

Appendix 1: Questions and proposed response

Consultation Question	Summary of info from the consultation document	Council's Comments	Proposed Council Response
<p>Q.1. Do you support the principles that will guide the development of outcomes? [Yes / No].</p>	<ul style="list-style-type: none"> • The Secretary of State to set outcomes which a plan or project which will have to be reported against. • Outcomes will be high level and reflect the government's environmental ambitions. • The overall level of environmental protection provided by existing environmental law will not be reduced. • The outcomes will be set in secondary legislation (which will be subject to government scrutiny and public consultation) with a supporting suite of indicators set out in guidance. There will be a number of indicators for each outcome. • The outcomes should: 	<p>The process is likely to evolve over time and be subject to change which not only makes it hard to comment on now but also means that there might be significant resource burden on the Council whilst we also have to adapt and stay abreast of the changes and implications.</p> <p>The principles set out in the outcomes seem to be reasonable and should be supported.</p> <p>However, without further information on indicators, how the outcomes will be applied at a local level and who is responsible for monitoring progress of outcomes the Council needs to be mindful of the potential extra financial and resource burden that could be</p>	<p>Yes</p>

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	<ul style="list-style-type: none"> - drive the achievement of statutory environmental targets and the Environment Improvement Plan be measurable using indicators at the correct scale (see paragraphs 4.15 to 4.20 for further detail on indicators) - be designed using the knowledge and experience of sector groups and environmental experts - have an organisation responsible for monitoring overall progress of specific outcomes i.e., a responsible 'owner' - be reviewed on a regular basis to ensure they remain relevant - do not duplicate matters more effectively 	<p>passed towards them if this responsibility is passed to them.</p>	

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	addressed through policy.		
Q.2. Do you support the principles that indicators will have to meet? [Yes / No].	<ul style="list-style-type: none"> • Indicators needs to be scalable at different levels (i.e. for both national and local projects). • Indicators will be set nationally and will need to be applied consistently. • indicators will be developed through consultation and testing with the sector and relevant stakeholders • Indicators must be: <ul style="list-style-type: none"> - clearly and directly relevant to one or more priority outcomes. - non-duplicative. - Proportionate. - drawn from existing data sets, wherever possible. - measurable at the correct scale (i.e. strategic or project level). 	<p>The process is likely to evolve over time and be subject to change which not only makes it hard to comment on now but also means that there might be significant resource burden on the Council whilst we also have to adapt and stay abreast of the changes and implications.</p> <p>The principles that the indicators have to meet seem to be reasonable and should be supported.</p> <p>However, without further information on who the indicators are owned and managed by the Council needs to be mindful of the potential extra financial and resource burden that could be passed towards them if this responsibility is passed to them.</p>	Yes

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	<ul style="list-style-type: none"> - evidence based. - Replicable. - owned and managed. - supported by a clear methodology and guidance – including how they will be updated as new data emerges. • certain outcomes may not be conducive to a quantitative metric and agreed assessment methodologies that draw on qualitative assessment, using professional judgement, may have to be used. 		
Q.3. Are there any other criteria we should consider?	Certain outcomes may not be useful in contributing towards a quantitative metric and in some instances qualitative assessment may be required based on agreed assessment methodologies.	None that can be identified at this stage.	No
Q.4. Would you welcome proportionate reporting	<ul style="list-style-type: none"> • Each environmental assessment regime will be 	The Council would welcome proportionate reporting against	Yes

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<p>against all outcomes as the default position? [Yes/ No].</p>	<p>able to use the powers in the Bill to develop their own tailored approach to assessment.</p> <ul style="list-style-type: none"> • Applicants report on the performance of projects or plans against all relevant outcomes on a proportionate basis including a minimal assessment of the outcome for those circumstances where a full assessment is not required. • It will be rare that outcomes are not relevant at all as most will require a degree of desktop analysis to be 'scoped out' (as they currently are). • Assessment should focus resources on the most relevant issues for that plan or development. 	<p>all outcomes as the default position (because even where the outcomes are less relevant the Council will need to report on them to show how they have come to that conclusion).</p> <p>The Council would also support the onus being on the applicant to undertake the assessment and provide the evidence. However, where the onus is on the applicant to report on the performance of projects/plans against outcomes given the potential financial implications for poor performance it is likely that there may be bias in this reporting and there needs to be consideration of how any bias can be removed without the need for further assessment by the Council which would duplicate work, increase pressure on Council resources and could introduce a level of</p>	

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		conflict that would need to be swiftly and economically resolved.	
Q.5. Would proportionate reporting be effective in reducing bureaucratic process, or could this simply result in more documentation?	<ul style="list-style-type: none"> • Proportionate reporting will allow for minimal assessment of outcomes where full assessment is not required. • Most relevant issues can be focused on, with less resources spent on scoping 		This will likely assist with reducing overall reporting and documentation demands, although it is acknowledged that such a determination will only be practical through the application of the EOR process once finalised.
Q.6. Given the issues set out above, and our desire to consider issues where they are most effectively addressed, how can government ensure that EORs support our efforts to adapt to the effects of climate change across all regimes?	<ul style="list-style-type: none"> • The assessments need to properly consider climate change (in terms of mitigation and adaption). Matters like climate change are not a single issue but complex network of interconnecting considerations. Climate change covers many different considerations and is not always directly, or 		The complexity of the climate change issue has been recognised as has the fact that the existing system has been shown to be failing. The system for assessment needs to be simpler and a lack of knowledge, skills and resources within the planning system at the Council is likely to have been a contributing factor and this will need to be addressed if the system is

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	<p>effectively, measurable in itself.</p> <ul style="list-style-type: none"> • Use of the current system is not having a tangible impact on the ground. • Timing of assessments may be an issue that needs to be addressed. • EORs need to consider climate change adaption needs across regimes. • Climate change is best tackled at a national scale including through changes to policy. 		<p>going to be effective in the future.</p> <p>In order for the EORs to be successful there needs to be limited scope for interpretation and there should be very clear assessment criteria (i.e. it shouldn't matter who does the assessment the results should be the same).</p> <p>The interaction between different regimes to adapt to the effects of climate change should be considered by government and factored into assessments at a national level before being pushed out to a local level.</p> <p>The requirements for additional assessments (e.g. carbon impact assessments) increases the resource burden on the Council and</p>

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			this should be addressed by the government through further financial and skills development support.
Q.7. Do you consider there is value in clarifying requirements regarding the consideration of reasonable alternatives? (Yes/No)	<ul style="list-style-type: none"> • Consideration of options with less damaging effects on the environment should be carried out at an early stage. • Current confusion about the range and scale of reasonable alternatives that are required to be considered. • Consideration of reasonable alternatives is often retrofitted and are not infrequently a 'cut and paste' from assessments carried out for other plans and projects. • Require plan-makers and developers to provide a summary record of their 	<p>Consideration of reasonable alternatives is already something that the Council undertakes. The Council would welcome any further guidance on what reasonable alternatives should be considered would be welcome.</p> <p>The production of a summary record however would create additional work rather than reduce the workload as the assessment would have to be undertaken in full prior to a summary being produced. It is likely that this would duplicate work and increase the amount of work that needs to be undertaken by the Council. It is also likely that the Council would need to publish the full</p>	Yes.

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	<p>decision-making on alternatives.</p> <p>The consideration of alternatives should be reviewed and, if necessary and reasonable, updated by the plan maker or applicant, prior to submission as part of the EOR to capture any subsequent changes in the plan or project.</p> <ul style="list-style-type: none"> • Guidance will be clear that realistic alternatives, fully consistent with the primary objectives of the project, should be considered, with no need to assess and report against any options that would not be credible. 	<p>assessment and the summary and therefore this is increasing the demand on Council resources.</p>	
<p>Q.8. How can the government ensure that the consideration of alternatives is built into the early design stages of</p>	<p>Reasonable alternatives are often unoriginal assessments used for other plans. There is a need to ensure that alternatives are explored in earnest, at an early stage of the planning process. The</p>		<p>The Council recognises the importance of appropriately timed assessment of alternatives and that that this should come as early as possible in the process.</p>

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the development and design process?	<p>government is proposing to require the addition of a summary record of alternatives assessed. This will be a high-level summary.</p> <p>Guidance will define how realistic alternatives are considered and how subsequent changes will be implemented where such determinations are established to be necessary.</p>		<p>However, evidence tends to increase over time (the further down the process that you get) making the assessments more accurate and therefore by building the assessment of reasonable alternatives into the process too early could mean that there is inadequate information to undertake the assessments and/or that the assessment work will need to be duplicated throughout the process.</p> <p>Any mechanism to require assessment of reasonable alternatives should take account the level of information available at the time.</p>
Q.9. Do you support the principle of strengthening	<ul style="list-style-type: none"> The first stage of the process is to decide whether assessment is required. This is a time- 		The principle is supported providing that there is clear guidance on borderline cases

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the screening process to minimise ambiguity?	<p>consuming activity that also carries the highest risk of legal challenge, further complicated by a common reluctance to undertake environmental assessments as they are often viewed as resource intensive with little value.</p> <ul style="list-style-type: none"> • There will be two categories that require assessment: <ul style="list-style-type: none"> - Category 1 consents will require an assessment in all circumstances. - Category 2 consents will require an assessment if the criteria set out in the regulations are met. • Regulations will narrow the scope for discussion by being more prescriptive on how borderline cases should be considered. • 'Screening' decisions for the smaller number of Category 2 consents will remain the 		and a well-articulated framework.

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	<p>judgement and discretion of the consenting authority (possibly based on proximity, or a defined impact pathway, to a sensitive receptor instead of a project size threshold) but regulations will narrow the scope for discussion by being more prescriptive on how borderline cases should be considered.</p>		
<p>Q.10. Do you consider that proximity or impact pathway to a sensitive area or a protected species could be a better starting point for determining whether a plan or project might require an environmental assessment under Category 2 than simple size thresholds? [Yes/No].</p>	<ul style="list-style-type: none"> • Clause 140 will bring forward the introduction of Category 1 and Category 2 consents in order to assist with determining whether assessment thresholds are met 	<p>The proposed consideration for when an assessment is required would mean that the sensitive area / protected species is the key consideration for the assessment rather than an arbitrary threshold.</p> <p>The scale of development will however still need to be a consideration.</p>	<p>Yes</p>

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Q.11. If yes, how could this work in practice? What sort of initial information would be required?	The need to simplify the process of deciding when an assessment is required. Borderline cases will need a framework for effective analysis.		Impacts and thresholds should be articulated clearly. Outcomes and indicator variables should have detailed guidance to avoid ambiguity wherever possible.
Q.12. How can we address issues of ineffective mitigation?	<p>The consideration and application of the mitigation hierarchy (avoid, mitigate and compensate) should standard practice and should be undertaken early in the process.</p> <p>Uncertainty regarding the mitigation required cannot be removed (due to the complexity of the environment).</p> <p>We propose that applicants will be required to report on the steps undertaken at the design and development stage to avoid an adverse impact on the environment.</p> <p>Agreed mitigation may need to be reviewed (adaptive or dynamic mitigation) following</p>		In enabling the new system to be more proactive (via review and adaption of mitigation) this will add significant extra burden onto the Council in terms of resources. Whilst this might achieve better environmental outcomes there needs to be careful consideration of how the process will impact upon current workloads and there should be significant investment into Councils to allow them to be able to adapt to these new additional processes. There also needs to be consideration of how this is dealt with by Councils

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	implementation and changes to mitigation (in response to greater certainty on effects) should use a transparent and accountable process.		and the need to upskill and support (on a continual basis) the Councils to do this role.
Q.13. Is an adaptive approach a good way of dealing with uncertainty? [Yes/No].	Where monitoring demonstrates a potential need for remedial actions to be taken, adaptive or dynamic mitigation measures may be considered. The government is exploring how such management could assist with uncertain variables in the assessment of development-related impacts on the environment.	See above – this approach is in theory likely to achieve better environmental outcomes, but it does add significant resource burden on to Councils which needs to be considered/addressed satisfactorily.	Yes
Q.14. Could it work in practice? What would be the challenges in implementation?	The practical implications of such an approach could pose challenges in implantation given the potential need to alternate approaches or to divert additional resources in response to monitoring.		See above. Council resources would be a major barrier to implementation, as would a lack of skills to be able to review and suggest mitigation required. Reliance on consultants would not be appropriate.

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<p>Q.15. Would you support a more formal and robust approach to monitoring? [Yes/No].</p>	<p>Delivery of mitigation through consent mechanisms is inherently uncertain, and mitigation measures may, have unintended consequences, not known at the time of the decision. This makes effective monitoring processes essential in ensuring plans and projects are as proposed, and their effects are as predicted in the assessment.</p> <p>The purpose of the monitoring is to verify whether the effects of a development on the environment are as predicted in the assessment. It also checks whether mitigation to address issues arising has been implemented as proposed, and is working as expected, within the timeframes agreed as part of the planning process.</p> <p>Monitoring is required under the current system but it is largely patchy and inadequate and is</p>	<p>The government recognise that a strain on Council resources is a big factor in why monitoring is currently often not seen as a priority and so this something that needs to be addressed in advance of any formal requirements being introduced.</p>	<p>Yes</p>

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	<p>considered to be a lower priority activity. As a result measures proposed as mitigation are often not implemented as originally proposed in the assessment, and sometimes not at all.</p> <p>The government intend to clarify monitoring requirements and directly link monitoring with data collection to inform our understanding of the environment. If the anticipated levels are not met and remediation proves necessary, it will be pursued and enforced.</p> <p>The government will explore the range of options for securing the resources required to take remedial action, such as when a developer is no longer present, or a shell company has dissolved. This could include the use of bonds, escrow accounts and any potential role that third parties could play.</p>		

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Q.16. How can the government use monitoring to incentivise better assessment practice?	Clause 141 will provide a more robust approach to how outcomes are monitored. It is considered that monitoring of projects (other than minerals, waste and offshore wind) is inadequate. Clause 141 will enumerate assessment requirements and proposed mitigation.		It depends on who the monitoring is going to be undertaken by, if assessment and monitoring are undertaken by two separate bodies then it will be very hard to incentivise the assessment body unless the monitoring body has strong powers to enforce compliance and issue financial penalties and penalties on development – this needs to be linked to the applicant/developer and take account of the fact that the development may have completed and could be in different ownership.
Q.17. How can the government best ensure the ongoing costs of monitoring are met?	Monitoring and mitigation-related costs can be unforeseen and burdensome. Resources are often required at a level that compromises performance overall. Proposed reforms will allow for the		Any burdens placed on Councils need to be fully funded and training needs to be provided on an on-going basis to upskill staff to be able to critically review the

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	re-use of data, improved monitoring (to provide more accurate prediction of results) and the potential incorporation of actions to secure remedial efforts, such as bonds, escrow accounts and other options for third parties.		<p>assessments and undertake monitoring (should the Council end up being the responsibly body).</p> <p>The cost of monitoring (and re-assessment) should ultimately be met by the applicant (which could incentivise improved assessments).</p>
Q.18. How should the government address issues such as post-decision costs and liabilities?	Post-decision costs and liabilities can be onerous and difficult to accurately forecast.		<p>These need to be factored in as best as possible as part of the decision-making process. There should be no instances where the cost and liabilities are left for the Council to pick up.</p> <p>There should be a mechanism for recouping the costs back from the developer. There should be timescales for review of mitigation that makes this possible.</p>

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<p>Q.19. Do you support the principle of environmental data being made publicly available for future use?</p>	<p>Clauses 78-92 in the Bill will provide for planning authorities to require standardised data to be made openly available. The Bill will enhance digitisation of planning services. This will result in data (especially strategic) being more accessible to users. Overall, capturing data more effectively will:</p> <ul style="list-style-type: none"> • deepen our understanding of the state of the environment • inform future policy development • make future assessments quicker and easier to carry out • help us understand the effectiveness of assessment; and • provide feedback on the effectiveness of the types of mitigation proposed. 		<p>Yes.</p> <p>Sharing of good quality up-to-date data is key to ensure that good decisions are made.</p> <p>However, there should be agreed data standards so that the data is comparable and there should be a requirement that the data should be provided by the applicant in the required format.</p> <p>Again there will be an element of data manging, cleansing and analysis that will be required by the Council and this should be accompanied by support (technical and financial) to ensure that this does not simply become another burden for the Authority.</p>

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<p>Q.20. What are the current barriers to sharing data more easily?</p>	<p>A lack of digitisation, prevention of publicly available data, and overall accessibility issues are hindering effective data sharing.</p> <p>Furthermore, the right kind of data is often not being provided for specific process needs. This is leading to inefficiencies and a loss of data collection.</p>		<p>Data is often provided in hard copy or as a PDF document which would then have to go through a process of digitising by the Authority and being made compliant with accessibility standards before it could be published on the website. A lack of standardisation means that the data is hard to interrogate or analyse because of the format that it is provided in.</p> <p>The key barrier is a lack of resources within the Council which means that there is not the capacity to do anything other than upload the information that is provided to us onto the website under each planning reference.</p> <p>There is no centralised place for the information to be held.</p>

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			<p>Depending on how the data was to be shared there may also be a lack of skills within the Council to share the data. As a council we do not have a dedicated data or GIS officer that's sites within the planning function and therefore this task would fall to officers in addition to their other workload which would mean that it is unlikely to be a priority.</p>
<p>Q.21. What data would you prioritise for the creation of standards to support environmental assessment?</p>	<p>The correct type of data is often lacking in terms of accessibility or copyright concerns. Related systems such as Local Nature Recovery Strategy may benefit from improved availability of data.</p>		<p>Data should be able to be collected with limited bureaucratic delay and annual benchmarks should be considered where possible. Copyright and GDPR-related constraints should be assessed to avoid inhibiting the collection of such variables.</p>

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Q.22. Would you support reporting on the performance of a plan or project against the achievement of outcomes? [Yes/ No].	Clause 146 allows the government to require the reporting of performance against specified environmental outcomes. The national level data collection variables will need to be clearly articulated.	Yes but only if additional resources were provided in order to do this.	Yes
Q.23. What are the opportunities and challenges in reporting on the achievement of outcomes?	The government will need to balance the opportunity for successful environmental protection with the desire to reduce bureaucratic requirements and consequent impacts on resourcing.		Lack of resources within the Council is a key challenge. Also the lack of knowledge and potentially a lack of support from other key organisations (who are themselves under resourced).
Question 24: Once regulations are laid, what length of transition do you consider is appropriate for your regime? i) 6 months ii) 1 year	A transition period will be anticipated in order to consider lead times in developing plans. The aim will be to provide as much of a time-limited transitional phase as practical.		Town and Country Planning. It would be useful for changes to the assessment and reporting mechanism to link to changes in the planning system as a whole. The 'new style plans' are proposed to come into effect

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<p>iii) 2 years</p> <p>Please state regime.</p>			<p>in June 2025 and this should be the same.</p> <p>However, the transition period should only start from when the details (through secondary legislation) are known about which would give authorities time to prepare.</p>
<p>Question 25: What new skills or additional support would be required to support the implementation of Environmental Outcomes Reports?</p>	<p>The government is to develop support mechanisms to bolster skills development.</p>		<p>Additional training for critically reviewing EOR's, mitigation and monitoring would be beneficial. Overall guidance for planning officers should be as unambiguous and detailed as possible to remove interpretation where possible.</p> <p>Financial support to discharge any additional Council responsibilities or resource burdens would be required.</p>

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Question 26: The government would be grateful for your comments on any impacts of the proposals in this document and how they might impact on eliminating discrimination, advancing equality and fostering good relations.	Equalities implications are to be assessed through the public sector equality duty to inform the development of this policy.		It is unclear at this stage whether there will be any discernible impacts on equalities. The social and economic components of the existing SA structures would need to be imbedded in further policy analysis (such as replacement of SEA) should the EOR solely focus on environmental matters.