. When our work is discretionary, it often means decision-makers have to ask for our input, but we can choose whether to get involved. In these cases, whether we offer detailed advice will depend on the circumstances.

This section of our regulatory framework sets out the [legal framework that establishes our role](#) in making decisions and giving advice on the [historic environment](#). It then lays out the wider [context for our duties](#) and explains [our governance structure](#). It gives specific references, including laws, policies and strategies, and codes of conduct.

The legal basis of our services

Our regulatory and advisory services are founded in several laws and regulatory procedures. These include:

- [Historic Environment \(Scotland\) Act 2014](#)
- [Planning \(Scotland\) Act 2006](#)
- [Ancient Monuments and Archaeological Areas Act 1979](#)
- [The Planning \(Listed building and Conservation Areas\) \(Scotland\) Act 1997](#)
- [Marine \(Scotland\) Act 2010](#)
- [Environmental Assessment \(Scotland\) Act 2005](#)
- [Environmental Impact Assessment Regulations](#)
- [1972 World Heritage Convention](#)

These, alongside a range of other related legal instruments and [protocols](#), establishes two roles for HES. The first is as a [decision-maker](#) for certain heritage designation decisions and scheduled monument consent.

Our second role is as a [statutory consultee](#) for a range of development plans and proposals. This means that decision-makers have to ask for our advice before making a decision – and then have to take that advice into account. In the planning system, this means that our advice is a [material consideration](#).

Context for our decisions and advice

Our advice and decisions reflect national policies and strategy. These set out the wider context for our services and our approach to them.

Policy and strategy

The [Historic Environment Scotland Act 2014](#) includes a requirement that we help develop and deliver policies and strategies relating to the historic environment. We also contribute to Scottish Government strategies, plans and policies by helping to form and deliver them. Our focus is to make sure that they align with outcomes for the historic environment. This work also ensures we take wider national and local outcomes, and the effects on communities, into account in everything we do.

The planning system

The [planning system](#) manages most of the decisions that make changes to our environment. The purpose of the planning system is to manage the development and use of land in the long-term public interest. Our input and advice supports that purpose.

Scottish Ministers set Scotland's national planning policies through the [Scottish Planning Policy](#) (SPP). SPP also reflects priorities for the operation of the planning system and for the development and use of land. Scottish Ministers plan to merge the current National Planning Framework (NPF3) into NPF4. NPF4 will be part of the statutory development plan, which means that its policies will have a stronger role in day-to-day decision making.

Strategic priorities

The national strategy for the historic environment, [Our Place in Time](#) (OPiT), applies principles that the UK and Scottish Governments have agreed to in international charters and conventions on cultural heritage and landscape.

OPiT sets strategic priorities for the heritage sector in Scotland.

Historic environment policy

The [Historic Environment Policy for Scotland](#) (HEPS) supports the delivery of these priorities. It sets out a series of principles and policies for the recognition, care and sustainable management of the historic environment.

HEPS promotes a way of understanding the value of the historic environment which is inclusive and recognises different views. It expects [decision-makers](#) to take a long-term view, with consistent, integrated management and decision-making supporting positive outcomes for the people of Scotland.

HEPS also highlights how good management maintains the quality of this resource and secures the benefits of the historic environment, making sure that nothing is lost without considering its value and exploring options for retention. Most importantly, it encourages

everyone's participation in decisions that affect the historic environment – both now and in the future.

Alongside HEPS, we use the [Designation Policy and Selection Guidance](#) when we designate historic sites and places and the [Scheduled Monument Consents Policy](#) when we make decisions about scheduled monuments. These three policies are supported by a series of [Managing Change in the Historic Environment guidance notes](#).

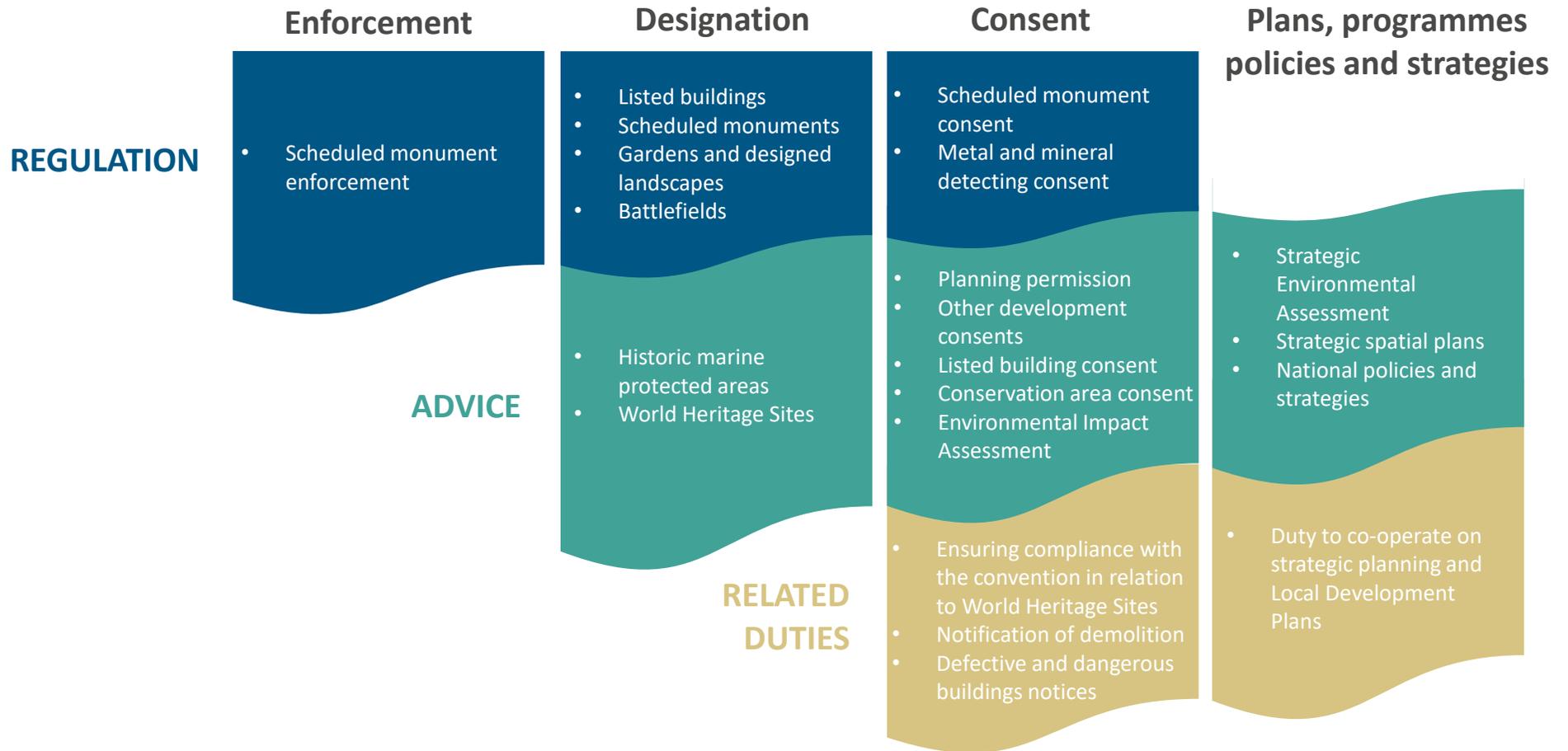
Other duties

We have a duty under the [Nature Conservation \(Scotland\) Act 2004](#) to further the conservation of biodiversity. Where we are the decision-making authority, we must take account of protected species and places, ensuring that any consented activity will not bring adverse impacts

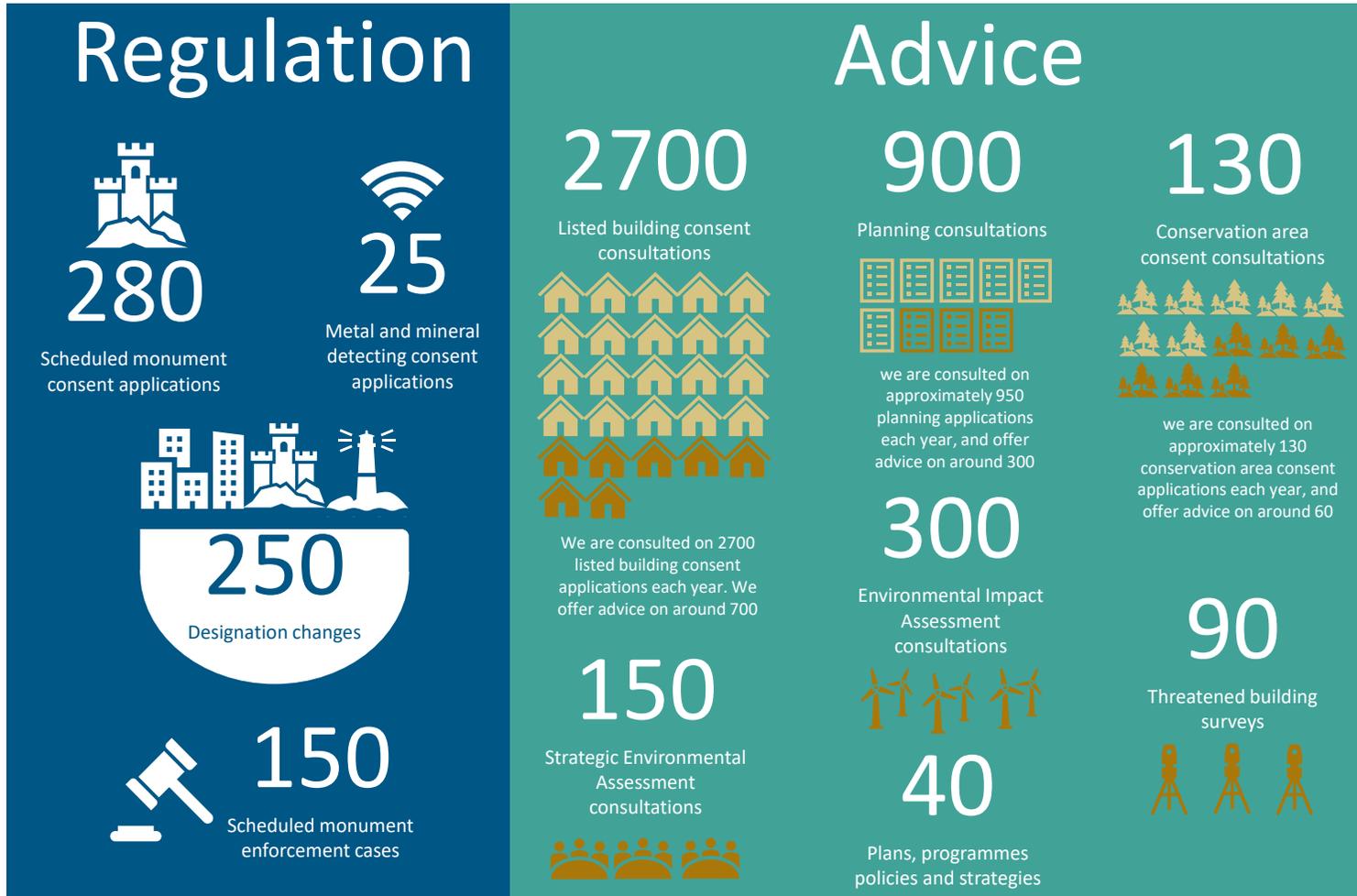
As a public body in Scotland, we also have duties under the [Climate Change \(Scotland\) Act 2009](#) and [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#). We must:

- contribute to the 'net-zero' emissions target for 2045
- deliver adaptation programmes to increase resilience
- act in a sustainable way

Our role at a glance – the services we provide fall into the following categories:



Our role at a glance – in a typical year we will provide the following level of advisory and regulatory services:



CULTURAL SIGNIFICANCE

Decisions affecting the historic environment should be based on careful consideration of cultural significance. This helps to ensure that the historic environment can be appreciated today and passed on with confidence for the future.

The Historic Environment Policy for Scotland (2019)

[**Note:** Key policy connections will be updated to reflect the finalised [National Planning Framework 4](#) and refreshed Historic Environment Strategy for Scotland – both due to be finalised and adopted in 2023]

HISTORIC SITES AND PLACES

We want to protect and enhance our historic environment, and to support the reuse of redundant or neglected historic buildings.

“Our historic environment is important to many aspects of life, from defining the character of the places where we live and work, promoting a sense of belonging and cultural identity and encouraging civic participation to supporting the tourist economy. The planning system should protect and enhance historic environment assets and places and recognise their cultural heritage benefits and associated social, environmental and economic value to our national, regional and local economics, cultural identity, and for their potential to support health and wellbeing, the circular economy, and climate change adaptation.”

VALUING THE HISTORIC ENVIRONMENT

The planning system should:

- promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning;
- enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.

Our governance

Our governance is defined through a number of documents and processes, from strategic direction down to individual decision-making.

Our board and Chief Executive

The HES Board is responsible for setting our strategic direction as an organisation. The board approves our Regulatory Framework and national policy in the [Historic Environment Policy for Scotland](#) (HEPS). HEPS was adopted in 2019 and influences all the decisions we make and the advice we give.

The [Historic Environment Scotland Scheme of Internal Delegation \(May 2022\)](#) identifies our Chief Executive as the Accountable Officer. This means the Chief Executive has responsibility for the exercise of our statutory functions as set out in regulations. This covers our decision-making and advice-giving roles.

Decisions and advice

Within our [heritage directorate](#), decision-making and advisory processes are standardised across our services. They are underpinned by a series of approval and quality control procedures. We publish our [schedule of governance](#) for these services on our website.

We are only the [decision-maker](#) where we designate historic sites and places or determine applications for works to scheduled monuments. These can be appealed. Appeals against these decisions are heard by the Scottish Government.

Where we provide advice in other contexts it is for the decision-maker to balance our views with a range of other factors. That might include the views of other consultees, communities and other relevant parties. A range of local and national level appeal processes are available to applicants when they are refused planning permission or other consents. We will sometimes participate in these appeal processes, but we do not have a decision-making role.

Avoiding conflicts of interest

Sometimes HES has two different roles in the same process. A good example of this is when we need to carry out works on sites that we care for. In cases like this, HES can be the applicant as well as the [decision-maker](#).

We keep these functions separate by delegating advice and decision-making on individual cases to the Director of Heritage and relevant Heads of Service. While decision-making is delegated, the Director of Heritage is responsible for keeping the Accountable Officer and the HES Board updated about any novel or contentious cases.

For all our work, our internal [Code of Conduct](#) requires staff to declare any potential conflict of interest. Where relevant, we will put steps in place to ensure a conflict does not occur.

Reporting and feedback

We publish an overview of all of the work we do in the planning system in our annual [Planning Performance Report](#). This measures the overall quality of our planning service and is used to promote continuous improvement. These reports are approved by the HES board.

We share feedback on planning performance with a range of partners across the planning system, including fellow [Key Agencies](#). We also receive feedback on our performance from the Scottish Government.

4. OUR DECISIONS AND ADVICE

We make decisions about and give advice on changes that affect the [historic environment](#). Our historic environment is dynamic – it has always changed over time and always will. Our role is to make and support good decisions on those changes. Good decisions strike the right balance between development and the protection of significant historic sites and places.

Each area of our regulatory work has an individual procedure. Our work covers six key areas:

- designation of historic sites and places
- emergency building recording
- the planning system
- World Heritage Sites
- defective and dangerous buildings
- scheduled monument regulatory work

Our procedure for each of these areas of work is set out below.

Designation of historic sites and places

We're responsible for designating a range of historic sites and places at a national level. To do this, we add the site or place to a legally recognised list. The four lists are for [listed buildings](#), [scheduled monuments](#), [gardens and designed landscapes](#) and [historic battlefields](#). We also assess requests to review and/or remove existing designations. We also give advice to Marine Scotland on the designation of historic [Marine Protected Areas](#).

The Historic Environment Scotland [Designation Policy and Selection Guidance](#) guides the designation decisions we take. We follow [our governance and sign off procedures](#) in all our decision-making.

Our decisions to designate listed buildings and scheduled monuments can be appealed by [owners and occupiers](#). In these cases, Scottish Ministers review the decision independently. This process is handled by the [Scottish Government Planning and Environmental Appeals Division](#).

Making our decisions public

We publish information on our website to ensure that our decision-making for designations is transparent. Our [online portal of applications](#) shows the details and supporting documents for all designation proposals, and we welcome public comment on these.

In some cases, we also run public consultations on designation proposals before we make a decision. We publish these on our [consultation website](#).

We explain the decisions we take about designation in a report of handling. These are also published on our online portal.

Emergency building recording – notification of demolition

We survey and record a range of historic sites and places. When there is going to be a big change to a site or place that has [cultural significance](#), it is important that we know about it. This gives us the chance to record that site and add the information to the national record on the [Canmore website](#).

Because of this, there is a [legal requirement for us to be told](#) about proposals to demolish listed buildings and unlisted buildings in conservation areas.

Planning authorities can also let us know at their own discretion about developments where there will be significant changes to listed buildings or buildings in conservation areas. This can include changes of use. When authorities give consent for a historic site to be demolished or altered, they can add a condition to make sure that the applicant arranges a suitable programme of recording. We strongly encourage this.

When we get involved

Planning authorities should inform us of consent conditions and recording works carried out in their area. Where surveying and recording can be done by a local architectural or archaeological practitioner, we don't normally carry out a detailed recording. We do sometimes make records in parallel with commercial practitioners – this will depend on the individual circumstances.

Where recording cannot be carried out by a local archaeological or architectural practitioner via planning condition, we may be able to prioritise this work within our recording programme.

The planning system – development planning and development management

Most decisions affecting our historic environment are made through the [planning system](#). We have a number of specific roles in planning.

The Scottish planning system is [plan-led](#). Development plans identify and allocate land for future development. We're a [statutory consultee](#) for development plans and their related [strategic environmental assessments](#) (SEA). [Planning authorities](#) consider our views alongside advice from other consultees and the views of the public.

We're also a statutory consultee for planning applications that are accompanied by [environmental impacts assessments](#) (EIA). These give consent to development proposals and assess their effect on the environment.

Our [Planning Service Standard](#) sets out all the circumstances where planning authorities consult with us.

Planning permission

[Decision-makers](#) normally ask for our advice on a planning application when it is likely to affect a nationally designated historic asset or place.

For planning applications, this includes developments which are likely to affect one of the following:

- a category A [listed building](#) or its setting
- a [scheduled monument](#) or its setting
- a site included on the [Inventory of Gardens and Designed Landscapes](#)
- a site included on the [Inventory of Historic Battlefields](#)
- a [World Heritage Site](#)
- the preservation objectives of a [Historic Marine Protected Area](#)
- the amenities of any Royal Palace or Park

For [historic battlefields](#) and [World Heritage Sites](#), planning authorities only consult us if the development is not classed as [householder development](#). Householder development normally covers alterations or additions to private homes within their garden areas.

For Royal Palaces and Parks, we are only consulted if the land to be developed is within 800 metres of the Palace or Park.

Other planning consents

[Planning authorities](#) consult us on all applications for conservation area consent. Conservation area consent is only needed to demolish an unlisted building in a conservation area.

Authorities also consult us on listed building consent when it relates to:

- Alterations to a category A or B [listed buildings](#)
- Demolition of any listed building
- Listed building consent applications where the planning authority is the applicant

Our role

[Our role in the planning system](#) is to give advice to [decision-makers](#) on the impact of development proposals on the historic environment. By working with others, we aim to help high quality development happen in the appropriate places. We expect a [plan-led](#) approach and early engagement to avoid or minimise most significant impacts on the historic environment.

Our advice helps decision-makers and developers understand whether there will be significant impacts on the historic environment. If we think there will be significant impacts, we will give advice on any ways to reduce them. This might be by changes to siting or design, or any other [mitigation](#).

When we engage in the development planning and development management process, we will:

- consider each proposal on its own merits
- focus on the greatest opportunities for, or threats to, the historic environment
- ask for information only when we need it to inform our view and give clear advice
- object only where we identify impacts on the historic environment that raise issues of national interest

Our advice will be proportionate, enabling, clear and unambiguous.

Decisions and appeals

When we object to a development proposal, it triggers a notification process. This means that if the [planning authority](#) intends to give permission for the development, they must formally notify Scottish Ministers. Ministers then consider whether the application should be passed to them for a decision. This is known as a [notified application](#).

Scottish Ministers can also intervene in any planning application by recalling it so that they can make their own decision on it. This is known as a [called-in application](#). An application can be called in at any point before a decision is made by a planning authority. It is at Ministers' discretion whether to do so. It doesn't happen very often in practice, in recognition of the fact that it is important that authorities make decisions on the future development of their areas at a local level. Current called in cases can be viewed on the Scottish Government's [Planning Decisions](#) website.

World Heritage

We have an advisory role in relation to World Heritage Sites. This covers the designation process for World Heritage Sites, their management, and development that may affect them.

Designation

The designation of [World Heritage Sites](#) is the responsibility of [UNESCO](#), who inscribe them on the World Heritage list on the basis of their [Outstanding Universal Value](#). Nominations are put forward through the UK Government. Once parties have secured their site a place on the [UK Tentative List](#), we advise them on preparing their nominations.

Management plans

UNESCO requires every World Heritage Site to have a management plan. This helps to ensure a coordinated approach by all partners who work together to deliver the plan. We

support the development and implementation of [World Heritage Management Plans](#). We are a partner on the management plan for every World Heritage Site in Scotland.

Development affecting World Heritage Sites

As part of our role in planning we give advice on any development proposal that affects a World Heritage Site. If we identify the potential for a development proposal to affect a Site's Outstanding Universal Value, we will notify Scottish Ministers. Ministers may then advise the UK Government [Department for Culture, Media and Sport](#) (DCMS).

The purpose of this [notification protocol](#) is to ensure UNESCO are aware of the proposals as soon as possible. The aim is that they know before any decision is made – as development decisions can be difficult to reverse. This gives UNESCO's World Heritage Committee the chance to assist in seeking appropriate solutions to ensure that the Outstanding Universal Value of the Site is preserved.

Defective and dangerous buildings

[Local authorities](#) have powers under the [Building \(Scotland\) Act 2003](#) to serve defective building and dangerous building notices. These notices require owners to undertake works to rectify defects or address dangers. Authorities can also undertake immediate works themselves in the interest of public safety.

Local authorities have a duty to consult us where it is reasonably practical to do so prior to issuing the notice or carrying out work themselves when it affects:

- a [scheduled monument](#)
- a [listed building](#)
- a building subject to a [building preservation notice](#)
- a building that cannot be demolished without conservation area consent

Local authorities must also consult us before issuing a dangerous building notice, where it is reasonably practical to do so.

Our role

Our role in these cases depends on the significance of the asset and the nature of the notice. In some cases, we will give advice on the need for consent and how apply. We can also be involved in discussing the requirements of the notice. Our advice will aim to ensure that the work is the minimum necessary to ensure public safety. In some cases, where the issues are significant, we may be involved in conversations about the best course of action.

In most cases, we also expect to be involved in discussions about recording to mitigate any potential loss and in case we need to attend the site at short notice. There is more information on our role in this process in the section above on [emergency building recording](#).

Scheduled monument regulatory work

We are the [regulatory body](#) for works on scheduled monuments. This means we are responsible for scheduled monument consents and [enforcement](#). This includes consent for works to scheduled monuments in the care of Scottish Ministers, where HES can have more than one role to play.

There are over 8000 scheduled monuments across Scotland, and we work with their owners and occupiers to support their long-term care and protection.

Scheduled monument consents

We're responsible for granting [scheduled monument consent](#) (SMC). SMC is needed when someone wants to do work to a scheduled monument. The Historic Environment Scotland [Scheduled Monument Consents Policy](#) guides our decision-making on scheduled monument consent. We follow [our governance and sign off procedures](#) in all our decision-making.

We can also agree a management plan for a scheduled monument, known as a [Section 17 agreement](#). A Section 17 agreement allows people to carry out some types of works for the preservation and maintenance of a scheduled monument without the need to gain SMC each time the works are carried out. There are also some categories of works that can automatically take place under a special type of permission known as [Class Consent](#).

Making our decisions public

We publish information on our website to ensure that our decision-making for scheduled monument consents is transparent. Our [online portal of applications](#) shows the details and supporting documents for all consent applications.

We explain the decisions we take about consents in a report of handling. These are also published on our online portal.

Independent reviews

Our decisions can also be reviewed independently by Scottish Ministers in two ways – through appeals and notifications.

Applicants have a legal right to appeal our scheduled monument consent decisions. Appeals are made to Scottish Ministers through the [Scottish Government's Planning and Environmental Appeals Division](#).

If our [heritage directorate](#) proposes to grant consent for any application which is not the 'minimum necessary consistent with conserving the cultural significance of the monument' then we must notify Scottish Ministers. This process is set out in [The Scheduled Monument Consent \(Notification of Applications\) Direction 2015](#). Scottish Ministers can either return the case to us and we proceed as planned, or they can [recall the application](#) for their own decision.

Scheduled monument enforcement

We have legal powers to issue enforcement notices for scheduled monuments where works have been undertaken without consent. This is often referred to as [unauthorised works](#).

In exercising our [enforcement](#) duties for scheduled monuments, we place significant emphasis on guidance, support and education in our interaction with landowners, occupiers and land managers. We recognise the challenge that landowners face in caring for our nationally important scheduled monuments. Our [scheduled monument condition monitoring programme](#) provides targeted management advice to landowners, offering accessible guidance and customer facing support.

Enforcement activities

When we do take [enforcement](#) activity, depending on the circumstances we can take a range of approaches, including:

- retrospective consent
- advisory/warning letters
- temporary stop or stop notices
- enforcement notices
- referral to the Crown Office and Procurator Fiscal

When we are investigating possible [unauthorised works](#), we have to follow similar procedures to the police. That means we have to be very strict about what we say and how we say it. We will quote from the law and use very formal language. We have to do things in this way because we are a [specialist reporting agency](#) to the Crown Office and Procurator Fiscal Service.

Safeguards

We have safeguards in place to ensure that our [enforcement](#) activity is robust, fair and transparent. We follow [guidance for specialist reporting agencies](#) published by the Crown Office and Procurator Fiscal Service. We also publish information on our website, including:

- the details of [scheduled monument enforcement notices](#) that we issue
- [guidance on compliance and enforcement at scheduled monuments](#)
- [webpages on scheduled monument consent and enforcement](#)

As well as our internal safeguards, there is a legal right to appeal our enforcement notices. Appeals are reviewed independently by Scottish Ministers.

Scottish Ministers' properties in care and consents

There are over 300 sites of national importance in the care of Scottish Ministers. We are responsible for their maintenance and any works they need. Our [operations directorate](#) carries out the work on our properties.

Scheduled monument consents

Most of these sites are designated as [scheduled monuments](#), so works to them require [scheduled monument consent](#). This means that when our [operations directorate](#) want to carry out work, they have to apply for consent. Our [heritage directorate](#) is then responsible for assessing and, if appropriate, granting the consent, guided by our [Scheduled Monument Consents Policy](#) as it would for any other applicant. This arrangement is similar to [local authorities](#) who can grant themselves planning permission for land or buildings in which they have an interest.

Other permissions

Some works may need other permissions, such as planning permission or listed building consent. Our operations directorate applies for these from the relevant [decision-maker](#), which is usually the [planning authority](#).

We also have a [management agreement with our operations directorate](#), which allows them to carry out some types of works for the preservation and maintenance without applying for scheduled monument consent each time. This is known as a [Section 17 agreement](#).

Safeguards

We have safeguards in place to ensure that internal decisions for scheduled monument consent are taken in the same way as all applications we receive. Our [heritage directorate](#) assess and decide internal applications. The colleagues who do this do not form part of the project team for any works proposed by HES.

This area of work also forms part of our audit programme. This ensures that applications affecting properties in our care are handled in the same way as those from all other applicants. Finally, we have a functional separation in place for decision-making. This means that we have clear separation of responsibilities for scheduled monument applications and [enforcement](#) activity where HES is both the operator and regulatory body. You can find out more about this on our website [content in development].

5. OUR REGULATORY PRINCIPLES

The [Regulatory Reform \(Scotland\) Act 2014](#) emphasises the need for [regulators](#) to enable and engage in a positive way. We follow the [Scottish regulators' strategic code of practice](#) in delivering all of our services. The code of practice asks regulators to recognise in their policies and practice a commitment to the five principles of better regulation: regulation should be **transparent, accountable, consistent, proportionate** and **targeted**.

In addition to this code, **Our Principles** describe our focus as a modern, forward-looking, outcome-focussed, proactive and enabling regulator:

Dynamic	1. We will be responsive to the rapidly changing world we live in, take flexible and innovative approaches, and regularly review our advice, guidance and policies.
Solution-focussed	2. We will work to find solutions which benefit the historic environment and meet the needs of the people of Scotland.
Evidence driven	3. We will be evidence driven , both in engaging people to inform our work and develop our advice, guidance and policies, and in showing the difference we make and the benefits of the historic environment.
Accessible	4. We will build relationships and mutual understanding with our stakeholders and communicate our work in a clear, accessible and approachable way.
Outcome-focussed	5. We will focus our efforts and resources where our contribution is needed most and where we can help deliver the best outcomes for the historic environment and the people of Scotland.

6. MEASURING OUR PERFORMANCE AND IMPACT

We are committed to making a positive difference to the historic environment for the people of Scotland. We are also committed to continuously improving the quality and timeliness of our advisory services. We always welcome early engagement and feedback on the work we do.

We will regularly assess the impact of our services through:

- annual stakeholder and public surveys with ‘you said we did’ outcomes
- regular nationwide engagement programmes
- public consultation about our policies and guidance
- audits examining the effectiveness of our governance and controls in relation to our decisions about scheduled monument consent applications for Scottish Ministers’ properties in care

We also report on our activities and performance regularly. We publish:

- our [Planning Performance Report](#) which shows how we help manage change and deliver service improvements
- case studies published on our website

Our progress towards delivering our service improvements is reported on each year in our Planning Performance Report.

7. FURTHER INFORMATION

We consult on new policies, guidance and some designations at www.haveyoursay.historicenvironment.scot.

You can find information on designated historic sites and places at <https://portal.historicenvironment.scot>. You can also comment on current scheduled monument consent and designation applications that are in progress.

You can read what we say about key national plans, policies and strategies on our [the external consultation section of our website](#).

There is a range of other information on the legislation and regulations relating to the management of Scotland's historic environment on our website at www.historicenvironment.scot/historic-environment-legislation-in-scotland

8. GETTING IN TOUCH

We are available to answer any questions that you might have.

For general enquiries, please contact us at HMEquiries@hes.scot or on 0131 668 8716.

To propose a building for designation, please download an application form from our website: www.historicenvironment.scot/propose-a-building-for-listing

To propose a monument for designation, please download an application form from our website: www.historicenvironment.scot/propose-a-site-for-scheduling

For any other queries about the designation of historic asset and places, please contact us at designations@hes.scot

To appeal against the refusal of scheduled monument consent or conditions attached to a decision notice, please follow the advice on our website: www.historicenvironment.scot/scheduled-monument-consent-process

To appeal against the designation of a listed building or a scheduled monument, please follow the advice on our website: www.historicenvironment.scot/appeal-a-scheduling-decision

To provide feedback or to make a complaint, please view our [complaints handling procedure](#).

GLOSSARY

building preservation notice

Building preservation notices can be served on owners, lessees and occupiers of an unlisted building which the local authority consider is of special architectural or historic interest and is in danger of demolition or alteration which would affect its character.

cultural significance

Cultural significance means aesthetic, historic, scientific or social value for past, present or future generations. Cultural significance can be embodied in a place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. (Australia ICOMOS Burra Charter 2013).

decision-maker

A decision-maker for the historic environment is anyone who has a role or interest in making decisions that might affect it. In this context the term often refers to planning authorities, but it could also mean individuals, public- or private sector organisations, Ministers, communities or developers. The decisions might be about land use, funding, alterations to a building, site or place, or long-term strategies.

enforcement

Enforcement is the process of ensuring compliance with laws, regulations, rules and standards.

heritage directorate

HES's Heritage Directorate leads our role in protecting, understanding and sharing information about Scotland's historic environment. This includes providing advice, policy and guidance about the historic environment as well as recognising and protecting our historic places through survey and recording and designations and consents. The directorate also maintains the National Record of the Historic Environment.

historic environment

The historic environment is 'the physical evidence for human activity that connects people with place, linked with the associations we can see, feel and understand'. (Our Place in Time, the Historic Environment Strategy for Scotland).

householder development

Householder development normally covers alterations or additions to private homes within their garden areas that require planning permission.

impact

The effect of changes on the historic environment is often referred to as the impact. This can be neutral, positive or negative. There can be impact on the physical elements of a place or on its setting, if its surroundings are changed so that our understanding,

appreciation or experience is altered. Changes in the historic environment can also affect people's associations with a place or its setting, and their responses to it.

local authorities

Local authorities are administrative bodies in local government. Scotland has 32 local authorities who are responsible for providing a range of public services.

material consideration

A material consideration is a planning issue which is relevant to the application and can include national policy, comments by the public and by organisations the planning authority (or another decision-maker) has consulted, the design of the proposed development, and the effect of the plan on the environment. The decision-maker must decide how important these material considerations are.

mitigation

Mitigation refers to ways in which we can minimise the impact on the historic environment, avoid it, or make it less damaging. Sometimes it is possible to offset the impact, compensating for it through positive actions.

operations directorate

HES's operations directorate is responsible for the operational delivery of all the activity on our sites and much of the day-to-day activity we do in local communities. Its role covers conservation, visitor services, local community engagement, ranger services and asset management.

outstanding universal value

Outstanding Universal Value means cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. As such, the permanent protection of this heritage is of the highest importance to the international community as a whole.

owners and occupiers

Owners and occupiers are the people who own or live in or on a designated historic asset. They might live in a listed building, or own the land that a scheduled monument is on.

place

Place can refer to the environment in which we live, the people that inhabit these spaces and the quality of life that comes from the interaction of people and their surroundings. Architecture, public space and landscape are central to this. (Creating Places: A Policy Statement on Architecture and Place for Scotland).

plan-led

The planning system in Scotland is plan-led. The law says that decisions on planning applications are to be made in accordance with the Development Plan, unless material considerations indicate otherwise.

planning authorities

Planning authorities are responsible for administering the planning system. All local authorities are planning authorities. The Cairngorms National Park and Loch Lomond and Trossachs National Park are also planning authorities.

planning system

The planning system is the process by which local and national government bodies make decisions about how and where development should take place. Change to some designated sites and places is also managed through separate consent regimes.

protocol

The official procedure or system of rules governing affairs of state or diplomatic matters or an agreed way of working together.

regulations

Regulations are rules made by government or other authorities in order to control the way something is done, or people behave. They often explain in more detail how laws should be followed. In the planning system, they give more detail on the processes and rules which planning authorities must follow to ensure a transparent planning system.

regulatory body

A regulatory body is a public organisation or government agency that is required to exercise a regulatory function. This involves imposing requirements, conditions or restrictions, setting the standard for activities, and enforcing in these areas or obtaining compliance.

statutory consultee

Statutory consultees are organisations and bodies, defined by law, which local planning authorities are legally required to consult before reaching a decision on relevant planning applications

sustainable development

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. (World Commission on Environment and Development).

unauthorised works

Unauthorised works are works that have taken place without the necessary consents being in place.

Historic Environment Scotland is the lead public body established to investigate, care for and promote Scotland's historic environment.

We are committed to ensuring this publication is accessible to everyone. If you need it supplied in a different format or language including Gaelic, please get in touch.

OGL

Historic Environment Scotland
Longmore House,
Salisbury Place
Edinburgh EH9 1SH

0131 668 8600
historicenvironment.scot

Historic Environment Scotland – Scottish Charity No. SC045925
Registered Address: Longmore House, Salisbury Place, Edinburgh EH9 1SH

© Historic Environment Scotland 2022. You may re use this information (excluding logos and images) free of charge in any format or medium, under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned. All images Historic Environment Scotland.