

**WORSHIPFUL COMPANY OF WATER CONSERVATORS
RESPONSE TO THE DEFRA CONSULTATIONS ON
BIODIVERSITY NET GAIN
JULY 2025**

PROLOGUE

1 The Worshipful Company of Water Conservators ('WCWC') is a City of London Livery Company focussed on the long-term health of our water resources and the broader environment. Our members include senior professionals from water, environmental and related industries and regulators, along with others who share our concern for water and the environment. Our experience and knowledge ranges from the complexities of environmental sciences, through the application of engineering to deliver the goals identified by those sciences, and the subsequent management of the assets created. The WCWC's purpose is *promoting a diverse and sustainable environment*.

2 As part of that purpose, the WCWC has been responding to relevant consultations particularly on matters relating to water conservation. These are archived on its website over the last three years.

<https://waterconservators.org/policies-and-practices/>

3 First what is Biodiversity Net Gain (BNG)? The BNG system has an important role to play in improving and enhancing natural habitats, and ensuring development has a measurably positive impact. The statutory BNG requirement came into force in the English planning system in February 2024, seeking to ensure that habitats for wildlife are left in a measurably better state than they were before development took place. As a result, it is now mandatory under Schedule 7a of the Town and Country Planning Act 1990 for relevant developments to deliver a 10% BNG on the value of all habitats within their redline boundary (known as the 'biodiversity baseline').

4 The WCWC is aware of a number of problems particularly with small sites.

<https://defraenvironment.blog.gov.uk/2024/11/12/reflections-on-biodiversity-net-gain-9-months-after-going-live/#:~:text=We%20have%20heard%20some%20concerns,support%20stakeholders%20with%20BNG%20compliance.>

<https://www.theguardian.com/environment/2025/may/07/uk-government-admits-almost-no-evidence-nature-protections-block-development>

5 In late May, Defra launched two consultations on this issue. A website summary produced by Lichfields has been useful in understanding the way forward.

[The Government's BNG consultations explained \(and why you should care\)](#)

6 Improving the implementation of biodiversity net gain for minor, medium and brownfield development.

<https://www.gov.uk/government/consultations/improving-the-implementation-of-biodiversity-net-gain-for-minor-medium-and-brownfield-development>

This consultation seeks views on options to improve the implementation of BNG for relevant developments including extending exemptions, simplifying the small sites metric and easing access to the off-site market. The key proposals upon which views are sought are outlined

Exemptions:

- Replacing the custom build / self-build exemption with a single-dwelling exemption;
- Increasing the de minimis exemption from 25 sqm of affected habitat to 50, 100, 200 (or some other figure);
- Exempting all but major development (i.e. the pre-2 April 2024 situation); and
- Introducing a new exemption for temporary development granted for up to 5 years.

Minor developments:

- Relaxation of the biodiversity gain hierarchy so that offsite and onsite biodiversity gains are treated equally;
- Removing the distance penalty for offsite compensation (the spatial risk multiplier);
- Relaxation of the trading rules for some minor development;
- Giving local authorities discretion to disapply the requirement to deliver BNG for watercourses under specified circumstances.

Other:

- Updated definition of Open Mosaic Habitats and ability to use alternative compensation arrangements;
- Several proposed changes to the Small Sites Metric; and
- Increasing the distance whereby no penalty is applied to offsite compensation.

7 Biodiversity Net Gain for Nationally Significant Infrastructure Projects ('NSIPs') which have to date been exempt.

<https://www.gov.uk/government/consultations/biodiversity-net-gain-for-nationally-significant-infrastructure-projects>

This consultation seeks views on the implementation of BNG for NSIPs.

The Government propose that NSIP schemes deliver a 10% BNG from May 2025, and the consultation provides draft model text for core 'biodiversity gains statements' that will be applied to each NSIP sector. Biodiversity gain statements will set out the biodiversity gain objectives for each NSIP type and eventually be incorporated into the relevant National Policy Statements ('NPS').

To ensure proportionality and consistency, BNG will be implemented for all onshore NSIP sectors, and will apply to any temporary, permanent and associated development included within the DCO site boundary ('order limits'). Marine NSIPs beyond the intertidal zone are not currently included within the scope of the mandatory requirements for BNG.

The consultation suggests the following:

Evidence required for submission and decision making:

Under the proposed NSIP scheme, a Biodiversity Gain Plan (BGP) demonstrating how BNG will be delivered, and a completed biodiversity metric calculation must be submitted with the application, rather than at the post-consent stage, although there will be an ability to update and finalise BGPs post consent.

Calculating BNG:

- NSIPs must use the statutory biodiversity metric to calculate biodiversity value for the purposes of biodiversity net gain.
- The statutory biodiversity metric user guide will be updated ahead of BNG becoming mandatory for NSIPs, to provide additional details on how the metric can be applied for NSIPs.

Delivering BNG:

- Delivering BNG for NSIPs will differ from BNG for development granted permission under the TCPA 1990. Applicants will be able to deliver BNG on-site or off-site in the first instance, and by purchasing statutory biodiversity credits as a last resort.

SUMMARY

8 The WCWC is responding to both consultations making points outside of the Citizen Space process as the points it wishes to make transcends both.

9The WCWC suggests that within the current framework that the concept of no deterioration should be established, or biodiversity net zero, and beyond that has no immediate comment on the current proposals. However, it suggests that the time is ripe for a more fundamental look at the ways in which biodiversity is protected and enhanced.

10 It has opined several times about the fragmented nature of government strategies and the silo approaches. These consultations are good examples. Surely the time is right to consider whether BNG is the right way forward and a consultation on that would be valuable. Why have separate consultations on very specific aspects of fundamentally the same issue on the same day?

11 Perhaps the WCWC could offer a radical view. Biodiversity is a natural infrastructure asset, and it needs protection, conservation and in many places, improvement. This should be a standalone process yet the achievement of this is vested in infrastructure and housing development with cost consequences. The WCWC suggests an uncoupling of this process from the planning process and recognising that there are many other mechanisms for improving biodiversity, such as the Water Restoration Fund.

12 Requiring development to play its role would be one of several mechanisms available. So, the starting point would be a 2025 baseline. Every development project must comply with the concept of Biodiversity Net Zero. Some projects could then be designated in planning to contribute to any local needs for improvement, it would not be universal requirement. In some places other mechanisms would be used for improvement. This would require closer working between the environmental regulators and planning authorities. This would also require better liaison between the Environment Agency and Natural England and strengthens the argument that a merger should be considered.

13 So the overall response is that the WCWC has no comment on the detail of the changes proposed in the current system. The WCWC does argue that a better and more integrated

system is needed in which there is less of a piecemeal approach. The changes proposed could be included in the Planning and Infrastructure Act and they might be more palatable to the critics of the current proposals from both sides of the argument.

14 As this submission was being signed off, the Ministry of Housing, Communities and Local Government issued guidance on the proposals in the Planning and Infrastructure Bill for a Nature Restoration Fund and Environmental Delivery Plans. The WCWC notes that there is no mention of BNG in this (or catchment planning), but the Guidance suggests that Natural England could have a duty to become involved in water efficiency planning. The WCWC suggests that this provides evidence that much closer working between the two Government departments is needed, as a minimum, otherwise the regulatory streamlining which everyone wants will be undermined.

THE WCWC RESPONSE

15 The WCWC is viewing these primarily from the viewpoint of impact on water conservation. It is aware that the preferred method of answering consultations is via Citizen Space. But the points it wishes to make in response to these consultations transcend both

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These include:

The Water Restoration Fund.

<https://www.gov.uk/government/publications/water-restoration-fund-guidance-for-applicants/about-the-water-restoration-fund>

The Nature Restoration Fund.

<https://www.gov.uk/government/publications/the-planning-and-infrastructure-bill/factsheet-nature-restoration-fund>

Green Infrastructure.

<https://designatedsites.naturalengland.org.uk/GreenInfrastructure/FAQ.aspx>

There are also a series of applicable Environmental Land Management Schemes.

<https://defrafarming.blog.gov.uk/category/environmental-land-management-schemes/>

These include the Sustainable Farming Incentive (SFI) and Countryside Stewardship (CS) are key components of ELMs, with a unified online platform expected to be fully

implemented in 2025. Some changes are happening, including a pause in new SFI applications as of 11th March, 2025, with a revised scheme expected in 2026.

Landscape Recovery.

<https://www.gov.uk/government/publications/apply-for-landscape-recovery-funding>

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20 However as this submission was being finalised, the Ministry of Housing, Communities and Local Government issued Guidance on the proposals for a Nature Restoration Fund and Environmental Delivery Plans.

Summary: Planning and Infrastructure Bill, Government Amendments to Part 3 (Lords Committee Stage) - GOV.UK

In a section on the Overall Improvement Test, it states

The overall improvement test is the existing test that the Secretary of State must consider to be passed before they can approve an Environmental Delivery Plan (EDP). The government has always been clear that it is one of the key environmental safeguards in the new system and, as such, it is vital that there is confidence in its operation.

The amendment we are tabling clarifies this test. It removes any risk of ambiguity by making it clear that the Secretary of State can only approve an EDP where the effect of the conservation measures will materially outweigh the negative effect of development on the conservation status of each identified environmental feature. This provides further assurance for communities and developers that outcomes will be delivered, and that the actions taken under an EDP must lead to a material improvement for the relevant environmental feature.

21 The WCWC has always advocated streamlining of regulation without compromise to the environment. Much of the dialogue, so far, on these proposals has centred on nutrients in rivers and the WCWC has drawn attention to the need for Delivery Plans to be in harmony with, even incorporation into, catchment plans. This is consistent with the thinking expressed in the Interim Report of the Independent Water Commission. But there is no mention of this in the Guidance. This is another example of fragmented regulation.

22. However, this Guidance introduces a new duty on water efficiency :

These changes underline the continued role for the mitigation hierarchy in the design of EDPs, ensuring that local conservation measures are preferred unless there is a clearly articulated environmental basis to look further afield. When determining what conservation measures to include in an EDP, Natural England would have regard to the desirability to

avoid or reduce impacts from development on site, by the use of planning conditions – for example, water efficiency measures in new build housing.

23 This is going to complicate matters still further with water companies operating within a national Ofwat water efficiency scheme also addressing this and working with Planning Authorities through building regulations to satisfy the water resources objectives agreed with the Environment Agency. The WCWC observes that this Guidance makes no mention of Biodiversity Net Gain within the remit of Defra and these underpin the suggestion made by the WCWC that there must be, as a minimum, closer working between the two government departments.