



DEVELOPMENT & NATURE RECOVERY

Response to Planning Reform Working Paper

IEMA IMPACT ASSESSMENT PROFESSIONAL NETWORK / 30.01.2025

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ABOUT IEMA

We are the Institute of Environmental Management and Assessment (IEMA). We are the global professional body for over 22,000 individuals and 300 organisations working, studying or interested in the environment and sustainability.

We are the professional organisation at the centre of the sustainability agenda, connecting business and individuals across industries, sectors and borders. We also help and support public and private sector organisations, governments and regulators to do the right thing when it comes to environment and sustainability-related initiatives, challenges and opportunities.

We work to influence public policy on environment and sustainability matters. We do this by drawing on the insights and experience of our members to ensure that what happens in practice influences the development of government policy, legislation, regulations and standards.

EXECUTIVE SUMMARY

IEMA supports efforts to improve environmental and social protection and environmental and social outcomes and welcomes new thinking and strategic approaches. In 2023, IEMA provided a detailed response to EORs. This response can be found here: <https://www.iema.net/media/gbth4h5k/iema-response-to-environmental-outcomes-report-08-06-23-1.pdf>.

In the absence of published research supporting the proposed changes discussed here and no details of the process itself or how it will be implemented, many of our questions, concerns, and recommendations are related to this missing detail.

The following are key recommendations that should apply to the development of strategic Delivery Plans:

1. Delivery Plans should work alongside the current approach with developers given a choice of the most effective action to adopt, as there may be circumstances where mitigation is more efficient and effective when delivered by the project directly, rather than contributing to a wider Delivery Plan.
2. Many environmental features are location-specific so there must always be the requirement to fully understand the impacts of development on the environment and communities at a local level
3. The Government must undertake and publish research into why the current system does not work and how the new system can be proven to work
4. There must be clarity about how a Delivery Plan will work alongside existing and future approaches (Local Plan SA/SEA process, LNRSSs, Protected Site Strategies, BNG, EIA and SEA, HRA and EORs)
5. Delivery Plans should be prepared and implemented by competent experts and be subject to strategic impact assessment and public consultation in their development
6. Delivery Plans need to be adaptive and respond to monitoring data. They should also include the publication of evidence-based research to further inform policy and guidance.
7. Delivery Plans must have robust and transparent governance and oversight with accessible evidence presented about the effectiveness of assessment prediction and environmental and social outcomes
8. The prevention principle should be applied in the implementation of Delivery Plans. Where prevention is not possible, the mitigation hierarchy should be applied in addressing impacts (see response to Question D)
9. Delivery plans should apply the following key environmental principles: precautionary, polluter pays, proximity and rectification at source (see response to Question D)
10. Delivery Plans should only be implemented where there are sufficient resources to ensure their effectiveness. Furthermore, it is essential that Delivery Plans should be in place and functioning prior to projects being brought forward where the Plan is being relied on to offset and manage impacts.

QUESTIONS AND RESPONSES

QUESTION A: DO YOU CONSIDER THIS APPROACH WOULD BE LIKELY TO PROVIDE TANGIBLE IMPROVEMENTS TO THE DEVELOPER EXPERIENCE WHILE SUPPORTING NATURE RECOVERY?

Delivery Plans may improve developer experience in that they appear to enable substantially reduced developer obligations to provide environmental information with planning applications in return for a payment. In order to provide maximum tangible improvements to the developer experience while supporting nature recovery, the Delivery plan approach must also take into account the three factors impacting the

effectiveness of environmental assessment regimes, identified in OEP's 2023 research¹: access to information, expertise (or lack thereof), and the extent of post-decision monitoring, evaluation and reporting. These three form the basis of the strengths, concerns and recommendations below.

Strengths of a Delivery Plan approach could be:

- If it provides additional information to that currently delivered through EIAs, LNRs etc. then the application of more strategic thinking to nature recovery and the mitigation of developer impact will be beneficial, particularly in assessing cumulative effects on multiple separate developments.
- Similarly, if all relevant information is easily accessible to developers, duplication of effort for surveys can be avoided where different developers are obliged to undertake separate surveys on the same land
- It could provide certainty for developers to know that a development will not be delayed or prevented from getting consent because of specific environmental impacts
- It may reduce some costs for individual developments.
- It may reduce some burden on planning officers and other stakeholders.

Points of concern

- Environmental assessments are necessary to understand site-specific potential impacts
- There may be a delay between the impact on site and mitigation elsewhere
- Development may not come forward as expected or planned nature recovery might be more expensive than expected resulting in Fund payments and real-world delivery being mismatched and a danger that unforeseen Fund costs may be necessary at a later stage of development from unsuspecting developers.
- With a centralised Fund for nature restoration, the communities who are affected by the development may not be the communities who benefit from the associated nature restoration (and they should be).
- Delivery Plans may be based on assumptions and generalisations and will therefore need to be precautionary.
- Actioning of Delivery Plans by non-state delivery bodies must be monitored and regulated and there may not be the resources available to do so.
- There is no mechanism for local stakeholders to hold these strategic plans to account.
- Without a push to ensure that environmental assessment in general, is carried out by competent experts, efficiencies gained through the Delivery Plan approach may be negated by inefficiencies caused by potential lack of expertise in both developer organisations and local authority planning departments, for example, where incorrect or irrelevant information is provided, causing resubmissions to be made and the application being held up or even declined.
- Without fully understanding the research behind this decision or the details of the proposed process, IEMA wonder if introducing an extra tier of administration for nature recovery and for developers to deal with will complicate the process resulting in poor outcomes for nature.

Suggested additions/changes/enhancements

- The Government could undertake a pilot project(s) to better understand potential outcomes of the new approach being proposed.

¹ https://www.theoep.org.uk/sites/default/files/reports-files/E02979435_OEP%20Environmental%20Assessment%20Report_Accessible.pdf

- Taking a wider strategic approach should not always be the first option for developers and they should be able to choose whether to adopt a wider Delivery Plan approach or respond to impacts using the current process (or similar).
- Site surveys are undertaken to understand impacts on the environment and on local communities, and decisions align with the plans of local authorities and LNRSSs.
- Details of what the Delivery Plan relates to (in terms of geographic area and environmental aspect(s) and hierarchy/priority aspects), and remaining obligations outside the delivery plan.
- Ensure that mitigation is in place and secured *before* impacts occur (as it does with BNG).
- There must be transparency about contributions to the Nature Restoration Fund and timing of payments by the developer.
- There needs to be transparency around how the Nature Restoration Fund is spent through annual reporting requirements.
- Delivery Plans must identify and mitigate potential cumulative negative effects across groups of development.

IEMA members can see some benefits to a Delivery Plan approach, but questions remain about the viability and effectiveness of the approach, and its relationship to existing and future approaches such as the SA/SEA process in Local Plans, LNRSSs, Protected Sites Strategies, BNG, EIA and SEA, HRA, and, potentially, EORs.

QUESTION B: WHICH ENVIRONMENTAL OBLIGATIONS DO YOU FEEL ARE MOST SUITED TO THIS PROPOSED MODEL, AND AT WHAT GEOGRAPHIC SCALE?

There are several obligations that are suited to the Delivery Plan model, and additional considerations, such as at what scale it is applied (project/site/borough/county/national etc.) and by what mechanism the scale and appropriateness of the Plan is ascertained (Local Plan SA or SEA/National scheme, etc.).

Delivery Plans for the following may be suitable at a broad, strategic level (county/national level). i.e., the contribution the development makes to the running total of nature restored/water quality improved/etc.):

- Potentially broad nature restoration where impacts cannot be mitigated by BNG or other traditional methods
- Specific type of species/habitat-type restoration such as impact to farmland species or peatland restoration
- Water quality (including nutrient neutrality within catchments)
- Air quality
- Climate change/GHG emissions
- Environmental net gain
- Marine net gain

Delivery plans for the following may be suitable at a more focused, development-, project-, site- or Borough-level:

- Nature restoration specifically required in a small/distinct area not covered by taking a broad approach (including species, habitat, water)
- Climate resilience measures
- Waste
- Materials/resources (including agricultural land and soil resources)
- Biosecurity

- Reducing the harm from environmental hazards
- Managing exposure to chemicals and pesticides
- Biodiversity and Environmental Net Gain in line with LNRS
- Provision of Suitable Alternative Natural Greenspace (SANG)
- Provision of SuDS
- Renewable energy
- Nature-based solutions to flood risk management in line with catchment plans
- Habitat creation to support significant renewable energy infrastructure needed for meeting net zero
- Individual species recovery in line with local or wider conservation strategies
- Water quality
- Habitats Regulations obligations, particularly in relation to in-combination effects and measures required to avoid adverse effects on site integrity, such as SANGs delivery, wardening of internationally designated sites, and delivery of compensation sites, particularly where a coordinated approach is required to avoid the combined adverse effects of multiple developments.

QUESTION C: HOW IF AT ALL COULD THE PROCESS OF DEVELOPING A DELIVERY PLAN BE IMPROVED TO ENSURE CONFIDENCE THAT THEY WILL DELIVER THE NECESSARY OUTCOMES FOR NATURE?

More details of what a Delivery Plan is and how it aligns with current local and strategic plans and assessments would be required to have confidence that Delivery Plans will deliver 'necessary outcomes for nature'. A Delivery Plan should not automatically be the first choice for developers – developers should be able to choose whether to use a Delivery Plan or react to an environmental assessment within their own plans in line with the local authority (current practice) so that developers can then choose to deliver themselves where they see they can benefit from doing so. In this case, developers must explain why they've chosen to go with a Delivery Plan option rather than localised action.

The general principle underpinning the proposal that development should be a net-positive force for nature appears to be a good one, as does the principle of shifting from process to outcomes.

Suggestions for improvement:

Local authority Local Plans or an LNRS would set out the quantum timeframes for housing development alongside infrastructure needs and required mitigation and nature restoration over a certain period. The Local Plan would be the appropriate scale for the nature Delivery Plan model.

- In some cases, a more regional scale could be appropriate if an issue is more widespread (such as in relation to a river catchment) or where potential effects are cross-boundary (such as cumulative nature recovery, climate change, see above).
- The Local Plan SA/SEA and Habitats Regulations Assessment (HRA) processes are very important for identifying potential cumulative and in-combination effects on nature and the required coordinated mitigation to achieve good environmental outcomes. Outline the interaction with this and the Delivery Plan.
- Delivery Plans must be considered and assessed at a national, regional and county/district scale and for individual developments to fully predict and mitigate for cumulative environmental effects.
- Delivery Plans must be subject to Sustainability Appraisal (SA) and/or Strategic Environmental Assessment (SEA) processes, in the same way that Local Plans are. These could be combined into one SA/SEA to minimise duplication of effort.

QUESTION D: ARE THERE ANY ADDITIONAL SPECIFIC SAFEGUARDS YOU WOULD WANT TO SEE TO ENSURE ENVIRONMENTAL PROTECTIONS AND/OR A STREAMLINED DEVELOPER EXPERIENCE?

There are five key environmental principles^{2 3} that must be adhered to:

1. **The integration principle** - as set out in the Environment Act, integration is the principle that environmental protection should be integrated into the making of policies. This means that policymakers should look for opportunities to embed environmental protection and/or enhancement across fields of policy – not just those directly related to the environment.
2. **The prevention principle** - the prevention principle means that government policy should aim to prevent environmental harm. The prevention principle should generally be used in preference over the rectification at source principle or polluter pays principle, as these principles are used in instances when prevention cannot be achieved. For the purpose of EIA/EOR the prevention principle aligns with the use of the mitigation hierarchy – avoiding environmental impact completely as a first move and minimising impact as a second, and only then mitigating and compensating
3. **The rectification at source principle** - The rectification at source principle states that environmental damage should, as a priority, be addressed at its origin to avoid the need to remedy its effects later. Rectification at source should result in approaches that are more cost-effective, efficient, and equitable in the long-term. This also links to the related proximity principle as per the current biodiversity net gain guidance - if BNG (or offsetting) cannot be achieved on-site after consulting the mitigation hierarchy, off-site opportunities should be identified, giving priority to local enhancements
4. **The polluter pays principle** – The polluter pays principle means that, where possible, the costs of pollution should be borne by those causing it, rather than the person who suffers the effects of the resulting environmental damage, or the wider community. Translated to Delivery Plans it should not be the case that the Government picks up the costs usually borne by the organisations creating the impact on the environment (the developer).
5. **The precautionary principle** – The precautionary principle assists the decision-making process in the face of a lack of scientific certainty. The principle helps policymakers deal with risks which may not be precisely calculable in advance. In impact assessment terms, where a project is likely to have a significant effect it requires an assessment if the risk cannot be excluded on the basis of objective information.⁴

Other suggested safeguards:

- The examples used throughout the Working Paper focus specifically on nature recovery and, to a lesser extent, the water environment. The ‘environment’ as addressed by current legislation is much

² [Environmental principles policy statement - GOV.UK](#)

³ See also IEMA/CIEEM/CIRIA good practice principles for BNG: <https://www.iema.net/media/u2wh5lx2/biodiversity-net-gain-good-practice-principles-for-development-a-practical-guide-feb-2019.pdf>

⁴ From the OEP report: ‘HRA has been considered by the courts in numerous cases. Much of the key caselaw was summarised by Lord Justice Jackson in R (Mynydd Y Gwynt Ltd) v Secretary of State for Business Energy and Industrial Strategy [2018] EWCA Civ 231’

broader than this and involves many other types of environmental constraint (e.g., air quality, GHG emissions, cultural heritage, contamination, human health etc.). The definition(s) in Delivery Plans, SA/SEA and other documentation must be specific and clear to avoid misinterpretation and potential impacts/receptors being overlooked.

- Many environmental features, and the environmental impacts of development on them, are highly location-specific to a greater extent than is the case for, e.g., protected species. It is essential to retain the option to address location-specific impacts in the decision-making process on development applications.
- The current Habitats Regulations cannot be watered down, and developments cannot be given permission to proceed if they result in adverse effects on internationally protected sites and species.
- Development ‘receipts’ confirming how the financial contribution to the Fund has been spent and that the developer obligations on relevant points have been met, should be mandatory. These need to be available to view and easily accessible for all stakeholders.
- The paper states that Delivery Plans will be signed off by the Secretary of State but it is not clear who else would be part of the approval process. A level of stakeholder engagement is required to safeguard the process for all.

QUESTION E: DO YOU SUPPORT A CONTINUED ROLE FOR THIRD PARTIES SUCH AS HABITAT BANKS AND LAND MANAGERS IN SUPPLYING NATURE SERVICES AS PART OF DELIVERY PLANS?

Yes, we support the continuing role of these organisations. They already play a pivotal role at a strategic level in delivering nature recovery (as part of BNG). Habitat banks must include mechanisms to ensure that nature mitigation services are not solely habitat focused and provide a breadth of offsetting options for species recovery and recreational mitigation, for example.

If non-state parties become responsible for actioning Delivery Plans there must be a transparent and workable regulatory system of monitoring, reporting progress and success, as well as enforcement and remedy provisions for non-delivery.

QUESTION F: HOW COULD WE USE NEW TOOLS LIKE ENVIRONMENTAL OUTCOMES REPORTS TO SUPPORT THIS MODEL?

IEMA members recommend reforming existing environmental assessment regimes, rather than starting again with a new regime.

While we support the need for reform of environmental assessment, we have previously responded regarding the benefits of keeping and upgrading the current process. In ‘IEMA’s Response to Environmental Outcomes Report: A New Approach to Environmental Assessment’ (2023)⁵, our conclusion was that it would be far better to modify and improve the existing regime of EIA and SEA than to start again with a new regime. Please see that consultation response for a full explanation of IEMA’s position. We included the following summary of advice from our members for supporting reform of the current regimes:

⁵ www.iema.net/media/gbth4h5k/iema-response-to-environmental-outcomes-report-08-06-23-1.pdf

- Invest in training, skills and capacity to ensure sufficient numbers of competent experts are present and available within local authorities, regulators, developers' organisations and statutory consultees engaged with the environmental assessment regime.
- Invest in knowledge management to develop and publish evidence-based research, policy and guidance on good practice in environmental assessment.
- Invest in better long term and coordinated project and plan level monitoring to develop evidence on the effectiveness of assessment predictions, mitigation efficiency and environmental outcomes. Ensure that these lessons are then disseminated and acted on by feeding back into screening and scoping decisions, continually improving assessment techniques.
- Maintain the requirement to use competent experts to carry out environmental assessment, as required by the existing EIA regulations.
- Expand and improve provisions that provide access to information, public participation in decision-making and access to justice in environmental matters.
- Adequately fund and increase the use of planning conditions, compliance monitoring, enforcement and remedy of non-compliance.
- Increase and make clear the requirement for decision makers to justify why projects and plans should be approved where the environmental assessment has identified negative outcomes for the environment and communities.
- Set up and adequately resource a National Environmental Assessment Unit to coordinate and assist the delivery of the above.

The rationale for carrying out environmental assessment becomes stronger with each passing year, due to rising population pressure on natural systems, climate change, and continued urban and infrastructure development in a finite geography. Therefore, the IEMA response to EOR [and Delivery Plans] tests proposals against two key questions:

1. Do the proposals seize the opportunity to improve environmental assessment?
2. Will the proposals introduce new weaknesses within environmental assessment and so lessen environmental protection?

We recommend that the Government hold these two key questions against the incoming proposals for Delivery Plans, EORs and related legislation and regulation (such as NPPF reforms), as a foundation for assessing their necessity and effectiveness.

Should the government decide EOR is necessary, the following will help EOR support the Delivery Plan model:

- EOR Outcomes need to be aligned to the matters addressed by Delivery Plans.
- EORs should be integrated with the Environmental Improvement Plan (EIP) where they overlap as well as being integrated into wider development of environmental regulation and policy development.
- EORs need to be widened to cover a full range of impacts and outcomes.
- The SA/SEA and HRA processes will be important tools to support the identification of potential cumulative and in-combination effects of development on nature and would identify measures that need to be delivered to coordinate and leverage positive outcomes and nature recovery. It is

anticipated that the EOR process will similarly need to identify potential environmental effects to determine how a development contributes to the delivery of an environmental outcome.

- Nature Recovery Strategies should be used to identify measures and priorities on a sub-regional basis and should be informed by a Delivery Plan (when the Nature Recovery Strategies are reviewed).
- In adhering to a Nature Delivery Plan and making a financial contribution, a development proposal will be able to demonstrate that it is achieving certain environmental outcomes. However, some environmental assessment is likely to still be required for locally relevant issues and for other environmental outcomes.

QUESTION G: ARE THERE ANY OTHER MATTERS THAT YOU THINK WE SHOULD BE AWARE OF IF THESE PROPOSALS WERE TO BE TAKEN FORWARD, IN PARTICULAR TO ENSURE THEY PROVIDE BENEFITS FOR DEVELOPMENT AND THE ENVIRONMENT AS EARLY AS POSSIBLE?

The final following points are made:

- The scale and complexity of the work needed to develop and put into place the Delivery Plan scheme cannot be underestimated. While there are certainly impacts that should be addressed at a strategic level, these are wide-ranging and complex. We caution against rushing the development of the Delivery Plans but, rather, making sure they are aligned appropriately within existing nature recovery mechanisms and at the appropriate spatial scale (or as much as possible), first time.
- Delivery Plans would presumably reduce some burden on planning officers. The perspective of the planning officers and what they need to increase efficiency should be considered in creating the scheme, as well as any additional training or hiring that will be needed at the local authority level.
- Access to appropriate data to reduce project specific survey and assessment effects will be important, however it is likely to prove ultimately less efficient to develop wide scale monitoring than the current project by project case. Therefore, careful thought will need to be made for each Delivery Plan about the role and balance of data collection between the Delivery Plan and the project.
- Ongoing monitoring for Delivery Plans could be costly and will presumably be paid for by the delivery body via the restoration funds.
- Clarity is required about if EOR Regulations do not come forward prior to Delivery Plans being adopted (or at all), how the Delivery plans will function alongside current EIA Regulations as the ongoing form of environmental assessment.
- There must be a way to regularly monitor, manage and report on the success of a Delivery Plan and its benefits for nature, especially in the early stages, including how it supports the Government's own objectives and requirements for nature conservation and restoration. This needs to precede and reliance on the Delivery Plan for offsets and mitigation for project level impacts.

MORE INFORMATION

IEMA are very willing to work with DEFRA and MHCLG on these proposals and to discuss any of these points, or additional ones, further.

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