

Consultation Response

Developing an Ecosystem Restoration Code for Scotland

About the RTPI

The RTPI Champions the power of planning in creating sustainable, prosperous places and vibrant communities. We have over 27,000 members in the private, public, academic and voluntary sectors. Using our expertise and research we bring evidence and thought leadership to shape planning policies and thinking, putting the profession at the heart of society's big debates. We set the standards of planning education and professional behaviour that provide our members, wherever they work in the world, a unique ability to meet complex economic, social environmental and cultural challenges.

Introduction

RTPI Scotland welcomes the opportunity to comment on the development of an ecosystem restoration code (ERC) for Scotland. We recognise that private investment is an important mechanism through which climate adaptation measures can be delivered, including biodiversity enhancement measures through nature restoration projects. We are therefore broadly supportive of the development of an ERC for Scotland that fills a gap not currently covered by the Woodland Carbon and Peatland Codes, enabling other habitats and land system contexts in Scotland to benefit from a high-integrity market mechanism for attracting private investment.

Notwithstanding the above, we take this opportunity to draw attention to the following matters which we believe should be given consideration in the development of an ERC.

ERC Alignment with Current Policy and Existing Work Programmes

Biodiversity is complex and we agree that for biodiversity and ecosystem restoration to help tackle the climate and nature crises, this will require a whole-system and whole-society approach. We also agree that an ERC has a legitimate role to play in this context, supporting a just transition through private investment in nature-based solutions. In this regard, we recognise that there are multiple potential use cases for an ERC in Scotland. As set out in the engagement paper, one such use case is regulatory compensation (or offsetting) associated with the significant and unavoidable negative impacts of development activities on biodiversity. England's Biodiversity Net Gain (BNG) model is cited in the engagement paper as an example of this type of use case.

Planning has a critical role to play in supporting a whole-system approach to addressing the climate and nature crises¹. This role is recognised in National Planning Framework 4 (NPF4), which places tackling these twin crises as planning's top priority; Policy 1 specifically requires that significant weight be given to the global climate and nature crises in the consideration of all development proposals. In support of this, the key outcome of Policy 3 (Biodiversity) is that "biodiversity is enhanced and better connected including through strengthened nature networks and nature-based solutions". Achieving such "biodiversity enhancement" has been somewhat of a sticking point since NPF4's

¹ For more information about how planning can contribute to nature recovery, see this [series of essays by Mark Scott, Gavin Parker and others](#) published in 2023.

formal adoption in February 2023, with concerns that in the absence of a Scottish biodiversity metric, England's BNG model is being inappropriately applied in the Scottish context. Much work has been undertaken over the past couple of years to provide additional guidance on this point, including work by NatureScot to prepare a Scottish Biodiversity Metric (which is ongoing) and recent NatureScot guidance about how existing metrics (such as England's BNG) can be appropriately applied in the Scottish context in the interim.

Part 5 of the ERC engagement paper considers how the development of an ERC aligns with Scottish Government Policy. We agree that this is important, and there are several Scottish Government policies that have relevance to ecosystem restoration in Scotland – not least being the Scottish Biodiversity Strategy and Delivery Plan, which are both referenced in the engagement paper. However, despite the engagement paper's recognition of the potential regulatory use of a future ERC to offset the impact of development proposals (using England's BNG model as an example), the links with NPF4 are entirely absent from the paper. Also absent, is an understanding of how a future ERC would interact with and work alongside a future Scottish Biodiversity Metric that NatureScot have been commissioned to prepare by the Scottish Government.

If an ERC is to be used in this regulatory context, it is critical that its relationship with existing and impending planning policies, strategies, mechanisms and tools is clearly and fully understood. Without such clarity, the confusion we have seen thus far through the development and publication of seemingly disconnected strategies, guidance, and tools will only be exacerbated. We need to draw these together to understand clearly where and how they fit within the broader puzzle of biodiversity restoration and enhancement, including their collective role in setting out a clear route map towards the successful and meaningful delivery of biodiversity enhancement and nature restoration on the ground.

Supporting Equitable Outcomes

We support the principle outlined in the engagement paper regarding proportionate local community engagement and benefit as part of the development of any new ERC for Scotland. For an ERC to generate positive and equitable outcomes across Scotland's diverse communities, the private investment in natural capital that is generated must be managed carefully to ensure effective community engagement is achieved. How this is realised, however, is not addressed in the engagement paper. RTPI Scotland has repeatedly highlighted the need to carefully manage the impact of climate, biodiversity and ecosystem interventions on communities. This is identified in the engagement paper as a potential unintended consequence and risk of a future ERC, but no further detail is provided as to how this risk could be managed, including through suitable measures to identify affected and most at-risk communities.

Community groups have the potential to benefit from an ERC as early adopters (as identified in the engagement paper) or through a multitude of other environmental, social and economic benefits that an ERC could generate, including the creation of enhanced green spaces. However, if not carefully implemented utilising effective and meaningful community-led engagement practices, there is a risk that any future ERC for Scotland could be hampered by public mistrust if the mechanisms are not sufficiently transparent, embrace local knowledge, and enable the full participation of communities to ensure the equitable distribution of benefits.

We would welcome further details on how such an approach will be embedded in any future ERC for Scotland.



ERC Monitoring and Enforcement

Accountability must be built into any future ERC for Scotland if it is to have a long-term positive impact on ecosystem restoration and biodiversity enhancement. This can only be achieved through the development of an effective monitoring and enforcement strategy that is developed and sits alongside the ERC.

[Recent RTPI research](#) has highlighted the impact of inefficient monitoring and enforcement practices in England to deliver nature enhancement, revealing that “new housing developments are delivering just half of their mandated ecological features”. This concern is mirrored in Scotland, with [a community-led study by Planning Democracy](#) emphasising the need to better understand the cumulative impact of nature-based decision making so as to avoid the risk of causing the “death of nature by a thousand cuts” through the lack of an effective monitoring system.

Fully understanding the outcomes achieved through an ERC in Scotland will be critical to ensure that its role in restoring and enhancing Scotland’s complex ecosystems has meaningful and positive impact on the ground across multiple scales and timeframes. Linked to this, skills and skill development are going to be important as part of the monitoring and enforcement of ERC outcomes. RTPI Scotland has previously expressed concern about the additional duties being placed on local planning authority staff amid deteriorating staffing and budgetary constraints. For example, many authorities have lost in-house ecological and biodiversity expertise that will be vital to supporting the implementation of an ERC. If local authorities are to play an effective role in the implementation, monitoring and enforcement of ecosystem restoration outcomes produced through this new Code, additional resources, training and support will be required. We know from our work in England that the introduction of BNG has created a lot of uncertainty about the technicalities of measuring and assessing biodiversity, with our members reporting only a very low confidence (rated as 2/10) in their knowledge of this topic. MHCLG’s [Local Authority Planning Capacity and Skills Survey 2023](#) identifies ecology and biodiversity as the most commonly reported planning skills gap, reported by 72% of England’s planning departments. This gap is a significant risk to the implementation of an ERC as an effective regulatory mechanism for biodiversity enhancement in Scotland and must be addressed from the outset as part of the Code’s development.

It is therefore our view that the ERC’s development must include a comprehensive monitoring and enforcement strategy that sets out clearly the duties and responsibilities, lead and supporting actors and agencies, and resources required for monitoring and enforcing an ERC in Scotland.