

Insights

PUBLICATION OF BIODIVERSITY GAIN STATEMENTS CONFIRMS BNG DETAILS FOR NSIPS

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Summary

Clarification of the framework and requirements for calculating, delivering and reporting on BNG for NSIPs has finally been provided with the publication and laying before Parliament in early June 2026 of a suite of ten biodiversity gain statements covering every NSIP category, including NSIPs where no NPS has effect. This marks a significant milestone for the NSIP regime and is a welcome step for DCO applicants. In this Insight we explain how the new NSIP BNG requirements which will take effect from 2 November 2026 will work in practice.

Introduction of mandatory BNG for NSIPs has been on the horizon for a long time having been introduced in broad terms into the Planning Act 2008 by an amendment under the Environment Act 2021, and originally expected to take effect in November 2025, before being pushed back to May 2026 and now to November 2026. However, publication of the final version of the biodiversity gain statements is important as these are the key policy instruments that set out the framework and detail. From 2 November 2026 each statement will have the same effect as if it were included in the relevant national policy statement (NPS) for the sector in question, and will be incorporated into those NPSs when they are next reviewed.

Up until now promoters preparing DCO applications have been working to accommodate BNG within schemes against an uncertain backdrop. Now they have the all-important certainty in the framework and mechanics of the BNG requirements. Along with a package of updated guidance this should allow them to finally progress applications with confidence.

A consistent approach

Each specific infrastructure sector or policy category (Airports; Data Centres; Energy; Geological Disposal; Hazardous Waste; National Networks; Ports; Waste Water; Water Resources) has a separate biodiversity gain statement tied to it, as does development where no NPS has effect, which has its own standalone statement. Each statement is broadly the same and sets out how

BNG should be calculated, delivered and reported for DCO applications within that sector. They differ only in the NPS they link to, the description of the development they cover, and, in one case, the absence of any NPS, to ensure universal application across all NSIP types.

However, there will be differences in how the BNG requirements are applied in practice depending on the sector context, the challenges each type of project encounters, and also the individual complexity of the habitats and ecology impacted. For example, energy NSIPs include the widest range of project types of any sector and a diverse range of BNG challenges. The challenges in delivering BNG for a linear transmission line will inevitably be very different from an offshore or onshore wind scheme for example, a solar scheme or a nuclear power station.

Key details of BNG requirements for NSIPs

Confirmed date

The mandatory BNG requirement will apply to all NSIP applications submitted to the Planning Inspectorate on or after 2 November 2026.

The 10% requirement

All NSIP applicants whose DCO application is submitted on or after 2 November 2026 must deliver at least 10% BNG. The government has deliberately adopted a uniform 10% requirement across all NSIP types, with no sector-specific exemptions and voluntary approaches. However, the NSIP BNG guidance allows for flexibility should there be future changes to the 10% requirement for certain sectors.

The 10% approach aligns with the existing mandatory BNG framework for developments brought forward under the Town and Country Planning Act 1990 (TCPA), and ensures consistency and accountability for biodiversity impacts across the infrastructure sector as a whole. However, the requirement does not apply retrospectively so changes to DCOs where the original application was submitted before 2 November 2026 are not caught, and neither are DCOs in the marine environment beyond the intertidal zone. The Government is considering the implementation of a marine net gain framework, relating to development beyond the intertidal zone. However, there are no current timeframes for such implementation and since the Government responded to its consultation in December 2023, there has been no further update.

Calculating BNG for NSIPs

Applicants must use the existing statutory biodiversity metric used for TCPA schemes (for now at least, though changes are being explored) to demonstrate that the completed project will generate a final biodiversity score that is at least 10% higher than the original baseline. However, there are two important changes to the way the metric will be applied to NSIPs.

First, the calculation of the pre-development baseline will be limited to habitats within the Order limits that will be negatively impacted or used to deliver gains (the "BNG boundary") and not the entire site.

There had been concern from infrastructure promoters that the rules for calculating the baseline would mirror the TCPA which would have resulted in an inappropriate, onerous and costly BNG provision in some cases. There had been no previous suggestion by Natural England or Defra of this concession, but adopting a pragmatic approach is welcomed by promoters, particularly for linear projects that can encompass vast areas within their order limits that will not be impacted by the project, and will ensure BNG costs are more proportionate.

Secondly, the rule allowing temporarily impacted and restored habitats to be counted as retained habitat for the purpose of the metric is extended from two years (as it applies to TCPA schemes) to five years, but only for habitats of low and very low distinctiveness and only for NSIPs. This is reflected in the updated BNG metric user guide for NSIPs.

BNG delivery

Developers will be able to deliver on-site or off-site gain in the first instance, to suit the particular development need. This contrasts to the TCPA BNG regime which prioritises on-site gains in the first instance. This in part reflects the strategic scale of major infrastructure and the potential for landscape-level ecological interventions that may deliver better outcomes off-site, but also aims to steer promoters away from seeking to compulsorily acquire land under the DCO for the purpose of delivering BNG. Off-site units may be sourced from within any local planning authority area or National Character Area in which the BNG boundary falls, without attracting a spatial risk multiplier penalty, though different rules apply to watercourse units where a project spans multiple catchment areas.

All significant on-site habitat creation or enhancement used towards BNG must be secured for at least 30 years from the date the habitat enhancement works are completed, either through a requirement in the DCO itself or by way of a legal agreement (a section 106 agreement or a conservation covenant with a responsible body). Habitats that are temporarily impacted and then fully reinstated to their pre-development condition do not require this level of legal security, and can still be counted in BNG calculations. Statutory biodiversity credits remain available as a backstop, but cannot be used for irreplaceable habitats.

NSIP application requirements and reporting

An outline biodiversity gain plan must be submitted with the DCO application setting out the proposed approach to achieving 10% BNG, identifying the role of qualified ecologists, along with the completed biodiversity metric calculation, the BNG boundary plan and a draft habitat management and monitoring plan.

Following consent, an updated biodiversity gain plan is required, together with a finalised habitat management and monitoring plan. Any final shortfall in gains must be calculated and secured before project operation.

These plans are the mechanism by which progress against the biodiversity gain objective is tracked and evidenced over the 30-year maintenance period.

New Government Guidance

Also published in June 2026 was a suite of government guidance which applicants must have regard to alongside the relevant biodiversity gain statement. This [guidance](#) provides the operational detail that sits beneath the gain statements and is essential reading for any NSIP promoter or their legal and ecological advisers.

Comment

NSIP promoters anticipating the submission of a DCO application on or after 2 November 2026 should comprehensively review the relevant biodiversity gain statement and ensure that their proposed scheme is compliant. The approach to pre-application consultation may require review in that light. Examining authorities and the Secretary of State will have regard to the relevant statement when examining and deciding DCO applications and applicants should therefore expect BNG to form a substantive part of the examination going forward. There will inevitably be a period of bedding in of the statements.

With many NSIPs set to require large numbers of BNG units to offset their impacts where on-site delivery is not appropriate, the market for BNG units might be expected to adjust. Greater competition for units from both TCPA and NSIP developers could have implications for their cost, which is a knock-on effect that developers may need to consider.

Related Capabilities

- Planning & Zoning
- Infrastructure

Meet The Team



James Parker

Partner, London

james.parker@bclplaw.com

[+44 \(0\) 20 3400 4132](tel:+442034004132)



Nick Harding

Senior Associate, London

nick.harding@bclplaw.com

[+44 \(0\) 20 3400 4136](tel:+442034004136)



Clare Eccles

Senior Knowledge & Innovation

Lawyer, London

clare.eccles@bclplaw.com

[+44 \(0\) 20 3400 4267](tel:+442034004267)

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