

## Why we need a Pause to Save Part III: Amendments

A schedule of necessary Amendments to Part III – and why they are *all* needed to ensure we do not regress, and why they need due process to be effective

01 May 2025

### Introduction

Part III of the Planning and Infrastructure Bill allows Natural England, and the Secretary of State for Housing, Communities and Local Government to create **“Environmental Delivery Plans” (EDPs)**. EDPs **allow unmeasured harms to species and habitats, anywhere in England, in return for a payment to Natural England.**

Payments made to Natural England, through a levy, can be spent on administration costs, and the delivery of other Natural England functions. **Funds don’t need to be applied to the delivery interventions for nature.** There would be **no legal obligation** on Natural England, or any other party, **to implement or deliver any environmental compensation schemes.**

**Expensive legal clashes** between EDPs and local and national planning policy and **time-consuming arguments about viability based levies** will slow down planning, add costs to developers, and harm our economy.

It is not possible to introduce these meaningful fixing amendments to Part III of the Bill without broad and wide **consultation, impact assessment, pilots** and the legal guidance of the **Office for Environmental Protection.**

## Amendments

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>Natural England will be commercially and professionally conflicted, and will lose effective independence from Government</b>	<b>Ensure independent oversight of Natural England</b>	To minimise environmental harms caused by commercial and professional conflicts of interest	<b>Yes</b> - which party should provide this oversight? What will this oversight cost?	<b>Yes</b> - to model practical implications and costs	<b>Yes</b> - to establish actual implications and costs
<b>No evidential thresholds are set for an effective EDP baseline - without this, there can be no 'overall improvement'</b>	<b>Agree baseline evidence thresholds for an EDP</b>	To ensure EDPs are based on a minimum level of baseline evidence, which is refreshed/updated at agreed intervals and enables measurement of 'overall improvement'	<b>Yes</b> - to reach legal and technical consensus on evidence threshold	<b>Yes</b> - to model costs and time factors for gathering evidence base	<b>Yes</b> - to establish true cost and time factors

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>There is no requirement to measure impacts of development, so it is impossible to determine any kind of overall improvement</b>	<b>Agree baseline evidence threshold for harms caused to the environment within an EDP area</b>	To ensure actual harms of development are measured, so that it is possible to determine an 'overall improvement'	<b>Yes</b> – to reach legal and technical consensus on baseline evidence threshold	<b>Yes</b> – to model costs and time factors, and to ensure this does not add greater cost to developers than the status quo	<b>Yes</b>
<b>There is no requirement for developers to first avoid or minimise harms of development</b>	<b>Apply mitigation hierarchy to EDPs</b>	To ensure EDPs do not accelerate the decline of nature rather than halt or reverse it in line with our legal obligations	<b>Yes</b> – to reach legal and technical consensus on application of mitigation hierarchy	<b>Yes</b> – to model costs and time factors, and to ensure this does not add greater cost or delays to developers than the status quo	<b>Yes</b>

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>There is no legal obligation on any party to implement or deliver any environmental compensation measures</b>	<b>Set a legal obligation on Natural England to deliver compensation measures contained in EDP</b>	Allowing destruction of habitats and species, with no legal obligation on any party to compensate for that destruction is wholly unacceptable	<b>Yes</b> – to ensure Natural England can carry that legal responsibility alone, and to model appropriate penalty mechanisms for non-performance	<b>Yes</b> – to model costs and time factors compared to status quo (currently a mix of landowners, developers, charities, NGOs and private companies take on these primary legal responsibilities)	<b>Yes</b> – to test Natural England’s capacity to deliver in line with legal obligations.

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>Part III prioritises development viability, and Natural England's administration costs above costs of delivering environmental compensation measures</b>	<b>Ensure levy income will cover the cost of compensation measures</b>	Anything less than this will guarantee that EDPs will never be successfully implemented or delivered	<b>Yes</b> - to ensure developers can fund Natural England's administration, enforcement and piloting as well as interventions for nature	<b>Yes</b> - to model increased costs to developers	<b>Yes</b>
<b>There is no legal requirement on any party to deliver compensation measures at all</b>	<b>Ensure compensation measures are legally implemented prior to harm caused by development</b>	To comply with all key environmental principles, and prevent acceleration of environmental destruction	<b>Yes</b> - to establish legal and technical consensus on definitions and process for implementation	<b>Yes</b> - to model potential greater cost and delay for developers than the status quo	<b>Yes</b>

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>Secretary of State can allow the harm of any environmental feature in England in exchange for payment of a levy</b>	<b>Ringfence application of EDPs so that they do not apply to irreplaceable habitats</b>	By their nature, irreplaceable habitats cannot be compensated for through an EDP	<b>Yes</b> – to agree a working definition of irreplaceable habitats that will stand the test of time	-	-
<b>EDPs can cover any environmental feature in England</b>	<b>Ringfence application of EDPs to ensure alternative investment flows are not crowded out</b>	Local planning authorities, charities and private companies are investing in nature restoration – such as BNG, and District Level Licencing, and need reassurance that their investment case won't be collapsed by an EDP	<b>Yes</b> – to establish the appropriate parameters to protect alternative investment sources	<b>Yes</b> – to understand impact on alternative investment flows	<b>Yes</b>

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
It is not possible to challenge a 10 year EDP once made at all	Allow revocation of underperforming/ non-performing EDPs	To enable alternative providers to step in where Natural England is unable to deliver	<b>Yes</b> – to establish industry consensus around process and procedure which does not slow down or add cost to development	<b>Yes</b>	<b>Yes</b>
EDPs have an excessively short and limited consultation window of 28 days	Increase EDP consultation time to standard 3 months	To enable transparency and ensure evidence thresholds are met before an EDP is entered into	<b>Yes</b> – to establish stakeholder consensus around data, timescales and process	<b>Yes</b> – to understand cost implications compared to the status quo	<b>Yes</b>

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>Currently, only LPAs and the Joint Nature Conservation Committee are statutory consultees for an EDP</b>	<b>Broaden list of statutory EDP consultees to include relevant technical experts</b>	To ensure EDPs are well-informed	<b>Yes</b> – to establish consensus around appropriate consultee list to balance expediency with expert technical input	<b>Yes</b> – to understand cost and delay implications compared to the status quo	<b>Yes</b>
<b>There is no requirement to publish responses to EDP consultations, or provide details of weight given to those responses in decision-making</b>	<b>Bolster EDP consultation process to include normal due process</b>	To enable transparency and public understanding of evidence base and weight given to responses during EDP creation process	<b>Yes</b> – to establish legal and technical consensus on an appropriate consultation process	<b>Yes</b> – to understand potential cost and delays compared to the status quo	<b>Yes</b>



Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>There is no ability to challenge the making of an EDP (other than if there has been a failure to follow procedure)</b>	<b>Allow challenge of EDPs when evidence thresholds are not met</b>	To ensure unevidenced EDPs are not rushed into law to facilitate harmful developments	<b>Yes</b> – to establish evidence thresholds	<b>Yes</b> – to understand potential cost and delays to development compared to the status quo	<b>Yes</b> – to test evidence thresholds, timings and costs
<b>Claim window for challenging due to failure to follow process is limited only to 6 weeks</b>	<b>Extend Judicial Review period for an EDP to standard 3 months</b>	To give transparency and necessary time to test the evidence bases of an EDP	<b>Yes</b> – to establish legal and technical consensus around efficacy of Judicial Review to protect against poor EDPs	<b>Yes</b> – to understand potential costs	<b>Yes</b> – to model actual responses to proposed EDPs

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>Part III allows Natural England to use levy funds to cover administration costs, and costs of complying with other functions</b>	<b>Prevent cost-shifting</b>	To ensure that developers' levies are not used to fund Natural England's wider functions, so diverting cash away from the intended environmental interventions	<b>Yes</b> – to establish legal and financial consensus on how this can be prevented	<b>Yes</b> – to understand potential cost and delays to development compared to the status quo	<b>Yes</b> – to test true cost of creation and delivery of EDP and added costs to developers compared to the status quo

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>Developers need only to 'commit' to pay a levy to side-step obligations. Payments may be staggered over many years or decades</b>	<b>Ensure developers pay levy ahead of harm</b>	So that environmental compensation measures are properly funded and implemented	<b>Yes</b> – in particular to establish developers' perspective	<b>Yes</b> – to understand potential costs to development compared to the status quo	<b>Yes</b> – to test actual costs
<b>EDPs clash with local planning policies, and established core planning principles of sustainable development</b>	<b>Avoid costly clashes between EDP and local planning policies</b>	To avoid delays to planning and development caused by an EDP	<b>Yes</b> – in particular to establish Local Government's perspective, and developer perspective	<b>Yes</b> – as clashes in policy slow development and add costs to planning	<b>Yes</b> – to flush out the points of tension compared to the status quo

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
<b>The Bill is sparse on details around protecting the environment - but heavy on other details, like what costs Natural England can cover with the levy</b>	<b>Minimise risk of harmful secondary regulations being passed without scrutiny</b>	The broad scope of this primary legislation leaves significant latitude for secondary regulations causing greater harm to be passed later, without proper scrutiny	<b>Yes</b> - this Part III needs significant tightening in primary legislation to minimise risks of later abuse for political expediency	-	-

Regression and Harms of Part III	Necessary Amendment	Why we need it	Consultation required?	Impact assessment required?	Pilot required?
The 'overall improvement test' is currently a weak, theoretical "sufficient to outweigh" test, that is meaningless without any requirements for evidence thresholds to be met	Strengthen 'overall improvement test' so that it has legal effectiveness and meaning	To ensure EDPs are fit for purpose. <b>Note</b> , a strengthened 'overall improvement' test brings no benefits to development or nature unless <b>all</b> of the amendments proposed above are first made. Without the full suite of structural amendments to this Part of the Bill, the 'overall improvement test' is impossible to measure	<b>Yes</b> – to establish legal and technical consensus on a test that is workable, while suitably rigorous	<b>Yes</b> – to model potential costs and technical input required	<b>Yes</b> – to test industry and expert responses to application of overall improvement test