



CONSULTATION RESPONSE

5th April 2022

Consultation on Biodiversity Net Gain Regulations and Implementation

Sofi Lloyd

About the Association of Drainage Authorities (ADA)

ADA is the membership organisation for drainage, water level and flood risk management authorities throughout the UK. Today ADA represents over 230 members nationally, including internal drainage boards, regional flood & coastal committees, local authorities and national agencies, as well our associate members who are contractors, consultants and suppliers to the industry.

Our purpose is to champion and campaign for the sustainable delivery of water level management, offering guidance, advice and support to our members across the UK, and informing the public about our members' essential work.

Consultation questions and our responses

1 Do you agree with our proposal to exempt development which falls below a de minimis threshold from the biodiversity net gain requirement?

a) for area-based habitat:

Yes: 20m².

[b) for linear habitat (hedgerows, lines of trees, and watercourses):

Yes: 2m.

2 Do you agree with our proposal to exempt householder applications from the biodiversity net gain requirement?

No Comment

3 Do you agree with our proposal to exempt change of use applications from the biodiversity net gain requirement?

No Comment

4 Do you think developments which are undertaken exclusively for mandatory biodiversity gains should be exempt from the mandatory net gain requirement?

Yes

5 Do you think self-builds and custom housebuilding developments should be exempt from the mandatory net gain requirement?

No Comment



6 Do you agree with our proposal not to exempt brownfield sites, based on the rationale set out above?

Yes

7 Do you agree with our proposal not to exempt temporary applications from the biodiversity net gain requirement?

Yes – every opportunity should be taken to improve opportunity for biodiversity.

8 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?

No Comment

9 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?

Yes, possibly, where the nature of the development is critical to public safety, critical infrastructure, or similar cases of significant national interest.

10 Do you agree with our proposal not to exempt development within statutory designated sites for nature conservation from the biodiversity gain requirement?

Yes

11 Do you agree with the stated proposals for development (or component parts of a development) on irreplaceable habitats, specifically:

a) The exclusion of such development from the quantitative mandatory biodiversity gain objective?

The area of irreplaceable habitat should also include a buffer zone to prevent negative impacts of development in adjacent areas.

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

No. Only when an exception process is instigated in this regard should a BNG plan be requested. Perhaps a more robust definition of what constitutes an exceptional circumstance is what is needed.

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?

Yes

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?

Yes but will require further consultation

e) The provision of guidance on what constitutes irreplaceable habitat to support the formation of bespoke compensation agreements?



Yes

12 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?

Yes but a robust process needs to be in place to ensure that any proposal of net gain works within Internal Drainage Districts, particularly channels managed and maintained by internal drainage boards (IDBs) or their margins, which could potentially impact flood risk management or water level management has received consent of the IDB as the regulatory Authority prior to planning permission being granted on the basis of the approaches proposed to achieve net gain in the biodiversity gain plan. Consideration must be given to the impact of any access requirements and maintenance activities an IDB has to undertake in the enhancement area on the likelihood of the net gain measures achieving and maintaining their 10% net gain objective. In cases where net gain measures take time to mature, such as riparian planting, consideration has to be given by the IDB, on how the enhancements and their management regimes will impact flood risk management and water level management over the full 30 year required lifespan of the net gain habitat and beyond.

13 Do you agree with the proposals for how phased development, variation applications and minerals permissions would be treated?

Yes

14 Do you agree that a small sites metric might help to reduce any time and cost burdens introduced by the biodiversity gain condition?

Yes

15 Do you think a slightly extended transition period for small sites beyond the general 2- year period would be appropriate and helpful?

Do not know

16 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?

Do not know

17 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?

ADA recognises the benefits to biodiversity that a reduced net gain requirement for any NSIPs projects where reaching 10% net gain would be disproportionate in cost and the alternative would be an exemption from any net gain requirement. Such an arrangement would also be beneficial if applied to flood defense projects funded by Flood Defence Grant in Aid. ADA would be happy to contribute towards the research Defra has commissioned regarding the costs of delivering biodiversity net gain for infrastructure projects

18 Do you agree that the above approach is appropriate for setting out the biodiversity net gain requirement for NSIPs?

Yes



19 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?

No Comment.

20 Do you agree that a project's acceptance for examination is a suitable threshold upon which to set transition arrangements?

Yes

21 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?

Yes. The concept of allowing developers to enhance their own existing landholdings to achieve off-site BNG could work with some additional criteria i.e; only if it connects other valuable fragmented habitat; only if it is in a strategic location as may be set out in the LNRS; only when the landholding is close to the site of the development (with distance defined); it should contribute to the net gain up the point of net zero with the 10% being delivered elsewhere. The latter point will help also to reduce risks of BNG credit market disruption.

What is not clear is why a lighter touch registration approach would be beneficial and what areas should be light touch. There are already clear advantages for the developer to enhance its own landholdings. The registration process encourages a standard and robust approach to management, monitoring and reporting of net gain and any lighter touch could reduce consistency and transparency.

22 Do you consider that this broad 'biodiversity gain plan' approach would work in relation to NSIPs?

Yes but a robust process needs to be in place to ensure that any proposal of net gain works within IDB districts, particularly within IDB channels or their margins, which could potentially impact flood risk management or water level management has received consent of the IDB as the Regulatory Authority prior to planning permission being granted on the basis of the approaches proposed to achieve net gain in the biodiversity gain plan. Consideration must be given to the impact of any access requirements and maintenance activities an IDB has to undertake in the enhancement area on the likelihood of the net gain measures achieving and maintaining their 10% net gain objective. In cases where net gain measures take time to mature, such as riparian planting, consideration has to be given by the IDB, on how the enhancements and their management regimes will impact flood risk management and water level management over the full 30 year required lifespan of the net gain habitat and beyond.

23 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)?



Yes – there needs to be a clear distinction otherwise there is a risk that the habitats used for environmental mitigation could also be used for net gain and the principle of additionality would be lost.

24 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)?

Yes.

Firstly, maps for all measures and sites should always be mandatory to demonstrate to those who are not familiar with the site the spatial context of all measures.

A robust process needs to be in place to ensure that any proposal of net gain works within IDB districts, particularly within IDB channels or their margins, which could potentially impact flood risk management or water level management has received consent of the IDB as the Regulatory Authority prior to NSIPS planning permission being granted on the basis of the approaches proposed to achieve net gain in the biodiversity gain plan. Consideration must be given to the impact of any access requirements and maintenance activities an IDB has to undertake in the enhancement area on the likelihood of the net gain measures achieving and maintaining their 10% net gain objective. In cases where net gain measures take time to mature, such as riparian planting, consideration has to be given by the IDB, on how the enhancements and their management regimes will impact flood risk management and water level management over the full 30 year required lifespan of the net gain habitat and beyond.

Consulting the IDB at the pre-approval of any stage will also help to identify the potential for the IDB to be the best placed authority to manage any relevant enhancements and if so, the IDB can contribute to the development of the management plans. This will be most likely in the case of SUDS or riparian enhancements.

Also, section G should be mandatory for all applications and should come first about the mitigation. This will help to better embed the recognition that the hierarchy should still be the first step in the process.

Finally, a BNG plan also has to demonstrate that it has considered the impacts of climate change on the proposed net gain habitat and the carbon emission reduction strategies employed when developing and maintaining the net gain site. For example, this could include green procurement approaches such as alternatives to plastic tree guards and cable ties, locally scoured materials, and automation and telemetry for water level monitoring. It could also detail efforts to select species for habitat creation which are expected to be more resilient to climate change including temperate and ground-water level changes or the siting of habitats to ensure that any increased risk of future flooding intensity or duration would not compromise the habitat objectives such as the success of floodplain woodland or meadow.

25 Do you think that 30 years is an appropriate minimum duration for securing off-site biodiversity gains allocated to NSIPs?

No. It should be for the expected lifespan of the infrastructure or in perpetuity.

26 Are further powers or other measures needed to enable, or manage the impacts of, compulsory acquisition for net gain?

Do not know.



27 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?

Yes but ADA recognises that this will take time and the on-shore element should be subject to net gain within the current proposed timescales until more guidance is available.

28 a) Do you agree with the proposed content of the biodiversity gain information and biodiversity gain plan

No. Section G, particularly in relation to mitigation hierarchy should come first and be mandatory for all submissions. This will help to better embed the recognition that the hierarchy should still be the first step in the process.

Maps for all measures and sites should always be mandatory to demonstrate to those who are not familiar with the site the spatial context of all measures.

Also, the date at which the pre-development biodiversity value is determined should also be specified.

There is a need to also include the IDB consent at all stages where appropriate. A robust process needs to be in place to ensure that any proposal of net gain works within IDB districts, particularly within IDB channels or their margins, which could potentially impact flood risk management or water level management has received consent of the IDB as the Regulatory Authority prior to planning permission being granted on the basis of the approaches proposed to achieve net gain in the biodiversity gain plan. Consideration must be given to the impact of any access requirements and maintenance activities an IDB has to undertake in the enhancement area on the likelihood of the net gain measures achieving and maintaining their 10% net gain objective. In cases where net gain measures take time to mature, such as riparian planting, consideration has to be given by the IDB, on how the enhancements and their management regimes will impact flood risk management and water level management over the full 30 year required lifespan of the net gain habitat and beyond.

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Finally, a BNG plan also has to demonstrate that it has considered the impacts of climate change on the proposed net gain habitat and the carbon emission reduction strategies employed when developing and maintaining the net gain site. For example, this could include green procurement approaches such as alternatives to plastic tree guards and cable ties, locally scoured materials, and automation and telemetry for water level monitoring. It could also detail efforts to select species for habitat creation which are expected to be more resilient to climate change including temperate and ground-water level changes or the siting of habitats to ensure that any increased risk of future flooding intensity or duration would not compromise the habitat objectives such as the success of floodplain woodland or meadow.

28 b) Do you agree with the proposed procedure for the submission and approval of biodiversity gain information and the biodiversity gain plan?

Yes but there is a need to also include the IDB consent at this stage. A robust process needs to be in place to ensure that any proposal of net gain works within IDB districts, particularly within IDB channels or their margins, which could potentially impact flood risk management or water level management has received consent of the IDB as the Regulatory Authority prior to planning permission being granted on the basis of the approaches proposed to achieve net gain in the biodiversity gain plan. Consideration must be given to the impact of any access requirements and maintenance activities an IDB has to undertake in the enhancement area on the likelihood of the net gain measures achieving and maintaining their 10% net gain objective. In cases where net gain measures take time to mature, such as riparian planting, consideration has to be given by the IDB, on



how the enhancements and their management regimes will impact flood risk management and water level management over the full 30 year required lifespan of the net gain habitat and beyond.

Consulting the IDB at the pre-approval of any stage will also help to identify the potential for the IDB to be the best placed authority to manage any relevant enhancements and if so, the IDB can contribute to the development of the management plans. This will be most likely in the case of SUDS or riparian enhancements.

29 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?

No.

Section G, particularly in relation to mitigation hierarchy should come first and be mandatory for all submissions. This will help to better embed the recognition that the hierarchy should still be the first step in the process.

Maps for all measures and sites should always be mandatory to demonstrate to those who are not familiar with the site the spatial context of all measures.

Also, the date at which the pre-development biodiversity value is determined should also be specified.

There is a need to also clearly indicate that IDB consent is required for works and management proposals at all stages. A robust process needs to be in place to ensure that any proposal of net gain works within IDB districts, particularly within IDB channels or their margins, which could potentially impact flood risk management or water level management has received consent of the IDB as the Regulatory Authority prior to planning permission being granted on the basis of the approaches proposed to achieve net gain in the biodiversity gain plan. Consideration must be given to the impact of any access requirements and maintenance activities an IDB has to undertake in the enhancement area on the likelihood of the net gain measures achieving and maintaining their 10% net gain objective. In cases where net gain measures take time to mature, such as riparian planting, consideration has to be given by the IDB, on how the enhancements and their management regimes will impact flood risk management and water level management over the full 30 year required lifespan of the net gain habitat and beyond.

Consulting the IDB at the pre-approval of any stage will also help to identify the potential for the IDB to be the best placed authority to manage any relevant enhancements and if so, the IDB can contribute to the development of the management plans. This will be most likely in the case of SUDS or riparian enhancements.

Finally, a BNG plan also has to demonstrate that it has considered the impacts of climate change on the proposed net gain habitat and the carbon emission reduction strategies employed when developing and maintaining the net gain site. For example, this could include green procurement approaches such as alternatives to plastic tree guards and cable ties, locally scoured materials, and automation and telemetry for water level monitoring. It could also detail efforts to select species for habitat creation which are expected to be more resilient to climate change including temperate and ground-water level changes or the siting of habitats to ensure that any increased risk of future flooding intensity or duration would not compromise the habitat objectives such as the success of floodplain woodland or meadow.

30 Do you agree that further guidance is needed to support decision-making about what constitutes appropriate off-site biodiversity gains for a given development?

Yes but a flow chart for decision making and some criteria which must be met in terms of considerations made prior to considering off-site and non-local net gain sites would be helpful.



Consistency is key to the success of the approach to ensure like-for-like is achieved in terms of habitats created or enhanced and additionality is also achieved.

31 How should the UK Government encourage or enable developers and landowners to secure biodiversity gain sites for longer than the minimum 30-year period?

No Comment

32 Do you agree with our proposals for who can supply biodiversity units and the circumstances in which they may do so?

In general terms, yes ADA agrees with the principle that any landowner or manager will be able to create or enhance habitat for the purpose of selling biodiversity credits. However, ADA will welcome guidance on how IDBs as a regulatory and responsible authority can avoid conflicts of interest if they were to sell biodiversity credits, as will also be the need for all other Local Authorities and other RMA's.

A robust process needs to be in place to ensure that the development of any works for the purpose of selling net gain credits within IDB districts, particularly within IDB-managed channels or their margins, which could potentially impact flood risk management or water level management has received consent of the IDB as the Regulatory Authority prior to the works commencing and the registration of the credits being granted. Consideration must be given to the impact of any access requirements and maintenance activities an IDB has to undertake in the enhancement area on the likelihood of measures achieving and maintaining their net gain objective. In cases where net gain measures take time to mature, such as riparian planting, consideration has to be given by the IDB, on how the enhancements and their management regimes will impact flood risk management and water level management over the full 30 year required lifespan of the net gain habitat and beyond.

Consulting the IDB at the pre-works stage will also help to identify the potential for the IDB to be the best placed authority to manage any relevant enhancements and if so, the IDB can contribute to the development of the management plans. This will be most likely in the case of SUDS or riparian enhancements.

33 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?

Yes. This could encourage a more comprehensive and coherent approach to habitat creation and discourage a less beneficial broad and shallow approach.

34 Do you agree with the proposed scope of the UK Government's role in facilitating the market, as set out above?

Yes but as mentioned above, there needs to be a robust process for ensuring that where any enhancement or creation is registered and made available to sell as biodiversity credits, that part of the acceptance and eligibility criteria onto the register is that IDB consent has been obtained for the work AND the management plan.

35 Are the proposals outlined here sufficient to enable and encourage habitat banking?

In general terms, yes but consideration must be given to how habitat banking could compete and/or integrate with the developing ELMS scheme. There is still much uncertainty around the details of ELMS but there is a feeling that the current payment rates being proposed for some ELMS measures are too low and therefore may not attract the desired interest from landowners. However, landowners may prefer some of the shorter contract terms offered by some ELMS options compared to the 30-year BNG register requirements. If market rates and attractiveness of biodiversity credits outperform



ELMS payments, the impacts on the objectives of ELMS from the potential low uptake must be considered. The same needs to be considered for how the scheme will impact or integrate with other environmental banking markets such as carbon sequestration.

Robust regulation and accreditation of habitat banks is vital to demonstrate integrity to investors.

36 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?

No. We feel it should be a later date otherwise the principle of additionality is diminished.

37 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?

Without more detail we cannot determine which approach has the greater merits for biodiversity at this stage. There are risks we can identify to both approaches. In some respects, we feel a limit would be sensible otherwise the element of additionality in broad terms is diminished the longer the habitat exists. In other ways, if there is a risk that more mature and valuable habitats that are created purely for the purpose of selling credits are lost due to not being allocated to a development within the time limit if a landowner chose to replace the habitat. If a limit is imposed, some protection will be needed to prevent the latter situation occurring.

38 Do you agree that the eligibility criteria for adding sites to the biodiversity gain site register are sufficient?

No, additional criteria should include the need for IDB consent, where appropriate, to have been received prior to the work being undertaken and then registered in order to demonstrate that the works and subsequent management are compatible with local flood risk management and water level management.

Also, additional criteria should include the specification of alternative management arrangements in any case where the primary management provider becomes unable to deliver the required management.

We are concerned that only off-site net gain will be eligible to be added to the net gain site register. With the process emphasising that all opportunities to provide net gain within a development site boundary should be taken prior to searching for external net gain sites, we feel that there is a risk to on-site net gains not receiving the same robust management, protection and monitoring as off-site gains. Current green/blue infrastructure provisions within development, particularly SUDS have suffered from a lack of adequate management and one of the reasons for this include a lack of resource within LA's with experience and capacity to enforce the management of such features. This has led to many of these features failing to deliver their service objectives, particularly the ability and capacity to attenuate surface water run-off and the filtration of pollutants as well as the provision of high-quality habitat for biodiversity which has degraded due to the lack of management. There are a number of instances where our Internal Drainage Board members have had to intervene and provide management of such features in order to ensure that local flood risk protection is maintained, despite the responsibility lying with the developer. With the added responsibilities and resource pressure that net gain will place on Local Authorities, we feel this situation could worsen rather than improve if on-site net gain is not eligible for inclusion on the net gain register as it will be the more robust Register enforcement process that will likely take priority where there are resource pressures. We accept that some on-site net-gain features will not be eligible for inclusion of the register, such as residential gardens, but common shared areas and features which are developed in order to deliver net gain otherwise should be included in the net gain register in order to offer them the same level of protection and management so they are able to deliver their net gain objectives for the full 30 year period required.



39 Do you agree that the register operator should determine an application within a maximum of 28 days unless otherwise agreed between both parties?

No. this seems over-optimistic. Time will be needed to develop a suitably competent resource pool and it would be more prudent to adopt a range of determination periods based on certain criteria including complexity, area etc. to ensure that sufficient consideration is given.

40 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?

No. the list should also name the Regulatory Authorities which include an IDB where applicable.

41 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.

Yes but it should be a full plan not an outline plan with an alternative management arrangement specified for if the primary management arrangements fall through. Visibility and transparency of management plans should help to encourage high-quality management. It should also allow for greater opportunity to identify any management shortfalls and support earlier intervention to prevent deterioration if management is not delivering the required outcomes.

42 Do you agree that the UK Government should allow the register operator to:

a) set a fee for registration in line with the principle of cost recovery?

Yes.

b) impose financial penalties for provision of false or misleading information?

Yes and this will need to be carefully considered alongside any accreditation scheme as it is yet undetermined which “part” or parts of the BNG “process” will be accredited.

43 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?

No, it will be more prudent to adopt a range of appeal determination periods based on certain criteria including complexity, area etc. to ensure that sufficient consideration is given and any relevant authorities or other contributors to the process are able to provide supporting information if it is requested of them.

44 Do you agree with our proposals for additionality with respect to:

a) measures delivered within development sites?

Other. Any compensation measures, statutory obligation or policy compliance undertaken on-site within the development boundary should only count towards a “net zero” position. A starting point from which net gain of 10% should be calculated the point at which all other required measures have been accounted for otherwise the additionality objective may not be achieved.

b) protected species and off-site impacts to protected sites?



Yes

c) on-site impacts on protected sites, and any associated mitigation and compensation?

Yes

d) Achievement of River Basin Management Plan Objectives?

Don't Know. More definition is required around this. If for example, a developer identified that an eel pass was a recommended mitigation in local measures as part of an RBMP but the work had not been progressed due to financial constraints, then it would be beneficial for the developer to fund this work and claim the net gain. However, if a developer was creating a SUDS feature to attenuate surface run-off and provide filtration to reduce pollution in order to achieve WFD or nutrient neutrality compliance, this should not count toward BNG unless in addition to the required standard to achieve statutory compliance, habitat was created specifically for biodiversity net gain.

e) the strengthened NERC Act duty on public authorities?

Yes

45 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?

Yes both should be eligible

46 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?

Yes

47 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?

Yes. Land is finite and so multi-functionality should be encouraged wherever possible. There is rarely sufficient funding to deliver enhancements to individual environmental element on separate parcels of land so combining them will increase the opportunities for benefits to a number of environmental elements to be delivered where only one environmental element would have been targeted otherwise. We recognise that some small adaptations or enhancements to BNG measures could potentially help to deliver additional environmental benefits outside of improved biodiversity such as plant or tree species selection for improved phytoremediation or carbon sequestration or temporary flood storage capabilities.

It is for this reason that the BNG plans should demonstrate that climate change and carbon emissions have been considered in the development and management of the net gain habitats. It would be perverse to reward any carbon sequestration or emission reductions through stacked or combined payments on the same site without first considering the emissions associated with its development and management.

However 3 years is not likely to be sufficient time to determine any conflicts or benefits. 5 years or more would be more realistic and may depend on the type of other environmental outcome being reviewed alongside the BNG measures. If for example improved temporary flood storage was being delivered as part of BNG measures, then the impacts of flooding on the BNG measures could only be realistically be assessed following a flood event.

48 Are these proposals for statutory biodiversity credits sufficient to:



a) Ensure, when supported by suitable guidance, that they are only used by developers as a last resort

Do not know.

b) Mitigate the market risk associated with the sale of statutory biodiversity credits by the UK Government?

Do not know.

49 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?

Do not know

50 Do the principles for how we will set, and review credit price cover the relevant considerations?

Do not know

51 Do you agree with the proposed principles for credit investment?

Do not know.

52 Do the above project-level management, monitoring, enforcement, and reporting proposals seem sufficient, achievable, and not overly burdensome on practitioners, developers, or planning authorities?

Yes but regular policy evaluation would be prudent to ensure obstacles in the process are tackled quickly.

Consideration has to be given to how the Office of Environmental Protection should deal with complaints made against public authorities including IDBs and Local Authorities in respect of the failure to meet the objectives of any net gain site they are managing and / or monitoring, including their own and those of developers. Could the OEP take enforcement action against a Local Authority or IDB if a complaint was upheld regarding the discharge of their responsibilities in enforcing the monitoring and/or management requirements of a developers' net gain habitats, or their own management of a net gain site? This could present a complex situation and needs some definition of jurisdiction.

53 Do you think earned recognition has potential to help focus enforcement and scrutiny of biodiversity net gain assessments, reporting and monitoring?

Yes but practitioner experience in this regard will need time to develop.

54 Do the above proposals for policy-level reporting, evaluation and enforcement seem sufficient and achievable?

Yes but regular policy evaluation would be prudent to ensure obstacles in the process are tackled quickly.

Consideration has to be given to how the Office of Environmental Protection should deal with complaints made against public authorities including IDBs and Local Authorities in respect of the failure to meet the objectives of any net gain site they are managing and / or monitoring, including their own and those of developers. Could the OEP take enforcement action against a Local Authority or IDB if a complaint was upheld regarding the discharge of their responsibilities in enforcing the monitoring and/or management requirements of a developers' net gain habitats, or their own management of a net gain site? This could present a complex situation and needs some definition of jurisdiction.



55 Considering the data requirements set out above and in greater detail in Annex C:

a) is there any additional data that you think should be included in the Biodiversity Reports?

Yes, in section 1.a) there is an additional need to quantify the area of irreplaceable habitat and designated site loss, as well as the protected species number and / or their habitat extent loss not just the number of applications which include it. The same information should then be requested in section 1. b).

Yes, in section 1.a b) there should be a need to seek confirmation from an IDB, where appropriate, as a regulatory Authority that the measures and their management are not impacting flood risk management and water level management. This is particularly relevant for wetland features including SUDS to ensure that they are operating as intended. Whilst they may be delivering benefits for biodiversity, an assessment needs to be made as to whether they are causing other environmental detriment in anyway.

In Section 2, a) Qualitative, subsection i) Appropriate plan, strategy or policy document that enables use of the biodiversity metric's strategic significance multiplier valid for the reporting period". This should not be a yes or no question as this is mandatory as part of the Environment Act 2021 in terms of the LNRS and other strategies.

In Section 3, a) Qualitative, subsection i) Appropriate plan, strategy or policy document that enables use of the biodiversity metric's strategic significance multiplier valid for the reporting period". This should not be a yes or no question as this is mandatory as part of the Environment Act 2021 in terms of the LNRS and other strategies.

b) is there any data included here that should not be required as part of the Biodiversity Reports?

No.

Further Considerations:

ADA would welcome guidance on how any biodiversity credits or funding from their sales could be counted in applications for or otherwise integrated with FDGiA funding in terms of the environmental outcome measures and partnership funding calculations.

Furthermore, ADA recommends as a key principle that in reviewing net gain plans, planning authorities seek input from other stakeholders such as flood risk managers to ensure that the measures are compatible with, integrate with and support other environmental strategies.