

SEPA Position Statement on alteration of structures and Invasive Non-Native Species

## August 2023

#### Purpose

This document gives SEPA’s regulatory position on alterations (modification and removal) to existing structures within the water environment, including impoundments, in relation to invasive non-native species (INNS). Such works can open significant pathways for the transfer of INNS, some of which can have serious adverse environmental, economic, and social impacts. The Scottish Government recognises this threat through the [GB INNS Strategy[[1]](#footnote-1)](https://www.nonnativespecies.org/about/gb-strategy/) in partnership with Defra and the Welsh Assembly Government, and in the [Scottish Biodiversity Strategy](https://www.gov.scot/publications/scottish-biodiversity-strategy-2045-tackling-nature-emergency-scotland/)2 . Prevention, including action on pathways that allow the introduction and spread of INNS, is a key principle of both strategies.

Under the Framework of Responsibilities contained in the Codes of Practice on Non-Native Species made by the Scottish Ministers under Section 14C of the Wildlife and Countryside Act 1981, SEPA is the lead organisation for INNS in freshwater – still and flowing water habitats. As such SEPA has a role in reducing the risk from pathways of introduction, transfer and spread in such waters through regulation and guidance.

# Position on the alteration of existing structures and the risk of introduction, transfer and spread of INNS

The risk of the introduction, transfer and spread of INNS should be considered wherever there is a proposed removal of a structure (either partial breach or full removal) or modification, including the addition of fish passage.

It is an offence under [**Section 14 of the Wildlife and Countryside Act 1981**](http://www.legislation.gov.uk/ukpga/1981/69/section/14) to allow the spread of INNS, which is enforceable by Police Scotland.

SEPA will, in considering and authorising any alteration works to an existing structure under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As Amended), have regard to potential pathways for INNS. SEPA will use existing data and risk mapping to provide an indication of those watercourses where there will be a risk of any structure removal or easement potentially opening new stretches for mobile species such as North American Signal Crayfish or non-native fish species. Where an alteration opens up the risk of cross catchment transfers this will also be a factor.

The type of barrier is highly relevant to the potential increased risk of introduction, transfer or spread of INNS. Most barriers to fish are unlikely to prevent the downstream spread of INNS, so the upstream spread is most likely to be relevant. Where an existing structure has certain features, it may also be acting as a barrier to upstream movement of mobile species such as signal crayfish. Therefore, where these features are present consideration should be given as to whether an alteration will open a pathway for INNS.

Features of structures that could deter or prevent upstream movement of mobile INNS include, but are not limited to:

* large vertical height – less likely to be able to ascend high structures.
* smooth vertical surface without features - no features to aid ascent.
* overhang – can prevent ascent.
* structure that extends beyond the bounds of the watered channel - there are no wetted areas around the sides of the barrier that could be used to circumvent the structure.

**Principles around SEPA decision making regarding alteration of structures to ease barriers to fish migration and potential spread of INNS**

Not all cases are clear cut and SEPA will consider on a case-by-case basis any alterations of structures which may result in spread or establishment of INNS. Examples of some likely scenarios are given below.

Where INNS are known to be established both upstream and downstream of an existing structure and it is unlikely that the removal or modification of the structure would significantly impact the spread of INNS, works may progress, subject to appropriate authorisation, without further consideration of INNS.

Where INNS are known to be either only upstream or only downstream of an existing structure, and alteration of the structure would likely open up a potential pathway for INNS to spread, for example where a structure currently prevents the downstream spread of non-native fish species then SEPA will consider each on a case-by-case basis. In such cases progressing structure alteration may be unlikely due to significant risk of facilitating INNS spread.

Where action at an existing structure, which is known to be a barrier to fish migration, has not been progressed due to potential likelihood of INNS transfer or spread then this will be recorded. Should the issue of INNS be resolved at a future date, or if a new design approach or technological advance be made which allows native fish to pass upstream with the continued exclusion of INNS, or INNS spread occurs anyway, then this may allow a re-evaluation of the case.

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1. <https://www.nonnativespecies.org/about/gb-strategy/>

2 <https://www.gov.scot/publications/scottish-biodiversity-strategy-2045-tackling-nature-emergency-scotland/> [↑](#footnote-ref-1)