

CONSULTATION

Response Document



Marine Net Gain Principles

(Department of Environment, Food and Rural Affairs)

13 September 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 members of our Marine and Coastal Special Interest 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 and Communications) at JasonReeves@cieem.net with any queries.

General Comments

We are pleased to see the need for nature recovery in the marine environment recognised through this consultation. We cannot continue degrading our marine environment and contribute to the ongoing decline of species. A strategic and enforceable approach to marine net gain presents an opportunity for overall reduction of pressures to improve the conservation status of species and habitats.

We do, however, have concerns about how the net gain approach will function in the marine environment. The dynamic nature of the marine environment means a fundamentally different approach will be needed. We must look holistically at the pressures on the marine environment, including cumulative impacts of activities to develop a strategic, ecosystem approach.

This must lead to an overall reduction of key pressures on the marine environment and include all potentially harmful activities.

Individual developments will potentially have much more diffuse impacts than in the terrestrial environment so it is less certain that they can achieve net gain in regards to these impacts.

A fundamental issue is the need for more data and understanding, on:

- Interactions between species and their habitats
- What constitutes an irreplaceable or significant habitat in the marine environment
- Baselines for delivering net gain
- Case studies of how marine net gain could work in practice, for example in wind farms and offshore grid projects
- How to incorporate species (which has not yet been achieved in the terrestrial system)
- How can we ensure longevity of net gain measures in a dynamic ecosystem?
- Assessing and addressing cumulative impacts

Wider improvements are needed to the marine planning system as there is a gap between high level aspirations and the on-the ground delivery of measures and assessment of pressures. A more localised strategic plan of measures (for example as seen in terrestrial Local Nature recovery Strategies) would be a useful system for MNG to integrate into.

How this will work with other UK approaches to marine management will also need to be carefully considered to ensure consistency.

Responses to Consultation Questions

Section 1: Defining marine net gain

Question 1: Do you agree that marine net gain should assess impacts on species as well as habitats?

Answer: yes/no

Question 1a: please explain your answer

Yes

We agree that species and habitats should be included to allow for consideration of mobile species and to recognise that marine developments can therefore have impacts beyond the footprint of the development. Outcomes in terms of species population increases could then be considered as a net gain however achieving this could be impacted by wider pressures. However we do recognise the complicated nature of including species (which was the justification for a habitat-based proxy metric for terrestrial net gain) so we are concerned about whether this will be feasible.

Some species will have strong links to a particular habitat type e.g. spawning grounds but some will not, and there is a need for further research in this area.

Question 2: Do you agree that marine net gain interventions should be assessed with reference to environmental benefits that biodiversity enhancement can yield?

Answer: yes/no

Question 2a: Please explain which extra environmental benefits and services should be included within marine net gain assessment

Yes

However this should follow the same principle as proposed for the terrestrial environment in that additional environmental benefits should not be in lieu of, or prioritised over, biodiversity net gain. This will help to reduce risks of developers going for the quickest wins that may not be suitable to the habitats or species present.

The complexity of measuring the environmental benefits (such as carbon) from compensation measures must be recognised, given there is already a lack of data available for species and habitats. Full consideration must also be given to how this impacts on, and interacts with, existing Environmental Impact Assessment requirements.

Question 3: Do you agree with our proposal to discount potentially positive incidental effects, whose benefits are subject to significant uncertainty, from marine net gain assessments?

Answer: yes/no

Question 3a: please explain your answer

Yes

We cannot quantify potentially positive effects until after the development has already been made, given the lack of data on these benefits. Until implementation of these methods are trialled on projects to determine if they have positive or negative effects on the marine environment to developments to provide evidence, they should not be included in marine net gain assessments.

We should aim to keep net gain measures within the same broad habitat/activity type.

Innovative design can instead be encouraged through the use of best practice guidance e.g. a British Standard).

Question 4: Do you agree that we should prioritise a contributions-style approach, whilst still exploring a metric-style approach?

Yes/No.

Please specify and explain your answer

While we recognise a metric-style approach could take time to be developed, moving to this system should be prioritised. A contribution-style approach poses a risk of setting the wrong value of contributions for the impact of development making it easier to destroy habitats. Indeed there are terrestrial examples in the planning system where contributions, once assessed using a metric, have not been enough to compensate.

In previous examples of contribution approaches, for example in the Aggregate Levy Sustainability Fund, the benefits of funds are seen later on or in different areas so it is difficult to see how this would work for a site-based approach. Funds should be appropriately ring-fenced and benefits delivered in a suitable time frame.

A contribution-style approach during development of the MNG approach should be clearly safeguarded with the existing mitigation hierarchy and obligations, and set with a clear timeframe.

A metric-based approach should ultimately be used to ensure contributions are enough and genuinely mitigate and provide benefits. Both approaches must also recognise that some marine projects may not just be a one off impact for example, ports and associated dredging create repeated impacts over many years.

Lessons from existing monitoring activities, for example in MPAs, should be considered. It is often not clear what Favourable Conservation Status will look like in reality and reference conditions will be needed for implementation of HPMAs.

Question 4a: Are there other approaches to measuring impacts that we should explore?

Please specify and explain your answer

Section 2: Scope of marine net gain

Question 5: Do you agree that marine net gain should be a mandatory requirement for new development activities within the marine environment?

Answer: yes/no

Question 6: If you answered yes to question 5, do you agree with the list of consenting and licensing regimes that marine net gain requirements should be introduced within? Are there any others we should consider?

Yes

As previously mentioned, we must take a holistic approach to management of the marine environment that seeks to achieve overall improvement. For this to work, all developments and other activities that have the potential to significantly impact marine habitats and species should be included, such as fisheries.

Decommissioning should also be covered by the net gain requirement, particularly if they are considering artificial habitats as a compensatory measure.

Carbon capture and storage projects should be covered as environmental projects should only be excluded if they are primarily biodiversity-focused.

Once the uncertainties we have outlined in our response are addressed, we should progress with applying Marine Net Gain to those we can while adjusting legislation for others in the future (implemented as soon as is feasible). In the meantime we can encourage voluntary net gain for non-licensable activities so business can begin adapting to requirements for actively recovering nature. Additionally, voluntary measures could extend to projects with long-term licences already in place that do not have scope to bring net gain in. Measures can be incentivised by viewing their implementation favourably in future applications.

Voluntary approaches should not be maintained as a medium or long term measure as they have not proved successful in other cases¹.

How this requirement will be policed and monitored is crucial. All MNG agreements must be secured for a suitable period of time, which means that they must be managed and monitored.

Question 7: Are there activities and/or sectors that are regulated by these regimes which should not be covered by net gain requirements?

Answer: yes/no

Question 7a: If yes, please explain your answer, including any relevant de minimis thresholds for each activity or regime

Yes

There are irreplaceable habitats in the marine environment that MNG shouldn't apply to (as is the case in the terrestrial environment), for example, deep sea bed and chalk reef, as well as keystone species that support the wider ecosystem in the area in which they are present. However further data and evidence is needed for successful measures of recreating marine habitats as a lack of evidence means we cannot be certain what habitats are replaceable.

Thresholds for developments of a certain size could also be applied to MNG as they are for terrestrial BNG.

Section 3: Defining interventions

Question 8: Which types of pressure reduction measures can be delivered by industry through marine net gain?

Answer: please give examples where possible

See answer to question 10 first.

Examples of measures could include:

- Seagrass restoration
- Funding/support for environmental improvements in fishing gear
- Sponsoring new highly marine protected area designations
- Removing old structures that are impacting processes
- Coastal realignment
- Reducing fishing pressure e.g. in Lyme bay.

¹ for example, see Prior S. (2011) *The use of voluntary management in the protection of UK marine biodiversity*, Wales Environment Link:

<http://www.pembrokeshiremarinocode.org.uk/wp-content/uploads/2011/12/WEL-Voluntary-Marine-Management-2011.pdf>

- Removal of invasive non-native species
- Restocking of depleted species stocks

Question 9: Are there any other types of intervention that should be encouraged, including innovative emerging techniques?

Section 4: Taking a strategic approach

Question 10: Do you agree with the principle of taking both a site-level and a strategic approach to marine net gain as set out above?

Answer: yes/no

Question 10a: please explain your answer

Yes

As we have noted, it is difficult to see how this will work at an individual site level given the dynamic nature of the marine environment. This is simplified if there is a close link between the impact of an activity and net gain measures, e.g. replanting a seagrass bed if it has impacts on seagrass beds, however, measuring losses and gains becomes far more complex when it is not like for like. This also ignores the ecosystem scale at which these sites function, for example those spanning the terrestrial-marine interface. A more strategic approach to reduction of pressures is needed with cohesive marine spatial planning. The current strategies of the High Level Marine Objectives are not specific and the measures under the Marine Strategy Framework Directive are at too high a level to be applicable for individual developments.

We would recommend a strategic approach is implemented to cover all sites, and in the case where a particular habitat/species is affected, a site based approach can be taken in addition to the overarching strategic framework to deliver ecologically relevant interventions (like for like where possible).

More detail is needed on what will be used as a baseline for net gain to be delivered and whether an adequate dataset exists.

There are still some important questions that will need answering here, for example how far do strategic boundaries go? and how do you know an ecosystem will be more resilient without detailed understanding of what the impact will be e.g. on currents.

Question 11: what types of site-based interventions should be incentivised through marine net gain?

Site based interventions should be informed by strategic outcomes identified as set out in our response to question 10.

Question 12: What types of strategic interventions could be incentivised through marine net gain?

Strategic interventions should be informed by strategic outcomes identified as set out in our response to question 10.

Question 13: Should accessing strategic interventions be conditional in some cases?

Answer: yes/no

Question 13a: If yes, which site-based features should be considered priorities ('prescribed features') ahead of strategic interventions? Please explain your answer

Question 14: Do you agree that marine net gain interventions should not initially be restricted to the 'locality' of the main development?

Answer: yes/no

Question 14a - Please explain your answer

Yes if part of a strategic approach to reduce pressures on marine habitats and species. The principles set out in our response to question 10 also apply here. Initially, more non-local interventions may be permitted due to more evidence for certain intervention types but as certainty and evidence develops, a re-balancing of the system may be needed to address any unfair distribution of impacts and benefits.

Section 5: Marine net gain and additionality in Marine Protected Areas

Question 15: Do you agree that the enhancement of designated features within statutory MPAs should be allowed in the marine environment as defined above?

Answer: yes/no

Question 15a: Please provide evidence to support your view

As with terrestrial BNG, and recognised in the consultation document, delivering net gain through enhancement of designated features would not equate to additional net gain. MNG should not be considered a way of making up for the failings of existing site management and deterioration of the condition of MPAs.

Biodiversity net gain should not replace proper public funding for protecting, maintaining and improving statutory sites. We cannot and should not rely on private finance through mechanisms such as BNG to bring our statutory sites up to favourable conservation status and favourable condition. There should be transparent and separate accounting processes for statutory funding and private funding for statutory sites, to track government conservation funding separately from funding derived from Biodiversity Net Gain, to ensure that private finance does not lead to reductions in statutory funding. Any enhancement undertaken for biodiversity net gain should be consistent with existing site management plans to protect designated features.

It must be ensured that, if allowed, net gain should be focused primarily outside of MPAs, they should not be prioritised. Strong guidelines on how to go above and beyond the designated sites requirements will be needed.

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