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Dear Sarah

**Defra Consultation on "Biodiversity Net Gain Regulations and Implementation"
Response prepared by Sussex Nature Partnership**

This document has been prepared by Sussex Nature Partnership in response to the Defra consultation: *Biodiversity Net Gain Regulations and Implementation*. It represents the views of the Partnership but has also been developed in collaboration with local authorities across its geography, including the following:

- Adur & Worthing Councils
- Arun District Council
- Brighton & Hove City Council
- Chichester District Council
- Crawley Borough Council
- East Sussex County Council
- Eastbourne Borough Council
- Hastings Borough Council
- Lewes District Council
- Mid Sussex District Council
- Rother District Council
- South Downs National Park Authority
- Wealden District Council
- West Sussex County Council

Background

Sussex Nature Partnership operates across the Tier 1 local authority areas of West Sussex County Council, East Sussex County Council and Brighton and Hove City Council and covers a large area of the South Downs National Park and High Weald AONB. Supported through donations from its key partners, it brings together over 25 organisations from across the environmental, business, research and public sectors operating in Sussex¹. A core part of its work over the past year has been to engage all partners in the two mechanisms within the Environment Bill that will have most relevance locally: Local Nature Recovery Strategies and Biodiversity Net Gain (BNG). Earlier this year it also launched a new 'Local Authority Network' to facilitate knowledge sharing and discussion between the partnership and the 13 district and borough councils within its area. Again, a strong focus of this network in recent months has been the Environment Act and what it will mean for local authorities of all tiers across Sussex.

Structure of this Response

Please see attached (**Appendix 1**) our response to the specific questions posed within the consultation document. These have also been submitted online. However, our conversations in Sussex have generated other comments on several issues which were not covered by the consultation but were felt to be critical to the administration and implementation of biodiversity net gain (BNG) in practice. These are set out below.

All the comments have been developed through a process of discussion and consultation across Sussex Nature Partnership and its Local Authority Network. We therefore hope it will be particularly useful as a measure of the issues being raised in the minds of those working at a local level in both planning and nature's recovery.

Issues relating to Biodiversity Net Gain not covered by the consultation

- i) Resourcing required to support local planning authorities (LPAs) in administration of BNG system

Biodiversity Net Gain will introduce new processes and responsibilities for local planning authorities in relation to administration of the BNG. This will require additional capacity to be created in every LPA and in particular, greater **ecological expertise**. It is our view that BNG cannot be effectively implemented (i.e. implemented in a way that delivers meaningful gains for biodiversity) without a significant and sustained increase in the level and quality of ecological expertise available to local planning authorities. Across Sussex, only a third of local planning authorities have in-house ecologists. There is also a wider issue of a lack of resource in planning departments, and even with an appropriate level of ecological expertise, there is a need to address this lack of resource more broadly.

We acknowledge that Defra has announced funding for every LPA this year to be used for upskilling and increasing ecological capacity. However, this amount is very small and if used in isolation will provide very little in the way of meaningful knowledge/skills uplift, particularly in those LPAs without existing ecological expertise.

We hope that this amount is not a reflection of the level of funds that Defra can access to support the rollout of BNG going forward. BNG is a flagship policy within the Environment Act, tasked with leveraging greater benefits for nature from the planning system. We therefore urge Defra to ensure that the funding that follows will be sufficient to ensure that local planning authorities will be in a strong position to work with developers to ensure that their applications will deliver the types and levels of benefit for nature that are anticipated.

¹ See Appendix 2 for members of Sussex Nature Partnership

We know that the Association of Local Government Ecologists (ALGE) and the Association of Directors of Environment, Economy, Planning and Transport (ADEPT) were commissioned some time ago to carry out an analysis of the existing ecological expertise within local authorities. It would be very helpful if Defra could share that piece of work and outline how additional financial burdens for local authorities (in relation to BNG) will relate to this evidence base.

ii) BNG and the mitigation hierarchy

It is imperative that BNG is applied correctly and only once obligations under the mitigation hierarchy have been clarified and addressed. As a Nature Partnership we are concerned that in many cases, the mitigation hierarchy is not being adequately applied at present, with habitat creation for mitigation and compensation not sufficiently established or maintained. We would ask that Defra continues to emphasise the importance of the mitigation hierarchy within future guidance and regulation and works to ensure that BNG is not used (even inadvertently) as a means to avoid obligations under the mitigation hierarchy.

Monitoring of BNG should also be done in the context of the overall impact of a development (taking overall losses and gains into consideration) so that there is clarity in relation to habitat that is created in relation to a development and whether this has been done as part of mitigation, compensation or BNG.

iii) Enforcement - lack of clarity on responsibility for this and expertise/resources that will be required

If BNG is to be effective, it will be vital that over the thirty-year period for which new habitats must be maintained, monitoring and enforcement can be carried out to ensure these commitments are met. This will place an additional enforcement responsibility on local authorities - a role which will require a comprehensive skills-set including enforcement law, development management and ecology. As for point i) above, we hope that Defra will ensure that this new area of responsibility is recognised in any funding to follow for implementation of BNG by local planning authorities.

iv) Frequent review of efficacy of BNG system will be required to ensure the theory is being delivered in practice

Biodiversity Net Gain is a positive introduction which promises to deliver gains for nature. However, it is based on several principles which appear to make sense in theory but may not necessarily deliver optimal benefits for nature in practice. For example, we support the principle that as much net gain should be provided on site as possible before off-site options are explored. On-site net gain, if managed properly for biodiversity through its thirty-year required period should be beneficial for wildlife. However, if in reality this results in piecemeal areas of common habitat types being created within housing developments (such as hedgerow, small areas of woodland, new areas of grassland etc) which are of very small scale, not connected ecologically to other habitats and are managed for amenity rather than ecology - then this may not in fact deliver the claimed benefits for biodiversity.

Thus, we would support a periodic review of the efficacy of BNG in delivering meaningful benefits for nature and an 'adaptive' approach to BNG through time as lessons are learned from experiences in practice.

Sussex Nature Partnership will be happy to discuss any of the points raised within this response if that would be helpful and appreciate the opportunity to engage with this consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kate Rice', followed by a small dash.

Kate Rice,

Chair, Sussex Nature Partnership

cc. Adam Stewart, Operations and Transformation Lead, Defra
Sue Beale, Natural England Kent and Sussex

Appendix 1: Response to Consultation Questions

These responses have been submitted on-line, although additional comments are provided below in blue.

The question numbers provided below are in accord with those in the consultation document. However, these differ from the questions number in the on-line questionnaire; those numbers are provided in brackets in the question column below.

Question	
<p>1. (6) Do you agree with our proposal to exempt development which falls below a de minimis threshold from the biodiversity net gain requirement?</p> <p>a) For area-based habitat b) For linear habitat</p> <p><u>Answers</u> Yes (which of the following thresholds do you think is most appropriate: 2m², 5m², 10m², 20m², 50m², other threshold – please specify) No (please explain why not) Do not know</p>	<p>a) No. All sites should contribute to BNG. Size is not necessarily directly linked to ecological value. The question of exemptions should be site specific, e.g. whether the site is urban or rural, whether it is currently valuable for wildlife, or whether it is strategically located and links in with a wider nature recovery network. In the urban environment in particular, small sites can be highly valuable and make a contribution to urban greenspace. In town or city centres, the baseline biodiversity score may be zero which could mean no biodiversity net gain. If small sites in urban areas are also exempted, there would never be an opportunity to provide BNG. Widespread small gains can make a significant improvement overall. Small sites can also have significant impacts on adjacent sites and/or impact ecological connectivity. The proposal to exempt small sites runs counter to other government agendas regarding greening urban areas.</p> <p>b) No. The length of a linear feature does not necessarily equate to its value, for example a short linear feature in an urban environment is likely to be of higher value than the same feature in a rural environment.</p>
<p>2. (7) Do you agree with our proposal to exempt householder applications from the biodiversity net gain requirement?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>This is another illustration of the site-specific nature of considering exemptions. It should be recognised that some householders have access to significantly sized plots with potentially high biodiversity interest, and as such, developments such as householder extensions could have significant impacts on biodiversity. The workability issues of enforcement and management of BNG for householder applications is acknowledged. As a general rule, all sites/developments should be required to provide BNG as this is an opportunity to enhance biodiversity, which is especially important in urban areas and where access to greenspaces is limited. However, there should be a push through policy (national and local) for applicants to consider and implement biodiversity net gain on such schemes.</p>

<p>3. (8) Do you agree with our proposal to exempt change of use applications from the biodiversity net gain requirement?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>No</p> <p>The response to this question comes back to the underpinning principle that any development, no matter how it is permitted, should contribute to BNG. The location of the development can be particularly important in terms of potential impact, as well as the nature of change. For example, if a change of use would lead to an increase in disturbance, light pollution etc, then there could be significant impacts on biodiversity. Changes from agricultural or storage uses to <i>sui generis</i> waste operations could lead to additional impacts such as noise and/or dust producing processes. There is also concern where change of use relates to outdoor spaces and change of use to land rather than buildings, e.g. change of use of agricultural land to tourism.</p>
<p>4. (9) Do you think developments which are undertaken exclusively for mandatory biodiversity gains should be exempt from the mandatory net gain requirement?</p> <p><u>Answers</u> Yes, only for biodiversity net gain (please explain why) Yes, also for some other environmental mitigation purposes (please explain why) No (please explain why not) Other (please tell us more) Do not know</p>	<p>Yes, only for biodiversity net gain</p>
<p>5. (10) Do you think self-builds and custom housebuilding developments should be exempt from the mandatory net gain requirement?</p> <p><u>Answers</u> Yes (please explain why) No (please explain why not) Other (please tell us more) Do not know</p>	<p>No</p> <p>It is unclear why these should be treated differently, and again there is the underpinning principle that all developments should contribute to BNG. The suggestion that self-builds and custom builds could be exempt is presumably based on the fact that these are often ambitious in terms of sustainability. However, this does not necessarily mean that they are good for biodiversity. They can often entail significant excavation and can impact relatively large plots of land. Whilst the premise behind self-builds may be that they will be sustainable, there is no certainty that this will be the case with the new generation of house builders, e.g. self-builds by lower income people/families priced out of the regular housing market. Self-builds are more vulnerable to spiralling costs resulting in original plans not being fulfilled, risking biodiversity/sustainability measures not being delivered as originally planned. There is</p>

	<p>also concern where outline applications for large areas of self-builds are brought forward as separate plots, so individually they would not be subject to BNG, but cumulatively, they could have significant impacts. Rather than base this policy on such assumptions, it would be better to be much clearer, requiring all developments to contribute to BNG, and ensuring that a minimum standard will be achieved for biodiversity.</p>
<p>6. (11) Do you agree with our proposal not to exempt brownfield sites, based on the rationale set out above?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Yes</p> <p>Brownfield sites can be important for biodiversity, especially for invertebrates, with Open Mosaic on Previously Developed Land being a Habitat of Principal Importance under the NERC Act. Not requiring BNG from brownfield sites would be a missed opportunity and would be counter to general trends with respect to green infrastructure such as green roofs and SUDS. There are many opportunities for building urban greening into developments.</p>
<p>7. (12) Do you agree with our proposal not to exempt temporary applications from the biodiversity net gain requirement?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Yes</p> <p>Temporary applications can cause permanent damage to biodiversity, and should therefore be required to provide BNG.</p>

<p>8. (13) Do you agree with our proposal not to exempt developments which would be permitted development but are not on account of their location in conservation areas, such as in areas of outstanding natural beauty or national parks?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>Whilst we are generally in agreement, there are some concerns with this approach, for example over the levels of control. It would be welcomed if this could apply to permitted development within other designated sites, e.g. Local Wildlife Sites. There is no reason why a site in a conservation area should be treated differently, in respect of biodiversity net gain, than other areas, particularly if they have recognised biodiversity value. The impact on the designation is the important consideration; some types of development may not be relevant to biodiversity, but rather there would be more potential to result in character, landscape and or visual impacts.</p>
<p>9. (14) Are there any further development types which have not been considered above or in the previous net gain consultation, but which should be exempt from the biodiversity net gain requirement or be subject to a modified requirement?</p> <p><u>Answers</u> Yes, exempt (please explain which development types and why they should be exempt) Yes, a modified requirement (please explain which development types and why they should face a modified requirement) No Other (please tell us more) Do not know</p>	<p>Yes, a modified requirement</p> <p>In relation to urban sites, it might be better to consider urban greening/betterment principles rather than BNG.</p> <p>Some permitted development works are very wide ranging and with potential for biodiversity impacts, e.g. highways improvements, flood alleviation schemes or development by sewerage undertakers on their operational land, and will need careful consideration. Flood alleviation schemes already using a high percentage of nature-based solutions (NbS) but linked to a housing scheme via a S106 agreement, could potentially be exempted because of the ambitious use of NbS which is providing an uplift for biodiversity, e.g. work to provide greater upstream NbS for maintenance/drainage rather than the more traditional engineered solutions on site that would provide less benefit for biodiversity. If exempting such works, the requirement to provide NbS could be covered through legal obligations such as S106 attached to the scheme.</p>

<p>10. (15) Do you agree with our proposal not to exempt development within statutory designated sites for nature conservation from the biodiversity gain requirement?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Yes</p> <p>Overall, we consider the need to provide BNG either off-site or on-site to non-designated features as positive. However, there would need to be case-specific considerations depending on the type of development, for example, engineered breaches for managed realignment could have significant biodiversity benefits whilst potentially impacting the interest features of the designated sites. Trying to consider designated sites and BNG in isolation may create some confusion.</p>
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<p>11. (16) Do you agree with the stated proposals for development (or component parts of a development) on irreplaceable habitats, specifically:</p> <ul style="list-style-type: none"> a) The exclusion of such development from the quantitative mandatory biodiversity gain objective? b) The inclusion of a requirement to submit a version of a biodiversity gain plan for development (or component parts of a development) on irreplaceable habitats to increase proposal transparency? c) Where there are no negative impacts to irreplaceable habitat, to allow use of the biodiversity metric to calculate the value of enhancements of irreplaceable habitat? d) To use the powers in biodiversity net gain legislation to set out a definition of irreplaceable habitat, which would be supported by guidance on interpretation? e) The provision of guidance on what constitutes irreplaceable habitat to support the formation of bespoke compensation agreements? <p><u>Answers</u> Yes No (please explain why not) Do not know</p>	<ul style="list-style-type: none"> a) Yes b) Yes c) Yes d) Yes e) Yes
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<p>12. (17) Do you agree with our proposed approach that applications for outline planning permission or permissions which have the effect of permitting development in phases should be subject to a condition which requires approval of a biodiversity gain plan prior to commencement of each phase?</p> <p><u>Answers</u> Yes No (please explain why not) Do not know</p>	<p>Yes</p> <p>There is agreement on the broad principle of frontloading BNG, e.g. for a large strategic site which might be delivered in phases, BNG requirements for the whole site should be identified at the outline stage and agreed as a pre-commencement condition for the whole scheme, with the majority identified being delivered in the first phases of development. An overall plan for BNG for large sites makes the whole process clearer and more transparent and will make monitoring easier.</p> <p>It is recognised that whilst we consider this issue important, it may be difficult to achieve in some cases, e.g. large minerals extraction sites, or major residential developments, and therefore certainty is needed to ensure frontloading is required. There is a risk of things getting ‘watered down’ or biodiversity gains being lost as time passes, especially if subsequent phases cannot be guaranteed. There is also a need to consider maintenance periods and recognise that there could be multiple end dates, much like aftercare provisions for phased restoration of minerals/waste sites. Consider whether a legal agreement to fund monitoring of BNG provisions could be a requirement to ensure LPAs are adequately resourced to monitor.</p>
<p>13. (18) Do you agree with the proposals for how phased development, variation applications and minerals permissions would be treated?</p> <p><u>Answers</u> Yes No (please suggest alternative approaches) Do not know</p>	<p>No</p> <p>The review should be about bringing existing mineral permissions up to current standards. Given the purpose of ROMPS is to “<i>help ensure that the sites operate to continuously high working and environmental standards</i>” and small changes to restoration or ecological management would unlikely “<i>fundamentally affect the economic viability</i>” of site, it is unclear why BNG should not be required.</p> <p>It may be difficult to establish a baseline for a mineral extraction site that has been operational for 30 years under the terms of its current permission. Such sites will have changed massively since their commencement, and often didn’t have any progressive restoration requirement, that being left until the end. As stipulated by PPG guidance, the LPA when considering a S73 application should: “<i>focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.</i>” As a result, and noting S73 results in the issue of a new permission, BNG should be a requirement.</p> <p>For variation applications, care needs to be taken as the impact of a variation on biodiversity may not be immediately obvious. It is not clear how S73 variations to permissions granted in advance of net gain conditions being imposed should be dealt with. If this is saying that the overall mandatory net gain requirement must remain and cannot be varied or reduced, <u>and</u> under that mandatory net gain, a</p>

	<p>new biodiversity gain plan may be needed, so the details may need to change to reflect the permitted variation to the planning permission, but without any change to the baseline or overall requirement, then that would be acceptable.</p> <p>Ultimately, additional guidance is required to aid the ‘discretion’ that may be given to planning authorities before the change comes in.</p>
<p>14. (19) Do you agree that a small sites metric might help to reduce any time and cost burdens introduced by the biodiversity gain condition?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>We broadly agree that a small sites metric ‘might’ help to reduce any time and cost burdens as any tailored metric would allow proportionality. However, there are concerns. It is not intended to be used when there are priority habitats on site, and condition is assumed, but without the input of an ecologist, priority habitats may be missed and condition may be misinterpreted. It is also only for use when all BNG is delivered on-site and therefore credits cannot be used. It is unclear how many small sites can actually deliver BNG solely on-site, and may therefore end up having to use the full metric anyway. The small sites metric does not allow you to indicate the strategic significance of what is proposed. Some clarity on whether swapping to the standard metric is appropriate would be helpful. There is also concern that developers may split larger sites into small parcels to avoid the need for a BNG calculation using the full metric by a suitably qualified ecologist. Several local planning authorities in Sussex will have numerous small sites coming forward. As such, they would be keen to see the same approach for all applications.</p>
<p>15. (20) Do you think a slightly extended transition period for small sites beyond the general 2- year period would be appropriate and helpful?</p> <p><u>Answers</u> Yes, a 12-month extension (please explain why) Yes, a 6-month extension (please explain why) No (please explain why not) Other (please tell us more) Do not know</p>	<p>No</p> <p>Whilst this approach could allow time for planners to get used to the new system through the consideration of major applications, it would add an unnecessary complexity to an already over-stretched system and risk confusion for developers and planners. Having a standard transition period and clear starting date for BNG regardless of scale or type would ensure a more streamlined transition and help avoid confusion. It would be a lost opportunity for planning authorities where the bulk of applications are for small sites. Small sites in urban areas may be located in areas of greenspace deprivation and so any uplift from these sites could bring additional benefits, outweighing any additional burdens. There is a risk that if a phased approach is trialled on large developments and proves difficult, the standards and/or approach may be diluted for small sites. We are also concerned that it may encourage developers to split sites into smaller units to avoid the BNG requirement.</p>

<p>16. (21) Are there any additional process simplifications (beyond a small sites metric and a slightly extended transition period) that you feel would be helpful in reducing the burden for developers of small sites?</p> <p><u>Answers</u> Yes (please outline your suggestion and explain how it would help) No Do not know</p>	<p>Yes</p> <p>Appropriate guidance is essential to ensure it deals with the issue proportionately; separate guidance for small housebuilders would be welcomed. A list of suggested measures and/or conditions would be helpful. Signposting case studies and developing a community of practice would be helpful in this respect, e.g. via a website which provides a variety of start to finish examples, online learning resources and access to expert advice. This could be reviewed as the process becomes more streamlined and/or as information and guidance is updated. There are a number of local measures which already seek to provide BNG in a simple and affordable manner for all developments, e.g. Brighton & Hove City Council encourage the provision of swift bricks and bee bricks on all developments where appropriate.</p> <p>There is local interest in the idea of providing some strategic off-site BNG sites which could receive BNG from across all small sites, i.e. habitat banks. A potential monitoring burden could also be mitigated by utilising this strategic approach as many small areas of BNG will be harder to monitor.</p>
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<p>17. (22) Are any targeted exemptions (other than that for irreplaceable habitat), reduced biodiversity net gain objectives, or other modified requirements necessary for the application of the biodiversity net gain requirement to NSIPs?</p> <p><u>Answers</u> Yes, exemption (please define your proposed exemption) Yes, percentage reduction (please define your proposed reduction) Yes, other modified requirement (please define your proposed modified requirement) No Do not know</p>	<p>No</p> <p>We do not see any cause for NSIPs to be given any targeted exemptions (other than for irreplaceable habitat), reduced biodiversity net gain objectives or other modified requirements.</p> <p>We cannot identify any circumstances where reducing the mandatory requirement to less than 10% would be acceptable. Indeed, developments permitted through the NSIP regime should be setting an example to the rest.</p> <p>NSIPs are often considered as being of over-riding public interest in a specific location and therefore at times go ahead in contravention of the ‘avoid’ element of the mitigation hierarchy leading to loss of biodiversity. These are also often large-scale schemes which have a significant impact on their local environment (arguably more so than TCPA schemes).</p> <p>Given their impact, the mitigation hierarchy should in fact be strengthened in relation to NSIPs with greater consideration given to alternative sites. Equally, the BNG requirement should in no way be reduced. These large ‘flagship’ schemes should lead the way in demonstrating net gain for biodiversity (not deliver less for the environment because this may be difficult) and if anything, the % BNG applied to them should be increased to, for example, 20%. These projects should also be expected to be more innovative in their use of nature-based solutions within their design as part of this overall principles that these large strategic schemes should be exemplars in supporting biodiversity gain from development.</p> <p>In addition, some important principles should apply to BNG from NSIPs. For example, BNG should be delivered as close as possible to the scheme to ensure there is local benefit. If this is not possible, it could be targeted in a strategic way in areas where it would provide optional support for biodiversity (guided by Local Nature Recovery Strategies) or deliver additional accessible areas of natural green space for local people.</p>
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<p>18. (23) Do you agree that the above approach is appropriate for setting out the biodiversity net gain requirement for NSIPs?</p> <p><u>Answers</u> Yes (please explain why) No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>We agree that the concept of ‘Biodiversity Net Gain’ statements will be a helpful approach for all types of development, whether NSIP or TCPA. When prepared well, these will provide valuable information for all parties involved, including local people and other stakeholders.</p> <p>However, these statements should be specific to the type of development (e.g. linear/non-linear) and location (terrestrial, inter-tidal etc) as these different factors will require a very specific approach to delivery of BNG.</p> <p>Further consultation on BNG statements will be welcome.</p>
<p>19. (24) Do you consider that the November 2025 is an appropriate date from which NSIPs accepted for examination will be subject to the biodiversity net gain requirement?</p> <p><u>Answers</u> Yes (please, provide any supporting evidence or justification) No, it should be later (please provide any supporting evidence or justification) No, it should be sooner (please provide any supporting evidence or justification) Do not know</p>	<p>No, it should be sooner</p> <p>There is an urgent need, within the context of the ecological emergency and implementation of the rest of the Environment Act, to ensure that NSIP projects deliver their net gain obligations in line with the requirement on other developments.</p> <p>All NSIPs should already be ensuring no net loss and given that this element of the Environment Bill has been in the offing for some time, there has in our view, been sufficient time to have anticipated and planned for this requirement. As noted above, these projects should be applying the highest standards of practice to their design and implementation and should be leading the way in delivery of BNG and should not require extra time to do so (given that the intention to apply BNG to NSIPs has been known for some time).</p> <p>There is a significant risk that if BNG is <u>not</u> made a requirement for NSIPs by November 2025, many developments will be approved in the interim period which will then take many years of planning and construction before being completed - without BNG being included as a core element. This will be at odds with government ambitions to tackle the biodiversity emergency and may in fact provide a mechanism through which planned NSIPs can avoid delivering net gain.</p>

<p>20. (25) Do you agree that a project’s acceptance for examination is a suitable threshold upon which to set transition arrangements?</p> <p><u>Answers</u> Yes (please explain why) No (please explain why not) Do not know</p>	<p>No</p> <p>As in our response to Q19, NSIPs should be applying the highest standards of practice and should be leading the way. Therefore, all NSIP schemes should be required to provide BNG as soon as possible. BNG should be demonstrated through the pre-application phase where possible so that stakeholders can understand the proposals and provide input/feedback that can be reflected in the DCO application. If only applied at examination stages, it may be too late to alter or amend details.</p> <p>Thus, linked to our answer in Q19, by November 2025, the proposed requirements should apply to all developments already registered with PINs in the pre-application stage or those entering pre-application.</p>
<p>21. (26) Would you be supportive of an approach which facilitates delivery of biodiversity net gain using existing landholdings by requiring a lighter-touch registration process, whilst maintaining transparency?</p> <p><u>Answers</u> Yes (please explain why) No (please explain why not) Do not know</p>	<p>No</p> <p>We support the use of the same registration process for NSIPs as for TCPA development with the same registration requirements and scrutiny required (regardless of transparency - as all should be equally transparent anyway). We do not understand any rationale to treat NSIPs differently in this way and there is no reason why any BNG delivered on the estates of key infrastructure organisations (such as the Highways Agency, Network rail etc) should not be recorded on the same register. On the contrary, this could damage the overall reputation of BNG as a fair and robust mechanism and has already been noted, NSIPs should be expected to be exemplars and should achieve and where possible go beyond best practice in all that they do.</p> <p>In addition, these organisations should be expected to plan their activity in the context of Local Nature Recovery Strategies, Species Conservation Strategies and other similar documents. They should be using these documents to target any offsite net gain in areas as local to the impact of the NSIP as possible - not at the other end of the country because land is available on their estate elsewhere (and avoiding the need to consult and invest locally to secure beneficial sites for BNG).</p> <p>There is also a concern that there must be complete clarity and transparent ‘trail’ - lining the BNG from a NSIP development to a location (site) so that the location, type and quality of BNG related to the project can be easily understood by stakeholders. Logging all sites on the register will help to achieve this. It is not clear how such clarity and transparency would be achieved through a ‘lighter touch’ /‘off-register’ approach as proposed.</p>

<p>22. (27) Do you consider that this broad 'biodiversity gain plan' approach would work in relation to NSIPs?</p> <p><u>Answers</u> Yes No (please explain why not) Do not know</p>	<p>Yes</p> <p>Agree in principle. We note that the details will be set out in a separate consultation on Biodiversity Gain Statements.</p>
<p>23. (28) Should there be a distinction made for NSIPs between on-site habitats (which are subject to the biodiversity net gain percentage) and those habitats within the development boundary which are included solely for environmental mitigation (which could be treated as off-site enhancement areas without their own gain objective)?</p> <p><u>Answers</u> Yes (please explain why) No (please explain why not) Do not know + extra</p>	<p>No</p> <p>Mitigation areas are usually required as a result of the mitigation hierarchy and would occur anyway, while they can't contribute to a net gain, their baseline must be captured as part of the site baseline to ensure any uplift is additional. Therefore no distinction should be made.</p> <p>This illustrates the importance of more detailed guidance being provided to ensure clarity in relation to application of BNG to NSIPs - and its relationship to the mitigation hierarchy so that there is no confusion and to ensure that the mitigation hierarchy is adequately applied first in all instances.</p>
<p>24. (29) Is there any NSIP-specific information that the Examining Authority, or the relevant Secretary of State, would need to see in a biodiversity gain plan to determine the adequacy of an applicant's plans to deliver net gain (beyond that sought in the draft biodiversity gain plan template at Annex B)?</p> <p><u>Answers</u> Yes (please state what information) No Do not know</p>	<p>Yes</p> <p>The following should be provided:</p> <p>Clear evidence that a baseline has been properly established</p> <p>Evidence of stakeholder engagement with all proposed measures and that stakeholder comments have been responded to within any planned proposals/ BNG plan.</p> <p>Evidence that the scheme has applied the mitigation hierarchy and that there is clear distinction between the habitat creation carried out for this purpose - and for providing BNG.</p> <p>If BNG is to be created close to the NSIP project, evidence should also be provided that the proposed BNG habitat creation/enhancement is viable given the likely impact of the project itself on the local environment.</p>

	A post-development plan for delivery and management of the BNG should be provided - and linked to ongoing feedback from stakeholders. A post- development stakeholder engagement plan may therefore also be needed.
<p>25. (30) Do you think that 30 years is an appropriate minimum duration for securing off-site biodiversity gains allocated to NSIPs?</p> <p><u>Answers</u> Yes Yes, but it should be reviewed after practice and biodiversity gain markets are evaluated No, it should be longer No, it should be shorter Do not know</p>	<p>No, it should be longer</p> <p>It should be longer and should be secured for at least the lifetime of the project (which for many NSIPs is significantly longer than a 30-year period).</p> <p>Setting this 30-year mark creates an aim that is actually a minimum.</p> <p>Where in some cases it will be down to the authority to decide any additional time required for ongoing management, there needs to be more set rules/guidance for this.</p>
<p>26. (31) Are further powers or other measures needed to enable, or manage the impacts of, compulsory acquisition for net gain?</p> <p><u>Answers</u> Yes, to enable compulsory acquisition (please explain what is needed) Yes, to manage impacts of compulsory acquisition (please explain what is needed) Yes, both (please explain what is needed) No Do not know</p>	<p>Do not know</p> <p>There may well be benefits to providing additional powers/measures to enable or manage the impacts of compulsory acquisition for net gain. We are not sure of the advantages/disadvantages of these at this time.</p>

<p>27. (32) Is any guidance or other support required to ensure that schemes which straddle onshore and offshore regimes are able to deliver biodiversity net gain effectively?</p> <p><u>Answers</u> Yes (please explain what is needed) No Do not know</p>	<p>Yes</p> <p>The implementation of marine BNG could be significantly different to what has been developed on land. Therefore once details of how marine BNG will work are known, guidance will be required to identify how BNG should be applied to the inter-tidal area (marine and /or terrestrial)</p> <p>This will be vital in order to combat conflicting or misleading advice as to how to treat this area - and will also help to prevent missed opportunities.</p> <p>There have been instances in the past where there have been conflicting views between Natural England and the LPA ecologist for offshore mitigation. Guidance in this area setting expectations would be helpful and reduce opportunities being missed. The highly dynamic intertidal area requires specific guidance especially when considering the extremely high pressure it is under from human uses and climate change.</p> <p>We would like to see included in such guidance, principles designed to ensure that our highly pressurised inter-tidal habitats benefit from BNG and do not miss out by allowing mitigation, compensation and Biodiversity Net Gain for intertidal impacts to be delivered through the creation of terrestrial habitats (because this is easier).</p>
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<p>28. (33)</p> <p>a) Do you agree with the proposed content of the biodiversity gain information and biodiversity gain plan?</p> <p>b) Do you agree with the proposed procedure for the submission and approval of biodiversity gain information and the biodiversity gain plan?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>a) It would help if the complete trajectory/timeline for delivering BNG is spelled out at the start and linked to when monitoring is required. It is then possible to check that the full ecological value is being delivered or if better management/investment might be needed.</p> <p>Include the intended outcome for the proposed BNG (rather than just an outputs approach such as the number of trees planted). This will assist the monitoring and enforcement effort with it being properly planned at the start.</p> <p>b) Ensure agreement on who is going to deliver what and that there is accountability for this and include in the original document; establish the legacy/implication if developers go into liquidation.</p>
<p>29. (34) We will continue to work with external stakeholders and industry on the form and content of the template. Do you agree with the proposed information to be included in a biodiversity gain plan as shown in the draft template?</p> <p><u>Answers</u> Yes No (If not, is there anything in particular that ought to be removed, added, or changed to make the biodiversity gain plan fit for purpose?) Other (please tell us more) Do not know</p>	<p>Yes</p>

<p>30. (35) Do you agree that further guidance is needed to support decision-making about what constitutes appropriate off-site biodiversity gains for a given development?</p> <p><u>Answers</u> Yes (please state what in particular would help most) No Do not know</p>	<p>Yes</p> <p>The guidance should reflect the need for ecological expertise to ensure an appropriate consideration habitat type, distinctiveness, connectivity, species issues etc.</p> <p>There needs to be clarity over what types of off-site habitats would qualify respective to those present on-site (e.g. like for like, or equal ‘metric value’ or greater, as similar as possible within the nearest proximity etc).</p> <p>The guidance should recommend a suitable arbitration process if agreement is not reached.</p> <p>Clarity is also required over the complexity of utilising existing land managed for nature conservation.</p> <p>Regarding enforcement, it will be difficult for LPAs to insist on management, methods and planting on sites that they don’t own. Better to have a local register (like brownfield register) - of sites that we can point developers to which are known to the LPA and meet their quality criteria and match the developer’s needs.</p> <p>“Planning” due diligence of suitability of sites will be important and this will fall outside ecological expertise and will require planning and legal advice resulting in additional costs; clarity over how this will be met would be helpful</p> <p>Clarity over enforcement issues and who is responsible for what enforcement and detailing required experience / qualifications.</p>
<p>31. (36) How should the UK Government encourage or enable developers and landowners to secure biodiversity gain sites for longer than the minimum 30-year period?</p> <p><u>Answers</u> Yes (please state what in particular would help most) No Do not know</p>	<p>Yes</p> <p>The following would help:</p> <ul style="list-style-type: none"> ○ Carry out research into landowner perceptions and views so that barriers to securing sites for >30 years are fully understood. ○ Provide guidance for farmers/landowners about the financial and legal implications of engaging in BNG projects for 30 years (and beyond) and how BNG can be used alongside the plethora of other funding options that are emerging (via ELMS but also provide carbon markets, nutrient neutrality projects and so on) ○ Ensure BNG can be applied to land along with ELMS schemes and other emerging funding (i.e. permit additionality) ○ Depending on the ease of creation of the habitat the period could vary (and be even shorter than 30 years) to entice more landowners to engage. Providing a financial or habitat unit

	<p>incentive to be able to carry it on beyond the 30 year period may encourage extension over longer timeframe.</p> <ul style="list-style-type: none">○ On-site BNG within public / community land should be included within the register and the mandatory period of retention. This could therefore more easily be secured for longer or in perpetuity and linked to community stewardship. <p>In general, the approach outlined in the consultation is to leave the emerging market to create its own rules to some extent so flexibility to amend in future is key because regulation is likely to be required. There needs to be clarity over how to work out future costs, how the market will be regulated, and how additionality and requirements for other funding approaches will work in practice (e.g. carbon markets which will require habitats to be created for a much longer time if via tree planting).</p>
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<p>32. (37) Do you agree with our proposals for who can supply biodiversity units and the circumstances in which they may do so?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>Also refer to the response to question 33 and the following concerns.</p> <ul style="list-style-type: none"> a) LPAs will have a privileged position therefore care is needed over the wording that prevents planning authorities from directing developers to purchase biodiversity units from them in preference to other market suppliers that are able to deliver equivalent or better outcomes. b) There needs to be an arbitration system and / or regulatory process over the buying and selling of units; a system is required to identify unscrupulous trading practices. c) There needs to be a mechanism to retain BNG sites post ‘required time period’ to avoid sites then being neglected or ploughed for a number of years in order to obtain BNG units again.
<p>33. (38) Do you agree that developers which are able to exceed the biodiversity gain objective for a given development should be allowed to use or sell the excess biodiversity units as off-site gains for another development, provided there is genuine additionality?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>No</p> <p>This risks developments never exceeding 10% BNG as the surplus could be routinely sold on. It is important to critically evaluate options such as this for unintended consequences that work against the stated ‘minimum’ objective.</p> <p>Could also cause or permit misleading claims on green credentials - where a developer states they have provided above the 10% but then sells credits to another developer. Selling off excess units could also further undermine the general level of distrust (rightly or wrongly) of the development industry from the public. Also, could a developer essentially ‘sell’ to themselves on a different development site?</p> <p>Could also risk undermining ‘habitat banking’ opportunities being implemented elsewhere, which may be more strategically placed and managed.</p> <p>There could also be a situation where planning authorities ‘set’ a higher % BNG than the mandatory ‘minimum’ and the developer seeks compensation for lost revenue from a potential BNG surplus.</p> <p>We strongly recommend that the threshold above which units can be sold be set higher than the mandatory minimum e.g. above 20% BNG on-site units could be offered for sell, and all on-site BNG should be registered.</p>

<p>34. (39) Do you agree with the proposed scope of the UK Government’s role in facilitating the market, as set out above?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>More detail about how this market is intended to function effectively should be set out, with more reflection on the wider role of government that may be needed.</p> <p>For example, if all the land available to trade units, with clarity over who is trading in respective areas (given the restrictions to be imposed on LPAs who trade units) then the proposed role of the UK Government may be satisfactory. However, as raised above there may need to be a regulatory process set up and / or an arbitration process.</p> <p>The consultation document discusses facilitation role for government but not regulation.</p> <p>If no regulation is felt to be necessary, this should be explained. Similarly it is not clear whether government will monitor the efficacy of the market created. If there are problems and it is not functioning as intended, what mechanisms will the government use to rectify this? What might the OEP role in this be?</p>
<p>35. (40) Are the proposals outlined here sufficient to enable and encourage habitat banking?</p> <p><u>Answers</u> Yes No (please specify what else could be done and why it is needed) Do not know</p>	<p>Yes</p> <p><i>Whilst we agree that the proposals outlined here sufficient to enable and encourage habitat banking it is caveated by the need to ensure that investment readiness support remains available to both private, charity and public sector to ensure a level playing field, and does not favour those who started since 30 January 2020.</i></p>

<p>36. (41) Do you agree with our proposal that to be eligible to supply biodiversity units for mandatory biodiversity net gain, habitat must be created or enhanced on or after a specified date, proposed to be 30 January 2020?</p> <p><u>Answers</u> Yes Yes, but not this specific date (please suggest an alternative date and explain your choice) No (please explain why not) Do not know</p>	<p>Yes, but not this specific date</p> <p>Whichever date is chosen there needs to be clear guidance and a need to demonstrate they would not otherwise have come about (unless it is considered acceptable for this system to result in a funding source for general nature conservation practices without a need to demonstrate BNG additionality).</p>
<p>37. (42) Should there be a time limit on how long biodiversity units can be banked before they are allocated to a development? What would you consider to be an appropriate time limit?</p> <p><u>Answers</u> Yes (please specify what this limit should be) No Do not know</p>	<p>Yes</p> <p>There should be a regular reassessment, e.g. every five years.</p>
<p>38. (43) Do you agree that the eligibility criteria for adding sites to the biodiversity gain site register are sufficient?</p> <p><u>Answers</u> Yes No (please explain which additional criteria should be included or which existing criteria should be excluded, and your reasons for this) Do not know</p>	<p>No</p> <p>On-site BNG land should be included to provide a one-stop shop approach to information on where BNG is being delivered and clarity in terms of the full 'connectivity' picture. The inclusion of both on-site and off-site ensures they are treated the same way and would avoid on-site appearing to have less restrictions / recognition. It is not unreasonable to expect the on-site provision and its ongoing maintenance to be secured by s106.</p>

<p>39. (44) Do you agree that the register operator should determine an application within a maximum of 28 days unless otherwise agreed between both parties?</p> <p><u>Answers</u> Yes No (please explain why not) Do not know</p>	<p>Yes</p>
<p>40. (45) Do you agree that this list of information requirements will be sufficient to demonstrate that a biodiversity gain site is legitimate and meets the eligibility criteria?</p> <p><u>Answers</u> Yes No (please explain which additional information should be included or which existing information should be excluded, and your reasons for this) Other (please tell us more) Do not know</p>	<p>Yes</p>
<p>41. (46) Do you agree that the UK Government should require a habitat management plan, or outline plan, for habitat enhancement to be included on the register?</p> <p><u>Answers</u> Yes No Other (please tell us more) Do not know</p>	<p>Yes</p> <p>Whilst we agree with the proposal, the register should <u>also</u> seek clarity over existing status of the site including existing legal obligations, size of the 'site', existing habitats and species.</p>

<p>42. (47) Do you agree that the UK Government should allow the register operator to:</p> <ul style="list-style-type: none"> a) set a fee for registration in line with the principle of cost recovery? b) impose financial penalties for provision of false or misleading information? <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<ul style="list-style-type: none"> a) Yes b) Yes
<p>43. (48) Do you agree with our proposal to allow applicants to appeal a decision by the register operator where the applicant believes that the registration criteria have not been appropriately applied?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>We broadly agree <u>but</u> subject to adequate funding / resourcing put in place to operate the system especially if a 28 day appeals process is anticipated.</p>

<p>44. (49) Do you agree with our proposals for additionality with respect to:</p> <ul style="list-style-type: none"> a) measures delivered within development sites? b) protected species and off-site impacts to protected sites? c) on-site impacts on protected sites, and any associated mitigation and compensation? d) achievement of River Basin Management Plan Objectives? e) the strengthened NERC Act duty on public authorities? <p><u>Annual</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<ul style="list-style-type: none"> a) Other. In general agree that all gains should be recorded, however, there needs to be a clear distinction between what is to constitute the mandatory % BNG, which should just relate to the habitats / areas of land that can be secured and managed for 30 years without draconian measures placed on householders to retain private green roofs, ponds etc; and the gains are in addition to any required mitigation / compensation measures. Potentially such a nuanced approach might introduce complexity or be difficult to deliver, monitor and enforce in practice. b) No. These should be counted as mitigation for impacts, not BNG. All additional mitigation such as the district level licencing scheme for GCN and SANG should be in their own right and not affect BNG. We want the most out of each site. Mitigation and compensation measures required for protected species should be clearly separated from the mandatory calculations for BNG. 10% BNG must be considered as over and above the need to mitigate and / or compensate as mitigation and compensation seek to ensure 'no net loss'. c) No. Similar to above, in general agree with a process for calculating and monitoring delivery, however, required mitigation and compensation measures should clearly be separated from the mandatory calculations for BNG. 10% BNG must be considered as over and above the need to mitigate and / or compensate. Mitigation and compensation seeks to ensure 'no net loss'. d) Yes e) Yes
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<p>45. (50) Do you think that A) the non-designated features or areas of statutory protected sites and/or B) local wildlife sites and local nature reserves, should be eligible for enhancement through biodiversity net gain?</p> <p><u>Answers</u> Yes, both A and B should be eligible No, only A (non-designated features or areas of statutory protected sites) should be eligible No, only B (local wildlife sites and local nature reserves) should be eligible No, neither should be eligible Other (please tell us more) Do not know</p>	<p>Yes, both A and B should be eligible</p> <p>We agree due to the ongoing need for diverse funding for designated sites.</p> <p>However, there is a risk that BNG focussed on existing protected sites will miss or dilute opportunities to create new sites or increase connectivity between protected sites, (particularly in locations where land may be more expensive etc). Whilst we understand that this is a separate issue its important to take this opportunity to highlight that other funding sources need to be made available for designated sites.</p>
<p>46. (51) Do you agree that the enhancement of habitats, including designated features, within statutory protected sites should be allowed in the coastal, intertidal and marine environment as defined above?</p> <p><u>Answers</u> Yes Yes, in some circumstances (please specify which circumstances) Yes, but within a different range of the high water mark (please specify) No (please explain why not) Other (please tell us more) Do not know</p>	<p>Do not know</p> <p>We recognise the potential difficulties in creating new intertidal habitats for biodiversity net gain, but at the same time, for consistency, we do not understand why coastal/intertidal/marine sites should be treated differently, simply because it may be challenging.</p>

<p>47. (52) Do you agree with our proposed approach to combining payments for biodiversity units with other payments for environmental services from the same parcel of land?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>Whilst we broadly agree, there must be clear boundaries between the different services paid for. Ensuring additionality and having regard to any conflicting management requirements will require clear guidance for landowners and regulators and a recourse to some form of arbitration. Stacking is not without an increased risk of potentially fraudulent behaviour and could become an additional monitoring / enforcement burden.</p>
<p>48. (53) Are these proposals for statutory biodiversity credits sufficient to:</p> <p>a) Ensure, when supported by suitable guidance, that they are only used by developers as a last resort?</p> <p>b) Mitigate the market risk associated with the sale of statutory biodiversity credits by the UK Government?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know + extra</p>	<p>Other</p> <p>a) In general, there is not enough information provided to fully understand the implications of the proposal. Broadly, the principle ‘appears’ satisfactory. However, consideration should be given to the inclusion within the credit system of a requirement for ‘credits’ to be applied to land closest to the ‘purchasing’ development.</p> <p>b) How will this market be regulated and facilitated?</p>

<p>49. (54) Do you think there are any alternatives to our preferred approach to credit sales, such as those outlined above, which could be more effective at supporting the market while also providing a last resort option for developers?</p> <p><u>Answers</u> Yes (please explain the alternatives and your reasoning) No (please explain why not) Other (please tell us more) Do not know</p>	<p>Do not know</p>
<p>50. (55) Do the principles for how we will set, and review credit price cover the relevant considerations?</p> <p><u>Answers</u> Yes No (if not, what further considerations should be included?) Other (please tell us more) Do not know</p>	<p>Other</p> <p>In general, there is not enough information provided to fully understand the implications of the proposal. Broadly, the principle ‘appears’ satisfactory. However, it remains unclear how the credit price setting will work on a national level given the significant variations in land values and development profits. The prices that may act as a suitable deterrent in some parts of the country may appear attractive elsewhere. Potentially the credit prices will need to vary and be linked to local biodiversity unit markets.</p>
<p>51. (56) Do you agree with the proposed principles for credit investment?</p> <p><u>Answers</u> Yes No (please explain why not) Other (please tell us more) Do not know</p>	<p>Other</p> <p>In general we agree but consider that there should be the inclusion of a direct traceable link between development, credits, and where the credits are used. Indeed, this would help future assessment of impact, trends and value of the scheme.</p>

<p>52. (57) Do the above project-level management, monitoring, enforcement, and reporting proposals seem sufficient, achievable, and not overly burdensome on practitioners, developers, or planning authorities?</p> <p><u>Answers</u> Yes No, not sufficient No, overly burdensome or not achievable No (please explain why not and suggest how could they be improved) Do not know</p>	<p>No</p> <p>Whilst the principle of this is understood and supported it must be recognised that this is a resource hungry exercise (desk-based assessment, site visits, enforcement) and will require an adequate funding mechanism to ensure it is implemented effectively. LPAs will be forced to pass this cost on to developers as the public purse cannot currently resource it. However, it is possible that some economies of scale could be achieved by LPAs pooling resources and centralising ecological support services under each Responsible Authority area.</p> <p>No metrics have thus far been provided to allow the proper resource evaluation cost of undertaking this exercise in the long term.</p> <p>There is an argument to have the burden centralised with NE as the ‘register’ is a national register, NE’s role in protecting the natural environment is well understood by all stakeholders and provides a consistency of approach.</p>
<p>53. (58) Do you think earned recognition has potential to help focus enforcement and scrutiny of biodiversity net gain assessments, reporting and monitoring?</p> <p><u>Answers</u> Yes (please explain why this would help) No (please explain why this would not help) Do not know</p>	<p>Yes</p> <p>An effective and well moderated scheme for all operators who can demonstrate a strong track record of compliance and adherence to standards has benefit. Operators must be able to show that they have robust systems and processes that promote effective and proactive BNG management. The scheme would help identify which operator to focus more resources on in terms of monitoring.</p>
<p>54. (59) Do the above proposals for policy-level reporting, evaluation and enforcement seem sufficient and achievable?</p> <p><u>Answers</u> Yes Yes, but not sufficient Yes, but not achievable No (if not, how could they be improved?) Do not know</p>	<p>No</p> <p>The proposals seem very onerous on LPAs, few of which have the infrastructure resources to deal with it, requiring a significant input of detailed ecological information, but with very little of it being of much value.</p> <p>The proposals will require collection, collation and digitisation of relevant data and then relies on the interrogation/evaluation capabilities of local planning authorities. Potentially, if Biodiversity Gain Plans are fully digitised Natural England may be best placed to run reports covering the information sought in Annex C with the ability for LPAs to obtain headline data sufficient to fulfil the NERC Act requirements.</p>

	<p>It is unreasonable to expect the planning system to undertake such detailed monitoring given the wide factors it has to consider. Its primary function is to set a framework for development in the public interest. For context, it is unrealistic to expect LPAs, with current level of resourcing, to monitor in such detail impacts on heritage assets, jobs, housing, retail, leisure, office, manufacturing, air quality, noise etc.</p>
<p>55. (60) Considering the data requirements set out above and in greater detail in Annex C:</p> <ul style="list-style-type: none"> a) is there any additional data that you think should be included in the Biodiversity Reports? b) is there any data included here that should not be required as part of the Biodiversity Reports? <p><u>Answers</u> Yes (please describe the data and explain the reasons for your view) No Do not know</p>	<ul style="list-style-type: none"> a) Yes. With regard to Annex C 1.a.iv: Protected Species. This may need caveating with 'where known' or defining the scope of 'protected'. It is hard to get accurate figures on developments that affect protected species, as potentially all developments could impact protected species in some manner, but not all such developments are identified. Additionally, nearly all developments will impact on birds (protected under the Wildlife and Countryside Act 1981) and very few developments record their impact on protected invertebrate species. b) No.

Appendix 2: Sussex Nature Partnership members

The following organisations form the Sussex Nature Partnership



As well as the Tier 1 authorities and the National Park Authority, all 11 district and borough councils in East and West Sussex participate in the 'Local Authority Network' established by Sussex Nature Partnership in 2021:

- Adur and Worthing Councils
- Arun District Council
- Chichester District Council
- Crawley Borough Council
- Eastbourne Borough Council
- Hastings Borough Council
- Horsham District Council
- Lewes District Council
- Mid-Sussex District Council
- Rother District Council
- Wealden District Council