

# CONSULTATION

## Response Document



**Consultation on Biodiversity net gain for nationally significant  
infrastructure projects**

**Closes on the 24th July 2025**

# 1. Introduction

## 1.1 About CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM) is the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland.

CIEEM was established in 1991 and has over 8,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. It therefore has a considerable breadth and depth of professional expertise from which to draw upon, when for example, responding to Government consultations such as the one currently circulating.

CIEEM 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 was instrumental in helping to form and inaugurate the All-Party Parliamentary Group for Nature in 2019 which existed until 2023; its remit has now been incorporated into the APPG for the Environment which CIEEM is actively supporting.

CIEEM is a member of the following organisations/collaborative initiatives:

- 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

## **1.2 Forward**

### **[OFFSEN FINAL Consultation on BNG for NSIPs - May 2025.pdf](#)**

The Government is seeking views on the implementation of biodiversity net gain (BNG) for nationally significant infrastructure projects (NSIPs).

They propose introducing BNG for NSIPs from May 2026. They state that this will provide a clear framework to ensure new major infrastructure developments leave biodiversity in a measurably better state than before development took place. Additionally, the Government thinks it will contribute to our legally binding Environment Act 2021 targets for biodiversity, and provide wider benefits for climate change adaptation and mitigation.

### **1.Biodiversity Gain Objective**

**Do you agree that the proposed model text provides sufficient information on the biodiversity gain objective?**

- ☐ **Agree**
- ☒ **Disagree (please state what additional information you think is required and explain why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If disagree, please state what additional information you think is required, and explain why:**

The proposed model text lacks sufficient reference to the Biodiversity Gain Trading Rules, a statutory requirement critical for ensuring that BNG outcomes are ecologically meaningful and spatially appropriate. Without embedding

these rules in the objective, the framework risks enabling biodiversity gains to be delivered far from the impact site, undermining the principle of place-based environmental repair. We suggest this is clarified within the objective.

Furthermore, NSIPs often involve complex land holdings and cross-boundary effects, making the application of Trading Rules even more essential to ensure alignment with local ecological priorities. The current drafting risks opening up avenues for off-site gains or credit purchasing to be considered on equal footing with on-site delivery. This contravenes the sequential preference established by the BNG hierarchy, where on-site gains should always be prioritised unless proven unfeasible.

**If other, please explain:**

## **2. Irreplaceable habitat**

**Do you agree that the proposed model text provides sufficient information on irreplaceable habitat?**

- ☐ **Agree**
- ☒ **Disagree (please state what additional information you think is required, and explain why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If disagree, please explain:**

While we welcome the exclusion of irreplaceable habitats from the statutory metric and biodiversity gain objective, the text does not provide sufficient procedural safeguards to protect these critical ecological assets. CIEEM and other professional bodies have called for the Government to publish its

long-awaited consultation on the definition of irreplaceable habitats, drawing on work by Natural England and its advisory group.

In the interim, developers must be required to identify and transparently disclose irreplaceable habitats at the earliest possible stage of project design, supported by independent verification, and demonstrate that harm has been avoided in line with the mitigation hierarchy. The precautionary principle should apply where there is uncertainty about the habitat's status.

**If other, please explain:**

### **3.Calculating BNG**

**Do you agree that the proposed model text, alongside the statutory metric user guide, provides sufficient detail on the process for calculating biodiversity net gain?**

- ☐ **Agree**
- ☒ **Disagree (please state what additional information is required, and explain why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If disagree, please state what additional information is required, and explain why:**

The proposed text fails to fully incorporate the BNG mitigation hierarchy—a fundamental principle of biodiversity protection. Under Articles 37A and 37D of the Town and Country Planning (Development Management Procedure)

(England) Order 2015, applicants are required to first avoid biodiversity loss, then minimise, restore, and only as a last resort compensate. This hierarchy must be made enforceable for NSIPs.

The current drafting, which only requires applicants to “refer” to the hierarchy, is too weak. A legally binding requirement to demonstrate sequential compliance must be included, with Examining Authorities empowered to reject applications that fail to follow this process.

Additionally, the model text implies that on-site and off-site delivery may be treated as interchangeable. This contradicts the established sequencing under the BNG framework. For NSIPs, with typically large development footprints, the expectation should be that substantial on-site gains are delivered unless clearly demonstrated otherwise.

**If you selected other, please explain:**

**Do you think any additional guidance is required in the statutory metric user guide to clarify how it should be applied for NSIPs?**

- ☒ **Yes (please state what additional guidance you think is required, and explain why)**
- ☐ **No**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If yes, please explain:**

The guide should include bespoke advice on applying the metric to large, phased or linear NSIPs that cross multiple jurisdictions. It should also offer

best-practice examples and clear expectations for calculating gains across split land parcels.

Further clarity is needed on treatment of habitats temporarily lost during construction, as well as the appropriate weighting of connectivity, landscape context, and strategic significance when selecting off-site locations.

**If other, please explain:**

#### **4. The pre-development biodiversity value**

**Do you agree with the proposal that all habitats within the development site boundary (i.e. the order limits) must be included in the pre-development biodiversity value?**

- ☒ **Agree**
- ☐ **Disagree (please state the circumstances when habitats should be excluded from the pre-development biodiversity value and why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

This approach is ecologically necessary, proportionate, and fair. It aligns with the principle of full ecological accounting and prevents partial assessments of habitat value that could overlook retained areas within the DCO limits.

This is especially important in NSIPs, where land may be held speculatively or used for indirect project functions, but still contains valuable habitats.

**If disagree, please state the circumstances when habitats should be excluded from the pre-development biodiversity value and why**

**If other, please explain:**

**Do you agree that the proposed model text provides sufficient information on: a) what the pre-development biodiversity value consists of?**

- ☐ **Agree**
- ☐ **Disagree (please state what additional information you think is required, and explain why)**
- ☐ **Don't know**
- ☒ **Other (please explain)**

**If disagree, please state what additional information you think is required, and explain why:**

**If other, please explain:**

While the core components are correct, further guidance is needed to clarify:

- How to assess low-distinctiveness land uses temporarily repurposed during construction (e.g. cropland, brownfield);
- How restoration expectations and timelines interact with baseline value.

It should be clear that degradation of habitat before application submission cannot be used to lower the baseline unless independently verified and properly accounted for. The guidance must make clear that the biodiversity gain value should reflect real ecological improvements tied to the project's



impacts and recovery efforts, not theoretical or commercial potential. Habitat areas that remain unaffected and unchanged throughout the life of the project should not be used to inflate figures or contribute to tradable biodiversity units. Furthermore, the model text should include clearer direction on the functional ecological roles of habitats, such as their contribution to ecological networks, species connectivity, or broader landscape-level goals, which are not adequately captured in the current framing.

We welcome the inclusion that the pre-development biodiversity value should reflect the value of these habitats on the date that the development consent order application is submitted to the Planning Inspectorate. Due to the length that NSIPs can be within optioneering and preliminary stages, which can often be several years, it is imperative that data is concurrent to capture the true biodiversity value of the order limits.

**Do you agree that the proposed model text provides sufficient information on: b) the relevant date for calculating the pre-development biodiversity value?**

- ☒ **Agree**
- ☐ **Disagree (please state what additional information you think is required, and explain why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

We welcome bringing the emphasis on using an earlier date to take account of any habitat clearance, destruction or degradation carried out before the submission of the development consent order. The proposed date is in line with, and ensures consistency with, what is used under Paragraph 6 of Schedule 7A of the Town and

Country Planning Act 1990. Using the submission date of the DCO application is legally and practically consistent with Town and Country Planning legislation. Allowing earlier dates where habitat degradation has occurred is crucial to deter pre-emptive habitat destruction.

Additional procedural guidance would assist with verifying earlier reference dates, such as the use of satellite imagery, ecological surveys, and enforcement records.

**If disagree, please please state what additional information you think is required, and explain why**

**If other, please explain:**

### **5. Delivering BNG**

**Do you agree that the proposed model text provides sufficient information on delivering biodiversity net gain on-site, off-site and using credits?**

- ☐ **Agree**
- ☒ **Disagree (please state what additional information you think is required, and explain why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If disagree, please state what additional information you think is required, and explain why**

The model text incorrectly implies parity between delivery mechanisms, without requiring clear justification for not achieving on-site delivery.

The use of statutory credits should be permitted only after the applicant demonstrates that on-site and local off-site opportunities have been fully explored and are demonstrably unviable.

Furthermore, the allowance for selling surplus on-site gains undermines:

- The principle of additionality;
- Strategic habitat connectivity;
- Local community and ecosystem benefits.

BNG delivery should be locally rooted, accountable, and aligned with LNRS priorities. While the proposed model text outlines the mechanisms for delivering biodiversity net gain via on-site works, off-site units, and statutory credits, it lacks crucial policy safeguards and clarity in several areas. Most significantly, we oppose the proposal to allow developers of NSIPs to sell excess on-site gains as off-site biodiversity units for other developments. This approach undermines the fundamental purpose of BNG by treating ecological improvements as tradable surplus rather than essential, place-based environmental repair. The principle of additionality is compromised when biodiversity enhancements from one site are detached and reused to offset unrelated environmental harm elsewhere. We note also that the text deviates from the established BNG hierarchy by allowing NSIPs to have gains on-site or off-site in the first instance. It is important to ensure that this isn't used as a mechanism to provide gains "elsewhere" without ensuring the on-site gains have been fully maximised. Whilst we note the conflicts with compulsory acquisition, this should not come at the expense of maximising biodiversity on-site.

**If other, please explain:**

**Do you agree that the proposed model text provides sufficient guidance on how to determine what counts as a significant on-site enhancement?**

- ☐ **Agree**
- ☒ **Disagree (please state what additional information you think is required, and explain why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If disagree, please state what additional information you think is required, and explain why**

“Significant” is not defined. This risks subjective and inconsistent interpretation, particularly for large-scale projects where minimal enhancements may be overstated.

[Clear metrics should be introduced to define significance in terms of:

- Habitat area (e.g., % of site or hectares);
- Distinctiveness uplift (e.g., from low to medium or high);
- Condition improvement as scored by the metric.

The proposed model text should have a stronger emphasis that significant on-site enhancements are required to achieve BNG, and only if that is not possible should significant off-site enhancements be secured and then as last-resort the purchase of statutory biodiversity credits.

The guidance on what is classed as "significant on-site enhancement" is vague. Specific guidance and thresholds regarding what is significant would be welcomed to ensure consistency across the industry and avoid misinterpretation.

**If other, please explain:**

## **6. Temporary use of land**

**Do you think there needs to be a bespoke policy on delivering BNG where land is temporarily used for construction of NSIP schemes?**

- ☒ **Yes (please explain why a different policy is required and what this should be)**
- ☐ **No**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If yes, please explain explain why a different policy is required and what this should be**

Current BNG guidance states a habitat does not need to be recorded as lost when the area can be restored to the baseline habitat type and baseline condition within two years of initial impact. This approach encourages developers to utilise existing habitats of low distinctiveness for temporary use during construction, such as cropland and developed land. The construction of NSIPs can take many years, therefore the time restriction for the habitat to be restored should be extended beyond two years or even removed. This will continue to encourage developers to use low distinctiveness habitats such as developed land, cropland, and modified grassland for temporary use during construction.

If the current BNG policy is kept and habitats within 'temporary land' are included in the pre-development biodiversity value of on-site habitat, then the current policy of only counting significant enhancements if secured for at least 30 years should be kept, whilst retained habitats can be counted. Although stakeholders have raised concerns of securing

biodiversity gains on temporary land, this should not be encouraged, with significant gains instead secured on the permanent land-take owned by the developer. Another option could be to change the policy so land temporarily used during construction is not included in the pre-biodiversity value of on-site habitat as long as habitats of medium distinctiveness or greater are retained and the areas are restored to habitat type and condition with X years of initial impact.

**If other, please explain:**

### **7.Considerations for the delivery of biodiversity gains**

**Do you agree that the proposed model text provides sufficient information on the wider considerations for delivering biodiversity gains?**

- ☐ **Agree**
- ☒ **Disagree (please state what additional information you think is required, and explain why)**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If disagree, state what additional information you think is required, and explain why**

The model fails to sufficiently integrate wider ecological planning and place-based strategies. BNG should be aligned with:

Local Nature Recovery Strategies (LNRs);

Biodiversity Opportunity Areas;

Existing protected sites and connectivity corridors.

A weakness in the current guidance is its treatment of additionality. The text allows for the possibility that habitat creation or enhancement undertaken to fulfil other statutory or policy obligations (such as mitigation under the Habitats Regulations) could be counted towards the BNG requirement. This risks undermining the very principle of BNG, which must be clearly additional to existing legal duties. The guidance must make explicit that enhancements or compensation required under other regulations cannot be counted unless they go clearly beyond those requirements and also meet the BNG tests of being secured for at least 30 years and measured via the statutory biodiversity metric.

The model text also fails to give sufficient weight to the mitigation hierarchy. It currently asks applicants to merely “refer” to the hierarchy in their biodiversity gain statements. This is not strong enough. The hierarchy should be a mandatory, enforceable framework that applicants must follow in sequence, first avoiding, then minimising, and only then mitigating or compensating for biodiversity impacts. The Secretary of State and Examining Authority must be explicitly required to assess compliance with each step of the hierarchy and refuse applications that fail to follow it adequately. This is particularly critical for NSIPs, which often involve substantial impacts on the natural environment.

It is essential that developers demonstrate spatial alignment with LNRs in gain statements, supported by ecological reasoning.

**If other, please explain:**

### **8. Evidence for submission, and decision making**

**Do you agree that the proposed model text provides sufficient information on the following: a) Evidence for submission?**

- ☐ **Agree**
- ☒ **Disagree (please state what additional information you think is required, and explain why)**
- ☐ **Don't know**

☐ **Other (please explain)**

**If disagree, please state what additional information you think is required, and explain why**

We do not agree with the following "that all or most of the biodiversity units required to meet the biodiversity gain objective are secured before development (or a phase of development) is commenced". Including that "most" units would be acceptable is open to malinterpretation and may not ensure that the BNG targets are secured in a timely manner prior to commencement. Whilst we accept that certain bespoke habitats are difficult to source which would cause delays, we would advise that this approach is strengthened to state that all units should be secured unless there are genuine issues with sourcing bespoke units or there is a valid reason for not having already sourced.

**If other, please explain:**

**Do you agree that the proposed model text provides sufficient information on the following: b) Decision making?**

☐ **Agree**

☐ **Disagree (please state what additional information you think is required, and explain why)**

☐ **Don't know**

☐ **Other (please explain)**

**If disagree, please state what additional information you think is required, and explain why**

**If other, please explain:**



**Do you agree with the proposal to allow updated biodiversity gain plans to be submitted to the relevant local planning authority for approval after consent is granted?**

- ☐ **Agree**
- ☐ **Disagree (please state what alternative you think would be more appropriate and why)**
- ☐ **Don't know**
- ☒ **Other (please explain)**

**If disagree, please state what alternative you think would be more appropriate and why**

**If other, please explain:**

If BNG is calculated for an NSIP as a whole, which spans several LPAs, then compensation may be spread across several different LPAs. If further approvals are devolved to the LPAs in isolation, this means a large NSIP may be split into several distinct sections. Once split, certain sections may fail their BNG targets as compensation is located within the adjoining LPA. It isn't clear how this issue would be tackled, and further guidance would be welcomed.

## **9. Supporting evidence**

**Do you have any evidence for us to consider as part of our final impact assessment on implementing BNG for NSIPs?**

- ☐ **Yes (please provide the evidence you think should be considered and explain why)**
- ☐ **No**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If yes, please provide the evidence you think should be considered and explain why**

**If other, please explain:**

### **10. Overarching Questions**

**Do you think the policy proposals and model text for the biodiversity gain statements outlined in this consultation need amending for any specific NSIP type?**

- ☒ **Yes (please explain how and why you think the proposals needs amending, and for which NSIP type(s))**
- ☐ **No**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If yes, please explain how and why you think the proposals needs amending, and for which NSIP type(s)**

**If other, please explain:**

Yes, we recommend that the model text and policy proposals be tailored more explicitly to different NSIP types, particularly those with distinct spatial or ecological characteristics such as solar farms, linear transport schemes, and marine or coastal infrastructure. The current text assumes a relatively standardised form of development, which does not adequately address the complexities and environmental challenges presented by these sectors.

**Do you think there are any NSIP types or circumstances that should have different requirements or remain in a voluntary regime (noting this would continue to exclude**

**them from buying registered off-site biodiversity gains and statutory biodiversity credits)?**

- ☐ **Yes (please explain and provide evidence where possible)**
- ☒ **No**
- ☐ **Don't know**
- ☐ **Other (please explain)**

**If yes, please explain and provide evidence where possible**

**If other, please explain**

We do not support exemptions within the NSIP regime . All nationally significant infrastructure projects, by definition, have the potential to lead to significant loss in biodiversity, therefore should be subject to BNG standards as other forms of development. Allowing certain NSIPs to remain in a voluntary BNG regime would create a two-tier system, undermine the credibility and consistency of BNG policy, and create perverse incentives for developers to seek regulatory loopholes.

While we recognise that some NSIPs may face practical challenges in delivering on-site and off-site biodiversity enhancements and habitat creation, this should not be used as grounds for exemption. The biodiversity credit market and off-site register are being developed precisely to ensure that even projects with limited on-site opportunities can contribute to strategic biodiversity outcomes elsewhere.

**Do you have any additional comments on the draft biodiversity gain statement or on the next steps that are not covered by the previous questions?**

- ☒ **Yes (please explain)**
- ☐ **No**
- ☐ **If yes, please explain**

We recommend that the Government take additional steps to ensure that BNG for NSIPs is effective, transparent, and ecologically meaningful. First, we strongly urge that all biodiversity gain plans and associated metric calculations be subject to independent verification by qualified ecologists, through the application of the FISC assessment in order to ensure accurate assessment of habitat classification on the given site, alongside appropriate training in Metric use. The scale and complexity of NSIPs warrant external scrutiny to ensure that gains are accurately calculated, genuinely additional, and properly secured.

Second, we urge the Government to commit to full integration of Local Nature Recovery Strategies (LNRSs) and other strategic environmental plans into BNG decision-making for NSIPs. Biodiversity gain plans should be required to demonstrate alignment with LNRS spatial priorities, including high strategic significance habitats, to maximise landscape-scale benefits. This will also help ensure that NSIPs contribute to national nature recovery goals, rather than creating isolated pockets of enhancement with limited ecological value.

Third, it is critical that the legal and enforcement framework for BNG is robust and well-resourced. Long-term monitoring and maintenance of habitat gains must be clearly specified in each development consent order, with mechanisms in place for adaptive management, maintenance and enforcement over a 30-year period. Local planning authorities, responsible bodies, and statutory nature agencies must be properly funded to fulfil these roles.

**Do you think there are any other topics that should be covered in BNG guidance for NSIPs?**

- ☐ **Yes (please state what additional guidance you think is required, and explain why)**
- ☐ **No**
- ☒ **Don't know**
- ☐ **Other (please explain)**

**If yes, please state what additional guidance you think is required, and explain why**

**If you chose Other, please explain**