

**Cheshire Wildlife Trust response to the Consultation on Biodiversity Net Gain for Nationally Significant Infrastructure Projects 24/07/25**

**Question 2: Do you agree that the proposed model text provides sufficient information on the biodiversity gain objective?**

Other/Disagree

The objective states 10% BNG as a target and there is clear evidence emerging that 10% is within the margin of error and not sufficient to provide tangible gains in biodiversity. As NSIPs often don't apply the mitigation hierarchy (for reasons of overriding public interest) landscape-scale impacts far exceed individual TCP Act schemes. Given that NSIPs are the most damaging of all schemes the Secretary of State should go further than the minimum 10% and require NSIP projects to deliver at least 20% gain.

**Question 3: Do you agree that the proposed model text provides sufficient information on irreplaceable habitat?**

Disagree there should be additional text included to help inform the creation and restoration of compensatory habitat (when irreplaceable habitat is impacted). This should highlight that like-for-like by area is unacceptable and provide a guide on what ratios should be used for various types of habitat (taking into account for time to target condition and difficulty). The reason for this is that some large infrastructure projects are still using a like-for-like by area resulting in less compensation by area than if the BNG metric had been used to inform the compensation.

In paragraph 1 removal of the word 'on-site' is required. Deterioration of adjacent habitat outside the redline boundary also needs to be addressed by referring to the relevant planning policy and guidance. There is no distinction in off-site or on-site irreplaceable habitat in the NPPF.

Where irreplaceable habitats are damaged or destroyed even the No Net Loss objective is unachievable. This should be reflected in the wording. The wording currently suggests the opposite is true (Paragraph 1 'How BNG applies to development on irreplaceable habitat')

The public benefits of irreplaceable habitat (such as ancient woodland for example) are tangible and need to be taken into account when determining the public benefits of the proposed scheme in any particular location.

The government should ensure that the list of irreplaceable habitats (informed by extensive work from Natural England) is published. Publication of the list, and the promised consultation, will provide clarity to the industry and is long overdue.

**Question 4: 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

NSIPs must use the statutory biodiversity metric and not their own. We also urge the government to take the opportunity to reverse the last minute changes made to the calculation for strategic significance before BNG was mandated (i.e. revert to the tested version 4 of the metric). The last minute changes altered the metric from a tool to objectively calculate gains and losses to a policy tool (no scientific rigour in amended version). This was not the intended purpose of the metric. The same formulas should be applied pre- and post- development but the revised version inappropriately weights new habitat over existing habitat. This is very problematic and could result in scenarios where an existing habitat (such as a pond) is filled in then recreated in order to achieve more units. A 15% boost to post-development habitats makes the 10% BNG target meaningless.

Due to the landscape scale impacts of NSIPs and the damage many cause to habitat connectivity we urge the government to mandate a 20% BNG.

**Question 5: Do you think any additional guidance is required in the statutory metric user guide to clarify how it should be applied for NSIPs?**

Yes

As above, it is vitally important that the strategic significance multiplier reverts back to the previous version otherwise the footprint of a large NSIP scheme will be massively undervalued relative to its post development footprint. The current method to apply strategic significance is unscientific and not how the metric was designed.

We would like to see additional guidance on how to use the metric if the scheme is split into different phases. Also additional guidance on how to apply the habitat trading rules for large infrastructure projects may be needed, especially if there is a phased approach with habitat creation some distance (or in a different phase of the scheme) from the losses

It is important to ensure any applicable changes to the statutory metric and guidance as a result of the consultation on improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development are also implemented in regard to NSIPs.

**Question 6: 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, as inclusion of the entire development site is the only way to mathematically calculate a 'percentage' gain for a particular scheme. If specific areas of a development are excluded then the term 'percentage' is meaningless.

Furthermore the red-line boundary is set for a specific purpose i.e. to identify land that is or could be impacted by the scheme during the whole construction and operation process. NSIPs regularly change their construction footprints as the scheme develops, particularly for access purposes or where storage is required. Although not strictly a NSIP the footprint of HS2 is constantly changing as plans are updated or construction issues occur.

**Question 7: Do you agree that the proposed model text provides sufficient information on:**

- a) what the pre-development biodiversity value consists of?

Agree

- b) the relevant date for calculating the pre-development biodiversity value?

Other

The Biodiversity Gain Statement should set out clear requirements to review and re-submit baseline biodiversity value if new information comes to light during the consenting process, including when a scheme is delayed.

**Question 8: Do you agree that the proposed model text provides sufficient information on delivering biodiversity net gain on-site, off-site and using credits?**

Disagree

NSIPs should not be allowed to allocate any gains delivered in excess of the 10% requirement to other development. 10% is a minimum requirement and not a ceiling. Many schemes are failing to deliver an 'actual' 10% due to inaccurate baseline assessments (as seen with HS2). Furthermore removal of the strategic significance multiplier from the baseline could reduce the baseline value by as much as 15%. This could more than cancel out any gains.

The wording with regards to the definition of significant enhancements and non-significant enhancements needs to be defined better.

The word 'could' in the sentence 'Significant on-site enhancements could include but is not limited to:' needs to be amended to 'should' to avoid confusion.

**Question 9: Do you agree that the proposed model text provides sufficient guidance on how to determine what counts as a significant on-site enhancement?**

Disagree

The wording 'significant on-site enhancements' is confusing because it actually refers to both creation and enhancement – should consider changing the wording to ensure clarity.

Significant on-site enhancements should (not could) include all creation or enhancement of medium distinctiveness habitats or higher in the biodiversity metric. Medium distinctiveness habitats and above must be secured with a long-term management plan and secured with a legal agreement as they are difficult to create, require specialist regular management to maintain and feasibly could contribute a significant portion of an NSIPs BNG requirements. If there is no oversight or mechanism to legally secure creation or enhancement of medium distinctiveness (and above) habitats, it cannot be guaranteed that they are being delivered and maintained as reported, meaning the NSIP is not in fact achieving its reported net gain.

**Question 10: Do you think there needs to be a bespoke policy on delivering BNG where land is temporarily used for construction of NSIP schemes?**

Disagree.

Where the temporary use of the land exceeds the limit for habitats to be classified as retained in the statutory metric (i.e. must be reinstated at same distinctiveness and condition within 2 years of being lost), those habitats should be treated as lost in the baseline calculation and compensated for appropriately as part of the wider net gain scheme. This approach means impacts to land that is impacted by construction temporarily (and not reinstated within 2 years) can be compensated for, either elsewhere on site, off-site or via statutory credits. Therefore, any difficulties agreeing compensation in temporary impact areas with landowners who may not be willing to restrict their use of the land for 30 years, or difficulties where developers want to dispose of land after construction are avoided.

The transfer or disposal of land (including the legal obligation) where on site habitats are created or enhanced to local eNGOs could also be explored as an option.

**Question 11: Do you agree that the proposed model text provides sufficient information on the wider considerations for delivering biodiversity gains?**

Disagree

It should be clearly stated upfront that BNG should lead to actions above and beyond those required to meet these existing policies and obligations (clarification of additionality principle). Without this clear and upfront direction in the Biodiversity Gain Statement there is a risk it will not deliver additionality or support nature's recovery.

Ensure any applicable changes to the statutory metric and guidance as a result of the consultation on improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development are also implemented in regard to NSIPs. E.g., a change from LPA boundaries to LNRS boundaries when considering local offsets.

We reiterate our concerns about the recent manipulation of the application of the strategic significance multiplier and we urge Government to revert to the tried and tested guidance on strategic significance as established in metric 4.0, so this can be applied to both NSIP and TCPA developments. Changes were made to the strategic significance guidance just ahead of mandating BNG for TCPA. These changes were made without testing and without consultation and are hugely problematic. These concerns have been raised with Defra by The Wildlife Trusts and other environmental NGOs. We have been advised that changes to the guidance are constrained by what is included within statute. However, with proposals to make changes to the metric and user guide in this consultation and the parallel BNG consultation, there is now an opportunity to address the issues this change has created.

**Question 12: Do you agree that the proposed model text provides sufficient information on the following:**

**a) Evidence for submission?**

Other

We strongly support the requirements in the model text for all or most of the biodiversity units to be secured before development is commenced. There needs to be clear safeguards in the consenting process to ensure that any shortfalls in biodiversity units are properly assessed and secured. The Biodiversity Gain Statement should provide details on how and who will be responsible for overseeing this happens.

In terms of phased developments, we strongly advocate that BNG for the whole scheme is implemented in advance of any losses to prevent cumulative impacts. However, we recognise that this may not always be possible. Where this is the case, each phase of a scheme must be accompanied by an agreed percentage of BNG and a Biodiversity Gain Plan.

Given, there may be considerable changes in the biodiversity value of the undeveloped parts of multi-phase sites, an updated metric calculation should be completed for each phase, with the biodiversity gain statement making it clear, that this should be based on the original baseline assessment, unless an updated habitat survey shows a site has undergone an uplift in biodiversity value. Under these circumstances, an updated baseline should be required to ensure additionally. There will also need to be clear tracking and monitoring of how each phase is individually contributing to the whole site BNG.

## **b) Decision making?**

There needs to be further information on the decision making process afforded to local planning authorities charged with checking post consent updates and changes to biodiversity gain plans and metric calculations – what happens if these are unsatisfactory?

### **Question 13: 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?**

We support the need for post consent changes to be reflected in updated biodiversity gain plans and metric calculations. However, this must not be used as a reason to submit applications with inadequate ecological and environmental assessments. Nor should it be acceptable to submit incomplete gain plans and metric calculations without the minimum requirements and clearly evidenced justification as to why updates will be necessary.

In order to ensure the success of this new requirement, there will need to be an honest recognition of the resource and capacity required by local planning authorities to oversee this post consent approval to ensure this can be effectively delivered. There also needs to be clear and transparent mechanisms in place (including monitoring and enforcement) to ensure this post consent requirement is fulfilled by applicants before construction commences.

### **Question 14: Do you have any evidence for us to consider as part of our final impact assessment on implementing BNG for NSIPs?**

Don't know

### **Question 15: 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?**

Don't know

### **Question 16: 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)?**

No

No, we strongly support all NSIP types and circumstances being subject to mandatory BNG. NSIPs are typically the most environmentally damaging schemes of all and must be subject to mandatory BNG if we are to meet our international obligations to reverse the decline of biodiversity.

**Question 17: 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?**

It is important that hybrid bills are also subject to the mandatory BNG requirement. HS2 is an example of a hybrid Bill where the developer used its own flawed methodology to calculate No Net Loss but independent scrutiny found that the impacts were far greater than acknowledged.<sup>1</sup>

**Question 18: Do you think there are any other topics that should be covered in BNG guidance for NSIPs?**

Yes

Guidance on non-significant gains: What are considered to be non-significant gains, who is responsible for maintaining these for thirty years, who is responsible for monitoring these gains and how will this be resourced.

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<sup>1</sup> [https://www.wildlifetrusts.org/sites/default/files/2023-02/23JAN\\_HS2\\_Double\\_Jeopardy\\_FINAL01.02.23.pdf](https://www.wildlifetrusts.org/sites/default/files/2023-02/23JAN_HS2_Double_Jeopardy_FINAL01.02.23.pdf)