



Department  
for Environment  
Food & Rural Affairs

# Nature recovery green paper: protected sites and species

March 2022

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## Contents

1. Foreword.....	4
2. Introduction .....	6
3. Protecting wildlife sites – on land and at sea.....	8
3.1 A new consolidated approach.....	10
3.2 Site management and protection – promoting scientific judgement.....	15
4. Delivering 30 by 30 .....	21
4.1 What should count.....	21
4.2 Delivering our commitments at sea .....	24
5. Protecting species.....	26
5.1 Consolidation and rationalisation.....	26
5.2 Tiered approach to species protection.....	27
6. Delivering nature recovery .....	28
6.1 Delivering for nature through public bodies .....	28
6.2 Financing nature recovery .....	31
7. Questions.....	33
7.1 Introductory questions .....	33
7.2 Consultation questions .....	34
8. How to respond.....	41
9. Confidentiality and data protection.....	41

# 1. Foreword

The UK is sadly one of the most nature depleted countries in the world. Over the last 50 years, much of the UK's wildlife-rich habitat has been lost or degraded, and many of our once common species are in long-term decline. As I set out in my Delamere Forest speech, we are putting a renewed emphasis on nature's recovery.

Following our departure from the EU, we are introducing a new framework of environmental targets under the Environment Act. The target to halt the decline in species abundance by 2030 will be our compass, which will deliver our commitment to leave the environment in a better state than we found it.

The task before us is significant, and clearly the current approach is not delivering the pace of change we need to see. So, we want to grasp the opportunity to look afresh at how to best protect and restore nature at home, and whether our existing regulatory, designation and delivery mechanisms will help us to deliver our species target and meet our commitments to protect 30% of land and sea by 2030.

Our environmental regulatory landscape for protected sites and species has become too complex. For example, the current landscape is a muddle of different types of site designations, grown up over decades, often seeking to achieve the same thing and quite often overlapping for largely technocratic reasons.

Over 80% of our Sites of Special Scientific Interest (SSSIs) by area are also designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). This SSSI 'underpinning' has provided the key delivery and management functions for terrestrial SACs and SPAs.

In some cases, SAC and SPA designations have focused on the existing SSSI resource, recognising that many SSSIs are also of international importance. In these cases, there has been little or no need to amend the existing site management despite this layering of additional designations. Similarly, in the marine environment there are domestic Marine Conservation Zones, SACs and SPAs.

The layering of these different processes and obligations distracts from our ability to focus resources strategically or holistically on actions on-site and pressures off site in a way that best delivers for nature. Alongside this, very few members of the public are likely to know what these terms mean, or why these sites are worth protecting. This element is crucial to public engagement with and support for this work.

We want to simplify and streamline environmental regulation, with a focus on delivering the legally binding targets now enshrined in the Environment Act.

We've also seen the legislative system create pressure to designate some areas where other designation types, or other actions entirely, would have made more sense for the outcomes we're trying to achieve.

We'd like to move towards a system where scientific judgement has a greater role, rather than action being led solely by legal process. We want regulators to be able to make expert judgements based on the best available science and evidence about what will improve the environment and support nature's recovery in local geographies.

In this paper, we aim to consider what we are trying to achieve with different designations. Could we instead have a single type of designation on land with different tiers of protection which would bring more consistency to the legal requirements, while enabling a tailored approach to better drive the recovery of each site? We consider the same questions for our approach to species.

This paper also explores how we can make space for nature in new areas and better reflect our goal of not only halting the decline in nature but restoring it. By simply letting go of the reins, we can give nature the space to return in relatively short timeframes. This will go hand in hand with our wider work with willing landowners through the financial incentives in the Landscape Recovery and Local Nature Recovery schemes.

So, we also aim to explore additional approaches that recognise that even if an area might not have any obvious so-called legally defined 'special features' today, it can still be identified and protected in ways that allow nature to reclaim it.

We've seen significant improvements in on farm biodiversity in areas like Hope Farm through better joined up environmental and agricultural thinking. Hope Farm is an example of how an integrated approach to farming and land management can benefit nature whilst producing food.

We will make it easier for more farmers to work like this through our Environmental Land Management schemes. We need to encourage more of these initiatives to enable nature's recovery. We want to achieve greater balance, with environmental considerations underpinning conversations about all kinds of sites.

Finally, we have an opportunity to look at how those tools we have available to us to protect and restore nature are used and by who. Much like nature regulation, the Defra Arms' Length Body (ALB) landscape has grown up over time and has elements of overlap.

We would like to see more flexibility and accountability given to those delivering our policy on the ground, so they are able to be more joined up and respond to the specific circumstances of particular sites and areas.

We want to explore an approach to decision making that enshrines democratic accountability more consistently whilst protecting regulatory independence where appropriate. We want to make sure that our ALBs are equipped to enable nature's recovery.

I recognise that there are things with our current system that are working, so we need to tread with care. But this is a critical opportunity to think through a coherent, modern approach to protected sites and species. The ultimate goal of this work is to better enable nature's recovery.

As we continue our work to build back better and level up our country, the health of our environment and access to it has never been more crucial. This paper sets out our proposals to get us on track to 2030 and beyond.

Rt Hon George Eustice MP, Secretary of State for Environment, Food and Rural Affairs

## 2. Introduction

Following our departure from the EU, the UK Government has set out a new framework of environmental targets under the Environment Act 2021 (the Environment Act). This includes an ambitious target on species abundance, with the objective to halt the decline in nature by 2030.

Further targets will shortly be set relating to matters such as water quality, species extinction and habitats. The UK Government has also committed to protect 30 per cent of our land and sea by 2030 ('30 by 30'), and to reach net zero emissions by 2050. Nature will play a crucial role in delivering our climate targets, particularly as a carbon sink, and in improving our climate resilience.

Two further Acts of Parliament passed by this Government create the powers to help deliver these ambitions. The Fisheries Act 2020 created a new system of sustainability objectives and the powers to manage our marine resources. The Agriculture Act 2020 creates the powers needed to change the way we support farmers and enhance the farmed landscape.

The Sustainable Farming Incentive will incentivise interventions that promote soil health and biodiversity, sensitive hedgerow management and Integrated Pest Management.

Local Nature Recovery will support interventions that make space for nature within the farmed landscape creating species rich grassland, planting trees around field boundaries, creating ponds and other water features and other habitats. And Landscape Recovery will support more ambitious projects leading to land use change, such as new woodland creation and peatland restoration.

This green paper outlines some key remaining areas where change is required to meet our nature recovery ambition. In particular, it seeks to do this by proposing changes to EU-derived domestic legislation to ensure that the new framework we have established works as intended, where we seek to:

- designate for nature's recovery, not just to protect what is already there, and help to address the drivers of nature's decline including habitat deterioration, loss and fragmentation, soil health, pollution, and the impact of non-native invasive species
- place science above process in determining conservation outcomes
- make space for calibrated judgements to be exercised on a case-by-case basis.

Our overall aim is to move to an approach which focusses more on outcomes and recovery. This should in turn enable us to build on the strategic approaches enshrined in the Environment Act which address issues upfront and early, while placing impacts and mitigations into the context of our nature recovery objectives for whole landscapes and catchments. These proposals are set out in the following chapters:

- chapter 3: 'Protecting wildlife sites - on land and at sea' considers whether we currently have effective designations and systems of management and protection in place to deliver nature recovery and address the drivers of nature decline
- chapter 4: 'Delivering 30 by 30' sets out how we intend to achieve our commitment to protect 30% of our land and sea by 2030 and ensure it delivers for nature recovery
- chapter 5: 'Protecting Species' sets out proposals to modernise wildlife legislation to support more effective protection and recovery of England's wildlife
- chapter 6: 'Delivering nature recovery' considers key elements of delivery necessary to achieve our nature recovery ambitions, including financing and a review into how to bring coherence to the functions of nature regulators.

We have just 8 years to halt nature's decline, and so we aren't waiting for the conclusions from this consultation to be implemented in order to put the other necessary measures in place to put us on the right trajectory.

This green paper is a stepping stone ahead of our 2023 Environmental Improvement Plan (EIP) update, identifying key proposals to set us on course to deliver the 2030 targets. Our 2023 EIP update will set out our comprehensive approach to nature recovery and how we intend to deliver our environmental targets under the Environment Act.

This will include action to restore our rivers and improve water quality and deliver cleaner air for all. Other reforms, in landscape protections following the Glover review, in our future farming schemes and across Government to the planning system, are being developed in parallel to this green paper and will play a crucial role in bringing about nature's recovery.

We recognise that while public funding in nature has grown significantly in recent years, and will continue to grow, it will not be enough to deliver our ambitious commitments on nature recovery alone. Nor should it be the only source of investment when business also has an important role to play, particularly when there is a growing interest from private markets already.

So we need to work with the private sector to design an economic and regulatory system that ensures private funding and finance flows away from harmful activities and actively encourages investment in nature-positive activity as the most prudent option for delivering both long-term environmental and commercial outcomes.

The policy areas within scope of this green paper, except for some of those in the marine environment, are devolved in Scotland, Wales and Northern Ireland, and so the focus in policy change is on England. But in developing our policies and proposals, we will continue to work closely with the devolved administrations in Scotland, Wales and

Northern Ireland on our shared environmental objectives and in order to improve environmental outcomes across the whole of the UK.

The consultation period for this green paper runs for 8 weeks from 16 March until 11 May 2022. Your answers to the questions in the green paper will help inform how we develop and deliver the vital work of nature recovery. We will run technical workshops throughout this consultation to allow a detailed discussion of the key proposals and actions.

Once the consultation period closes, we will provide a full written response to this consultation.

### **3. Protecting wildlife sites – on land and at sea**

The UK was among the first countries to introduce a system of designated sites in 1949. Since then, other overlapping statutory and non-statutory systems have developed to sit on top and beneath each other.

These systems seek to reflect the diversity of habitats and species which need protection and their importance at a local, national, or international level, but even with them in place nature has declined, with just 38% of the area of our protected sites on land assessed to be in good condition.

Our current array of protected site designations is a complex set of legal provisions which has developed in an ad hoc way over decades, stemming from both domestic and EU legislation.

Under the National Parks Act 1949, we have National Nature Reserves and Local Nature Reserves. Part 2 of the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) significantly bolstered the management and protection of Sites of Special Scientific Interest (SSSIs) (also conceived under the 1949 Act).

The EU's Wild Birds Directive created a new designation of Special Protection Areas (SPAs) both on land and at sea. The EU's Habitats Directive then led to the creation of Special Areas of Conservation (SACs) for habitats and species other than birds on land and at sea.

The Marine and Coastal Access Act 2009 created the concept of Marine Conservation Zones (MCZs) and a network of marine conservation sites. There are then other designations made under international conventions, such as Ramsar sites (wetlands of international importance).

Many areas designated as SACs or SPAs were already notified as SSSIs and therefore there was little impact on existing site management following designation. Where there

was no existing designation, SACs and SPAs were simultaneously made SSSIs to gain the enforcement or permitting powers needed to manage them.

The levels of protection and the processes of assessment for SSSIs differ from those for SACs and SPAs. The array of different terms also has an impact on wider public understanding and engagement.

Taking all of this into account, the Government is interested in consolidating the protected sites we have into a simpler legal structure to deliver better environmental outcomes which are based on the best available science and evidence.

This approach could involve having a single legal mechanism for terrestrial designation and a single legal mechanism for marine designation, but within each having the possibility of varying levels of protection which could be site or species specific.

This would enable strict protection of certain habitats or species in a single protected site, as well as more general protection for other features or habitats which might affect the integrity of the site. This would also enable a tailored approach to delivering the recovery of protected sites.

The challenge is to place nature recovery at the heart of protected sites. Currently there is a disconnect between the historical purposes for which different types of sites were designated and our ambition to halt biodiversity loss by 2030 and protect 30% of our land and seas.

A more ecologically coherent but less complex network of sites with a clear purpose could offer multiple benefits and ensure the network better addresses both nature recovery and climate change.

Consolidating and modernising the law governing protected sites could:

- enable sites to be designated for broader purposes which promote nature's recovery and accommodates climate change, for example including creating new networks of habitat
- enhance the protection of the sites themselves by ensuring greater consistency on how the impact of activities on protected sites is assessed and what is permitted or prohibited
- make it easier for landowners, farmers, businesses and the public to understand and work within it ensuring better compliance
- make it easier to engage the full range of stakeholders at local level in site improvement plans to deal with issues such as pollution, soil health, invasive species and water quality
- make it easier to have a landscape level approach to nature recovery, including working to address biodiversity loss on and off protected sites
- help to target funding more strategically
- enable improved monitoring and better feedback of results into future decision making.

Any review of legislation relating to protected sites will maintain current levels of protection for the network as a whole and its individual constituent sites, and be consistent with the UK's international commitments. These include the UK's contribution to the Bern Convention's Emerald Network of protected sites and our obligations under the Convention on Biological Diversity, which includes those currently being negotiated as part of the Post 2020 Global Biodiversity Framework.

## 3.1 A new consolidated approach

### 3.1.1 Terrestrial sites

Different degrees of reform could be considered, from less significant changes to provide a clearer approach through to more fundamental structural reform. We are considering the concept of 'highly protected' and 'protected' terrestrial sites. These new designations could replace existing SSSIs, SACs and SPAs, and ensure we meet or go further than our international obligations require, such as, for Ramsar sites.

The overall aim of such reforms would be to better enable nature's recovery through a less prescriptive system which allows the right actions to be taken in the right places.

There could be a number of different options:

#### Option 1

Reform involving a tiered approach emulating the approach taken in the marine area for Highly Protected Marine Areas (HPMAs) and Marine Protected Areas (MPAs) (see section 3.1.2 for further details).

'Highly protected' sites: In a similar way to HPMAs, these sites could be largely focused on the protection and recovery of terrestrial ecosystems (for example, nature reserves). Protection would be stronger than currently applied to existing SACs and SPAs as the degree to which other economic activity is compatible with that objective may be very limited. However, highly protected status would only likely be applied to a limited number of sites of the highest international importance.

'Protected' sites: These sites could be managed for their national or international biodiversity or geodiversity importance as SSSIs, SACs and SPAs are now and will make up the bulk of the sites network. As now economic and other activities would need to be sustainable in relation to the conservation objectives of those sites.

#### Option 2

Lighter touch reform could focus on streamlining and merging existing site designations that operate similarly (SACs, SPAs, and SSSIs). For example, renaming them as 'highly protected' and 'protected' using agreed criteria.

'Highly protected' could apply to those areas of the existing sites network of international biodiversity or geodiversity importance. These sites would be managed and protected in a similar way to SACs and SPAs, although some streamlining will be necessary. This would diverge from the approach taken on HPMA definition which would need consideration and managing.

'Protected' could apply to the remaining areas of the sites network, these sites would be managed and protected in a similar way to SSSIs.

### **Option 3**

The existing system could be simplified with consolidation of existing sites into one single type of protected site designation. This could reflect existing sorts of protections whilst offering an opportunity to convey the value and benefits of these sites more easily to people. This single designation could provide for a range and scale of protections for the respective site features and ecosystems tailored to the circumstances within the specific site.

Existing rules, for example, already identify (and offer some additional protection to) certain priority habitats and species which are at particular risk and where a significant portion of their natural range falls in the UK (for example, blanket bogs, which are found primarily in the UK and Ireland).

Consideration would need to be given to ensuring the right scale of protection for both the feature and its associated functional ecosystem. Exploring such scalable levels of protection within one type of designation could help support recovery through higher protection levels where needed. It could also offer scope to adapt sites more easily to climate change (for example, where features may be expected to move into or out of a site in response to changing climatic conditions) or enhance protections to areas of particularly significant nature value as described at 3.1.5.

### **3.1.2 Marine sites**

As with terrestrial sites, the marine protected area (MPA) network comprises several designation types (SACs, SPAs and MCZs) and protects seabirds, habitats, mobile species and geological and geomorphological features. In addition, we are piloting a number of Highly Protected Marine Areas (HPMAs) in English waters, which will focus on full biodiversity recovery and have the highest protection in our seas.

Although the designation processes and site selection criteria for MCZs, SACs and SPAs are different, once in place the MPAs are managed in a very similar way, irrespective of their designation type, to achieve the same desired outcomes for nature.

With the MPA network substantially completed, we are confident that despite the multiple designation types, the MPA network is ecologically coherent. Once we have finished putting appropriate management measures in place for all sites, we will also be able to meet our objectives for protecting important habitats and species.

However, we recognise that the range of marine designation types can cause confusion. As with the terrestrial network, there may be benefits to consolidating designations and we want to explore this.

This could mean moving to a single designation type with a range of protection levels (such as option 3 in section 3.1.1) or formalising our current policy approach of MPAs and HPMAAs into 2 designation types (similar to option 1 in section 3.1.1). Any reform of designations must not impact the vital work to ensure MPAs have the management required to enable them to deliver their conservation objectives.

### **3.1.3 How we designate sites**

The Climate Change Committee in its Third UK Climate Change Risk Assessment Technical Report identified multiple risks and opportunities from climate change impacting on protected sites, leading to subsequent species' range shifts and spread of invasive species.

It is likely to become increasingly difficult to accommodate this impact on the distribution and abundance of species and habitats unless we adapt our designation and management processes.

A simpler and more ecologically coherent network of protected sites offers the prospect of wider reform to reflect other UK Government priorities for both the climate and for better governance. It also offers an opportunity to ensure the various duties and accountabilities are equally consistent and coherent and they reside in the right place.

Historically, notification of SSSIs has been vested in the nature conservation body, now Natural England. All other types of statutory designations provide for final decisions to rest with the appropriate authority. In England that is the Secretary of State.

The intention is to have one consistent decision-making process as part of a rationalised site protection system. One option could be for it to rest with the appropriate authority informed by the scientific advice of its statutory advisors in a similar way to how SACs and SPAs are currently designated. Any new decision-making process will be consistent with our existing international commitments and be fully transparent with regard to the decisions taken.

### **3.1.4 Nature recovery sites**

In recent decades, the legal designation of protected sites and our approach to their management has been based on the assessment of habitats or species that are still present. It has been intended that designation would create the legal tools needed to restrict certain activities with the hope of seeing sites recover to a more favourable condition and to avoid further decline. It is a strategy which, overall, has not been particularly successful.

Although it is likely that the approach has stemmed or moderated the speed of decline, it has not really created the possibility to reverse decline nor to make new space for nature. The decline of nature outside of protected sites has continued and external pressures have had impacts on protected sites themselves.

While there will always be a role for more defensive, site-specific protections, the Government believes that in order to see a genuine national recovery in species abundance, the old approach will not be sufficient.

In considering a more holistic approach to nature recovery and making space for nature, we can also look to better support those species which have wide ranges and are not necessarily dependant on specific habitats under protection at present, like the hedgehog.

We need to make space for nature in new areas and in wildlife corridors that connect with one another. We need a financial framework to incentivise some changes across the farmed landscape.

We also need the ability to make more versatile and faster designations with willing landowners and to make use of new powers such as conservation covenants, and older but simpler designations like National Nature Reserves, to enable us to pursue our 2030 species abundance target with pace and agility.

This is why we are taking forward the implementation of a Nature Recovery Network with willing landowners using a range of public and private financial incentives including the Landscape Recovery and Local Nature Recovery Schemes, Biodiversity Net Gain (BNG), and the Nature for Climate Fund.

In some cases, new contracts under Conservation Covenants could also bring more land into nature positive management with willing landowners.

At the core of the network will be our existing protected sites and existing areas of high value for biodiversity, including Local Wildlife Sites, which we will strengthen by creating and restoring new habitat to provide both the space and ecological connectivity across the country that we know species rely on to thrive.

We are also considering how we might better reflect our nature recovery ambitions in our policy approach to sites and habitats, and whether a new sort of designation for nature's recovery should be explored.

We are in early stages of our thinking on this proposal and so seeking views on what could qualify. We are seeking views on:

## **Identification**

We have already set out our early vision for Local Nature Recovery Strategies, which will establish locally agreed priorities for nature and map both areas of existing importance for nature and areas with potential for nature recovery. These strategies could be used to identify potential 'Nature Recovery' sites for formal consideration through a following

process. We would expect such sites to play an important role in developing the Nature Recovery Network.

## **Safeguards**

The Department for Levelling Up, Housing and Communities (DLUHC) are also proposing reforms to the planning system, working closely with Defra on relevant aspects. Planning authorities will already need to ‘have regard’ to the areas identified by Local Nature Recovery Strategies under the current planning system and Government will provide guidance to explain what this means in practice. Government has made it clear it wants the reformed planning system to support the implementation of Local Nature Recovery Strategies and Biodiversity Net Gain measures to capitalise on their potential and ensure the new planning system can play a proactive role in promoting environmental recovery and long-term sustainability.

## **Management**

We also know that some of our approaches to conservation are by necessity reliant on procedures and management tools to maximise outcomes and protect features. However, with approaches such as rewilding, this type of site management may not be best suited and may in fact restrict activities. Such a site could therefore be less prescriptive in management measures, whilst still encouraging recovery actions, to enable a more holistic approach.

## **30 by 30**

Given the criteria we establish in chapter 4, we would have to consider whether such sites would technically ‘count’ towards 30 by 30. Our early thinking is that they should if their specifications are appropriate.

## **At sea**

In our marine environment, we are facing increasing and competing pressures on a finite space. Reconciling those pressures will require creative thinking about opportunities for co-location and space sharing in order to maximise benefits for all sea users while also protecting the marine environment. For example, identifying where and how offshore wind sites can operate in harmony with sustainable fishing practices and still enable us to meet our goals for the marine environment.

Unlocking those opportunities will require engagement with all users of the marine environment, including to test if the concept of nature recovery sites on land could inform our approach at sea.

### **3.1.5 Recognising alternative forms of nature recovery on land**

In recent years alternative ‘rewilding’ approaches to biodiversity conservation and nature recovery have been developed on land. We’ve seen huge successes in projects like Knepp, where restoring dynamic natural processes saw nature return within a decade.

These areas can act as reservoirs for nature conservation and contribute to the Nature Recovery Network, with Local Nature Recovery Strategies helping to ensure ecological coherence between existing and new areas.

Such areas may not meet established selection criteria for designation despite their benefits for biodiversity, because they are less likely to follow traditional conservation approaches. So, we often do not recognise them for the value they can bring in simply making space for nature.

Equally, there is a concern that designating such sites would require them to be managed in ways which limit or inhibit the opportunity for other species and habitats to flourish. Providing renewed flexibility in what areas could be designated in the system, and in the prescriptive requirements once designated, could help further protections for areas that have particularly significant value for nature recovery.

### **3.2 Site management and protection – promoting scientific judgement**

The old EU directives such as the Habitats Directive had good intentions, but their interpretation has often led to high levels of legal uncertainty which can be corrosive to good governance. As Lord Justice Sullivan said in 2008 “the provisions in the Habitats Directive are intended to be an aid to effective environmental decision making, not a legal obstacle course”.

Process has become king and crowded out scientific judgement on individual cases. Whether or not a certain activity should be altered or restricted is guided as much by concerns about possible future legal challenge over decision making, as it is by the actual impact of the activity.

The lack of certainty for decision makers about the level and type of evidence required, as well as the precise meaning of some generic terms such as ‘plans’ and ‘projects’, has led to those concerns. This, in turn, has led to a risk averse situation where decision makers and statutory nature conservation bodies are preoccupied with litigation risks on activities which are subject to the full Habitats Regulations Assessment (HRA) process.

However, the current process lacks the tools necessary to incentivise change on the main pressures and threats affecting a site, some of which are not subject to HRA.

The Habitats Regulations set out in simple terms what is required to protect designated sites. Over the years, the courts have been asked to determine how these terms should be interpreted, and process gaps filled.

Therefore, the UK Government wants to fundamentally change the way the assessments under Habitats Regulations work to create clearer expectations of the required evidence base at an early stage, for example, building on the concept of a site improvement plan.

The approach should focus on the threats and pressures both on and off the site that, when addressed, will make the greatest difference to the site and help drive nature recovery whilst enabling truly sustainable development – addressing challenging issues such as nutrient neutrality and marine development.

Assessments will better identify and manage areas of scientific uncertainty. Outcomes for each site will be regularly monitored, and actions taken to address failures in assessment and mitigation. It should then also streamline the process for addressing other impacts, such as by avoiding duplication and excessive burden, whilst ensuring a consistent level of protection.

Finally, the UK Government wants to make sure that there is space for individual evidence-based judgement by an individual case officer on an individual case. The scourge of modern government has been the obsession with uniformity of procedure, which has led to a scenario where the consistency of the process to avoid litigation risk has become elevated above the quality of decision making.

Freed from old legal structures, we must take the opportunity to re-establish a legal framework that is as clear and precise as possible, enabling individual case officers to exercise their expert scientific judgement and have sufficient clarity to be confident their decision will not be constantly subject to legal challenge in relation to process.

Guidance from the UK Government should relate to the policy outcomes we seek whilst recognising the importance of due process in arriving at reasonable and rational decisions in a consistent and clear manner.

### **3.2.1 Assessment and consents**

The Habitats Regulations Assessment (HRA) process aims to inform decision-making regarding the protection of conservation areas of international importance from any harm that may arise from activities and development (for example, new homes and major infrastructure).

Advice from the relevant Statutory Nature Conservation Body (SNCBs), for example, Natural England, helps competent authorities such as local councils to determine whether a plan or project on its own or in combination with other projects is likely to significantly harm the designated features of a protected site. Regulators can only authorise an activity if there is confidence there would be no adverse impact on the site.

In 2021, the Secretary of State appointed a working group, chaired by Lord Benyon, to explore options to improve the HRA whilst maintaining or enhancing the level of protection. The group listened to a range of HRA experts and 2 thematic concerns emerged: improving the current process and taking a more strategic approach.

Importantly, the potential for protected sites reform outlined in this chapter provides the opportunity to achieve a more integrated approach to protecting sites. The group has concluded some key areas for further exploration:

- a single reformed assessment process which complements proposals for simplified designations set out in section 3.1
- a reformed decision-making framework aimed at making the process clearer and more certain
- a more strategic approach to mitigation of existing and new pressures on protected sites.

Consolidating existing site designations into a much simpler set of designations with clarity over the importance of these sites, nationally and internationally, would allow for a single coherent assessment to be applied for site protection. This would remove some of the complexities derived from having a number of assessment regimes on SSSIs and sites and provide greater certainty and consistency for all users.

This would be supported by a clearer decision-making framework aimed at addressing process and data issues, including the earlier consideration of alternative ways to implement a plan or project and mitigation measures and creating more reasonable and clearer expectations of the required evidence base.

To provide the flexibility necessary to respond to climate change, the ecological connectivity and coherence of protected sites must be better supported by strategic approaches when options to avoid impacts are not possible, including through increased use of mitigation and compensation designed to maintain habitats and species strategically across the protected sites network.

The full conclusions of the HRA working group have been published alongside this consultation on the Citizen Space page.

These considerations could equally apply to improvements to assessment processes for other protected sites on land and sea. Consideration will need to be given to whether a more modern and consistent regime is required to inform the regulation of potentially damaging activities on all protected sites.

With proposed changes to the designation of sites, it is time to consider if unification and simplification of processes and regulations would help meet our ambitions for protected sites whilst maintaining the same high level of protection for designated sites. We need to ensure that we have regulatory and decision-taking frameworks robust enough to deal with the scale of the challenges we're facing.

### **3.2.2 Addressing the legacy impact of dormant SSSI consents**

One particular issue with the existing system for regulating non-conservation activities is that many SSSI consents issued in the past by Natural England's predecessor bodies permitting certain land management activities might, if exercised, cause damage or deterioration to some protected sites.

Although a significant majority of these consents are dormant, they must be considered in the assessment of new activity and thus have the potential to adversely influence future decisions.

Consents issued many years ago were done so under less protective legislation and so they may not reflect current scientific knowledge and available evidence, take into account the effects of climate change or align with modern regulatory standards.

Currently, Natural England only has limited powers to change such consents in order to prevent harm and these can only be modified or revoked on a case-by-case basis and may require financial compensation.

### **3.2.3 Management of protected sites**

The current purpose of the HRA and SSSI consenting process is to stop protected sites deteriorating as a result of the impact of new activities. We want a future protection process which can also support the management of the site and nature recovery.

We want to look at the problems affecting these sites more strategically and in a more tailored way. One option is a greater role for Site Improvement Plans (SIPs). SIPs have been developed as part of the improvement programme for England's sites as a planning tool for identifying the actions needed on each site to address existing pressures and threats impacting their conservation status.

There are currently 267 SIPs covering 338 sites, covering over 80% of the SSSI series by area. SIPs identify the actions that need to be taken by a wide range of bodies (including private, public and voluntary) to address priority measures to improve sites.

Nonetheless their uptake as the basis for action has been limited. Reform offers an opportunity to consider the place of SIPs in managing sites into good condition, including the possibility of making the concept statutory.

There is a range of documentation which describes the outcomes for a particular site and how these can be achieved, principally its conservation objectives and associated advice. These could be consolidated with SIPs into holistic outcome plans to drive site recovery and in turn reinforce broader strategic approaches introduced in the Environment Act, such as Protected Site Strategies.

### **3.2.4 The Habitats Regulations: the power to amend the general duties**

Currently Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), sets out duties for relevant public authorities to exercise their nature conservation functions in compliance with or with regard to the requirements of the Habitats Directive and the Wild Birds Directives (the Directives), but these requirements are not explicitly set out anywhere.

This has provided scope for differing interpretations and disagreement, as well as the potential for legal challenge.

The Environment Act confers on the Secretary of State a regulation making power to amend the 'general duty' under Regulation 9 to better deliver our domestic and international biodiversity goals within the framework of the Environment Act including the UK Government's ambitious targets for nature. It allows for the refocusing of Regulation 9 duties towards our domestic framework supporting delivery of our biodiversity priorities, without reducing the level of environmental protection provided.

Establishing requirements on public authorities which reflect and bolster the delivery of our domestic and international biodiversity targets, as required in the Environment Act and elsewhere, instead of the Directives, will be a necessary and important part of reform. As a first step we have published the list of requirements that reflect current obligations alongside this consultation on the Citizen Space page.

### **3.2.5 Management at sea**

The HRA is a requirement of Part 6 of the Habitats Regulations (which applies out to 12 nm), but closely related processes exist at sea in other legislation applying to the UK. This includes: HRA under the Conservation of Offshore Marine Habitats and Species Regulations 2017 (applied between 12 to 200 nm) and the consideration of effects of proposed activities on Marine Conservation Zones (MCZs) prior to authorising them (under the Marine and Coastal Access Act 2009).

This legislation together manages development in MPAs, ensuring effects on MPAs are considered prior to authorising them. We are interested in exploring whether these processes can deliver improved outcomes for the MPA network and better support our objective of protecting important marine habitats and species, while supporting Government objectives to deliver the infrastructure necessary to reach Net Zero.

### **3.2.6 Environmental Impact Assessments (EIA)**

It is important for decision-makers to understand the environmental impacts of certain projects and activities, including those not affecting protected sites.

Leaving the EU provides us with the opportunity to create a more streamlined and effective approach to environmental assessment to better support nature recovery. As such, the Government is committed to reforming both Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) processes. This will require primary legislation, and the development of a new framework of regulations across the many existing Government EIA regimes that ensures environmental considerations are embedded effectively in decision making at the earliest possible stage.

Our reforms will ensure environmental protections are more relevant; and more closely monitored and enforceable with a stronger focus on delivering the outcomes we

need. The Government expects to bring forward proposals for the new legislative framework in due course, and to engage users of the system directly in its design.

Defra has 5 EIA regimes under its jurisdiction:

1. marine works
2. forestry
3. agriculture
4. land drainage
5. water resources.

As we now have the opportunity to improve the scope and process of these regimes, we could better manage environmental pressures, deliver Environment Act targets and better environmental outcomes, and enable sustainable development.

These regulations, or similar EIA regulations, are also applied by the devolved administrations, and therefore careful consideration will be given to any potential effects on these duties, with full evaluation following this consultation.

### **3.2.7 Establishing priority areas for woodland creation**

Afforestation projects, of a certain scale and location, are currently required to seek a determination under the forestry Environmental Impact Assessment (EIA) regulations. EIA determinations are necessary to ensure that projects are appropriately consented and conditioned, and any unintended environmental impacts have been mitigated against.

However, they can be resource and time intensive. One option, to ease this administrative burden for those wishing to undertake afforestation projects, is for the Forestry Commission to undertake an Afforestation Strategic Assessment – a landscape scale scoping project that assesses the relevant features likely to be affected by afforestation in order to establish preferred low risk areas for afforestation.

Establishing preferred low risk areas for woodland creation would involve building upon existing policy parameters for defining acceptable development and advanced survey and mapping to improve mapping of “low risk” areas where afforestation is much less likely to have a significant effect on the environment.

This would require time and resources to develop an agreed and consistent approach and to work with local stakeholders to gather relevant local information. This builds upon the commitments made in the England Trees Action Plan (ETAP), published in May 2021, to plant the right tree in the right place for the right reasons.

Afforestation projects within those areas identified as ‘low risk’ would be ‘green-lit’ and would not require an individual EIA or equivalent impact assessment (except in exceptional circumstances). This would reduce the time and resources required to kick-start afforestation projects and encourage strategic placement of new woodland where it would pose the least risk to surrounding habitats.

## 4. Delivering 30 by 30

The UK Government committed to protect 30% of land and sea in the UK by 2030 (30 by 30), ahead of signing the international Leader's Pledge for Nature in 2020. This chapter sets out our proposals for delivery over the next 8 years in more detail, how we will expand and enhance our protections on land and sea, and how these can contribute to our nature recovery ambitions.

On land, 28% of the UK and 26% of [England is currently designated as a protected area](#). We recognise, however, that many of these areas are not delivering for nature as they could.

So, we need to make sure we have a coherent ambition for what should be considered as protected for 30 by 30 purposes, which truly delivers for nature. Alongside this, we know we need to make space for nature's recovery in appropriate areas across the country, not just in the 30%.

Our Nature Recovery Network (NRN) will be crucial to the delivery of 30 by 30, alongside the reforms proposed in the Government response to the Landscapes Review and Environmental Land Management schemes. In particular, the NRN will increase connectivity through creating and restoring additional habitat including wildlife corridors and stepping stones between sites and buffers around them.

In turn, land protected for 30 by 30 purposes will form the core of the NRN, being our most valuable places for biodiversity. The activities to achieve both 30 by 30 and the NRN will be complementary and include spatial prioritisation, funding and incentives, and partnerships with both the NRN and 30 by 30 aiming to deliver the same objective: improving biodiversity.

At sea, we already have 38% of UK seas and 40% of England's seas within MPAs. In order to deliver 30 by 30 at sea, we must now focus on ensuring that those sites are managed effectively, and deliver for biodiversity, including by putting in place management measures for offshore MPAs and the piloting of HPMAs.

### 4.1 What should count

For our protected areas to contribute to 30 by 30, we know that they need to be effectively managed and deliver positive outcomes for biodiversity. To this end, we will develop a framework based around a set of criteria to assess whether protected areas and any 'other effective area-based conservation measures' (OECMs) are contributing to nature recovery.

This will enable us to better understand where more action and investment needs to be targeted to bring these areas up to a sufficient standard.

Areas contributing to 30 by 30 must:

- have a clear purpose of conserving biodiversity (although this may not be their primary purpose)
- have long-term protection and/or management in place that works against adverse pressures on the area's biodiversity objectives, or actively results in improved outcomes for biodiversity
- deliver the appropriate and necessary biodiversity outcomes. These will be measurable, monitored and can be used to assess the ongoing improvement in these areas.

We expect that all current protected site designations and any new site designations that may be created through a consolidated approach to sites (see section 3.1) should contribute towards the 30% target by meeting these criteria. We would also expect National Nature Reserves, intended to secure land as a nature reserve for the long-term, to contribute.

Similarly, future Landscape Recovery projects and areas under conservation covenants or long-term environmental land management agreements may contribute towards the 30% where they meet these criteria.

Our current and future National Parks and Areas of Outstanding Natural Beauty (AONBs) could play an important role in achieving our 30 by 30 commitment, but we know that they must do more to drive the recovery of nature. Under their current statutory purposes, level of protection and management, it is our view that they cannot be said to contribute towards 30 by 30 at this time.

Despite this, we plan to use the framework set out above to help us to identify and prioritise where reform and investment is most needed, recognising that we need to make space for nature's recovery, not just to protect what is already there.

Using this consistent set of criteria will incentivise change and strengthen the effectiveness of their management for biodiversity. We will implement proposals set out in the Government's response to the Landscapes Review and target appropriate funding from environmental land management schemes.

Our expectation is that, should the appropriate reform, investment and management be implemented by 2030, National Parks and AONBs will contribute more towards the 30%.

#### **4.1.1 Other Effective Area-Based Conservation Measures**

We also want to explore how land that is delivering for biodiversity outside of our designated protected areas can play a role in contributing to our 30 by 30 target, where they meet our framework criteria.

Other Effective Area-Based Conservation Measures (OECMs) are a way of recognising areas for which nature conservation is not necessarily the primary management objective, but where nature is nevertheless effectively conserved.

They are defined internationally by the Convention for Biological Diversity (CBD), with guidance on recognising and reporting OECMs available from the International Union for the Conservation of Nature (IUCN). Currently, there are no OECMs identified in England, but they could, for example, include ancient woodland that is not already protected.

The broad criteria for an area to be identified as an OECM are:

- the area must not be an existing designated protected area (in England, this would exclude those areas comprising [the protected area biodiversity indicator](#)) and must have geographically defined boundaries
- there must be sustained governance and management
- the area must have biodiversity values for which the area is considered important
- the sustained governance and management must deliver the effective and long-term in-situ conservation of biodiversity.

Given these international criteria, we would expect that any OECMs reported in England and meeting the criteria would, by extension, meet the framework we have set out in section 4.1.

OECMs would not be designated as protected under relevant national legislation, but sustained governance and management would be in place to deliver the conservation of biodiversity.

The combination of formally protected sites and areas which are recognised to have value but where there is more flexibility in the measures that can be put in place to recover nature will be key to delivering our 30 by 30 commitment in a way that genuinely protects and improves the natural environment.

#### **4.1.2 Preserving the nation's public forests for biodiversity**

Woodland habitat, which covers 10% of land in England, will play an important role in driving the recovery of nature. Approximately a quarter of all species of principal importance for conservation in England are associated with native woodland habitats and trees.

The nation's forests encompass around 250,000 hectares of publicly owned land, the majority of which sit outside of existing protected areas and could make an important contribution to achieving our 30 by 30 target.

We are proposing to strengthen our commitment to ensure no net loss in the size of the nation's forests to secure these valuable habitats for future generations. This will build on our international leadership at COP26 and help deliver our commitments made under the Glasgow Leaders' Declaration on Forest and Land Use at home, which saw 142 countries agree to halt and reverse forest loss and land degradation by 2030.

Effective management is vital to ensure the nation's forests deliver on the wide range of benefits woodlands can provide, including mitigating and adapting to climate change, promoting public access to green spaces and restoring biodiversity. The UK Government

forestry body's statutory duties on forestry currently prioritise timber production and the conservation of natural beauty areas.

Regardless of future institutional arrangements we must ensure these duties better reflect the environmental and social importance of woodlands, and we are considering introducing a new duty to protect nature and promote biodiversity, alongside expanded powers to deliver these duties. Together with strengthening protections, these reforms will ensure nature is effectively protected, recovered and enhanced within the nation's forests.

Planting more trees in England will be key to the UK Government's plan to achieve net zero greenhouse gas emissions by 2050. Trees and woodlands will also play an increasingly important role in supporting green recovery by stimulating markets for wood products as renewable resources. This is why the UK Government has committed to increasing tree planting rates across the UK to 30,000 hectares per year by the end of this Parliament.

Good forestry practice and permanency policies set by Keepers of Time and the Open Habitats Policy 2010 ensure that woodlands have strong protection. The Forestry Act prevents illegal felling and deforestation, and essentially ensures most new woodland planted is permanent by subjecting the owner to a requirement to restock in the case of felling.

In some cases, the permanency afforded to woodland by the strength of our controls can prove inflexible. This can discourage some landowners from undertaking tree planting, particularly those considering changing the use of agricultural land to woodland. Agricultural businesses interested in using silvicultural practices such as short rotation forestry, short rotation coppice, agroforestry or orchards could all benefit from a level of non-permanence.

Reducing the regulatory burden in these specific cases may encourage land managers to consider afforestation by allowing them to trial woodlands as part of their business model without making this permanent commitment. This would help to promote these innovative forestry practices and would lead to an uptake in overall woodland creation rates. Therefore, we are considering allowing trees and woodlands to be planted on an impermanent basis in a wider variety of circumstances.

## **4.2 Delivering our commitments at sea**

38% of UK seas and 40% of England's seas are within MPAs. Designation was the first step, and by 2024, we will put byelaws in place to ensure all England's MPAs are effectively protected. This will ensure that they can meet the 30 by 30 criteria outlined earlier, with effective protection.

In addition, we are piloting HPMA's in English waters to allow biodiversity to fully recover to as natural a state as possible.

Over the last few years, we have worked with the Inshore Fisheries and Conservation Authorities (IFCAs) and Marine Management Organisation (MMO) to put in place management measures to protect sensitive features from bottom towed fishing gears in 98 MPAs in our inshore waters.

Alongside continuing to complete management measures for inshore sites, we are now turning our attention to offshore waters. A new byelaw power for the English offshore introduced by the Fisheries Act 2020 has enabled the MMO to begin an ambitious 3-year programme for assessing sites and introducing byelaws, where necessary, to manage fishing activity in all English offshore MPAs.

Restrictions on activity will have impacts on business and livelihoods and we will need to work with stakeholders as we put management measures in place. These measures are in addition to the planning and licensing regimes that protect our MPAs and our seas, ensuring essential activities and uses such as dredging for aggregates and infrastructure development essential to reach Net Zero can be delivered alongside other uses and conservation objectives.

We cannot achieve the level of nature recovery we want with site-based protections alone: we need to look after nature across our entire sea area. The UK Marine Strategy (UKMS) provides the framework for assessing, monitoring, and taking action across our seas to achieve or maintain Good Environmental Status (GES).

It is also the foundation for the collaborative approach we take with other countries of the north-east Atlantic through the OSPAR (Oslo-Paris) regional seas convention.

The strategy is formed of 3 parts (each reviewed on a 6-yearly cycle):

1. UKMS part one, which assesses the status of UK seas and sets objectives and targets for GES
2. UKMS part two, which sets out our UK marine monitoring programmes
3. UKMS part three, which sets out our programme of measures.

We want to enhance and streamline the existing delivery programme and improve implementation for the next reporting cycle, starting in 2024. In particular, we are considering:

- replacing the 6-yearly publication of our monitoring framework (part two) with a live online repository. This would be coordinated with the devolved administrations and updated as changes occur
- refining our monitoring programmes to develop our understanding of the efficacy of measures put in place
- integrating UKMS part three with part one, creating a stronger link between the assessment of UK seas and the actions we are taking to improve their state. This would strengthen accountability and remove the current time lag between publication of parts one and three. This would be published every 6 years and include status, targets and measures for each descriptor.

The next UKMS part one assessment will be published in 2024 and this will tell us where we are in terms of meeting GES. This is also the time we will set new targets for the next cycle of the UKMS. Targets must be realistic and enable us to drive action to deliver and maintain GES.

To improve visibility of specific trends, improvements or setbacks in the individual descriptors and to allow a more focused targeting of measures, our ambition is to put greater emphasis on targets for each descriptor.

Currently, the high-level 2020 GES target is a compound target of 15 descriptors and is only reached when all 15 descriptors meet their individual targets. This masks progress for individual descriptors.

We propose splitting the high-level GES target into individual descriptor level GES targets and assigning specific timelines for achieving GES for each component.

## 5. Protecting species

Protections for species are a crucial part of our toolkit for meeting our nature recovery ambitions. At present, species protections are delivered like our habitat protections, through legislation which has developed in a piecemeal fashion and strongly influenced by EU Directives, so not tailored to our specific species and environment.

We have the opportunity to support nature recovery through producing modern and cohesive legislation on protected sites and species, tailored to British biodiversity. We want to make wildlife protection and management clearer, less complex, and more responsive to new evidence and environmental change.

We would aim to do this by improving consistency and providing a clearer approach to species protections, bringing coherence with our wider approach to nature recovery including reform on protected sites.

Any review of legislation relating to species will maintain or enhance vital protections and be consistent with our international obligations and commitments, including those under the Convention on Biological Diversity.

### 5.1 Consolidation and rationalisation

Consolidating provisions on species would make them clearer and more accessible to the public, law enforcement and other regulatory agencies, improving the way in which we protect species. We propose there is potential to consolidate:

#### **Protections**

Species are protected by overlapping pieces of legislation, which in some cases offer different level of protection. The lists are also not necessarily linked to a scientific basis

such as species' conservation status. For example, some invasive non-native wild birds have a similar, if not higher, level of protections than native species we consider to be more vulnerable.

### **Licensing**

Our current system of licensing has evolved along with the legislation over many years, and has become complex, inconsistent, and outdated. Simplifying and improving consistency in licensing will help ensure that species protection legislation works for people as well as wildlife.

### **Enforcement**

The scope and language of existing enforcement provisions is often inconsistent and, in the context of both wildlife and poaching offences, significantly outdated. We would like to rationalise and simplify the enforcement tools available to the police or inspectors to investigate wildlife crime.

### **Penalties for wildlife and poaching offences**

Currently, there are differences in the penalties set out across various pieces of legislation. Minimum penalties should be harmonised across all wildlife provisions to ensure the protection of all species and should be comparable to those recently introduced for animal welfare offences.

While the protection and management framework is set in primary legislation, secondary legislation could be used to amend or modify lists of specific species or circumstances. This is an approach currently used in the Wildlife and Countryside Act 1981 and could allow us to be more responsive to new evidence and environmental change. The powers could be subject to a number of safeguards to ensure the level of protection is maintained or enhanced where appropriate.

## **5.2 Tiered approach to species protection**

As well as improving consistency, we will aim to ensure that species protections are effectively targeted to the needs of native species such as the hedgehog, water vole, red squirrel and curlew.

We also want to ensure that threats, such as predation, persecution and habitat degradation, can be addressed effectively and support action to deliver our 2030 target to halt the decline of species. A tiered approach to protecting wild animal species would provide clarity and bring a coherence with protected sites reform.

The tiers of protection will be underpinned by a consistent, evidence-based set of criteria to ensure the level of protection is appropriate for the species within England.

A flexible, responsive system will enable us to respond at pace to new evidence and will be increasingly important as we combat the effects of climate change for our native

wildlife. The approach outlined is for wild animals, but a similar tiered system could be applied for plants. Our proposed framework for protection has 3 categories:

### **Tier 1 - Minimum management standards**

Protections that we may offer in this category are welfare protection for wild animals, which for some could include a close season and prohibitions on, or stipulated, specific methods of trapping and killing and regulations in trade of wild animals.

### **Tier 2 – Protected**

This tier is for species where protection, promotion of species recovery or welfare concern for the species indicates the need to provide strict controls. This would be similar to the protections in the Wildlife and Countryside Act 1981. Examples of species in this category could include most wild birds, pine marten and could include some invertebrates, for example swallowtail butterfly. Protections would include tier 1 protections plus:

- prohibited capture, taking, keeping or killing (if there is a requirement to do any of these activities, there will be stipulated specific methods of trapping and killing that will be authorised)
- prohibited possession of and trade in these animals, alive or dead
- prohibit disturbance activities which impact negatively on the breeding and/or survivability of a species
- to undertake any prohibited activities, such as, deliberately disturbing a nesting bird, a licence would be required.

### **Tier 3 - Highly protected**

This would include protection from tier 2 as well as to prevent loss of habitat and dwelling places. This tier is reserved for species where not only the individual animal needs protecting but where it is also important to protect the habitat where they live and/or breed to secure effective conservation. This would be similar to the protections provided for in Part 3 of the Habitats Regulations (Protection of species).

## **6. Delivering nature recovery**

### **6.1 Delivering for nature through public bodies**

#### **6.1.1 The importance of accountability**

During the EU era, most of our laws relating to the environment and to site protections originated from the EU. In some cases, EU legislation was so prescriptive that it left very little room for national governments to make decisions appropriate for local conditions.

Successive governments therefore often judged it better to pass these limited decision-making powers, including site designation and site management, to agencies or ALBs.

There is a school of opinion which still maintains that democratically elected governments are unable to deliver for the environment since they lack a long-term perspective and will always come under short term pressures. The UK Government disagrees with this premise.

The Environment Act, and the Climate Change Act before it, demonstrated the ability of elected governments to establish a new governance framework and a new set of environmental targets that give a long-term perspective.

The best way to deliver for our environment is to have a legal framework of long-term statutory targets and then a government that has the powers needed to deliver those targets, freed from the distractions that have held back progress in recent decades.

Democratic accountability, including scrutiny by the UK Parliament and devolved administrations, should not be viewed as a threat to good policy. Accountability creates the power to act decisively, to challenge and verify advice and then act on it. Therefore, the UK Government will review where certain powers should lie with a view to considering whether policy and decisions around designations should be made at a ministerial level, based on advice, with site management by ALBs.

### **6.1.2 The right bodies to support our ambitions**

Defra's Arm's Length Bodies (ALBs) provide vital services to communities and businesses across the country while protecting and enhancing our environment. Their world leading scientific, advisory and operational expertise underpins Defra's ability to deliver our outcomes, and the ambitious environmental agenda set out in the 25 Year Environment Plan.

However, our ALB landscape has evolved over many years, with some organisations designed to operate within EU frameworks. As a result, our regulatory landscape has become fragmented and complex.

Now the UK has left the EU it is right to consider how we organise Defra group to deliver our long-term targets and commitments to protect and restore the environment, while developing the capability to respond to new and emerging challenges.

We want to develop an operating model that delivers our outcomes, applies consistent and clear regulation, is simple for customers to navigate, and where bodies work together to take integrated approaches to tackle environmental challenges.

We are clear that the essential work our ALBs do today to deliver nature's recovery, including tackling illegal activity, and monitoring and enforcing environmental standards both within and outside protected areas - will be supported and developed under any operating model.

As such, we will explore options for consolidating Defra group's dispersed environmental regulatory functions and look at what institutional and delivery arrangements would best support the UK Government's objectives for nature recovery.

As part of this exercise, we will assess the recommendations of the [Dame Glenys Stacey review](#) to deliver coherent regulation for the farming sector.

We will also consider how we can reduce duplication between ALBs, or between ALBs and the UK Government, whether ALB duties and purposes need updating, and whether, for example, our core mission of nature's recovery could be better embedded at the heart of all relevant bodies.

### **6.1.3 Cost recovery for public bodies**

We want to ensure an integrated approach to regulating all aspects of the environment and make it easier to bring together funding, advice and expertise. Alongside work to ensure streamlined and proportionate regulation, we are exploring how best to enable environmental regulators and public bodies to recover more of the cost of regulation, both on land and at sea.

The key principle behind this is that regulated persons should pay more of the cost of activities that are potentially harmful to the environment, in line with the polluter pays principle. The polluter pays principle means, where possible, the costs of pollution should be borne by those causing it, rather than people suffering resulting environmental damage, or the taxpayer.

Effective cost recovery would reduce the burden on the taxpayer and potentially free up funding for preventative and remediation work, creating a positive cycle of regulatory direction which would enhance environment quality, incentivise private investment and aid nature recovery.

It would also enable more strategic proactive engagement on major casework, such as housing developments and offshore wind, and help to secure the most effective management of environmental impacts and potential enhancements at an early stage of project design.

Resourcing for licence, trade and planning determination and certification services would also be bolstered, leading to a more reliable and speedy service - reducing unnecessary delays and allowing faster action where needed.

Options we are considering include:

- a 'fee for intervention' similar to that used by the Health & Safety Executive, so that where someone is in material breach of environmental law, they would have to pay for the time it takes the regulators to identify and remediate the breach
- reviewing the environmental permitting regulations and the marine licensing framework to ensure scope and cost remain fit for purpose

- simpler and more regular reviews of charging schemes to ensure fees are appropriate and up to date
- ensuring all environmental regulators and public bodies are able to recover their costs for providing advice on permit / licence determinations.

These proposals are still in development and thus we are seeking your initial views on the broad principle of increasing cost recovery, and how it could work. We will consult on detailed proposals in due course.

## 6.2 Financing nature recovery

Delivering our ambitious goals for nature recovery will require a whole economy effort. As we set out in the Green Finance Strategy, this includes a step change in investment flows from the private sector.

In that light, Government has set an ambitious new target to raise at least £500 million in private finance to support nature's recovery every year by 2027 in England, rising to more than £1 billion by 2030. Government is committed to building clear, long-term policy frameworks to help stimulate and guide these investments.

The legally binding targets for nature under the Environment Act will provide the clear signals that investors need to help mobilise capital at scale. We welcome the pace of innovation in the private sector to enable more investment in nature's recovery, for example, Palladium's work with the UK National Parks to create the Revere nature restoration facility, Triodos Bank's work with the Rivers Trust on the Wyre natural flood management project and Finance Earth's work with WWF to create a Blue Impact Fund.

Alongside this innovation, we are exploring the appropriate role for government in enabling the market to identify and consolidate around clear principles, standards and governance arrangements.

The UK Peatland and Woodland Carbon Codes already provide robust voluntary mechanisms for farmers and land managers to attract private finance. These are underpinned by the UK Land Carbon Registry, which ensures that these projects – and the environmental benefits they deliver – are transparent and open to public scrutiny.

These Codes cover only some of the wide range of ecosystems services that healthy and functioning habitats can provide and which offer significant private as well as public value. For example, biodiversity, water quality, flood risk management, sustainable urban drainage, and public amenities for leisure and recreation, are all suitable for private financing models alongside carbon credits from woodlands, peatland, soils, and other habitats.

The development of a mature market for ecosystems services offers potential opportunities for farmers and land managers to sell accredited, high quality climate and

environmental services to private buyers such as water companies and insurers who want to make use of cost-effective nature-based solutions to improve water quality and reduce flood risk, developers seeking to deliver biodiversity net gain and businesses who wish to invest in natural carbon sequestration in addition to their own action to reduce carbon emissions.

The Government will support the development of new and existing evidence-based codes and mechanisms to enable buyers, sellers and investors to leverage private finance into natural capital projects that deliver returns on investment and accelerate action to create, restore and manage wildlife-rich habitats. The development of these markets will support a wide range of farmers and land managers to diversify their business models, delivering both environmental and socio-economic benefits across communities.

We also recognise the potential to unlock new investment streams for nature through demand side regulatory reform. For example, the Environment Act has legislated for mandatory Biodiversity Net Gain to require developers in England to deliver biodiversity gains by channelling investment into nature recovery projects.

The Environment Agency is working within existing legislation to trial new regulatory approaches to enable water utilities to invest in nature projects where they offer the best solution – and will explore any regulatory changes that are necessary to enable these approaches to enjoy a level playing field with built infrastructure.

This will include ensuring catchment permitting is fully implemented by 2024. The Government's Strategic Policy Statement makes clear our expectation that Ofwat will support an increase in the use of nature-based solutions where appropriate and in the interests of the environment and water company bill payers.

The Government also looks forward to the recommendations of the National Infrastructure Commission later this year on opportunities to make greater use of sustainable urban drainage systems and nature-based solutions in managing surface water flooding risks.

The UK Government is taking further action to increase private sector investment in nature by:

- strengthening the framework for high-integrity environmental markets, working with the cross-sector Financing UK Nature Recovery Coalition and other stakeholders to reduce transaction costs and system complexity through common principles for accreditation, verification, additionality, and combining different revenue streams for ecosystem services
- developing a more comprehensive suite of standards for nature-based investment which provide consistency and stability for producers, buyers, intermediaries, and investors
- catalysing a pipeline of investible nature projects through the £10m Natural Environment Investment Readiness Fund

- exploring measures to scale-up and de-risk private investment in projects of this type through the blended, public-private Big Nature Impact Fund, will launch later this summer with a public investment of up to £30m
- supporting a shift in global financial flows away from nature-negative outcomes and towards nature-positive outcomes, by developing the UK Sustainable Finance taxonomy
- developing our environmental land management schemes (and other schemes which pay for land management or land use change) for farmers and landowners so that they enable the crowding in of, and avoid crowding out, private investment
- ensuring the design and implementation of measures in the Environment Act, including biodiversity net gain and Local Nature Recovery Strategies, support and harness these markets.

With the right framework of standards, rules and data, we believe that the private sector can play its part in helping to deliver our ambitious nature goals, while guarding against 'greenwash' and 'double counting'.

This will be carefully balanced to ensure government doesn't intervene in a way that could stifle the market and disincentivise investment. We are therefore seeking your views on the role of government, working alongside experts in the farming, business, environmental and finance sectors, in developing this framework.

## 7. Questions

### 7.1 Introductory questions

1. **What is your correspondence address?** Please provide an email address or telephone number unless unable to. If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.
2. **Would you like your response to be confidential?** Please see the confidentiality and data protection section at the end of this document.
  - Yes
  - No
  - If ticked 'Yes', please state why
3. **Please tell us in what capacity you are responding to the consultation by selecting from the following:**
  - Individual
  - Research organisation
  - Sector trade body or membership organisation
  - Ecologist

- Academic
- Planning consultant
- Developer or builder
- Local Authority
- Public body
- Non-governmental organisation
- Farmer
- Landowner
- Other (please state)

4. **If responding on behalf of an organisation, please provide the name of the organisation you are responding for.**

5. **Please indicate your specific areas of interest in responding to this consultation:**

- 30 by 30
- Protected sites
- Habitats Regulations assessment
- Trees and forests
- Species
- Green finance
- Marine: protected sites
- Marine: 30 by 30
- Arm's length bodies
- Cost recovery
- Environmental impact assessment
- Other (please specify)

6. **Please indicate which location your response relates to, selecting from the following:**

- United Kingdom
- England
- Northern Ireland
- Scotland
- Wales
- Other (please state, where)

## 7.2 Consultation questions

### Protected sites: a new consolidated approach (page 8)

7. **What degree of reform do we need to ensure a simpler and more ecologically coherent network of terrestrial protected sites?**

We would be particularly interested in your views of how we can have a coherent, effective and well-understood system of protections, as well as supporting the delivery of our legal binding species abundance target and other potential long-term targets.

Please tick the option you prefer and explain your answer in the free text box.

- Option 1: Reform including a tiered approach emulating the approach taken in the marine area for HPMAs and MPAs, consolidating existing protected site designations and the creation of highly protected sites
- Option 2: Lighter touch reform including streamlining existing site designations (SACs, SPAs, and SSSIs)
- Option 3: Amalgamation into a single type of designation with a scale of protections
- Other
- No reform
- Do not know

**8. What degree of reform for the marine protected area network do we need to meet our biodiversity objectives and commitments?**

Please tick the option you prefer and briefly explain your preference and what benefits or risks it may have in the free text box.

- Option 1: Reform including a tiered approach consolidating existing protected site designations and the creation of highly protected sites.
- Option 2: Continuing to manage existing site designations (SACs, SPAs, and MCZs) similarly, streamlining our approach by to refer to them all as Marine Protected Areas (MPAs).
- Option 3: Amalgamation into a single type of designation with a scale of protections.
- Other
- No reform
- Do not know

**9. Do you agree that there should be a single process for terrestrial designation?**

We would be particularly interested in your views on how this might best be done for example, should decisions be vested in the appropriate authority [ministers] on the advice of its nature conservation bodies?

Please tick the option you prefer and explain your answer in the free text box.

- Yes
- No
- Unsure

**10. Should we reform the current feature-based approach to site selection and management to also allow for more dynamic ecological processes?**

We would be particularly interested in your views of how our sites can be made more resilient to climate and other natural changes and can encompass wider purposes such as carbon sequestration. Briefly explain your answer in the free text box.

- Yes, for both terrestrial and marine sites
- Yes, for terrestrial sites only
- Yes, for marine sites only
- No, neither for marine not terrestrial sites
- Unsure

**11. How do we promote nature recovery beyond designated protected sites?**

**12. Do you see a potential role for additional designations?**

Please provide detail in the free text box.

- Yes
- No
- Unsure

**Protected sites: site management and protection (page 13)**

**13. Do you agree we should pursue the potential areas for reforms on assessments and consents?**

- Yes
- No – keep as it is
- No – reform but not these areas or additional areas (please state,why)

**14. Should action be taken to address legacy consents?**

If 'Yes', we would particularly welcome your views on how this might be done in a cost-effective and fair way explaining your answers in the free text box.

- Yes
- No
- Unsure

**15. Should we move to this more outcomes-focused approach to site management?**

Please tick the option you prefer and briefly explain your preference and what benefits it may have in the free text box.

- Yes, using Site Improvement Plans
- Yes, but building on Site Improvement Plans to offer a holistic site outcome plan
- No
- Other
- Unsure

**16. Do you have suggestions for how regulation 9 requirements should be reformed to support delivery of England's 2030 species target or other long-term biodiversity targets and to improve our natural environment?**

Please set out your answer briefly explaining what benefits it may have in the free text box.

- Yes
- No
- Unsure

**17. Do you have suggestions for how processes under Regulation 6 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 and sections 125 to 127 of the Marine and Coastal Access Act 2009 together could better deliver outcomes for the MPA network?**

Please explain your answer, these regulations are shared with devolved administrations, and therefore careful consideration will be given to any potential effects on these duties, with full evaluation following this consultation.

- Yes
- No
- Other
- Unsure

**18. Do you have suggestions for improving the EIA scope and process for the Defra EIA regimes?**

We would particularly welcome your views on how they can more effectively help to reduce the environmental pressures outlined in chapters 3 and 4, deliver the objectives in the Environment Act, and facilitate sustainable development.

Please tick all regimes that apply and explain your answer in the free text box.

- Yes – Marine Works EIA regime
- Yes – Forestry EIA regime
- Yes – Agriculture EIA regime
- Yes – Land Drainage EIA regime
- Yes – Water Resources EIA regime
- No
- Unsure

**19. What are your views on our proposal to establish priority areas for afforestation?**

### **30 by 30 (page 17)**

**20. What are your views on our proposed criteria to achieving our 30 by 30 commitment?**

We are keen to hear views on the proposed approach for assessing Protected Areas set out under 4.1 and suggestions for areas of land we should consider as OECMs in England under section 4.1.0

**21. What are your views on our proposal to reform forestry governance and strengthen protections for the Nation's Forests?**

We are keen to hear views on any additional powers and statutory duties we should consider that would help to deliver on the benefits of woodland beyond timber production.

**22. What are your views on our proposal to adjust forestry permanency requirements for certain project types?**

### **30 by 30: UK Marine Strategy (page 21)**

**23. Do you agree with the proposed changes to the UK Marine Strategy (UKMS) delivery programme, and if not, what other changes would you make to streamline the reporting of UKMS?**

Please explain whether you agree with these changes and provide reasoning. If required, please outline any additional proposed changes that will help us achieve the stated goals.

When you respond please highlight your experience and make us aware of any evidence you can share that supports your view.

- Yes
- No
- Unsure

**24. Do you support the approach set out to split the high-level Good Environmental Status (GES) target into individual descriptor level GES targets?**

- Yes
- No
- Unsure

## **Protecting Species (page 22)**

**25. Do you agree we should pursue the potential areas for reforms for species?**

- Yes
- No – keep as it is
- No – reform but not these areas or additional areas (please state, why)

**26. Based on your knowledge and experience please can you tick the criteria below that you think we should use to determine what level of protection a species should be given?**

You can tick more than one box.

- Threat of local or national extinction
- Welfare of wild animals
- Controls in trade
- Importance to the ecosystem (a species that has a disproportionate beneficial effect on an ecosystem and if they are not present the ecosystem will be in danger of collapse).
- Promoting recovery (a species with a low or declining population, which may not yet have a threatened conservation status, but could be protected to support recovery and increased distribution).
- Importance to genetic biodiversity (endemic species or sub-species within England that are important for the wider genetic diversity of the species).
- Management requirements (a species where management is required for public health, to protect agriculture, commercial interests and to protect habitats)
- Socio-economic importance (a species that could be protected to benefit people and communities, for example, to promote tourism)
- To support efforts to reintroduce species or rewild habitats.
- Unsure
- Other – please state, why

**27. What proposals should we look at to improve our current licensing regime?**

When you respond please state what you think is not working under the current licensing regime, which principles you think should be brought out in any new regime.

Please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

**28. What proposals do you think would make our enforcement toolkit more effective at combatting wildlife offences?**

When you respond please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

**Delivering for nature through public bodies (page 24)**

**29. What are the most important functions and duties delivered by Defra group ALBs to support our long-term environmental goals?**

**30. Where are there overlaps, duplication or boundary issues between ALBs, or between ALBs and government? How could these be addressed?**

**31. What are the benefits and risks of bringing all environmental regulation into a single body?**

**32. What are the opportunities for consolidating environmental delivery functions into a single body? Which programmes and activities would this include?**

**Cost recovery (page 25)**

**33. Please provide your views on how more effective cost recovery for regulation would affect: a) environmental protections b) businesses.**

**34. What is the most efficient way of ensuring businesses and regulated persons pay an appropriate share of the cost of regulation**

**Financing nature recovery (page 26)**

**35. What mechanisms should government explore to incentivise the private sector to shift towards nature-positive operations and investment?**

**36. What level of regulation is needed to incentivise private investment in nature while ensuring additionality and environmental integrity?**

What else should government be doing to facilitate the development of a market framework that provides investors, farmers and land managers, regulators and the public with confidence in the quality of privately financed nature projects?

**37. What financial impact do you think the proposals set out in this green paper would have either on business (For example, landowners) or government?**

Please let us know if you feel these proposals would have a significant impact on your business area, or if you think they would have an impact on public funds. For example, this could be about costs or if you think certain proposals would have a positive financial impact or create opportunities.

Please tell us in what way you think these impacts would come about, which proposals would drive that change, and try to evidence any financial estimations of costs or benefits.

## 8. How to respond

Please respond to this consultation using the Citizen Space consultation hub at Defra <https://consult.defra.gov.uk/nature-recovery-green-paper/nature-recovery-green-paper>

For ease of analysis, responses via the Citizen Space platform would be preferred, but alternative options are provided below if required:

By email to: [naturegreenpaper@defra.gov.uk](mailto:naturegreenpaper@defra.gov.uk)

In writing to:

Consultation Coordinator  
Defra 2<sup>nd</sup> Floor  
Foss House  
Kings Pool, 1 to 2 Peasholme Green  
York  
YO1 7PX

## 9. Confidentiality and data protection

This discussion document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential.

If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

This consultation is being conducted in line with the Cabinet Office's [consultation principles](#).

If you have any comments or complaints about the consultation process, address them to:

Consultation Coordinator  
Area 7C, Nobel House  
17 Smith Square  
London  
SW1P 3JR

Or email: [consultation.coordinator@defra.gov.uk](mailto:consultation.coordinator@defra.gov.uk)