

CONSULTATION

Response Document



Fourth National Planning Framework Draft

31st March 2022

Scottish Government

Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), as the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland, welcomes the opportunity to comment on this consultation.

CIEEM was established in 1991 and has over 6,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of:

- Scottish Environment Link
- Wildlife and Countryside Link
- Northern Ireland Environment Link
- Wales Environment Link
- Environmental Policy Forum
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network
- Greener UK
- Irish Forum on Natural Capital (working group member)
- National Biodiversity Forum (Ireland)
- The Environmental Science Association of Ireland

CIEEM has approximately 700 members in Scotland who are drawn from across the private consultancy sector, NGOs, government and SNCOs, local authorities, academia and industry. They are practising ecologists and environmental managers, many of whom regularly provide input to and advice on land management for the benefit of protected species and biodiversity in general.

This response was coordinated by Members of our [Scotland Policy Group](#).

We welcome the opportunity to participate in this consultation and we would be happy to provide further information on this topic. Please contact Jason Reeves (CIEEM Head of Policy) at JasonReeves@cieem.net with any queries.

General Comments

CIEEM welcomes all the hard work that has gone into NPF4 and we have been pleased to see multiple opportunities to comment through the development of the draft, in addition to various working groups relating to NPF4.

While there are still improvements that can be made, as we have highlighted in this response, it is a significant improvement on NPF3 that will help achieve the goals of the Scottish Government. We welcome the reference to the climate emergency and biodiversity crisis throughout the draft NPF4 including the below:

“To achieve a net zero, nature-positive Scotland, we must rebalance our planning system so that climate change and nature recovery are the primary guiding principles for all our plans and decisions.” (Draft NPF4, p.68).

However, despite a strong rhetoric, there are no clear delivery mechanisms to really ensure the transformational change that is required. As with the climate targets, we would like to see clear targets related to biodiversity and mechanisms in place so that changes are measurable and enforceable. For example, policy 3: states that -

The policy position makes clear that proposals for local development should only be supported if they include appropriate measures to enhance biodiversity and that development proposals that would have an unacceptable impact on the natural environment including biodiversity objectives should not be supported. p.117

It is unfortunately not clear how this will actually be delivered. The wording in NPF4 and the associated NatureScot guidance on Developing with Nature seems largely to still be about encouraging enhancement with no mandatory and specific requirements. The legal status of the Developing with Nature guidance is not clear. Our local authority ecologists and environmental planner members believe that they still do not have enough support to really bring about the evidence-based enhancements and net gain to fruition from this NPF, and that is discouraging. Without a strong government position and legal enforcement on mandatory biodiversity net gain or other consistent measurable tools that could be implemented across Scotland, the Local Planning Authorities will struggle to implement and enforce biodiversity enhancement measures in Local Development Plans. Without clear high level support to truly address the biodiversity crisis it will continue to prove difficult to stop challenges from developers.

The current terms of the policy, i.e. to include appropriate measures, provides no guidance on what is appropriate. This leaves this open to the determination of the planning authorities and without setting specific requirements is likely to mean developers continue in a similar vein to the current situation. Given the extent of the biodiversity crisis it is important for biodiversity enhancements to go beyond simplistic measures such as bird and bat box installation. There is a need to ensure that all developments result in a tangible increase in biodiversity, so focusing on creating areas of high value habitat to provide an environment where wildlife can recover. This needs to be proportionate to the scale of the development, but again guidance is needed with this respect.

The draft also is unclear on how it relates to other relevant policies such as the Land Use Strategy, Forest and Woodland Strategies, Environmental Principles and the emerging Biodiversity Strategy. We welcome the statements on the need to integrate terrestrial, coastal, and marine planning. Stronger cross reference to these policies is essential if the social, economic and environmental importance of biodiversity is to be genuinely recognised in planning, particularly in light of the

Dasgupta Review on the economics of biodiversity, which sets out the need for a step change in how biodiversity is managed.

Reference is made throughout our response to the report¹ from the Scottish Local Planning Authority event organised by CIEEM, which brought together representatives from more than 70% of LPAs throughout Scotland to discuss the draft NPF4 and the Developing with Nature Guidance. Likewise, key concerns related to ecological capacity within Local Planning Authorities as highlighted by the recently published survey² are referenced. Without well resourced experienced ecological staff throughout all Local Planning Authorities in Scotland the transformational change outlined in this draft NPF4 will not be achievable.

Like many organisations our efforts have been focussed on responding to NPF4 and other consultation responses e.g. Environmental Principles and the NatureScot Developing with Nature Consultation. We have not responded to the consultations on Local Development Planning Regulations and Guidance and Regulations on Open Space Strategies, both of which have the same deadline as NPF4. The Local Development Planning Regulations and Guidance consultation includes a number of questions and interlinked statements. An example is in The Local Development Planning Regulations and Guidance consultation there are a number of questions which specifically relate to policy in the draft NPF4. For example, LDP regs and guidance questions 28, 29, 30 and 31 specifically ask *'Do you agree with the proposed guidance on the Proposed Plan in relation to the section on... distinctive Places, sustainable places, liveable places and productive places.'* There is therefore an issue of concurrent consultations and how guidance will be changed based on the respective consultation processes. There is a need to better integrate the various regulations and policies being consulted upon.

Our response is based on the experience of our members who are involved with the planning process, as Local Authority ecologists, members of statutory bodies, ecological clerks of works and assessors, who are bound by a strongly held Code of Professional Conduct, which brings an ethical dimension to their work. Our approach as a professional body is evidence-based.

We note that the government intends to publish a 'draft delivery programme' (p.114) alongside the final NPF4. We would welcome the opportunity for CIEEM to be involved in any working groups specifically in relation to Policy 3.

Overarching National Spatial Strategy

Q1: Do you agree that this approach will deliver our future net zero places which will be more resilient to the impacts of climate change and support recovery of our natural environment?

¹ CIEEM (2022). Summary report from the Scottish Local Planning Authority event held January 2022 to discuss NPF4 and the Developing with Nature Guidance.
<https://cieem.net/resource/a-summary-report-from-scottish-lpa-event-to-discuss-the-emerging-npf4-and-developing-with-nature-guidance/>

² CIEEM (2022). Scottish Local Planning Authority Ecological Expertise and Capacity Survey Report.
<https://cieem.net/resource/scottish-local-planning-authority-ecological-expertise-and-capacity-survey-report-march-2022/>

We support the general direction of change and messaging. However, a policy by itself cannot ensure the intended outcome and without further detail it is hard to assess. There needs to be appropriate implementation along with monitoring and enforcement.

Q2: Do you agree that this approach will deliver our future places, homes and neighbourhoods which will be better, healthier and more vibrant places to live?

The vision is good but there needs to be a joined up, holistic and internally consistent set of policies to achieve it.

The 20-minute neighbourhood approach underlies Scottish National Outcomes and we are pleased to see that this is included in the draft NPF4 document. Communities where people live close to places of work, food production, education and leisure, and decentralisation of essential utilities are fundamental. The concept of 20-minute neighbourhoods can be used to bring about positive effects for biodiversity in urban settings and in rural areas an emphasis on digital connectivity thereby reducing the need to travel.

The statement ‘We hope to empower more people to shape their places’ presumably references Local Place Plans (LPPs) introduced by the Planning (Scotland) Act 2019 with the aim of enhancing engagement in development planning, and empowering communities to play a proactive role in defining the future of their places. Creation of LPPs will involve time and commitment and we would like to see clear mechanisms of support for local communities and recognition of how small quick wins, citizen action and effective communication can lead to their success. Useful strategies for successful community engagement are outlined in the Renfrewshire how to guide³. Where development has been permitted outside local development plans (LDPs) in the past the strength of commitment to green belts as outlined in the draft NPF4 is critical.

Q3: Do you agree that this approach will deliver our future places which will attract new investment, build business confidence, stimulate entrepreneurship and facilitate future ways of working – improving economic, social and environmental wellbeing?

To ensure a long-term and just transition to a net zero, nature-positive economy, there needs to be clear policies and implementation measures to ensure that environmental considerations are given true weighting over and above traditional economic considerations. The most salient point of the Dasgupta review⁴ is that “Our economies, livelihoods and well-being all depend on our most precious asset: Nature. Truly sustainable economic growth and development means recognising that our long-term prosperity relies on rebalancing our demand of nature’s goods and services with its capacity to supply them. It also means accounting fully for the impact of our interactions with Nature across all levels of society.” The findings of the Dasgupta review should be front and centre throughout NPF4 with clear strategies for implementation by Local Planning Authorities where demands are often conflicting.

The findings of the Dasgupta review can help inform policy direction where tensions arise between

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https://www.renfrewshire.gov.uk/media/9367/Local-Place-Plans-How-To-Guide/pdf/Local_Place_Plans_How_To_Guide_SC_final.pdf

⁴ Dasgupta, P. (2021), The Economics of Biodiversity: The Dasgupta Review.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962785/The_Economics_of_Biodiversity_The_Dasgupta_Review_Full_Report.pdf

economic opportunities/ drive for productivity with climate and biodiversity objectives. The National Strategy for Economic Transformation⁵ refers to Scotland demonstrating global leadership in delivering a just transition to a net zero, nature-positive economy and re-building natural capital. Scotland can continue to be at the forefront of renewable energy developments but also low carbon technology if opportunities are realised.

Q4: Do you agree that this approach will deliver our future places which will be distinctive, safe and pleasant, easy to move around, welcoming, nature-positive and resource efficient?

The vision is very welcome but takes no account of the difficult decisions that may be needed to balance what are often conflicting objectives. We welcome the statements that commit to 'respond to the global biodiversity crisis by putting nature recovery and connected blue and green infrastructure at the heart of all future places and of safeguarding our shared heritage for future generations.'

To make places more inclusive, diverse, vibrant, resilient and empowering we should ensure equitable access to greenspace (both in terms of amount and quality), sustainable transport routes and blue-green infrastructure. Greenspaces should be connected and provide a green 'highway' to all areas of the town or city. Connectivity between places via sustainable transport options, active travel choices and affordable access to public transport are key alongside decarbonisation of the transport system.

Q5: Do you agree that the spatial strategy will deliver future places that overall are sustainable, liveable, productive and distinctive?

See above comments.

Q6: Do you agree that these spatial principles will enable the right choices to be made about where development should be located?

We support the six overarching spatial principles. The statements surrounding balanced development are ambiguous. It presumably does not mean that everybody should be able to go to live in the countryside with a consequent loss of important habitats. Rather, it should support people to work and gain education near where they live. We need to protect habitat where it is, whether rural or urban. Under the principle of urban and rural synergy it states 'we will improve green infrastructure to bring nature into towns and cities, connecting people with nature, building resilience and helping our biodiversity to flourish'. This equally applies to rural areas.

Some of these principles will lead to competing demands. How will these principles relate to development plans? Likewise links to other national strategies that relate to these principles and the hierarchy of these would be welcomed. For example, how it links with Regional Spatial Strategies, Regional Land Use Partnerships, Land Use Strategy and River Basin Management Plans.

The success of embedding these overarching principles depends on strong policy requirements, detailed delivery mechanisms and guidance to support decision making.

Regional Priorities

⁵ <https://www.gov.scot/publications/scotlands-national-strategy-economic-transformation>

Q7: Do you agree that these spatial strategy action areas provide a strong basis to take forward regional priority actions?

CIEEM focusses on national policies yet many of the c700 Scottish members will be responding to what is outlined in the regional sections in an individual or organisational capacity.

North and west coastal innovation

Q8: Do you agree with this summary of challenges and opportunities for this action area?

Q9: What are your views on these strategic actions for this action area?

Northern revitalisation

Q10: Do you agree with this summary of challenges and opportunities for this action area?

Q11: What are your views on these strategic actions for this action area?

North east transition

Q12: Do you agree with this summary of challenges and opportunities for this action area?

Q13: What are your views on these strategic actions for this action area?

Central urban transformation

Q14: Do you agree with this summary of challenges and opportunities for this action area?

Q15: What are your views on these strategic actions for this action area?

Southern sustainability

Q16: Do you agree with this summary of challenges and opportunities for this action area?

Q17: What are your views on these strategic actions for this action area?

Q18: What are your overall views on this proposed national spatial strategy?

Dividing Scotland into geographic areas is a novel and interesting approach that has things to commend it. For example it may be suitable as compiling an initial inventory of the projects going on within a local area. However, many of the issues are cross cutting, risking duplication of effort and a piecemeal approach. For example, under North and West Coast Innovation it is recognised that *“There are opportunities for local projects across this area to come together and create an enhanced nature network which benefits quality of life and contributes to biodiversity recovery and restoration as well as carbon sequestration.”* However, this is the case across Scotland and an effective nature network now needs to be developed at a national level to restore nature and manage trade-offs between societal objectives, as called for by the IPBES in their global review of biodiversity⁶. The Dasgupta review also found that *“large-scale and widespread investment in Nature-based Solutions would help us to address biodiversity loss and significantly contribute to climate change mitigation*

⁶ Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) Global Assessment Report for Policy Makers (2019): https://ipbes.net/system/tdf/inline/files/ipbes_global_assessment_report_summary_for_policymakers.pdf?file=1&type=node&id=36213

*and adaptation, not to mention wider economic benefits, including creating jobs.”*⁷ Similarly, commitments to support Nature-based Solutions, natural capital and urban sustainable, blue and green drainage solutions can be applied in all areas. Moreover, the five regions are not homogeneous but encompass a wide range of situations.

Overall, the policies outlined seem to stand on their own and would benefit from improved links between them and other Government policies. Throughout this section there is no reference to the national Land Use Strategy which is concerning. Regional Land Use Partnerships are mentioned in areas under the national spatial strategy e.g. Southern Stability pg 42 but there is no mention of Regional Land Use Frameworks. How will we formally adopt Regional Land Use Frameworks if not under the LDP/NPF4? If the plan is to include this and other guidance in the delivery plan/supplementary guidance this will make it difficult to keep track of lots of supplementary guidance with different timelines whereas the opportunity exists with NPF4 to bring it all together. If the Land Use Strategy is not included because it is time limited this is not being consistently applied as the draft NPF4 does include other time limited strategies e.g. National Strategy for Economic Transformation, National Transport Strategy. In the delivery of NPF4 there will need to be regular updates of how things are changing, it should very much be a live and evolving process.

We are concerned about some of the wording around addressing biodiversity ‘where possible’ in the national developments e.g. Pg 44 ‘In taking forward national developments ...improve biodiversity and restore habitats as far as possible’. This is much weaker than the wording used in Policy 3 (Pg 69) which states ‘Development proposals for national, major and EIA development or development for which an Appropriate Assessment is required should only be supported where it can be demonstrated that the proposal will **conserve and enhance biodiversity**, including nature networks within and adjacent to the site, so that they are in a demonstrably better state than without intervention, including through future management.’ As both statements relate to national developments the wording from Policy 3 should be adopted in the national development section. In Habitats Regulations Assessment (HRA) the outcomes of any Appropriate Assessment are legally binding.

Wording that indicates that we will focus offsetting/mitigation banks in one area (as mentioned under the Northern Revitalisation: “*the area can act as a strategic carbon and ecological ‘mitigation bank’ that can make a major contribution to our national climate change commitments*”), must be balanced with the need to achieve biodiversity enhancements locally to the development while also contributing towards nature conservation priorities at local, regional and national levels⁸. We should be aiming to create green, nature-positive sites across the country.

National Developments

Q19: Do you think that any of the classes of development described in the Statements of Need should be changed or additional classes added in order to deliver the national development described?

⁷ Dasgupta, P. (2021), The Economics of Biodiversity: The Dasgupta Review. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962785/The_Economics_of_Biodiversity_The_Dasgupta_Review_Full_Report.pdf

⁸ CIRIA, CIEEM, IEMA (2016) *Biodiversity Net Gain: Good practice principles for development*. Available at: <https://cieem.net/resource/biodiversity-net-gain-good-practice-principles-for-development>

We are pleased to see the plan to expand the Central Scotland Green Network (CSGN). Many of the ideas and implementation rolled out through CSGN could be applied in other areas of Scotland. It is also good to see reference to nature networks. For several years, Scottish Environment LINK has called for the government to establish a Scottish Nature Network⁹ (a national ecological network) which we support.

Q20: Is the level of information in the Statements of Need enough for communities, applicants and planning authorities to clearly decide when a proposal should be handled as a national development?

Q21: Do you think there are other developments, not already considered in supporting documents, that should be considered for national development status?

Q22: Do you agree that addressing climate change and nature recovery should be the primary guiding principles for all our plans and planning decisions?

We agree that addressing climate change and nature recovery should be the primary guiding principles for all plans and planning decisions. We welcome that there is clear recognition of the urgency in addressing the dual crises. This is very positive and we are pleased to see numerous mentions of biodiversity, nature-based solutions and nature positive.

The term nature recovery might be construed as implying going back to conditions in the past. However, this is unlikely to be possible in many cases given, for example, climate change and the spread of plant pests and diseases. The objective should be to build resilient, healthy and fully functioning ecosystems with the associated services that they provide.

National Planning Policy

Q23: Do you agree with this policy approach?

We welcome the commitment to a plan-led approach set out in policy 1 that incorporates the UN Sustainable Development Goals. Good planning, with greener neighbourhoods at the centre, is essential for supporting the just transition to greener, healthier, more resilient communities, ensuring a connected network of habitats is restored and protected in the long term and developing measures that deliver multiple benefits.

Local Authorities must receive adequate resources to support proactive systems thinking and plan development, as well as meaningful participation with local communities, as called for in RTPI's Plan The World We Need report¹⁰.

Q24: Do you agree that this policy will ensure the planning system takes account of the need to address the climate emergency?

⁹ <https://www.scotlink.org/publication/nature-networks/>

¹⁰ RTPI (2020) *Plan The World We Need: The contribution of planning to a sustainable, resilient and inclusive recovery*. Available at: https://www.rtpi.org.uk/media/5688/plantheworldweneed_june2020.pdf

We are pleased to see that there is a real emphasis on addressing climate change and targets towards achieving net zero. The 20-minute neighbourhood approach underlies Scottish National Outcomes and we are pleased to see that this is included in the draft NPF4 document.

In relation to planning it states that “Planning applications would need to show how they could help meet “net zero” carbon emissions by 2045”. This needs to be much stronger - all development MUST be tasked with achieving net zero by 2045 and circular economy principles need to be embedded across development. There should also be a clear and tangible demonstration of how biodiversity will be protected alongside achieving net zero. For example, tree planting for carbon storage must be carried out in an appropriate location, following the broad principle of “the right tree in the right place”.

Floodplains have a key role in catchments storing excess water and minimising flood risk elsewhere. Fully functioning floodplains, and many require action to restore their functionality, can also help absorb and store carbon from the atmosphere and help tackle the climate crisis. An ecosystem approach to floodplain management will help recognise their true value and the many functions they can provide. A nature based solution approach to ameliorate the risk of coastal erosion and flooding will become increasingly important due to the cost and adverse side-effects of hard coastal defences.

We welcome support for Nature-based Solutions which, in combination with radically reducing carbon emissions through halting fossil fuel usage, offer the only proven ways to achieve climate and biodiversity goals simultaneously, in the timeframes needed to avert climate and biodiversity catastrophe. The IUCN has noted that “*Research suggests that NbS could provide around 30% of the cost-effective mitigation that is needed by 2030 to stabilise warming to below 2°C*”¹¹. These should utilise a wide range of habitat restoration and creation projects, supporting both short-term and long-term carbon sinks, in areas that are suited to their soil and climatic requirements.

We would like to see clear funding strategies rather than vague statements such as “we will seek to promote”. Further investment in public transport and action to make fares competitive with the subsidised cost of private transport is required as well as a range of active travel options for people of all abilities. New housing developments should be required to include creation of safe, segregated active travel routes within each 20-minute neighbourhood as well as into city and town centres. Funding to retrofit existing communities similarly requires clear strategies.

Q25: Do you agree that this policy will ensure that the planning system takes account of the need to address the nature crisis?

It is clear that the nature crisis is being recognised by departments but all development MUST be tasked with demonstrating and delivering positive effects for biodiversity and achieving net zero.

Natural Places

We regret that a more radical change was not proposed at the outset of the consultation on the framework. As it is, it is not significantly different from the *status quo*.

For example, regarding protections under Natural Places, there are lots of “should”s, e.g. “Development plans should facilitate biodiversity enhancement”. This needs to be strengthened by

¹¹ Seddon, N., Sengupta, S., García-Espinosa, M., Hauler, I., Herr, D. and Rizvi, A.R. (2019). *Nature-based Solutions in Nationally Determined Contributions: Synthesis and recommendations for enhancing climate ambition and action by 2020*. Gland, Switzerland and Oxford, UK: IUCN and University of Oxford.

changing the “shoulds” to “musts.” Much greater protection is needed so that we can stop further losses of biodiversity and restore habitats. A stated intent to shift towards a natural capital approach can help ensure nature is valued properly in development. We recognise there may be conflicts between policy areas, so in any case, clear guidance must be issued on how these are to be managed and interpreted at the local level.

Recognition of irreplaceable habitats and protections outlined for the protection of ancient woodland is to be welcomed. However, this may conflict with a number of the National Developments in Part 2, which will prove challenging for planning authorities responding to development applications and clear guidance is needed.

Regarding impacts on protected species - the proposals detail requirements to establish presence and consider impacts but do not require impacts to be avoided or to achieve positive effects for the protected species even when there is a statutory duty to do so. This must be rectified. Additionally, the available guidance on protected species must be updated.

Positive Effects for Biodiversity

We note the NatureScot guidance on Developing with Nature and we have responded to that consultation.

It is not clear how ‘positive effects for biodiversity’ will be assessed in a tangible, measurable, and consistent way across Scotland. Unless we have a standardised Scotland-wide approach, we will inevitably be left with LPAs developing and adopting different approaches due to the lack of clear government steer and the difficulty they have in resourcing ecological expertise. Energy and rail industries in Scotland have adopted a biodiversity net gain (BNG) approach and some Local Planning Authorities, including Aberdeen City Council, Aberdeenshire Council and Scottish Borders Council, are trying to deliver net gain or nature positive mechanisms in their planning guidance, but it potentially will not have a high enough level of support to stop challenges from well-resourced developers. Our members are already starting to see requests for BNG from Planning Authorities in Scotland.

Biodiversity net gain

NPF4 provides a crucial opportunity to implement a requirement for development to deliver BNG.

BNG is an internationally recognised¹² and implemented¹³ stepwise approach to development that leaves biodiversity in a better state than before. This is essential as simply replacing habitat losses from development does not address the decline in area and quality of habitats which has happened over time and resulted in the levels of species loss reported in the State of Nature report¹⁴. CIEEM has produced a briefing on ‘Biodiversity Net Gain in Scotland’¹⁵ which provides further detail, as well as producing the first UK principles on delivering BNG, together with the Construction Industry Research and Information Association (CIRIA) and the Institute of Environmental Management and

¹² IUCN (no date) *Business and Biodiversity Net Gain*.

<https://www.iucn.org/theme/business-andbiodiversity/our-work/business-approaches-and-tools/business-and-biodiversity-net-gain>

¹³ Germany, USA and Australia have followed net gain principles for up to 40 years.

¹⁴ State of Nature Report (2019). <https://www.nature.scot/doc/state-nature-scotland-report-2019>

¹⁵ CIEEM (2019) *Biodiversity Net Gain in Scotland*. Available at:

<https://cieem.net/resource/biodiversitynetgain-in-scotland-briefing>

Assessment (IEMA)¹⁶. These UK principles were developed based on principles developed for the international community by the Business and Biodiversity Offset Programme¹⁷ and several other sources. Further guidance has now been published to help professionals and UK industry address this challenge and to achieve 'Net Gain' targets for biodiversity¹⁸ alongside a British Standard for designing and implementing biodiversity net gain (BS8683)¹⁹ which principles should be in line with.

There is a clear target for net gain in the UN paper for the post-2020 biodiversity framework²⁰ 'Milestone A.1 - Net gain in the area, connectivity and integrity of natural systems of at least 5 per cent.' How does Scotland propose to align with this?

We feel, based on our professional expertise and the current levels of nature depletion in Scotland²¹, that a minimum 10% net gain should be required, with incentives for developers to maximise BNG wherever possible.

If there is a desire for positive effects for biodiversity not to be prescriptive, how will we ensure net gain is delivered and evidenced? Without a metric and a measurable approach, it weakens what Local Planning Authorities can insist on. It is not clear how offsetting will be applied over and above the mitigation hierarchy and how it will be set out strategically. The Defra metric approach could be easily adapted for use in Scotland by focussing on the value of specific habitats of high international importance in Scotland and improving consideration of upland habitats. An adapted version of the Defra metric has already been used successfully for grassland reinstatement at a Highland airport. Scottish and Southern Electricity Networks have also been implementing BNG for the last four years in Scotland and have made adaptations of the metric specifically for Scottish habitats²². Whilst it is acknowledged that there remain aspects within it which require further revision, as mentioned above, it has been extensively tested and many within the ecological profession have now been trained in its use. Given the short timeframes available to address the biodiversity crisis, we would strongly encourage investigation into the use of this or a similarly well-tested tool to deliver a quantifiable and consistent approach to enhancements.

Biodiversity Net Gain - Good practice principles for development:

1. Apply the Mitigation Hierarchy
2. Avoid losing biodiversity that cannot be offset by gains elsewhere
3. Be inclusive and equitable
4. Address risks
5. Make a measurable Net Gain contribution
6. Achieve the best outcomes for biodiversity

¹⁶ CIRIA, CIEEM, IEMA (2016) *Biodiversity Net Gain: Good practice principles for development*. Available at: <https://cieem.net/resource/biodiversity-net-gain-good-practice-principles-for-development>

¹⁷ https://www.forest-trends.org/wp-content/uploads/2018/10/The-BBOP-Principles_20181023.pdf

¹⁸ CIRIA, CIEEM, IEMA (2019) *Biodiversity Net Gain: Good practice principles for development, A Practical Guide*. Available at:

<https://cieem.net/resource/biodiversity-net-gain-good-practice-principles-for-development-a-practical-guide>

¹⁹

<https://www.bsigroup.com/en-GB/our-services/events/webinars/2021/bs-8683-process-for-designing-and-implementing-biodiversity-net-gain/>

²⁰ <https://www.cbd.int/conferences/post2020/wg2020-03/documents>

²¹ Biodiversity Intactness Index report published by NHM and RSPB.

<https://www.rspb.org.uk/globalassets/downloads/about-us/48398rspb-biodiversity-intactness-index-summary-report-v4.pdf>

²² <https://www.ssen-transmission.co.uk/riio-t2-plan/our-approach-to-implementing-biodiversity-net-gain/>

7. Be additional Principle
8. Create a Net Gain legacy
9. Optimise sustainability
10. Be transparent

We urge the Scottish Government to review the established and widely recognised principles behind Biodiversity Net Gain and Environmental Net Gain²³. Whatever approach is adopted we need to ensure that there is effective long-term monitoring, evaluation, and enforcement and this needs to be a policy requirement of every national, major and EIA development.

Additional considerations

Greater consideration should be given within the NPF4 to developments causing landscape-scale changes through nitrogen emissions. This is particularly important in the context of (a) habitats vulnerable to the effects of nitrogen pollution and (b) sensitive habitats of high socio-environmental value such as our temperate rainforest. As suggested by Nourish Scotland²⁴, a nitrogen budget for Scotland should be prioritised in order to produce supplementary planning policy guidance, with the aim to minimise wastage of nitrogen products and avoid their harmful environmental impacts. There needs to be clear links with other relevant plans and strategies including: Land Use Strategy, Regional Land Use Partnerships, Forestry Strategy, Scottish Biodiversity Strategy and Scottish Government proposals on post-CAP agricultural policies.

Protection of soil biodiversity and fungi is also highly neglected in planning policy but progress must be made towards minimising losses of these organisms which play a crucial role in several ecosystem services. A definition and conservation framework for biologically valuable soils should be considered and factored into planning decision making and mitigation approaches.

Transformational Change

A Scottish Nature Network would join up sites for nature and link ecological processes across landscapes. Protected areas would form the core of Scotland's Nature network and then by restoring and creating new habitats will connect these areas together. This requires spatial planning and co-ordinated action across the planning and land use sectors, including the implementation of blue-green infrastructure. Regional Land Use Partnerships should be empowered to make decisions on priorities and resourcing at a regional and local level, connect directly to levers of funding and finance and stimulate action and delivery. We recognise that some landowners, including third sector organisations are already doing this, and high-level support for this in NPF4 would make their vision easier to achieve.

Local Biodiversity Action Plans can also be used to guide enhancements to key areas, but there is no mention of them in the draft.

Capacity and Capability

Each Local Authority should have, as a bare minimum, ecologists and environmental planners who are adequately resourced and trained. Without in-house ecological expertise in Local Authorities,

²³ <https://cieem.net/resource/cieem-principles-for-environmental-net-gain-july-2021>

²⁴

<http://www.nourishscotland.org/wp-content/uploads/2017/12/Nitrogen-Budget-for-Scotland-Seminar-Report.pdf>

positive effects for biodiversity cannot be accurately assessed and delivered, and there is a danger of climate change and biodiversity targets not being reached. Evidence from RTPi²⁵ shows that planning departments within Local Authorities have seen a 25% reduction in staff since 2009.

Ecologists and environmental planner posts have been cut back in many Scottish Local Authorities, creating enormous difficulties and discrepancies in in-house expertise and experience across Scotland. In the recently published survey²⁶ assessing Scottish Local Planning Authority Ecological Expertise and Capacity, when asked whether current resources will be adequate to assess whether an application will deliver positive effects for biodiversity under NPF4:

- 22% of respondents said they have no current ecological resource or expertise available
- 31% said they do not have adequate capacity to deal with the existing planning workload
- 31% said only if other biodiversity work within the council is reduced
- 11% said current expertise and resources will be adequate
- 6% said capacity is increasing so will be able to provide more support and advice for planners and increased scrutiny of planning applications

Capacity concerns in ecological and planning staff were highlighted. Lack of enforcement staff to ensure compliance was highlighted as a big concern with two-thirds of respondents rating it as a high or very high risk to their LPA's ability to implement NPF4 and Positive Effects for Biodiversity.

To implement transformation in Scottish planning there is an urgent need for increased capacity and expertise at local levels. Any additional funding for Local Authorities must be ring-fenced for this purpose.

Q26: Do you agree that this policy effectively addresses the need for planning to respect, protect and fulfil human rights, seek to eliminate discrimination and promote equality?

Q27: Do you agree that planning policy should support community wealth building, and does this policy deliver this?

Q28: Do you agree that this policy will enable the planning system to promote design, quality and place?

Liveable Places

Q29: Do you agree that this policy sufficiently addresses the need to support local living?

As outlined under Question 2 we support the principles of 20-minute neighbourhoods. We would like to see clear strategies for their implementation and consideration given to strategies for rural areas.

Q30: Do you agree that this policy ensures that we make best use of existing infrastructure and take an infrastructure first approach to planning?

NPF4 does not consider how green and blue infrastructure should be valued and this needs to be rectified to ensure that an infrastructure first approach will work well in balancing conflicting goals.

²⁵

<https://www.rtpi.org.uk/media/1496/resourcing-the-planning-system-rtpi-scotland-key-trends-and-findings-2019.pdf>

²⁶ CIEEM (2022). Scottish Local Planning Authority Ecological Expertise and Capacity Survey Report. <https://cieem.net/resource/scottish-local-planning-authority-ecological-expertise-and-capacity-survey-report-march-2022/>

NPF4 presents an opportunity to put nature first in local development plans, as a critical asset in line with the Dasgupta Review.²⁷

The Infrastructure Bill adopted the term ‘natural infrastructure’ in the definition of infrastructure. This is a positive step to capture that infrastructure must go wider than how it is typically viewed. The definition of infrastructure set out in the Infrastructure Investment Plan²⁸ should be used in NPF4.

Q31: Do you agree that this policy meets the aims of supporting the delivery of high quality, sustainable homes that meet the needs of people throughout their lives?

Although the Quality Homes policy states the need for our housing stock to contribute less to Scotland’s climate emissions and highlights the wider benefits of better energy efficiency and greener buildings it does not sufficiently recognise that expansion of house building has a significant impact on biodiversity including loss of green spaces, semi-natural habitats, woodland and scrub and impacts on wildlife corridors.

Q32: Do you agree that this policy will reduce the need to travel unsustainably, decarbonise our transport system and promote active travel choices?

Facilitating low carbon transport (including the aviation sector) and lifestyles is essential. Communities where people live close to places of work, food production, education and leisure, and decentralisation of essential utilities are fundamental. The 20-minute neighbourhood approach underlies Scottish National Outcomes and the overarching concept of 20-minute neighbourhoods must be central for all development going forward.

Detail is needed on the scale of further investment in public transport and active travel options. A large-scale shift away from private car transport in our towns and cities is required, diverting space away from the car and instead to the bicycle, bus, tram, and rail etc. Also to be considered, is making more use of rail networks for freight to reduce road transport of goods and how new rail lines could be constructed to avoid the fragmentation of the landscape. Any development should be built with improved public transport links and de-carbonised public transport in mind which would need to be incentivised by low-cost travel. We note the welcome investment in high-speed broadband in rural communities and islands and recognise that more people can now work away from a centralised office. However, it would be beneficial to rural and suburban communities to have local hubs where office facilities can be shared, and people can meet.

We support the statement ‘Design of new transport infrastructure can be a valuable opportunity to incorporate blue and green infrastructure and nature rich habitats (such as natural planting or water systems) where possible’. Network Rail has been incorporating the principles of biodiversity net gain²⁹ and is looking to achieve biodiversity net gain by 2035 across the entire network³⁰.

²⁷ HM Treasury (2021) *The Economics of Biodiversity: The Dasgupta Review*. Available at: <https://www.gov.uk/government/publications/final-report-the-economics-of-biodiversity-the-dasguptareview>

²⁸ Scottish Government (2020). <https://www.gov.scot/publications/national-mission-local-impact-infrastructure-investment-plan-scotland-2021-22-2025-26/>

²⁹ CIRIA, CIEEM and IEMA (2019) *Biodiversity net gain. Good practice principles for development Case studies*, case studies 6-10. Available at: <https://cieem.net/resource/biodiversity-net-gain-case-studies/>

³⁰ Network Rail (2020) Biodiversity Action Plan. Available at: <https://www.networkrail.co.uk/wp-content/uploads/2020/12/Network-Rail-Biodiversity-Action-Plan.pdf>

Q33: Do you agree that this policy will help us achieve zero emissions from heating and cooling our buildings and adapt to changing temperatures?

Q34: Do you agree that this policy will help to make our places greener, healthier, and more resilient to climate change by supporting and enhancing blue and green infrastructure and providing good quality local opportunities for play and sport?

The recognition of the value of blue and green infrastructure is welcomed. Blue and green infrastructure are not an added benefit but an integrated requirement for future planning and development and we would like this to be given far greater weighting and detail on how it will be implemented and enforced. We need to move away from “should” to “must.”

Blue and green infrastructure needs to be planned not merely to look at carbon calculations but must include biodiversity net gain – implemented using sound ecological knowledge to ensure that such infrastructure delivers true benefits for biodiversity and hence for the vital ecosystem services that biodiversity supports. Adoption of many Nature-based Solutions such as green roofs, walls and communal spaces are essential. Consideration of ecological networks must be included as a requirement of any new housing build to reduce impacts of fragmentation. More greenery in town centres can also help improve air quality and support pollinating insects. These nature-based approaches will have the added benefit of providing carbon sinks, and of improving health and well-being within our communities.

Providing quality greenspace in planning can create a sense of pride and ownership in the local area that underpins its sustainability and reduces the costs to Local Authorities of damage and vandalism. Sense of pride will encourage residents to get involved in caring for their area and work with Local Planning Authorities to the benefit of all. There are already good examples of local groups caring for and managing their local greenspace. People should feel involved and empowered through the planning process. Local people should be aware of their Local Development Plan, and be given ample opportunities to input into their development and revision potentially via Local Place Plans. Planning decisions should be at the heart of communities with Citizen Assembly engagement in planning decisions.

Development and blue green infrastructure should be synonymous.

Q35: Do you agree that this policy will help to ensure places are resilient to future flood risk and make efficient and sustainable use of water resources?

Although the draft covers many aspects that we support, we await to see the delivery mechanisms.

We note with concern the use of the qualifier ‘wherever practicable’ in bullet point 2 13f. Sustainable Drainage Systems (SuDs) have multiple benefits in terms of water management (decreasing flow rates to watercourses and improving water quality), improving biodiversity (providing habitat for many amphibians and invertebrates) and amenity value. Although SuDs are a legal requirement for all new developments in Scotland, the design of SuDs is not always considered during initial site design and best practices are not always followed. The policy and legislation on SuDs needs to be tightened, particularly in the light of the recent IPCC report³¹. Measures for the long-term management of SuDs are also needed to ensure their effectiveness for both water management and biodiversity. When designing SuDS positioning should be considered as to how to maximise their

³¹ IPCC (2022). Climate Change 2022. Impacts, Adaptation, Vulnerability. Summary for Policymakers https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

value in terms of ecological networks e.g. linking up streams and ditches with SuDS for movement of amphibians and other wildlife.

We would like to see the widespread use of rain gardens as an urban flood prevention measure implemented across Scotland, with incentives for retrofitting rain gardens in existing buildings, and a tightening up of planning restrictions on paving gardens.

Measures should be taken so that artificial grass is not put in new housing developments and there is a focus on permeable ground as part of climate adaptation measures.

A focus on Nature-based Solutions for managing issues such as air quality and flooding in many of our towns and cities should be the norm. 'Hard' defences should be the last line of defence in making us more resilient to climate change and its associated effects on flooding and air quality.

There should be an onus on developers to explain to purchasers of new houses what the risks of flooding are and how the building has been designed and built to minimise the risk of damage from flooding.

Q36: Do you agree that this policy will ensure places support health, wellbeing and safety, and strengthen the resilience of communities?

There needs to be a greater emphasis on the benefits of accessible green space to health and on the role that nature plays in people's wellbeing.

Productive Places

Q37: Do you agree that this policy ensures places support new and expanded businesses and investment, stimulate entrepreneurship and promote alternative ways of working in order to achieve a green recovery and build a wellbeing economy?

Agriculture and forestry are also important businesses. There ought to be mention of local processing facilities for these industries. The recent consultation on the future of agriculture is also relevant as some actions suggested might be encouraged under NPF4; and the final version of NPF4 should make provision for this. In any case there does need to be a consistent approach across sectors.

Q38: Do you agree that this policy will help to inspire people to visit Scotland, and support sustainable tourism which benefits local people and is consistent with our netzero and nature commitments?

VisitScotland and other agencies have been very effective in encouraging visitors to come to Scotland by promoting Scotland's natural environment. Spending on nature-based tourism is estimated to contribute nearly 40% of all tourism spending, supporting 39,000 FTEs³², this is likely to have increased and will increase further. The more difficult problem is in ensuring that such tourism brings local benefits, is sustainable and does not adversely affect biodiversity. Although policy 17c goes some way to address this it should go further to ensure that enhancements are in addition to the mitigation hierarchy.

Q39: Do you agree that this policy supports our places to reflect and facilitate enjoyment of, and investment in, our collective culture and creativity?

³² <https://www.nature.scot/doc/statement-naturescots-approach-and-contribution-tourism>

Public art should be redefined to include gardens and other green spaces. Garden and Designed Landscapes are often focussed on landscape and heritage designations. There needs to be a great focus on nature conservation.

Q40: Do you agree that this policy will ensure our places support continued expansion of low-carbon and net zero energy technologies as a key contributor to net zero emissions by 2045?

We agree that progressing Scotland's achievements in renewable energy production and decarbonising our energy systems should continue in pursuit of the goal of achieving net zero. Scotland has been at the forefront of renewable energy developments and there is immense potential to build on this, especially with the transferable skills and expertise that exist in Scotland through the oil and gas sectors. However, it is important to develop an appropriate mix of types of renewable energy generation together with storage and transmission to ensure that enough energy is available for all reasonable situations, while simultaneously adopting policies to reduce unnecessary demand that do not bear disproportionately on the poorest members of society.

Renewable energy developments, and their associated transmission networks, inevitably have an impact on our landscapes, and on our natural and cultural heritage. The planning system should recognise the potential for conflict and play a proactive role in siting and in mitigation to reduce or remove these. Projects must be subject to appropriate and thorough Environmental Impact Assessments to minimise and mitigate negative effects of renewable energy schemes on natural capital. A national assessment of where renewable energy schemes can be installed with minimal environmental damage should be undertaken and then built into Regional Spatial Strategies and Regional Land Use Frameworks.

SSEN have demonstrated that they have delivered Biodiversity Net Gain in their transmission networks using an adapted metric for use in Scotland. Valuable lessons should be learned from this approach and adopted.

We consider that there should be greater encouragement given to upgrade existing wind farms with more efficient and powerful turbines rather than building new ones which are likely to be in areas of high value for biodiversity that provide a range of important ecosystem services. Wind farms should only be developed where the carbon costs of doing so, including any loss of peat, are exceeded by carbon savings within a few years. Similarly, opportunities for combining methods of energy generation in existing sites should be maximised e.g., green hydrogen generation on wind farms.

The policy must be consistent with Scotland's Energy Strategy Position Statement³³, particularly in respect to local energy generation.

Q41: Do you agree that this policy will help our places to be more resource efficient, and to be supported by services and facilities that help to achieve a circular economy?

Q42: Do you agree that this policy will support investment in aquaculture and minimise its potential impacts on the environment?

Policy 21 does not really mark any change from the *status quo*. The consenting system is complicated due to these marine matters coming partly under the terrestrial planning regime and partly under the marine licensing scheme. Seaweed culture, which is likely to become more important, only comes under the marine planning system. The regulatory processes involved in fish farming have

³³ <https://www.gov.scot/publications/scotlands-energy-strategy-position-statement/>

been reviewed recently³⁴. Policy 21c should insist that developments will only be supported where they are consistent with the policies of the relevant Planning Authority, for example through their supplementary guidance on aquaculture. There is no reference to the development of the Scottish Government's Aquaculture Vision. Sections (c) and (d) emphasise support for development with no mention of environmental impacts, again leaving planners to interpret what is 'appropriate for the location' thereby potentially undermining environmental sustainability. Guidance is required on what should be considered acceptable environmental impacts, or what action should be taken if environmental impacts are not acceptable, i.e. penalties for failing to meet Environmental Quality Standards.

It should be noted that although applications for farmed fish and shellfish have been excluded from NPF4, marine schemes are considered under the National and, where relevant, Regional Marine Plans.

Q43: Do you agree that this policy will support the sustainable management of resources and minimise the impacts of extraction of minerals on communities and the environment?

Aggregate and mineral extractions sites can have high biodiversity value and great potential for biodiversity enhancement. We welcome the statement that sites must "*not result in adverse impacts on biodiversity and the natural environment, sensitive habitats and the historic environment, as well as landscape and visual impacts.*"

Q44: Do you agree that this policy ensures all of our places will be digitally connected?

Distinctive Places

Q45: Do you agree that these policies will ensure Scotland's places will support low carbon urban living?

See earlier comments on 20-minute neighbourhoods.

Q46: Do you agree that this policy will protect and enhance our historic environment, and support the reuse of redundant or neglected historic buildings?

Q47: Do you agree that this policy will increase the density of our settlements, restore nature and promote local living by limiting urban expansion and using the land around our towns and cities wisely?

Although we agree with the direction of this policy and the text covering the multiple benefits of green belts, further detail is required to assess its potential effectiveness to protect green belts in practice. We would welcome a clear definition of green belts and the protection that they receive.

Green belts should, as a default, encompass suitable buffer zones between development/human activities and wildlife habitat e.g., woodlands. The size of fines for developers damaging trees mean that they are unlikely to be a sufficient deterrent when compared with the potential capital value of a development.

Q48: Do you agree that this policy will help to proactively enable the reuse of vacant and derelict land and buildings?

34

We welcome the statements for Local Development Plans to seek to reuse vacant and derelict land as a priority.

Regeneration of vacant or derelict land (VDL) and buildings, should be incentivised over greenfield development in NPF4. Brownfield sites should be prioritised in development, subject to Ecological Impact Assessment on a site-by-site basis as brownfield sites can also provide important habitats. The biodiversity value of existing brownfield sites needs to be assessed as well as their role in ecological networks. Vacant and derelict land (VDL) sites could all be assessed for their current and future biodiversity potential using biodiversity net gain metrics, to aid in identifying VDL sites that could be repurposed for use as part of blue and green infrastructure networks. For example, VDL could be converted to allotments, which are in high demand in most areas or possibly incorporated into a green network and allowed to regenerate naturally through ecological succession.

The Scottish Land Commission and the wider Vacant and Derelict Land Taskforce have already done a lot of valuable work identifying VDL sites and potential opportunities for bringing this land back into productive use. Ecological advice will aid in identifying sites of high biodiversity value and the mitigation hierarchy must be followed.

Q49: Do you agree that this policy will ensure that rural places can be vibrant and sustainable?

There should be strong links here to the Land Use Strategy and the emerging Biodiversity Strategy. The previous Scottish Planning Policy included a principle to have regard to the principles of the Land Use Strategy. This is currently absent from the draft NPF4 and should be included and strengthened. We would, however, like to highlight that the existing Land Use Strategy lacks ambition and needs to be significantly improved.

It is difficult to assess crossover and connectedness of strategies when major policy areas are being consulted on at the same time. The current discussion on post-CAP agricultural transition in Scotland and Good Food Nation legislation must also be considered. As agriculture (and forestry) do not come within the planning process, policies to address food security do not come within NPF4. This leads to an imbalance between land uses; in recent years, much productive agricultural land has been built on. As there are several factors, including climate change, that make it desirable to increase the amount of food produced by Scottish farmers and horticulturalists, there needs to be stronger protection of productive agricultural land, particularly near towns and cities. Additionally, the shift to low carbon agriculture will impact Scotland's rural places over the next decade and beyond. An all-inclusive approach to land-use planning is needed to ensure agriculture and forestry are valued alongside planning.

Regional Land Use Partnerships (RLUPs) feature in areas under the national and spatial strategy but there is no mention of Regional Land Use Frameworks. A stronger statement is needed about the linkage between RLUPs and NPF4, and alignment of spatial strategy with the Regional Land Use Frameworks. The position of Forest & Woodland Strategies is strengthened in draft NPF4. There should be a move towards a broader Regional Land Use Framework under NPF4 and future NPFs, which also includes the Forest & Woodland Strategies.

The Scottish Land Commission, in their recommendations to Government on NPF4, also call for NPF4 to "connect regional land use planning into existing regional spatial planning by requiring new

regional spatial strategies to take account of the land-use plans that will be produced by the new Regional Land Use Partnerships”³⁵.

As well as statutory and non-statutory designated sites for nature conservation, connecting habitat should be equally protected as the value of ecological networks will be increasingly important with changes in climate and necessary to minimise effects of associated shifts in species ranges. A national nature/ecological network is a useful concept here. LNCSs are a valuable resource for nature within local authorities and should be treated as local or regional networks in a similar way.

Q50: Do you agree that this policy will protect and restore natural places?

We welcome the focus on restoring and enhancing our natural places. Likewise, the commitment to Nature-based Solutions and nature networks. Nature-based Solutions as a term is used by different people in diverse ways and we would like to see the IUCN definition of Nature-based Solutions adopted³⁶.

At a time when we should be strengthening protection, there are some concerning statements which indicate nature is expendable to other benefits, including: *‘Development proposals that affect a site designated as a Local Nature Conservation Site or a Local Landscape Area should be supported where development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or any such effects are clearly outweighed by social, environmental or economic benefits of local importance.’* Pg 107. Local Nature Conservation Sites have regional importance which must be recognised when being weighed against local economic importance, and must be protected to form part of a national nature network.

Likewise, we would question statements on National Park, National Scenic Area, Site of Special Scientific Interest, and a National Nature Reserve in relation to planning development and protection.

As highlighted at the CIEEM LPA event³⁷ Local Planning Authority staff are concerned about the strength of protection for Local Nature Conservation sites (LNCS). There appears to be a disconnect between Policy 3 and policy about sites (Policy 32 and point G). Policy 32 contains little that improves upon the protections in NPF3 and existing Scottish Planning Policy. LPAs would like to see no further degradation of these local sites and a strong presumption against development that negatively affects them. LNCSs are often a key mechanism for protecting biodiversity in local development management. Overall, policy wording around LNCSs needs to be strengthened to help LAs protect LNCSs.

Protecting and enhancing protected sites will however, only go some way to address the biodiversity crisis. The sites need to be of sufficient size and integrated within a wider nature network. Linkages need to be made between NPF4 and the Biodiversity strategy and new Natural Environment Bill

³⁵ Scottish Land Commission (2020) *NPF4 Call for Ideas A response from the Scottish Land Commission*.

Available at:

https://www.landcommission.gov.scot/downloads/5ed7946d4ffe9_Scottish%20Land%20Commission%20response%20to%20NPF4%20call%20for%20ideas.pdf

³⁶IUCN (2016) WCC-2016-Res-069-EN Defining Nature-based Solutions.

https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2016_RES_069_EN.pdf

³⁷ CIEEM (2022). Summary report from the Scottish Local Planning Authority event held January 2022 to discuss NPF4 and the Developing with Nature Guidance.

<https://cieem.net/resource/a-summary-report-from-scottish-lpa-event-to-discuss-the-emerging-npf4-and-developing-with-nature-guidance/>

which will see targets set for nature restoration and 30% of Scotland's land and sea protected by 2030.

Policy 32 should emphasise the need for all development to follow the BNG principles³⁸ as outlined previously. Applying the mitigation hierarchy is key as listed as the first BNG principle. Any additional biodiversity enhancements to ensure positive effects need to be truly additional to the mitigation hierarchy.

In addition, a national control plan for invasive species is needed, including early warning and rapid response for the arrival of new high-risk non-native species, which have potential to become invasive under a changing climate. There also needs to be a legal duty that underpins the biodiversity duty. Too often, control of invasive species falls between the various authorities, landowners etc. Paragraph f should also include a preference for the use of native species of a local provenance wherever possible.

Our previous comments on natural places, biodiversity net gain and blue-green infrastructure also apply here.

Q51: Do you agree that this policy protects carbon rich soils and supports the preservation and restoration of peatlands?

We recognise Scottish Government support and funding for peatland restoration, and we welcome recent announcements of continued funding for these initiatives. However, there should be stricter guidelines on what operations can take place on peatland (e.g., severe limitations on peat extraction/no further granting of licences for extraction for horticultural use and phasing out existing licences, and tree planting). We urge that the language in part (c) of this policy is strengthened. The policy as drafted leaves a concerning amount of leeway over what development would be acceptable on peatland and carbon rich soils. The proposed scaling up of renewable energy has to occur without impacting significantly on peatland carbon stores. There has been lots of restoration work conducted as part of siting wind farms but initial installation damage to the peatland must be minimised.

We are concerned that a number of exemptions have been given to the ban on commercial peat extraction - including the exemption on peat extraction that is to support an industry of national importance to Scotland (P109, d). This needs further consideration and a review on levels of extraction so that further impact is minimised with mandatory offsetting being required where extraction is seen as being essential. There must be a clear plan for transition away from the use of peat except for small scale peat extraction for fuel in the areas where this is traditional. New commercial peatland extraction should only be supported in rare and exceptional circumstances. There needs to be further detail of how 'national importance' would be determined to avoid this acting as a future loophole to the restrictions.

We would like to see further detail and strategic policies related to peatland preservation and restoration. There should be stricter guidelines on what operations can take place on peatland and approved developments must be restorative in nature. Damaging practices such as repeated muir burning, particularly on vulnerable soils, should be actively discouraged due to the multiple disbenefits they bring (e.g., carbon release, biodiversity loss, increased run-off, and associated flood risk). In any case, burning should adhere to NatureScot's Muirburn Code, which states that "burning

³⁸ CIRIA, CIEEM, IEMA (2019) Biodiversity Net Gain: Good practice principles for development, A Practical Guide. Available at: <https://cieem.net/resource/biodiversity-net-gain-good-practice-principles-fordevelopment-apractical-guide>

should not take place on peatland, except as part of a habitat restoration plan approved by NatureScot,” recognising the ecosystem services it provides.

It is easy to conflate carbon rich soils with peatlands. However, soils under grassland and arable soils under some forms of management can also be carbon rich, for example when compared with the carbon stocks in woodland³⁹.

Q52: Do you agree that this policy will expand woodland cover and protect existing woodland?

Recognition of irreplaceable habitats and protections outlined for the protection of ancient woodland is very much welcomed. Considering the high biodiversity and fragility of Ancient Semi-Natural Woodland sites and remnant soil features of Planted Ancient Woodland sites (PAWS etc), these habitats must be exempted from development. This also has benefits for carbon sequestration and wider ecosystem services e.g., ancient woodland fungi and micro-organisms. The policy could be strengthened further by changing the uses of the word “should” to “must”. The Ancient Woodland Inventory (AWI) should be updated as there are areas listed as ancient woodland which unfortunately are no longer ancient woodland.

We agree that Local Development Plans should identify and protect existing woodlands and identify potential for woodland expansion. Existing woodlands must be protected as important ecosystems for carbon sequestration and retention, and statutory protection of all ancient woodland is needed. Mature trees must have similar protection to veteran trees, recognising the important ecosystem services they provide. In many urban areas there are mature trees that have high biodiversity value as well as wider benefits. There is no reference to Tree Preservation Orders (TPOs) and as this is often the only protection for individual trees or small groups of trees in Scotland this needs to be rectified or another system or policy implemented.

Biodiversity enhancements/Biodiversity Net Gain should not be used to justify the damage or loss of highly complex and/or irreplaceable habitats such as ancient woodland. The loss of ancient woodland, including plantations on planted ancient woodland sites (PAWS)⁴⁰ as well as ancient semi natural woodland (ASNW) should not be tolerated under any circumstances given that adequate mitigation methods do not exist and restoration is not possible for the complex soil communities developed over centuries of woodland cover. The National Planning Policy Framework for England stipulates that ‘development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons.’ Scotland should exceed this level of protection by replacing the word ‘should [be refused]’ with ‘must [be refused]’ and defining a minimum buffer zone to avoid damaging indirect effects of development adjacent to ancient woodland.

Developers should be obligated to report ancient or veteran trees that are identified during arboricultural surveys and a minimum root protection should be enforced measuring 15 x stem diameter/5m further than the crown extent (whichever is larger). Wood pasture or sites with a high regional/county percentage (2-5% +) of veteran or ancient trees must not be developed.

³⁹ Anderson, P. (2021). Carbon and ecosystems: restoration and creation to capture carbon. <https://cieem.net/resource/carbon-and-ecosystems-restoration-and-creation-to-capture-carbon/>

⁴⁰ PAWS sites should receive full consideration as ancient woodland even if current forest cover is of a commercial/monoculture type - it is the complex woodland soils that impart high value to ancient woodland sites.

As highlighted in the Scottish Local Planning Authority Ecological Expertise and Capacity Survey Report⁴¹, more ecologists and resources for Planning Enforcement Officers are needed to ensure tree protection and biodiversity enhancement measures are realised.

Opportunity mapping and modelling should be used to identify optimum land type and area scale, which can then be implemented as part of a strategic plan to facilitate woodland expansion. Regional Land Use Frameworks and Partnerships are crucial to this.

Scotland's Forestry Strategy must not only support ambitious national targets for increasing woodland cover, but also encourage much higher proportions of native broadleaved woodland, following the principle of the "right tree in the right place." In addition, measures to encourage natural regeneration, not just planting, should be at the centre of any plans.

Q53: Do you agree that this policy will help our coastal areas adapt to climate change and support the sustainable development of coastal communities?

Consistency with the National Marine Plan and Regional Marine Plans applies to all aspects of coastal development as the two regimes overlap between high and low water mark and should be mentioned in the introduction to this section.

Greater emphasis should be placed on protecting and restoring Scotland's blue carbon habitats. Seagrass restoration and other nature based solutions can help meet net-zero targets and restore biodiversity. We support the principles of avoiding the need for hard engineering in coastal protection and avoiding development in areas where it could result in further protection measures or lead to increased risk of coastal flooding or erosion. We welcome the recognition that nature-based solutions have a role to play in the resilience of coastal communities and assets in relation to flood risk. Planning authorities should be directed to utilise nature-based solutions for coastal protection where practical as an adaptation to climate change.

Q54: Do you agree with our proposed priorities for the delivery of the spatial strategy?

Q55: Do you have any other comments on the delivery of the spatial strategy?

In the Call for Ideas, we highlighted that there is a need to rebalance the planning system from being development-led to recognise the urgency of addressing the two global emergencies of climate change and biodiversity loss. NPF4 should be based on the 17 Sustainable Development Goals, which the First Minister signed Scotland up to in 2015, recognising the importance of the sector in addressing them. The policy should also be underpinned by a clear set of environmental principles, including Polluter Pays, Precautionary Principle, Prevention Principle, Rectification at Source and Non-Regression. These principles must not be caveated for certain types of development, such as national infrastructure projects.

Although many of the ambitions in the draft NPF4 are to be welcomed, there is a lack of detail on implementation, enforcement, and the legal weight behind these outline proposals so that

⁴¹ CIEEM (2022). CIEEM (2022). Scottish Local Planning Authority Ecological Expertise and Capacity Survey Report
<https://cieem.net/resource/scottish-local-planning-authority-ecological-expertise-and-capacity-survey-report-march-2022/>

transformational change can be delivered. We need detail on how positive effects for biodiversity will be assessed in a tangible, measurable, and consistent way across Scotland.

To deliver transformational change, the outline plans in NPF4 for positive effects for biodiversity must tie in with the Land Use Strategy and the upcoming Scottish Biodiversity Strategy, together with the other policies already referenced in the draft NPF4. Despite the introductory visionary wording, the focus still seems to be on avoidance of damage rather than restoration and wide-scale enhancement.

As with the climate targets, we would like to see clear targets related to biodiversity and mechanisms in place so that changes are measurable.

CIEEM looks forward to working with the Scottish Government in the development of the detailed delivery programme.