

CONSULTATION

Response Document



**Nature Recovery Green Paper
(Department of Environment, Food and Rural Affairs)**

11 May 2022

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
- 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

This response was coordinated by our [England Policy Group](#) and [Strategic Policy Panel](#). 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 and Communications) at JasonReeves@cieem.net with any queries.

General Comments

CIEEM welcomes the opportunity to respond to this consultation on the Nature Recovery Green Paper. We welcome the fact that the Government recognises nature is in decline and needs urgent help. We are, however, disappointed that the opportunity has not been taken - with a green paper that could be used to test the water - to propose more ambitious action. We are underwhelmed by the paper and believe it lacks the ambition needed to address the loss of nature in England.

Responses to Questions

Protected sites: a new consolidated approach (page 8)

What degree of reform do we need to ensure a simpler and more ecologically coherent network of terrestrial protected sites?

We would be particularly interested in your views on how we can have a coherent, effective and well-understood system of protections, as well as supporting the delivery of our legal binding species abundance target and other potential long-term targets.

7. Please tick the option you prefer and explain your answer in the free text box.

- **Option 1: Reform including a tiered approach emulating the approach taken in the marine area for HPMAs and MPAs, consolidating existing protected site designations and the creation of highly protected sites**
- **Option 2: Lighter touch reform including streamlining existing site designations (SACs, SPAs, and SSSIs)**
- **Option 3: Amalgamation into a single type of designation with a scale of protections**
- **Other**
- **No reform**
- **Do not know**

Although some adjustments could be made to site designations in England to simplify processes and naming conventions, these should only be minor and only to improve the protection and enhancement of nature. There must be no backsliding of protection and no undesignating of sites, particularly given recent studies have found as little as 5% of the UK's land area is both protected and effectively managed for nature¹.

The options set out all seem to constitute a reduction in protection for protected sites. The suggested options create the potential for watering down site protections without any guarantee of levelling up protections – the idea of having a very small number of ‘highly protected’ sites that have even more protection than present-day international sites (proposed option 1) seems to come at the cost of a watering down in protection for everything else (those remaining sites in the proposed ‘protected site’ category).

Proposed option 1 for protected sites claims to emulate the approach existing approach to Marine sites and Highly Protected Marine Areas (HPMA) but it doesn't – in the marine example the HPMA are a tier that is being piloted above the existing level/tier of Internationally protected

¹ Starnes *et al* (2021) The extent and effectiveness of protected areas in the UK, *Global Ecology and Conservation*, 30, e01745. Available at: <https://www.sciencedirect.com/science/article/pii/S235198942100295X?via%3Dihub>

areas (which remain unchanged at their current level of protection). By contrast, option 1 proposes elevating a small number of international sites above existing levels of protection, but downgrading the rest (rather than leaving their protection unchanged).

Option 2 appears to be a relabelling process. The administrative burden of renaming sites and amending legislation would likely draw resources and focus away from the very urgent requirements to implement our existing laws, policies and existing site improvement plans.

Option 3 creates huge amounts of uncertainty whereby every site will need to be assessed on its own merits and opens up the opportunity to challenge decisions more than already is the case. This is the opposite of simplifying the designated sites system.

The focus for protected sites needs to be on levelling them up, ensuring management to get them all into good condition, completing the protected sites network, and using the Lawton Principles (more, bigger, better and joined up sites) to extend the network (e.g. in light of the climate emergency). This requires appropriate resources for monitoring and management, particularly through the statutory nature conservation bodies. CIEEM supports the proposals of Wildlife and Countryside Link to this question.

Now is the wrong time to be embarking on a major reform of designations. The focus needs to be on restoring nature now.

8. What degree of reform for the marine protected area network do we need to meet our biodiversity objectives and commitments? Please tick the option you prefer and briefly explain your preference and what benefits or risks it may have in the free text box.

- **Option 1: Reform including a tiered approach consolidating existing protected site designations and the creation of highly protected sites.**
- **Option 2: Continuing to manage existing site designations (SACs, SPAs, and MCZs) similarly, streamlining our approach by to refer to them all as Marine Protected Areas (MPAs).**
- **Option 3: Amalgamation into a single type of designation with a scale of protections.**
- **Other**
- **No reform**
- **Do not know**

CIEEM supports moving all marine protected sites into one MPA designation with the same protection as SACs/SPAs, with an additional layer on top for HPMAs.

9. Do you agree that there should be a single process for terrestrial designation?

We would be particularly interested in your views on how this might best be done for example, should decisions be vested in the appropriate authority [ministers] on the advice of its nature conservation bodies?

Please tick the option you prefer and explain your answer in the free text box.

Yes

No

Unsure

CIEEM is concerned with the proposal to move the final say for designations to the Secretary of State. We understand the need for involving democratic accountability, but the final judgement on designations should be objective and based on sound scientific understanding. Moving designation responsibility to politicians can only weaken scientific objectivity in the process and expose the process to other political pressures.

For objective and scientific advice to be given, the Government must increase funding and resourcing of the statutory nature conservation bodies.

10. Should we reform the current feature-based approach to site selection and management to also allow for more dynamic ecological processes?

We would be particularly interested in your views of how our sites can be made more resilient to climate and other natural changes and can encompass wider purposes such as carbon sequestration.

Briefly explain your answer in the free text box.

- Yes, for both terrestrial and marine sites
- Yes, for terrestrial sites only
- Yes, for marine sites only
- No, neither for marine not terrestrial sites
- Unsure

Expanding the number of features for different sites and applying a whole-site approach in addition to a features-based approach will enable better connectivity and resilience of protected nature sites, especially in the face of climate change. Advice, selection and management of sites must be based on competent ecological expertise.

11. How do we promote nature recovery beyond designated protected sites?

CIEEM welcomes the Government's recognition that nature cannot be confined to the 30% designated for nature, and that nature must permeate our rural and urban landscapes. Wildlife must be able to travel between protected areas along blue and green corridors through towns, cities, the countryside and the farmed environment. More space must be made for nature outside the protected area network and nature must be a consideration across planning and other decision-making.

CIEEM supports the proposals of Wildlife and Countryside Link to this question.

12. Do you see a potential role for additional designations? Please provide detail in the free text box.

- Yes
- No

- **Unsure**

Nature is in rapid and continuing decline. Not only are species under threat of extinction and entire ecosystems at risk of irreparable erosion, but the loss of nature compromises the ability to both mitigate and adapt to climate change. We need to both protect existing nature and restore nature. However, there is no existing designation that protects land which is being managed to create new habitats and to enable nature to recover. It will be years or even decades before nature on these sites has recovered sufficiently for them to meet the strict criteria for current designated sites protections. We need a way of protecting these sites while they are still in recovery – through Nature Recovery Areas or a Wildbelt designation. Please see the Wildlife and Countryside Link response to this question for further elaboration.

Protected sites: site management and protection (page 13)

13. Do you agree we should pursue the potential areas for reforms on assessments and consents?

- **Yes**
- **No – keep as it is**
- **No – reform but not these areas or additional areas (please state, why)**

The Nature Recovery Green Paper proposes to “fundamentally change” the UK’s most effective conservation laws, the Habitats Regulations, giving more discretion to individual decision-makers. Choices about development and land use that affect protected sites must follow a rigorous process that takes into account national conservation objectives and species conservation status; relying on individual discretion would increase uncertainty and the risk of environmental harm (and create more uncertainty for businesses).

Defra’s own review in 2012 found the Habitats Regulations fit-for-purpose. We must retain the essential aspects of the Habitats Regulations, including the precautionary principle, existing site protection rules, case law, a robust legal assessment framework like the Habitats Regulations Assessment, and obligations for site management.

The supporting summary paper from the HRA working group is hopelessly thin – the Green Paper itself states that in reaching their conclusions the HRA working group consulted ‘experts’ in HRA – but these people are not named anywhere, and the supporting paper is not enlightening. It seems to contrast multiple examples of the benefits of general legislative flexibility across different environmental fields, with the rigidity of the HRA regime. This conflation of issues loses sight of why HRA is so strict, and the substantial benefits that this has actually achieved thus far across the Natura 2000 network (which are not mentioned).

An example of the HRA-related illiteracy of the Green Paper is given on page 15, where the document provides a quote from Mr Justice Sullivan in the Dilly Lane High Court Case (in which CIEEM members were involved) – this quote has been taken out of context and misused. Mr Justice Sullivan was actually setting out the fact that the EU-derived legislation was a perfectly sensible aid to environmental decision-making, and that it was wrong for the Council to interpret it in such a way as to make it impossible to comply with. In short therefore, he was supporting the legislation that is now being vilified, not criticising it.

CIEEM is concerned by some of the language used around instances where compensation will be sought for damage to sites. This seems to be opening the door to compensation being used more often in HRA, which in turn suggests that permitting damage (rather than requiring avoidance/mitigation) to designated sites might be envisaged as becoming more commonplace. Direct harm to irreplaceable habitats must be avoided and a suitable compensation strategy for potential impacts to irreplaceable habitats must be significantly above the maximum ratios in the biodiversity metric. Without this key principle, there is a risk that it will be easier (and therefore be an incentive) to damage and compensate for loss of irreplaceable habitats, than other habitats under biodiversity net gain proposals.

We are similarly concerned by the move away from case law. Some case law is problematic but what is needed is scientific guidance around application of the case law rather than getting rid of it, including application of both the precautionary *and* proportionality principles - in tandem - such that some risk-based activity is permitted depending on the extent and reversibility of the likely impact.

We are concerned that there is already reference to HRA reform elsewhere in Government policy without an agreement that changes are either needed or what they will be. There is a statement in the new British Energy Security Strategy (<https://www.gov.uk/government/publications/british-energy-security-strategy>) that says that for offshore wind, Government will “*cut the process time by over half*” by, amongst other things, “*reviewing the way in which the Habitats Regulations Assessments are carried out for all projects making applications from late 2023 to maintain valued protection for wildlife, whilst reducing reams of paperwork*”.

The comment in the DTA Publications (who publish the Habitats Regulations and Assessment Handbook and Journal and are the recognised experts on the Habitats Regulations) special supplement (<https://drive.google.com/file/d/1FGm93fO3rMst38yy7z5PAoJtyhwY4SHJ/view>) on the Green Paper sums up our concerns regarding HRA: “*we regard the introduction to the Green Paper to comprise a series of sweeping accusations and generally unsubstantiated assertions. We recognise the scope for improvement in how the Habitats Regulation are currently interpreted and applied but, in our experience, most of the common areas of misunderstanding could be addressed with improved authoritative guidance to correct misconceptions and facilitate a more efficient and consistent approach to HRA. Minor adaptations of the existing Regulations and better resourcing of restoration and enhancement of sites would also help. Reform would be wholly counter-productive, is not required and no credible, substantiated case has been made out for it.*” It would appear that there is an underlying political drive to eliminate anything derived from the EU without making a clear case for why and how.

CIEEM’s recommendation is for better support and resourcing of SNCOs and LPAs, and to issue/commission additional guidance as necessary, rather than to reform the Habitats Regulations.

14. Should action be taken to address legacy consents? If ‘Yes’, we would particularly welcome your views on how this might be done in a cost-effective and fair way explaining your answers in the free text box.

- Yes
- No
- Unsure

CIEEM supports the introduction of measures to enable extant SSSI consents to be reviewed and revoked. CIEEM members have come across multiple occasions where relatively benign projects with real benefits to society have been prevented due to the existence of extant, harmful and uncontrollable consents that might act 'in combination' with the newly proposed project. Arming Natural England with the tools to revoke historic consents where needed would bring real benefits generally.

15. Should we move to this more outcomes-focused approach to site management? Please tick the option you prefer and briefly explain your preference and what benefits it may have in the free text box.

- Yes, using Site Improvement Plans
- Yes, but building on Site Improvement Plans to offer a holistic site outcome plan
- No
- Other
- Unsure

CIEEM supports a shift to protected sites that can support the management of the site and the outcome of nature recovery. Site Improvement Plans (SIPs) could play an important role, but, as the Green Paper identifies, their uptake has been limited. We support the suggestion in the Green Paper to make SIPs statutory. There should be a statutory obligation on public bodies to deliver the SIP actions.

To ensure delivery of SIPs and their objective to bring sites into good or recovering condition for nature, site-specific management and monitoring approaches will be required. A significant increase in the resources for monitoring will be vital, as currently there are limited environmental data.

16. Do you have suggestions for how regulation 9 requirements should be reformed to support delivery of England's 2030 species target or other long-term biodiversity targets and to improve our natural environment? Please set out your answer briefly explaining what benefits it may have in the free text box.

- Yes
- No
- Unsure

There should be a clear purpose in legislation that retains the current requirement for public authorities to exercise their nature conservation functions in compliance with the Habitats Regulations or any reformed legislation. The purpose should be to further the protection, enhancement and restoration of habitats, species, and nature. This should be consistent with the enhanced act in the Environment Act 2021 for public bodies to conserve and recover nature.

The comment in the DTA Publications special supplement (see link in response to Q13) on the Green Paper echoes our views: *“It is hard to see how relieving public bodies of the duties spelled out in the Regulation 9 document, and replacing them with more general, aspirational, target-lead responsibilities, yet to be defined, can maintain the same level of protection as that enjoyed by European sites today, under the now clearly defined provisions of regulation 9. There is a real danger that the power has been taken to diminish legal protection and substitute it with a general argument that recovery action will somehow offset the dilution of the site designation and assessment processes. Maintaining protection is the first and most important step to achieving site and feature restoration, a point that the Green Paper seems reluctant to accept. Redirecting responsibilities under regulation 9, as suggested, will not contribute to nature recovery, it will undermine it.”*

17. Do you have suggestions for how processes under Regulation 6 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 and sections 125 to 127 of the Marine and Coastal Access Act 2009 together could better deliver outcomes for the MPA network?

Please explain your answer, these regulations are shared with devolved administrations, and therefore careful consideration will be given to any potential effects on these duties, with full evaluation following this consultation.

- Yes
- No
- Other
- Unsure

The relevant authorities need the resources and funding to act swiftly and appropriately when there are reports of non-compliance, with a consistent approach to enforcement and penalties across habitats.

18. Do you have suggestions for improving the EIA scope and process for the Defra EIA regimes?

We would particularly welcome your views on how they can more effectively help to reduce the environmental pressures outlined in chapters 3 and 4, deliver the objectives in the Environment Act, and facilitate sustainable development.

Please tick all regimes that apply and explain your answer in the free text box.

- Yes – Marine Works EIA regime
- Yes – Forestry EIA regime
- Yes – Agriculture EIA regime
- Yes – Land Drainage EIA regime
- Yes – Water Resources EIA regime
- No
- Unsure

CIEEM supports the proposals put forward in the Wildlife and Countryside Link response to this consultation.

19. What are your views on our proposal to establish priority areas for afforestation?

We are concerned by the proposal for establishing priority areas for afforestation that would circumvent the EIA process. Strategic planning to identify areas suitable for woodland does make sense but must be based on sound ecological advice with Natural England and specialists in all relevant areas such as soil, climate and flooding impacts, not just the Forestry Commission. Holistic strategic environmental assessment is needed.

Forestry Commission does unfortunately have a history of environmentally-damaging projects (e.g. draining of peat habitats or destruction of old species-rich grasslands to permit softwood timber plantations to be planted for 'carbon sequestration' purposes, permitting clear-felling of their own woods with Hazel Dormice).

The presumption for nature restoration should not always be in favour of afforestation. Indeed, consideration should be given to the most appropriate habitat for the site as determined by a competent ecological expert. Additionally, there is evidence to suggest that natural regeneration may be the better option for woodland creation in terms of long term resilience. There must be consideration given to how the site will be managed for both short term establishment (e.g. deer and rabbit management) and long term management to maintain a biodiverse stand.

Where woodland is appropriate, it must be in favour of native, broadleaved woodlands - pursuing the mantra of "the right tree in the right place" which must be based on competent ecological advice.

30 by 30 (page 17)

20. What are your views on our proposed criteria to achieving our 30 by 30 commitment?

We are keen to hear views on the proposed approach for assessing Protected Areas set out under 4.1 and suggestions for areas of land we should consider as OECMs in England under section 4.1.0

CIEEM welcomes the Government's recognition that National Parks (NPs) and Areas of Outstanding Natural Beauty (AONBs) would not count towards the 30x30 target with their current management and purposes. The Glover Review of landscapes suggests that the purposes for these designations needs to change to include nature restoration.

Regarding the suggested criteria for areas contributing to 30x30 areas:

- Criteria 1
 - Conserving should include 'enhancing'.
 - Must apply to the whole area.
- Criteria 2
 - Delete first 'or', replace second 'or' with 'and'.

- Replace 'works against adverse pressures on ' with 'contributes to' or 'delivers the'.
- Replace 'improved outcomes for' with 'increasing or maximised'.
- Criteria 3
 - 'Appropriate' and 'necessary'; these terms require further development and understanding for the criteria to be meaningful. If the bar is set to too low there is a risk of achieving the 30x30 target without substantial nature recovery.
 - For existing protected sites, no net loss would be a minimum outcome.
 - For new protected sites, a substantial gain must be the outcome.
- Additional criteria
 - To count towards the 30x30 target, a protected area should achieve a minimum threshold of biodiversity value (e.g. Local Sites Criteria, or a minimum of biodiversity units as per the Defra metric). It may therefore take time between (i) identifying an area and setting its desired outcomes and (ii) including it as a protected area contributing to the 30x30 target.
 - Nature Reserves, Local Wildlife Sites, ancient woodland, hedgerows, rivers, habitat compensation sites, BNG land and areas under conservation covenants should be included as Protected Areas from the outset even if criteria not fully met as all are currently protected for biodiversity reasons.

We note that including existing protected sites into 30x30 is not additional. Managing these sites better, and bringing them into good condition, is something that should already be happening.

We are unsure of the incentives for landowners and land managers to take up conservation covenants. Anecdotally there appears to be unease with landowners to impose these on future generations, as this could result in loss of inheritance tax relief for farmers if land going to long term biodiversity management cannot be considered agricultural.

We are unsure about including 'other effective area-based conservation measures' (OECM) in the 30x30 target. We are unsure how this would work as a designation without legal complications as it would not be the same as a SSSI/other formally protected area. OECMs would need to have a primary purpose of recovering nature and be managed long-term.

Local Nature Recovery strategies will play an important role in identifying what areas should be protected and included in the 30x30 target. These are similar approaches to Local Biodiversity Action Plans.

The 30x30 target of protecting at least 30% of England's land by 2030 is not a ceiling but a minimum achievement required to put England's habitats and wildlife into recovery.

Despite covering >30% of the sea area, we question whether, given continued licensing of activity in marine protected sites, existing sites are adequate and protected to meet requirements of an effectively managed, ecologically coherent network of protected areas. A number of large-scale damaging developments have subsequently been consented within protected areas, and effective management of the UK's MPAs is severely lacking, especially in offshore waters. At present, management measures have only been fully implemented in 10% of marine sites, and only 13% of sites have full monitoring in place. Action is now urgently required to ensure that the network is effectively managed for marine nature in line with international best practice. They cannot simply be a line on a map as huge development takes place at sea.

21. What are your views on our proposal to reform forestry governance and strengthen protections for the Nation's Forests?

We are keen to hear views on any additional powers and statutory duties we should consider that would help to deliver on the benefits of woodland beyond timber production.

We welcome the proposal to introduce a new duty upon the Forestry Commission to protect nature and promote biodiversity, alongside expanded powers to deliver these duties.

This should be expanded to apply to both Forestry Commission England and Forestry England.

This biodiversity duty will help the Forestry Commission, as the manager of over 250,000 hectares of woodland habitats, to contribute to the Environment Act apex target of halting the decline in species abundance by 2030, as well as wider biodiversity targets. We suggest that the new duty is amended to a nature *recovery* duty, to align it fully with the targets.

22. What are your views on our proposal to adjust forestry permanency requirements for certain project types?

We are concerned by the proposal to allow trees and woodlands to be planted on an impermanent basis in a wider variety of circumstances.

The climate and nature benefits of trees increase with the time they spend in the ground, both in terms of carbon stored and complex ecosystems developed. The contribution of new woodland to climate and nature goals will be lesser if tree lifetimes are shorter.

Landowner hesitancy towards woodland projects should be addressed by effective communication of the benefits and well-designed support packages, not by the removal of an attribute that increases the climate and nature value of woodland.

Non-permanency would apply to short rotation forestry, short rotation coppice, agroforestry and/or orchards. As with any afforestation, the most important considerations for short rotation forestry that does happen should be that it does not replace any semi-natural habitats of current value for wildlife/biodiversity such as priority habitats or be on land which is highly suited for restoration to such habitats. Assuming this safe guard is in place, non-permanent forestry is likely to be proposed in existing agricultural lands, arable or improved grassland. The benefit to biodiversity of non-permanent forestry is likely to depend on the tree species and the way that the forestry is managed. There is an opportunity to specify that non-permanent forestry must provide a benefit to biodiversity for its lifetime and that the land must be restored to its original or better value for biodiversity when forestry ceases. However, non-permanent forestry is unlikely to contribute substantially to nature recovery.

30 by 30: UK Marine Strategy (page 21)

23. Do you agree with the proposed changes to the UK Marine Strategy (UKMS) delivery programme, and if not, what other changes would you make to streamline the reporting of UKMS?

Please explain whether you agree with these changes and provide reasoning. If required, please outline any additional proposed changes that will help us achieve the stated goals. When you respond please highlight your experience and make us aware of any evidence you can share that supports your view.

- Yes
- No
- Unsure

Progress to date towards achieving Good Environmental Status (GES) across all descriptors continues to be slow, resourcing for delivery yet to be committed and we continue to see 11/15 descriptors failing to meet GES. Birds were not only found to have failed to achieve GES but were also the only descriptor assessed as moving away from target. This stark assessment should empower UK governments to increase ambition and urgently implement actions to recover our internationally important marine bird populations. We therefore view this suggestion as a positive change, the main concern is the time it will take to deliver these reforms. Further delays whilst we continue to fail to meet GES for 11/15 descriptors and yet continue to accelerate activity at pace, in the form of offshore wind in the marine environment is unacceptable.

Whilst regulatory mechanisms are vital to the conservation of marine habitats and species and the achievement of GES, we note that there has been interest in tangible “quick-wins” (non-legislative) that could also be introduced to benefit species that could be undertaken whilst reform is underway.

24. Do you support the approach set out to split the high-level Good Environmental Status (GES) target into individual descriptor level GES targets?

- Yes
- No
- Unsure

We are concerned about the proposal to split the high-level Good Environmental Status (GES) target into individual descriptor level GES targets.

The Marine Strategy Framework Directive as transposed into the Marine Strategy Regulations (2010) define environmental status as “*the overall state of the environment in marine waters, taking into account the structure, function and processes of the constituent marine ecosystems together with natural physiographic, geographic, biological, geological and climatic factors, as well as physical, acoustic and chemical conditions, including those resulting from human activities inside or outside the area concerned*”. We must keep the overall ambition of the UKMS to achieve the high-level GES target, and simply splitting the high-level GES target into individual descriptor level targets would equate to the removal of any holistic measure of overall environmental status as defined above.

Protecting Species (page 22)

25. Do you agree we should pursue the potential areas for reforms for species?

- Yes
- No – keep as it is

- **No – reform but not these areas or additional areas (please state, why)**

Species are still declining across England. To turn around the fortunes of declining species, we need more widespread and better protections for species and a shift of emphasis from protection to recovery of species.

The Nature Recovery Green Paper lacks any proposals that will make a genuine difference for species. It focuses on process and simplification of species legislation, without any wording or ideas for improving the effectiveness of species legislation. Instead of rebranding and weakening protections, the Government should bring forward proposals for species recovery.

The proposals are not significantly different from existing protections, and we do not see any strengthening of protections in the proposed tiers. Nature will continue to be depleted in the time taken to undertake any substantial reform, in which case we should instead focus on improving the existing system - for example, using the recommendations of the Law Commission (<https://www.lawcom.gov.uk/project/wildlife-law/>) to pull various legislation together, but not to significantly alter it.

The critical point is which species are in which tier, and whether for example those currently in the Tier 3 category might be moved to Tier 2. There should be no regression of existing levels of protection for individual species.

Allocating species to tiers using the UK red listing as the only method of designation is not suitable. It also needs to include achieving Favourable Conservation Status and overarching objectives. The critical issue to achieving this will be using appropriate evidence for where species should sit on each tier. Ongoing transparent monitoring will be critical to achieving species recovery. When data is lacking to determine the conservation status of a species, the precautionary principle should be applied and the species should be listed.

Enforcement is another key element. Penalties are currently lax or not applied, and are not substantial enough to form a deterrent.

The achievement of FCS will require an opportunity-led partnership action at both a national and local level to restore natural functioning of ecosystems, and the species that rely on them. It will be essential to secure strong partnership support for FCS outcomes from the start. FCS should be used to improve our understanding of how local areas or populations can appropriately contribute to national and international obligations and should be used alongside robust scientific sources of advice and evidence.

For species protection, we need assurances that any changes will be built on the best aspects of the Habitats Regulations and the Wildlife and Countryside Act, and with additional provisions to enable the recovery and protection of species.

A key gap in current protections for habitats of protected species is the direct protection of core or key foraging habitat (currently just breeding sites and resting places). Currently only the most highly protected have habitat protection tied to them. Habitat is essential for species protection. For some species, it may be appropriate to extend protection to such foraging habitat to ensure their conservation and recovery. For example, lesser horseshoe bat and curlew bunting.

Consideration, and appropriate protection must also be given to species that are currently widespread but that could decline quickly without any protection (e.g. adders). A steep decline may be irreversible.

We recognise that Natural England is undertaking an ongoing review and evolution of the licensing system. Rather than further reform the system wholesale, what is needed is for Natural England to be adequately resourced and funded.

Lastly, it is worth noting that the proposals don't include much on protected plants and nothing on invasive species. Schedule 9 of the WCA is an important schedule for invasive plants, and we need clarity on where this will sit on the tiers.

26. Based on your knowledge and experience please can you tick the criteria below that you think we should use to determine what level of protection a species should be given? You can tick more than one box.

- **Threat of local or national extinction**
- **Welfare of wild animals**
- **Controls in trade**
- **Importance to the ecosystem (a species that has a disproportionate beneficial effect on an ecosystem and if they are not present the ecosystem will be in danger of collapse).**
- **Promoting recovery (a species with a low or declining population, which may not yet have a threatened conservation status, but could be protected to support recovery and increased distribution).**
- **Importance to genetic biodiversity (endemic species or sub-species within England that are important for the wider genetic diversity of the species).**
- **Management requirements (a species where management is required for public health, to protect agriculture, commercial interests and to protect habitats)**
- **Socio-economic importance (a species that could be protected to benefit people and communities, for example, to promote tourism)**
- **To support efforts to reintroduce species or rewild habitats.**
- **Unsure**
- **Other – please state, why**

All of the above.

27. What proposals should we look at to improve our current licensing regime?

When you respond please state what you think is not working under the current licensing regime, which principles you think should be brought out in any new regime. Please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

The current licensing regime could be improved to ensure consistency and effectiveness for species conservation.

Licences are not always based on evidence and appropriate environmental information, and where there is a lack of evidence, the precautionary principle is not always applied. Licences are

rarely monitored for compliance and for their effects on species and their conservation status. There is little to no enforcement of the licensing regime.

An effective licensing regime should be based on a strong demonstration of the need for the licence and an evaluation of the impact of licensing on the conservation status of the species. Licences should not be granted where they contribute to the decline or continuing decline of the Favourable Conservation Status of a species.

Regular monitoring and reporting are also required to assess and report on compliance with licensing decisions and operations. Enforcement action should be taken when necessary.

Natural England should be required to conduct monitoring, reporting and enforcement of the licensing regime and should be better resourced to do this work, and there is also scope for other accredited organisations, such as eNGOs, to assist and provide expertise.

28. What proposals do you think would make our enforcement toolkit more effective at combatting wildlife offences?

When you respond please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

The UK Government is in the fortunate position of having been provided with a series of expert recommendations to improve the enforcement of legislation prohibiting wildlife crime, in the form of the UNODC's 'Wildlife and Forest Crime Analytic Toolkit Report: United Kingdom of Great Britain and Northern Ireland' (https://www.unodc.org/documents/Wildlife/UK_Toolkit_Report.pdf). The recommendations from this report should be implemented.

Delivering for nature through public bodies (page 24)

29. What are the most important functions and duties delivered by Defra group ALBs to support our long-term environmental goals?

Now is the wrong time to be considering large-scale reform of Defra's ALBs. What we need now is better communication and collaboration between the bodies, oversight from Defra, funding and enforcement. Major reform now would result in delays in action, loss of staff and sapping resources. The ALBs are essential and each have important roles. There do however need to be clear rules about overlapping issues and how these are dealt with - for example with the River Itchen where the Environment Agency set abstraction limits and yet Natural England say these limits would have adverse impacts on wildlife.

Institutional improvement could be made by setting nature's recovery—and in particular the achievement of statutory nature and climate targets—as statutory purposes for all Defra's ALBs, including the Forestry Commission, RPA and MMO. Clear and consistent duties to enhance biodiversity and meet environmental targets across ALBs will minimize conflicting drivers such as

economic development and enable better join-up across the ALBs, for example in the freshwater environment.

Along with introducing a nature recovery duty on Defra's ALBs, the growth duty must be removed from these bodies.

ALBs must be sufficiently funded to carry out their purpose and functions. Resourcing for ALBs has declined over the recent years, resulting in reduced ability of ALBs to fulfill their functions. In conjunction with ALBs, local authorities also need to be adequately resourced such that they have access to in-house ecological expertise.

To fulfil the core mission of nature's recovery, it is imperative that Defra's ALBs maintain their independence and the ability to make decisions free from political interference. ALBs provide a long-term perspective, outside of short-term politics, that will be crucial in addressing both the climate and nature crises. ALBs currently provide strong scrutiny of the Government's environmental policies, this cannot be an attempt to mute criticism.

30. Where are there overlaps, duplication or boundary issues between ALBs, or between ALBs and government? How could these be addressed?

There is scope for better coordination of advice and enforcement so that they work together cohesively and address problems in a holistic manner. This could also be done through effective coordination and joint corporate planning between existing ALBs and does not necessitate bringing all environmental regulation and delivery under one body. This could include placing a requirement on agencies to integrate and align some of their key activities at a local level. This would improve the delivery of services and inter-agency effectiveness, without the high costs and disruption in functionality.

31. What are the benefits and risks of bringing all environmental regulation into a single body?

See our response to Q29.

32. What are the opportunities for consolidating environmental delivery functions into a single body? Which programmes and activities would this include?

We do not believe it is appropriate to consider this at this time.

Cost recovery (page 25)

33. Please provide your views on how more effective cost recovery for regulation would affect:

- a) environmental protections
- b) businesses.

No comment.

34. What is the most efficient way of ensuring businesses and regulated persons pay an appropriate share of the cost of regulation?

No comment.

Financing nature recovery (page 26)

35. What mechanisms should government explore to incentivise the private sector to shift towards nature-positive operations and investment?

Increased and sufficient *public* investment is needed to fulfil statutory obligations, such as improving the condition of statutory protected sites to meet favourable conservation status and protected landscapes, and meet statutory environmental goals. For these obligations, we cannot rely on private finance through mechanisms such as BNG.

Public money will always need to have a major role in supporting nature protection and restoration. However, growing private finance will also play a key role and one source must not crowd out the other, so long as it is in addition to sufficient public finance for statutory obligations and well-regulated. Government support for codes and standards, as well as policy support for regulated companies like utilities (e.g. preferencing nature and catchment-based solutions), would help accelerate private investment.

Research into sustainable development and climate funding has indicated that state funding is often the most effective solution, both in terms of outcomes and cost-effectiveness and public funding can often more easily be directed to achieve multiple benefits from nature (e.g. climate action, human health and wellbeing, water management etc.) where this is additional (see response to question 36).

Robust monitoring and accounting will be crucial. There should be transparent and separate accounting processes for statutory funding and private funding to track government conservation funding separately from funding derived from private finance, to ensure that private finance is not used to meet statutory obligations and ambitions and does not lead to reductions in statutory funding.

36. What level of regulation is needed to incentivise private investment in nature while ensuring additionality and environmental integrity? What else should government be doing to facilitate the development of a market framework that provides investors, farmers and land managers, regulators and the public with confidence in the quality of privately financed nature projects?

There are concerns about a lack of robust and transparent accounting. If the registers or systems of different environmental services are not joined up and transparent, there risks double payments to one piece of land for the same measures. In any decision about combining payments

from biodiversity units with other payments from environmental services on the same piece of land, a comprehensive and transparent registry system, map and accounting system that can account for multiple types of credits, is fundamental.

37. What financial impact do you think the proposals set out in this green paper would have either on business (For example, landowners) or government?

Please let us know if you feel these proposals would have a significant impact on your business area, or if you think they would have an impact on public funds. For example, this could be about costs or if you think certain proposals would have a positive financial impact or create opportunities. Please tell us in what way you think these impacts would come about, which proposals would drive that change, and try to evidence any financial estimations of costs or benefits.

No comment.

Chartered Institute of Ecology and Environmental Management

Grosvenor Court, Ampfield Hill, Ampfield, Romsey, SO51 9BD

Tel: +44 (0)1962 868 626 | enquiries@cieem.net | www.cieem.net

Company Number: RC000861

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