Planning for new energy infrastructure: review of energy National Policy Statements (published 6 September 2021)

Response on behalf of the National Infrastructure Planning Association

Introduction

The National Infrastructure Planning Association ("NIPA") was established in November 2010 with the aim of bringing together individuals and organisations involved in the planning and authorisation of major infrastructure projects. Our principal focus is the planning and authorisation regime for nationally significant infrastructure projects ("NSIPs") introduced by the Planning Act 2008. We provide a forum for those with an interest in the planning and authorisation of national infrastructure projects in the UK, particularly those brought forward within the framework of the Planning Act 2008.

In summary, we:

- advocate and promote an effective, accountable, efficient, fair and inclusive system for the planning and authorisation of national infrastructure projects and act as a single voice for those involved in national infrastructure planning and authorisation;
- participate in debate on the practice and the future of national infrastructure planning and act as a consultee on proposed changes to national infrastructure planning and authorisation regimes, and other relevant consultations; and
- develop, share and champion best practice, and improve knowledge, skills, understanding and engagement by providing opportunities for learning and debate about national infrastructure planning.

NIPA welcomes the review of the energy-related National Planning Policy Statements ("NPS") and this opportunity to comment on the changes to policy proposed by the Department for Business, Energy & Industrial Strategy ("BEIS"). NIPA formed a working group, comprised of members who are actively engaged in energy related NSIPs, and represent a cross-section of interests, e.g. developers, consultants, local authorities, and other stakeholders. The working group reviewed the suite of five NPS and identified potential issues and opportunities for improvement. Those issues and opportunities are set out below: first a set of overarching comments, followed by a table setting out NPS paragraph specific points. In preparing these comments, we have considered the responses to this consultation made by Solar Energy UK and Renewable UK and are broadly supportive of the points made by those industry bodies.

Section 1: Overarching Comments

<u>Need, speed and presumption in favour of development</u>

1. The NPS confirm government's expectation given in the Energy White Paper, published in December 2020 (the "White Paper") that electricity demand will double by 2050 and to meet that a fourfold increase in low carbon electricity generation is needed, with most of this likely to come from renewables. Project Speed has been commissioned to identify ways in which the delivery of infrastructure can be expedited, and there is a greater role for the NPS to minimise delay. Yet, there has been divergence in approach to the balance of national need and local impacts taken

by the Planning Inspectorate, appointed Examining Authorities and the Secretary of State over the last two years leading to delays in determining DCO applications, particularly for renewable energy infrastructure. Moreover, it has been clear that whilst the Secretary of State places significant weight on the national need, the Planning Inspectorate and appointed Examining Authorities have placed greater weight on local impacts.

2. In the above context, the case for energy infrastructure needs to be expressed in the NPS in the strongest possible terms. The NPS must give a clear direction in this regard with emphasis on the presumption in favour of development. We do not consider the suite of draft NPS achieves that. Indeed, our opinion is that the national need and presumption have been diluted by the identification of technology specific impacts, but absence of direction on the weight to be applied, or which issues should prevail. In effect, this is left to be determined at project level. This is most obviously the case in EN-3 in relation to offshore wind where, despite that technology being the backbone of the Government's Net Zero Strategy (at least 40GW by 2030), relevant impacts are identified, but the NPS stops short of saying how they should be balanced and determined. If BEIS does not grapple with that in the NPS, that will potentially lead to further uncertainty, delay and inconsistency in decision making, and undermine the investment in offshore wind. We recommend BEIS reconsiders the NPS and asks itself if more direction can be given in relation to the weight to be applied to key impacts. The NPPF may assist here, which arguably contains a stronger presumption in favour of renewable energy development. It says the decision maker should "*approve the application if the impacts are (or can be made) acceptable*". However, we submit that the NPS should go further than this and recommend a weighting test (similar to that used for heritage matters) where the presumption is grant unless the harm outweighs the benefits. We also recommend that the policy related to need stated at paragraphs 3.1.1 and 3.1.2 of EN-1 is given greater prominence and reiterated in section 1.1. The key message that the government has identified: (i) a need for significant amounts of new large-scale energy infrastructure to meet its energy objectives; (ii) that need as being urgent and should be given substantial weight; and (iii) it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts, must be communicated in the strongest possible terms so that it is not undermined in decision making. The Planning Inspectorate, appointed Examining Authorities and Statutory Consultees must be given a clear steer in this regard.

3. The scale of the challenge should not be underestimated. The absence of clear targets for onshore wind and solar and unhelpful references to simply providing *more* of both in the Net Zero Strategy means it is all too easy for opponents to challenge the need for renewable technologies. The investment required for promoters to embark on the DCO process without the certainty of clear policy support for the scale of technology required to meet this need is also a huge obstacle. The renewable mix required to deliver decarbonisation of the energy sector by 2035 will simply not happen if this uncertainty continues. The National Infrastructure Commission in their 2020 paper[1] looked at the renewable mix required to meet net zero by 2050. These could be regarded as minimum recommendations now the Government is even more ambitious. The NIC commissioned an independent analysis by Aurora Energy Research. This looked at the capacity mix of 3 modelled scenarios of 60%, 80% and 90% renewables by 2050. This resulted in a recommended figure of between 56-121 GW of solar, 18-27GW of onshore wind and 54-86 GW of offshore wind by 2050. Using solar as an example, the UK has 14GW of installed capacity and 17GW in the planning pipeline[2]. This still leaves

[1] Net Zero: Opportunities for the Power Sector, NIC, March 2020 https://nic.org.uk/app/uploads/Net-Zero-6-March-2020.pdf

[2] Lighting the Way, Solar Energy UK, 2021 https://solarenergyuk.org/resource/lighting-the-way-making-net-zero-a-reality-with-solar-energy/

between 25-90GW of solar to be delivered by 2050 (equivalent to between 1 and 3GW a year). Similar analysis by Solar Energy UK[3] shows that 40GW of solar is required by 2030 to achieve net zero by 2050 (or 4GW a year). To put this in context, an NSIP scale solar farm typically generates in the region of 350MW. Meeting the NIC target would require around 260 NSIPs to be consented and built between now and 2050, or 1,800 49.9MW projects. Rather more starkly, using Solar Energy UK's figure of 40GW, would require 114 NSIPs to be built and delivered in the next 9 years, or 800 49.9MW projects. There is still only one solar NSIP to have been granted, Cleve Hill, and this has not yet been constructed. Policy needs to be strong and unequivocal to enable more projects to be promoted and consented.

The omission of onshore wind and solar capacity target

4. The White Paper in Chapter 2, states that the Government will "*accelerate the deployment of clean electricity generation through the 2020s*", in the context of demand for energy doubling by 2050, with a proposal to close coal fired power stations by 2024, which "*would require a four-fold increase in clean electricity generation with the decarbonisation of electricity increasingly underpinning the delivery of our net zero target*". It goes on to say "*We are not targeting a particular generation mix for 2050, nor would it be advisable to do so*" and "*A low-cost, net zero consistent system is likely to be composed predominantly of wind and solar*" [our emphasis]. More particularly, the White Paper confirms that "*Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind*" [our emphasis], "*We will consider the role of wave and tidal energy, following further evaluation of the commercial and technical evidence*" [our emphasis] and "*We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios*".

5. The NPS is inconsistent with the above because it does not support onshore wind or tidal range:

    a. onshore wind continues to make a significant contribution to clean energy generation and if planning policy was framed more positively towards that technology, new projects would come forward. This is particularly the case given the recognition of the cost efficiency of wind within the NPS. We had an expectation that the inclusion of onshore wind in the White Paper signalled the reinstatement of that technology to the Planning Act 2008 and inclusion of that technology in the new EN-3;

    b. proof of concept in relation to tidal range exists in France and South Korea and it is a technology being considered in other countries. The Government granted development consent for the Tidal Lagoon project in Swansea but chose not to lend financial support due to cost concerns. Even so, a similar project, in the same location, is being promoted by a public/private partnership and there is suite of similar suitable locations around England & Wales. Therefore, we recommend the inclusion of Tidal Range in EN-3;

    c. the omission of these technologies, in the context of the White Paper, Government's climate change and net zero policies, potentially leaves the NPS susceptible to judicial review, on the basis is may be claimed such omission is unreasonable/irrational and so unlawful. We recommend that both onshore wind and tidal range are included in the NPS and that onshore wind is reinstated to the Planning Act 2008.

[3] Lighting the Way, Solar Energy UK, 2021 https://solarenergyuk.org/resource/lighting-the-way-making-net-zero-a-reality-with-solar-energy/

6. In addition to the references to solar in EN-1 (see above), EN-3 states the Government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions, and that solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector. The Government's Net Zero Strategy ("NZS"), published October 2021, recognises the centrality of solar to delivering net zero at the lowest cost to consumers. However, unlike offshore wind, nowhere in EN-3 or the NZS will one find a generation target for solar. The Committee for Climate Change has identified a need to deploy 54GW of solar by 2035 to keep on track to deliver net zero by 2050. This equates to roughly 40GW of solar by 2030, and solar industry body, Solar Energy UK, in its 2021 report "*Lighting the Way*", demonstrates how that target is possible. Moreover, it is already too easy for those opposed to solar development to point to offshore wind as the perceived panacea of decarbonisation and the progress made in offshore wind deployment when claiming there is no need for the solar development in the location selected. Given that increased solar deployment would help reduce reliance on offshore wind, and enhance security and diversity of supply, we recommend that a target for solar generation should be included in the NPS, which requires at least 40GW by 2030. This would help demonstrate the scale of the need for that technology (alongside others) and increase investor confidence in solar development. The same points apply to Pumped Hydro Storage, which also has no generation target in the NPS.

Floating wind

7. EN-3 sets a target of 1GW of floating wind, which isn't ambitious, and doesn't reflect the action being taken by The Crown Estate to encourage this technology. Similar to the comments above, it would be helpful to have a higher target, particularly to drive investment in the Celtic Sea and reduce the cost of the technology generally. The number of sites suitable for offshore wind with fixed foundations are reducing, so we need floating technology to advance, and significant cost reduction, through this decade. Meaningful cost reduction is associated with scale. More generally, the NPS will need to be updated to reflect emerging marine planning policy reform, such as that expected through the Defra led Marine Spatial Prioritisation Programme, which aims to agree a holistic vision for the marine environment for 2050 through optimisation and prioritisation of marine activities.

The need for grid connectivity

8. EN-5 (and EN-1) should go further in emphasising the need for connecting all sources of energy and support for grid connection projects, without the urgent delivery of which it will not be possible to realise the low carbon generation targets set out in the NPS. It should also be acknowledged that the consenting of generating stations should not need to wait pending those for transmission infrastructure, and it will not always be the case that coordinated transmission results in less environmental impacts than point to point, e.g. coordinated transmission may result in larger infrastructure.

Repowering

9. Stronger support is required for repowering renewable energy projects, given the principle of development at that site is already accepted (and indeed will form part of the baseline in EIA). This is important given the urgent need for renewable power and the high levels of embodied carbon associated with existing infrastructure. There is an assumption running through the suite of NPS that repowering would require a fresh application

for a DCO. This need not be the case and creates a situation and outcome of additional cost and delay. Repowering can be permitted and controlled in a DCO, e.g. a 'phasing and repowering plan' controlled via a DCO requirement.

Repurposing of oil and gas assets

10. Chapter 6 of the White Paper set out some key commitments in respect of the oil and gas sector. It states the Government will work with regulators to make the UK continental shelf a net zero basin by 2050, and "*will support the UK oil and gas sector to repurpose its existing infrastructure in support of clean energy technologies*" The White Paper goes on to say "*As we face the challenge of decommissioning end-of-life oil and gas infrastructure in the UK Continental Shelf, we will take account of the potential to use existing infrastructure in CCUS transport and storage supporting carbon capture from industry, power generation and hydrogen production. This will require giving appropriate consideration to responsible management of decommissioning costs*." However, EN-3 could say more about the interface between offshore wind consenting and oil and gas licencing (e.g. which prevails), and say how the oil and gas regime will be improved to support the repurposing of assets. Generally, the two regimes need to be better coordinated, and the policies and practices of the OGA need to be aligned with those of BEIS.

Net Zero by 2050

11. We welcome the fact that EN-1 has been updated to reflect Net Zero commitments. There seems to be no indication of how the Secretary of State should prioritise NSIPs contributing to net zero targets. Simply stating our Net Zero and Climate targets does not go far enough. We would recommend that EN-1 recognises the urgency to decarbonise the energy sector in line with the Prime Minister's Ten Point Plan for a Green Industrial Revolution (2021) and the White Paper. EN1 should be updated to reflect the ambitions set out in the 6th Carbon Budget, the White Paper and the Hydrogen Strategy, all of which will require significant new infrastructure to deliver. It should also reflect the outcome of the decarbonisation readiness proposals. We strongly recommend that more work is needed in this area to strengthen the commitment to Net Zero in the decision-making process. We would therefore suggest that EN-1 be amended to provide a clear and unambiguous direction to the Secretary of State to afford greater weight to the importance of climate change in decision-making. We would strongly support the introduction of an express policy within the NPS setting out how the climate emergency should be considered within the decision-making process, including that significant weight within planning terms should be derived from the contribution that each project makes towards the achievement of net zero / offshore wind targets.

EIA, HRA & Public Sector Duty

12. EN-3 does not acknowledge the delay to offshore wind deployment attributable to EIA/HRA matters, including compensation measures, and the significant cost to developers in this regard, which is not aligned with reducing the costs to consumers. Better acknowledgement of the need for strategic compensation measures is required, and the role BEIS, the MMO, SNCBs and The Crown Estate have to play in delivering those measures. The Crown Estate is engaging with developers in relation to strategic compensation measures. The Crown Estate is engaging with developers in relation to strategic compensation measures as it seeks to work across government, regulators, statutory advisors, other key stakeholders to establish how strategic compensation can be secured through the development process. The NPS needs to place a duty on the

public sector to also engage and support the measures being considered, as some SNCBs have consistently maintained a view that it is not for them to advise on what compensation measures should be yet find fault with those proposed by developers. That attitude and emphasis must change if policy objectives are to be met. It will not be possible for 40GW of offshore wind to be deployed by 2030 if the attitude of SNCBs remains that all projects have the potential to have adverse effects on the integrity of protected habitats. Clarity over "de minimis" thresholds is also required.

13. Allied to the above point, is the need to remember that the Secretary of State is obliged to determine DCO applications in accordance with the relevant NPS, unless he is satisfied that the adverse impacts of the development would outweigh the benefits. If an interested party claims that the NSIP will have unacceptable impacts the burden of proof in examinations is on them to demonstrate, with evidence, that is the case. Often, particularly in offshore wind cases, the evidence in favour of the NSIP exceeds that of interested parties, including SNCBs. In some cases, opinion is offered by those parties with little or no evidence to support it and is inconsistent with the position taken on other similar NSIPs. Even so, the appointed Examining Authority and, in some instances the Secretary of State, appear to have felt obliged to side with the interested party/SNCB, leading to delay to the NSIP and an over precautious approach taken to mitigation. This approach must change if the policy objectives for energy generation are to be met on time. The Planning Inspectorate, Examining Authorities and BEIS need to have greater confidence in the process and to achieve that the NPS must provide a strong basis for that.

BNG, ALC & Compulsory acquisition

14. We note the footnote in EN-1, which states that a Biodiversity Gain Statement will be designated alongside the energy NPS in due course, should the Environment Bill be enacted as currently drafted. This needs to be amended given the Environment Act 2021 has been made. Part 6 has not come into force. Even so, we recommend stronger policy could be included in the NPS encouraging biodiversity net gain in advance of the legal requirement. Precedent already exists for this approach in the draft water related NPS, which refers to both Environmental Net Gain and Biodiversity Net Gain. The energy related NPS should take a consistent approach and also fully embrace Environmental Net Gain.

15. EN-3 confirms that agricultural land classification ("ALC") should not be the predominant test in site selection for solar projects. It should be acknowledged that there is broadly an inverse relationship between agricultural land value and Biodiversity Net Gain ("BNG"). In other words, the lower the quality of agricultural land, the higher the baseline BNG will be, e.g. pasture land, and vice versa. Therefore, if solar is proposed in part on best and most versatile ("BMV") land, this could be acceptable in policy terms if, on balance, a higher percentage of BNG can be achieved. It would be helpful if the NPS could clarify this.

16. EN-5 contains a welcome attempt to clarify the scope of powers of compulsory acquisition that may be included in a DCO, particularly in relation to BNG and mitigation measures. This is important to avoid unnecessary debate on the scope of such powers, particularly given previous Examining Authority reports on habitats mitigation. However, as set out below the text is not entirely accurate, and as CA powers may be required to deliver mitigation, enhancement and BNG measures for all forms of energy infrastructure, we recommend similar policy is included in EN-1, e.g. "*powers of compulsory acquisition may extend to mitigation measures, landscape enhancement or biodiversity net gain programmes*".

The role of other regulators

17. The NSIP regime in the Planning Act 2008 is one aspect of the suite of regulatory processes governing the development and operation of energy infrastructure. It is unclear the extent to which BEIS has tried to align those processes and, importantly, the regulators operating within them, to ensure joined-up thinking and approach throughout. For example, it is not clear the extent to which Ofgem and the OGA have been consulted in respect of the NPS. It is imperative that BEIS, Ofgem, the OGA and other regulators are aligned in order that policy objectives can be achieved and that the outcome of the DCO process is not undermined by subsequent action taken by a regulator, as has regrettably happened in the past.

Good administration

18. The draft energy NPS have a lot of new suggested documentation that applicants should submit. This appears to introduce required documentation relating to a particular type of infrastructure outside the prescribed list – The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations – Reg 6). It would be better if these were in the Reg 6 list and not hidden away, scattered throughout the NPS. This could lead to applicants not realising what needs to be submitted and difficulty for the Planning Inspectorate, on behalf of the Secretary of State, in determining if these are required elements for acceptance.

19. EN-1 sets out the transitional arrangements and states: "*The Secretary of State has decided that for any application accepted for examination before designation of the amendments to the NPS, the original suite of NPSs should have effect. The amended NPS will therefore only have effect in relation to those applications for development consent accepted for examination after the designation of those amendments*". This may have an unintended consequence of delay to the submission of DCO applications for energy NSIPs, as promoters would not wish to incur abortive costs preparing an application on the basis of the 2011 NPS, and then have to incur more cost updating/amending that application to take account of the new NPS. It is our view that the NPS should have immediate effect on designation in relation to all DCO applications.

20. It is clear that sections of the NPS documents have been drafted by different authors, which has resulted in repetition and inconsistency of approach. Before designation the suite of NPS requires a thorough editorial review, with emphasis on improving the structure and navigability of them

21. The NSIP regime provides significant opportunity for those communities impacted by new energy infrastructure to directly engage in the consenting process at all stages. Local authorities also have an important role in the regime and voice the concerns of constituents. However, there is a huge disparity in the resources of applicants and other interested parties in the process. For example, it is a lacuna in the Planning Act 2008 that there is no application fee or other source of income provided to a local authority to resource itself for DCO applications. Given the important role the local authorities have in preparing Local Impact Reports and representing the interests of constituents during the DCO process, that position must change. For example, there are currently 14 NSIPs in Suffolk. A report entitled "*The Impact of Nationally Significant Infrastructure Projects on the Council's Resources*" was presented to the Scrutiny Committee of Suffolk County Council on 25 November 2021[4].

[4] Meeting Documents - Committee Minutes (suffolk.gov.uk)

Paragraph 21 of that report states "*At its meeting on 2 July 2021, the Committee heard from the Cabinet about their priorities going forward. Members were concerned about whether the number of nationally significant infrastructure projects (NSIPs) in Suffolk was having an impact on the Council's resources and agreed to add this issue to their Forward Work Programme*". At the time of writing the minutes of that meeting had not been published. However, it has been reported by the BBC that the council decided to lobby the government on changes to funding of NSIPs, to secure more support for local authorities.

22. Allied to the above, the NSIP regime can only be as effective as those participating in it. The regime is not assisted by the lack of resource within the Planning Inspectorate and it is undermined by the lack of resource within the SNCBs, such as Natural England. There are instances of examinations being delayed whilst appropriate Inspectors are appointed, and SNCBs being unable to participate in hearings due to resource constraints. If BEIS and other government departments are serious about expediting the NSIPs regime and, more generally, "Project Speed", then adequate resourcing of key stakeholders must be made available so that they are able to engage effectively in the regime.

Section 2: NPS paragraph-specific comments

Draft NPS	Paragraph(s)	Issue(s)	Proposed Amendment
EN-1 Overarching NPS for Energy			
EN-1	1.3.3	Sets out the relevance of EN1 as the determining NPS in the absence of a technology specific NPS and also goes to need.	For the avoidance of doubt, this should also say for the purposes of determination under S.104.
EN-1	1.3.5 & 3.2.9	This paragraph is not accurate in terms of the S.35 and extent of projects that can be brought forward on this basis, and what they may be associated with.	This would benefit from careful redraft more accurately reflecting the full extent of the position and putting it beyond doubt that S.35 projects will be determined in accordance with the NPSs under S.104. It is better expressed and set out in paragraph 3.2.9 and this para would benefit from consistency of approach and scope. The recent judicial review decision in the *Wheelabrator* case emphasises the importance of getting this correct.
EN-1	2.2.4	This sets out what the Government intend to do to support CCUS.	This could be improved by: 1. prioritisation of the Phase 1 industrial clusters; 2. explain the criticality of CCUS in achieving decarbonisation; 3. explain the CCUS technologies and the interaction of different elements of the CCUS chain e.g. connectees, T&S elements.

			Explanation of the interface with the offshore consenting regime for CCUS transportation and storage infrastructure under the Petroleum Act and the Energy Act would also add clarity.
EN1	2.5.2	The UN Global Goals are referred to but probably the most relevant target to the subject matter of the NPS is omitted. Whilst it is accepted that government policy is technology neutral in terms of types of energy generation, this should not preclude the fact that the government's existing international and national policy support and regulatory requirements for renewable energy should be acknowledged. It is noted that the 2011 NPS EN-1 contained specific targets for increases in renewable energy.	Paragraph 2.5.2 should be amended as follows: *"The government was at the forefront of negotiating the UN's 2030 Agenda for Sustainable Development, which included seventeen Sustainable Development Goals, and is committed to being at the forefront of delivering them. Among the Sustainable Development Goals are goals to "take urgent action to combat climate change and its impacts", to "ensure access to affordable, reliable, sustainable and modern energy for all" including through achieving the target to "By 2030, increase substantially the share of renewable energy in the global energy mix" and to "build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation"*
EN-1	Hydrogen	As with CCUS, there are a number of links in the chain for the deployment of low carbon hydrogen infrastructure. The policy statement regarding the full chain of CCUS is welcomed in light of previous DCO decisions, and a similar policy statement is required to address the hydrogen chain.	Include a policy statement along the following lines: "*The chain of hydrogen has a number of links: hydrogen production, capture of carbon, transport, and storage. Due to the approach of deploying hydrogen in clusters in the UK and differing regulatory regimes, it is likely that development consent applications for low carbon hydrogen infrastructure may not include an application for consent for the full hydrogen chain*."
EN-1	Hydrogen	As with CCUS, the UK does not currently benefit from extensive low carbon hydrogen infrastructure such as pipelines and substantial investment will be required. The scenario of least regret will involve the installation of pipelines with greater capacity at the early stages of deployment in order to address future demand and a move towards hydrogen. The policy statement regarding future size and capacity in respect of CCUS	Include a policy statement along the following lines: "*Considerable investment in low carbon hydrogen pipelines will be required for the wider deployment of hydrogen. This investment could form the basis of more extensive hydrogen pipeline networks, which are likely to require greater capacity pipelines. In considering applications, the Secretary of State should therefore, take into account that the Government will*

		is welcome, and a similar policy statement is required to facilitate the delivery of hydrogen infrastructure.	*expect applicants to take into account foreseeable future demand when considering the size and route of their investments and applicants may therefore propose pipelines with a greater capacity than demand at the time of consenting might suggest*."
EN-1	3.3.23	This paragraph states: "Applications for onshore wind of all sizes should be consented outside of the Planning Act 2008 process, unless the Secretary of State directs otherwise under section 35 of the Planning Act 2008." Given the White Paper confirmed that "*Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind*" [our emphasis], what is the policy, evidential and legal basis for excluding onshore wind from the NPS, when all the evidence supports the inclusion of onshore wind? If onshore wind has been excluded on the basis that the technology is not currently included in the Planning Act 2008 this should be reconsidered. The NPS could herald an amendment to the Planning Act 2008 to reinstate onshore wind and provide the policy support for that technology. In paragraph 3.3.23 the Secretary of State has indicated that onshore wind may be treated as an NSIP if a direction is made under section 35 of the Planning Act 2008. If the Secretary of State sees that as a possibility, where is the policy to support the determination of the section 35 application or subsequent DCO application? There is none and this is an unsupported omission.	EN-1 and EN-3 should be amended to make express policy provision for onshore wind and confirm that the Planning Act 2008 will be amended to reinstate that technology as soon as possible. In this context it should also be remembered that although principally policy for determination of NSIPs, NPS are also a material consideration in the determination of relevant planning applications.

		The exclusion of onshore wind from the NPS is arguably unreasonable/irrational and as such is unlawful.	
EN-1	3.3.24 – 3.3.29	These paragraphs address the important role of electricity storage. Two issues arise in this regard: (i) the paragraphs omit reference to the fact that this technology may be consented under the Planning Act 2008 if it is included as "Associated Development" in a DCO application for an NSIP, e.g. solar. Indeed, solar and battery energy storage systems ("BESS") are often collocated, and like the Cleve Hill Solar Park (DCO granted 28 May 2020) all of the solar NSIPs currently at the pre-application stage include BESS; and (ii) an issue that is emerging in relation to those pre-application stage solar NSIPs and other technologies is that the Planning Inspectorate is applying the tests for "Associated Development strictly. In summary, if it is not clear how the BESS is functionally linked or integral to the NSIP in question, the Planning Inspectorate is directing that the BESS should be omitted from the DCO application and applied for separately under the Town and Country Planning Act 1990. That approach does not constitute good administration. It would involve additional cost, delay and consultation. At the consent stage, the route to market, or viability, of the BESS may be unclear or unknown to the developer. The BESS may be required to store electricity generated by the NSIP, be required to provide balancing services to the grid, or both. Therefore, it makes better sense and would be in the interests of good administration for the BESS to be included in the DCO application, in the same way as	We recommend that paragraph 3.3.28 is amended as follows: "Electricity storage is treated as a form of electricity generation under the Planning Act 2008. However, government has made legislation to amend the way that electricity storage is treated in the planning system. ~~Applications for e~~ Electricity storage facilities (except pumped hydro with a capacity above 50MW in England, or 350MW in Wales) of all sizes should be consented outside of the Planning Act 2008 process, unless: (a) those electricity storage facilities are included as associated development in a DCO application for an NSIP; or (b) the Secretary of State directs otherwise under section 35 of the Planning Act 2008. Electricity storage facilities may constitute associated development under the Planning Act 2008 whether or not they are functionally linked or integral to the NSIP they are colocated with in the DCO application. This addresses the uncertainty at the consent stage as to the requirement for the electricity storage facility to store electricity generated by the NSIP, provide balancing services to the grid, or both. This policy is consistent with the approach and associated development guidance relating to "over-planting".

		"over-planting" is permitted, e.g. a DCO for one NSIP including infrastructure relating to a later NSIP.	
EN-1	3.3.58 and 4.10.4	The preceding paragraphs set out the Government's support for coordinated transmission (including the use of interconnectors) but there is little recognition of the regulatory challenges currently associated with coordination. Paragraph 3.3.58 does not go far enough to ensure that end-to-end connections for offshore wind farms are supported, in the absence of appropriate regulation for coordination. As drafted, this could result in DCOs for offshore wind farms being refused on the basis of a lack of coordination when there is no real viable alternative (even where projects are located in close proximity). Given timescales associated with ensuring the correct regulatory framework is in place, this will be a real barrier to delivering 40GW by 2030. The text in 4.10.4 is noted but suggest alone it does not go far enough.	Proposed amendment to 3.3.58: *"The importance of accelerating such developments does not, however, outweigh the urgent need for renewable energy capacity or the Government's target of 40GW of offshore wind by 2050. Transmission infrastructure for standalone offshore wind projects should continue to be supported and ~~mitigate against the need for standalone electricity networks projects, and~~ these projects are supported by the NPS and S.104 ~~should continue to be assessed on their own merits~~."*
EN-1	4.1.2	The current version of the NPS is less supportive of renewable energy than the Government's National Planning Policy Framework and does not take into account the new targets for clean/renewable electricity generation set out in the Energy White Paper and in the Government's "Net Zero Strategy: Build Back Greener" of October 2021, which includes the key policy: *"By 2035 the UK will be powered entirely by clean electricity, subject to security of supply".* The wording proposed reflects that used in the NPPF as follows: *"158. When determining planning applications for renewable and low carbon development, local*	Amend paragraph 4.1.2 as follows: *"4.1.2 The Energy White Paper emphasises the importance of the Government's net zero commitment and efforts to fight climate change. Given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3 of this NPS, the Secretary of State will start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies [and in particular renewable and low carbon energy projects should be consented] unless any more specific and relevant policies set out in this and the other relevant NPSs clearly indicate that consent should be refused. The presumption is also subject to the provisions of the Planning Act 2008 referred to at paragraph 1.1.2 of this NPS".*

		planning authorities ***should:…b) approve the application if its impacts are (or can be made) acceptable[54]".*** Government policy on Local Plan policies – analogous to NPS policies in this context - already requires that (para 155 of the NPPF) *"To help* ***increase the use and supply of renewable and low carbon energy and heat, plans should: a) provide a positive strategy for energy from these sources, that maximises the potential*** *for suitable development, while ensuring that adverse impacts are addressed satisfactorily…*". The NPS should be no less affirmative of this policy.	
EN-1	4.1.6	This refers to development plan having increased weight as it progresses towards adoption.	This para should confirm that the NPS prevails for the purpose of Secretary of State decision making given the national significance of the infrastructure, in the same way that the para before does. Alternatively, the NPS could have the above as a general statement that universally applies. That way, the other explanatory text on local plans can, and is only, be seen in the context of the primacy of the NPS and what prevails in situations of conflict. It should also be noted that there appears to be no overall clarifying statement that says where there are competing NPS that are relevant, which one takes precedent. It would be helpful for this to be made clear and put beyond doubt. This applies to all NPS.
EN-1	4.1.9	This para encourages NSIP developers to engage with key stakeholders at the pre-application stage as early as possible. We recommend that stakeholders, such as Statutory Nature Conservation Bodies, are also strongly encouraged to engage with developers	Amend to include reference to all stakeholders.

		as early as possible as this might reduce resourcing pinch-points later in the application process.	
EN-1	4.2.13	The helpful guidance on Alternatives is welcome, particularly the recognition that capacity and timing are important in framing alternatives, that all suitable sites for energy infrastructure may be needed and the need for commercial viability. It is also helpful to confirm that the onus is placed on a third party who puts forward an alternative to provide evidence of its suitability and availability to meet the same objectives and outcomes.	-
EN-1	4.5	No guidance is given about aftercare expected for BNG proposals.	Include drafting setting out what the Government expects in this regard.
EN-1	4.6.1 – 4.6.6	These paragraphs could be updated to address community integration and natural environment. In summary the amended drafting offered in the adjacent column deals with the following points: • reference to 'natural capital' which more closely aligns with equitable outcomes for communities and the planet, placing a value on the natural environment and is not so overtly directing toward BNG outcomes/metrics • reference to the NIC Design Group in addition to the Design Council • The NIC Design Principles should be used as the vehicle to strengthen references to communities and natural environment considerations • Good Design should properly refer to operational and construction phases and also address design process - good design is not just about design outcomes.	We recommend that these paragraphs are amended as follows: *4.6.1 The visual appearance of a building, structure, or piece of infrastructure, and how it relates to the landscape it sits within, is sometimes considered to be the most important factor in good design. But high quality and inclusive design goes far beyond aesthetic considerations. The functionality of an object - be it a building or other type of infrastructure - including fitness for purpose and sustainability, is equally important. Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic and clear design intent as far as possible. Good design also relates to good design process for both construction and operational phases reflecting the accountability of the front loaded DCO regime. Good design process should for example consider responses to effected communities through careful site planning and consideration of amenity. It is acknowledged, however that the nature of much energy infrastructure*

			development will often limit the extent to which it can contribute to the enhancement of the quality of the area. Weight will be given to proposals that demonstrate positive community outcomes and benefits to the natural environment that can be secured as part of the agreed project design or through legal obligation. *4.6.2 Good design is also a means by which many policy objectives in the NPS can be met, for example the impact sections show how good design, in terms of siting and use of appropriate technologies, can help mitigate adverse impacts such as noise. Given the benefits of "good design" in mitigating the adverse impacts of a project, applicants should consider how "good design" can be applied to a project during the early stages of the project lifecycle. Design principles should be established from the outset of the project to guide the development from conception to operation. Projects should take account of Design Principles for National Infrastructure by reference to the four overarching principles of climate, people and places and value that address amongst other matters, present and future community integration and securing positive outcomes for the natural environment including natural capital. Such outcomes should not only be considered within the narrow confines of the application red line boundary.* *4.6.3 In the light of the above and given the importance which the Planning Act 2008 places on good design and sustainability, the Secretary of State needs to be satisfied that energy infrastructure developments are sustainable and, having regard to regulatory and other constraints, are as attractive, durable, and adaptable (including taking account of natural hazards such as flooding) as they can be. In doing so, the Secretary of State should be satisfied that the applicant has taken into account both functionality (including fitness for purpose and sustainability) and aesthetics*

			(including its contribution to the quality of the area in which it would be located, any potential amenity benefits, and visual impacts on the landscape or seascape) as far as possible. Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing communities, landscape character, land form and vegetation. Furthermore, the design and sensitive use of materials in any associated development such as electricity substations will assist in ensuring that such development contributes to the quality of the area. Applicants should also, so far as is possible, seek to embed opportunities for positive natural capital outcomes within the design process. *4.6.4 For the Secretary of State to consider the proposal for a project, applicants should be able to demonstrate in their application documents, how the design process was conducted and how the proposed design evolved. Where a number of different designs were considered, applicants should set out the reasons why the favoured choice has been selected. In considering applications, the Secretary of State should take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security requirements which the design has to satisfy along with the positive outcomes and measures that should be properly considered by promoters. Many of the wider impacts of a development, such as landscape and environmental impacts, will be important factors in the design process. The Secretary of State will consider such impacts under the relevant policies in this NPS. Assessment of impacts must be for the stated design life of the scheme rather than a shorter time period.* *4.6.5 Applicants and the Secretary of State should consider taking independent professional advice on the design*

			aspects of a proposal. In particular, the Design Council or the NIC Design Group can be asked to provide design review for nationally significant infrastructure projects and applicants are encouraged to use this service. *4.6.6 Further advice on what the Secretary of State should expect applicants to demonstrate by way of good design is provided in the technology specific NPSs where relevant.*
EN-2 NPS for Natural Gas Electricity Generating Infrastructure			
EN-2	General	The support given to gas infrastructure is welcome given the role it has to play in supporting the energy transition.	-
EN-3 NPS for Renewable Energy Infrastructure			
EN-3	2.10.4 & 2.10.5	Paragraph 2.10.4 is not a relevant consideration relating to site selection for applicants and is also unnecessary given the provisions retained in EN-3 at Para 2.17.7., for waste combustion generating station proposals to have to demonstrate that they accord with the waste hierarchy and national and local waste management targets, or to demonstrate why a conflict with those targets is nonetheless appropriate. Similarly, Para 2.10.5 is an isolated and otiose inclusion which is not quantified in any way and which appears to place a limit on energy-from-waste (EfW) projects; something which is not considered appropriate in the context of EfW remaining a technology which will play an important role in the UK meeting its climate change commitments. As with Paragraph 2.10.4, Paragraph 2.10.5 is not necessary as the test at Para 2.17.7 of the draft NPS already gives due consideration to the relevance of the waste hierarchy and national and local waste management targets, and therefore provides the appropriate criteria for assessing applications against the national and	Paragraph 2.10.4 and 2.10.5 should be deleted.

		local context. In particular Para 2.17.7 recognises that there may be occasions where a deviation from the relevant waste strategy or plan is nonetheless appropriate, which is important context which is missing from Para 2.10.5.	
EN-3	2.22.15 – 2.22.18	There is a lot of discussion in EN-5 about offshore wind connecting into multi-purpose interconnectors (MPIs). There is a lack of recognition of the regulatory uncertainty with this option (perhaps greater than coordination between two or more OWFs). For example, if the electricity is ultimately supplied to another country via an MPI it's unclear how the CfD mechanism would work (given there is no benefit to the GB consumer).	Clarify that in the medium to short term: (i) MPIs may not be available; (ii) the expectation should be for collaboration between developers, not integration of transmission systems; (iii) the urgent need for offshore wind should take precedence.
EN-3	2.22.20	This paragraph recognises there may be competing seabed interests but defers to early engagement between parties with a potential overlap to find a solution "that optimises the capacity of the UKCS to enable net zero". This could suggest that preference should be given solely to the project which has the greatest capacity to reduce GHG emissions. This doesn't recognise the different levels of certainty associated with different technologies (offshore wind v CCS) for example.	More guidance on steps parties are expected to take to ensure coexistence, including a recognition that some projects are more likely to come forward than others. Clarification that parties are expected to adapt their plans to bring forward their project in coexistence with earlier "first mover" projects. Clarification that at the time of applying consent the pathway to coexistence may not be identifiable because, for example, more research and development of the technological solution is required. In that scenario, it is acceptable for protective provisions to be included in a DCO providing a mechanism and programme for collaboration to find the solution.
EN-3	2.23.2	This sets in policy the requirement to follow the Cable Route Protocol by the Crown Estate. This is unnecessary as the Cable Route Protocol is secured via private commercial agreement between the parties. It is also relatively untested and no new projects have yet successfully been developed using	Delete reference to Cable Route Protocol as unnecessary.

		the Protocol. It's also not clear what version of the Protocol is supported (Extensions, Round 4 or future or all).	
EN-3	2.23.13 and 2.23.14	Stronger support is required for repowering offshore wind farms, given the principle of development at that site is already accepted (and indeed will form part of the baseline in EIA). This is important given the urgent need for renewable power and the high levels of embodied carbon associated with existing infrastructure.	Stronger support for repowering, perhaps balanced with an encouragement to reuse infrastructure where possible to reduce embodied carbon and encourage a circular economy.
EN-3	2.23.15	The recognition of the role monitoring can play to improve the evidence base for future mitigation and compensation measures and enabling better decision making is welcome however this could be stronger. SNCBs regularly do not support the use of data obtained on other projects because, in their view, it is not sufficiently site specific. This means that often assessments are carried out repeatedly over a number of years when regional data exists, which in the industry's view, is sufficient. This creates a barrier to the rapid deployment of offshore wind (particularly a 40GW by 2030 target) and means lessons learned are not being applied meaningfully across the industry.	Require SNCBs to accept regional / non-site specific data (with suitable caveats to ensure ecological protection is not reduced).
EN-3	2.24.12 – 2.24.19	The text on HRA compensation does not recognise the difficulties faced by developers to deliver compensation on a project specific basis. Whilst it recognises collaboration between developers and other marine industry sectors may be required, there is no recognition of the role of Government and SNCBs to help identify and deliver strategic	Recognition of the role Government and SNCBs need to play to deliver scale of compensation required for 40GW by 2030 (and beyond).

		compensation which is meaningful at scale, to allow the Government's offshore wind ambitions to be realised.	
EN-3	2.29.2	The commitments to deal with the ornithology "headroom" issue are welcomed. The means of securing "headroom", e.g. non-material change applications, or commitments to The Crown Estate, need to be stated. Ornithological impacts of consented but unbuilt offshore wind farm capacity restricts the environmental headroom available to future projects. Some promoters have submitted non-material amendments to confirm the as built parameters (and lower ornithological impacts), but this has not been accepted by SNCBs. Without addressing this issue it may be impossible to meet the government's 40GW of offshore wind. The text proposed in the draft does not recognise that such reassessment can be done provided the as built parameters are accepted. The NPS should be stronger and support moves to release the backlog unused environmental headroom including through non material and if necessary material amendments or other mechanisms.	Paragraph 2.29.2 should be amended as follows: *"Currently, cumulative impact assessments for ornithology are based on the consented Rochdale Envelope parameters of projects, rather than the 'as-built' parameters, which may pose a lower risk to birds. The Secretary of State will therefore require any consents to include provisions to define the final 'as built' parameters (which may not then be exceeded) so that these parameters can be used in future cumulative impact assessments.* *The Secretary of State will support applications for non-material or material amendments to consent orders to secure reduced parameters and ornithological impacts as examples of coordination that can both limit environmental effects and release capacity for new offshore wind farms we will also explore other opportunities to ensure consented orders do not harbour unused capacity for renewable energy."*
EN-3	2.33 2.34	Shipping: The section on the Secretary of State's decision making is still weighted very heavily in favour of the shipping industry (including commercial factors). Query whether this is appropriate given the urgent need and clear Government support for offshore wind deployment. See 2.33.21 and 2.33.22	Stronger support for offshore wind and remove reference to ALARP.

		Other offshore activities: As above, but broader. See 2.34.10 and 2.34.11. The use of ALARP in this context also causes confusion as it is not being used in its ordinary "safety" context.	
EN-3	2.48.7	This policy and clarification is very much welcomed and a helpful addition to EN-3. However, three points arise: (i) *reference to "the combined capacity of the installed inverters (measured in AC)"* could restrict sites from utilising 50MW of export capacity, as one needs to over-install inverters to meet the G99 Regulations. Capping sites at 50MW of installed inverter capacity would result in a Registered Capacity of ~40MW, with 50MW of inverters required to fulfil stringent reactive power requirements; (ii) it is incorrect to suggest solar has up to now been assessed on DC capacity; and (iii) the Secretary of State's interpretation of the law could have retrospective effect. PINS' advice in April 2016 concluding the correct approach to assess capacity in terms of Direct Current (DC) capacity as the 'gross output' of a scheme was: (a) technically incorrect (b) inconsistent with other electricity regulations; (c) wrong in law; and (d) unenforceable As para 2.48.7 does not change the law, it serves as the Government's interpretation of the law for the purposes of the thresholds for generating stations in the Planning Act 2008, which local planning authorities	Amend the paragraph to remove ambiguity and state that the policy should be retrospectively applied to schemes consented prior to the designation of the NPS as follows: *"For the purposes of determining the capacity thresholds in Section 15 of the 2008 Act, the capacity of solar generating stations should be measured in AC. The capacity threshold is 50MW (AC) in England and 350MW (AC) in Wales.* *Enforcement action under the Town and Country Planning Act 1990 and the Planning Act 2008 is a matter for local planning authorities to determine. In the case of a solar park for which planning permission was granted prior to the designation of this NPS, but is silent on the measure of capacity, the Secretary of State's opinion is that the capacity should be measured as AC."*

		should have regard to when considering planning applications or enforcement action in respect of projects with capacity around the relevant threshold. As such, that interpretation could be expressed to have retrospective effect in terms of a matter local planning authorities should have regard to when considering whether enforcement action is expedient in respect of an existing solar park which has an AC capacity of less than 50MW, but a DC capacity exceeding that, and the relevant planning permission is silent on the measure of capacity.	
EN-3	2.48.8	Developers consistently get pushed to limit export capacity from solar generating stations. The policy statement confirming this is inappropriate is very helpful indeed and essential to support maximisation of improving technology and potential capacity at the point of construction and delivery. This paragraph could be improved by clarifying that light induced degradation can be as low as 0.2% annually. This directly relates to our comments below on paragraph 2.49.9 and is one of the reasons why we are regularly seeing applications which build in a 40-year asset life, as the tested rate for panel degradation is proving to be lower than the 1% figure cited in the NPS in many instances	Amend the paragraph to say ….*"Light induced degradation affects most solar panels and on average panels degrade at a rate of up to 1% each year, but this can be as low as 0.2%...."*
	2.48.13	Land type should not be a predominating factor in determining the suitability of the site location. The size of utility scale solar projects means identifying land which does not have any BMV is very difficult. The qualification here is very helpful. However, reference to the direction that solar projects "should utilise" previously developed land, brownfield land, contaminated land, industrial land, or low-grade agricultural land, sets an unrealistic expectation.	We recommend para 2.48.13 is redrafted as follows: *"Solar is a highly flexible technology and as such can be deployed on a wide variety of land type. However, irradiation levels and land availability within proximity to grid infrastructure will be the predominant factors in site selection. While there is a preference for previously developed land, brownfield land, contaminated land, industrial land, or low-grade agricultural land to be used for*

		Experience to date demonstrates that it is unlikely these land types will coincide with available grid connectivity.	*solar development, land type should be considered on a case-by-case basis and weighed against the urgent need for the project and proposed mitigation and/or enhancement measures. For example, a development on Best and Most Versatile land may have greater potential to deliver biodiversity net gain through better land management techniques deployed during the operation of the solar park, which may also improve the quality of the land for agricultural use. Land type should not be a predominating factor in determining the suitability of the site location."*
	2.48.14	ALC surveys should cover underground cabling and access routes. It is unclear whether this paragraph is referring to a requirement to undertake a desktop survey or whether there is a requirement to undertake soil survey work. If it is the later, the requirement to undertake ALC surveys over this land is very onerous. This is particularly the case given the significant issues in obtaining consent from the Secretary of State to achieve access pursuant to section 53 of the PA 2008, cable routes commonly being comprised of long linear runs across many land interests. There is a broader question to consider, i.e. is it necessary at all to require developers to consider ALC in the site selection of underground cabling? This is unnecessary because: (i) the cable route is heavily influenced by the availability of land between the generating station and point of connection; the avoidance of other constraints, e.g. archaeology, protected habitats, watercourses; and the landowner's/tenant's (often the farmer) desire for the cable route to not disturb agricultural practices on the land in question; and	Remove the requirement for ALC assessment for underground cabling and accesses.

		(ii) having laid the cable developers restore the land above to its pre-development condition (or better) meaning the land can continue to be farmed and productive once the cable is installed. In view of the above, requiring ALC assessment for the site selection of underground cables is an unnecessary burden and cost for those promoting renewable generating stations and electricity networks.	
EN-3	2.49.9 - 2.49.13	There has been rapid innovation and improvement of solar panel technology, such that design life is more commonly 40+years. For example, see the Cleve Hill Solar Park DCO – which has a minimum design life of 40 years. Also, it may not be necessary to time limit consent for a solar NSIP (this will turn on the technology and parameters of EIA for the project in question). As drafted, the NPS could unnecessarily restrict the contribution solar NSIPs can make to energy generation by setting expectations that all solar NSIPs will be time limited to 25-30 years. EN-3 is silent on repowering i.e. the replacement of panels and other plant with more efficient versions of the same, to improve the generating capacity and efficiency of the solar NSIP. Given the rapid enhancement of solar PV technology it would be remiss to not make provision for this in policy and DCO for solar NSIPs, particularly as in most cases repowering is unlikely to have significant environmental effects (albeit that assumption would need to be assessed on a case-by-case basis).	It is proposed that the paragraphs of EN-3 could be clarified to confirm: (i) the design life may exceed 40 years; (ii) it may not always be appropriate to time limit DCOs for solar NSIPs; (iii) provided adequate EIA is undertaken, the maintenance provisions included in a DCO for solar NSIPs may provide for repowering.

EN-3	2.49.16	It is incorrect to assess the impacts of a solar development on the basis of the number of panels. It is far more accurate to assess impacts on the basis of the area where panels would be placed.	Remove references to the number of panels from the policy statement.
EN-3	2.52.2	We appreciate that there may in some instances be a need for glint and glare assessments as part of the application process. However, developers are frequently being required to undertake glint and glare assessments even in cases where there are no nearby dwellings or other receptors.	This paragraph should specify that any requirements for glint and glare assessments be proportional to the reality of the irradiance absorption design of solar panels and the specific site context. Further, to require glint and glare assessments to include all the materials used in the construction of a solar farm is excessive and unnecessary.
EN-3	2.52.3	The language in this paragraph, especially with regard to the Secretary of State requiring the use of anti-reflective panels or the application of anti-reflective coatings, is superfluous and unnecessary. Solar panels are at their core designed to absorb as much light as possible, as this is the very nature of the electrochemical reaction through which solar panels generate photovoltaic electricity. Panel manufacturers spend millions in research and development to create high efficiency anti-reflective coatings to improve the performance of their products which are standard on all commercially available panels.	Delete paragraph 2.52.3.
EN-3	2.53.4	It is considered that the requirement for trial trenching prior to receiving development consent is not proportionate to the likely impacts of most solar farms, especially where the ground is not being penetrated and given the temporary nature of the development.	The following text should be added to the end of para 2.53.4: *"Trial trenching should not be required save for circumstances where geophysical surveys clearly identify the presence of potentially significant heritage assets and then should only be required on the areas that showed positive results on the geophysical survey and not in other areas of the site. Where trenching is deemed necessary it should be managed through pre-commencement requirements in the Development Consent Order. Where it is possible to build with non-ground penetrating solutions on sensitive areas the need for trenching should be removed entirely."*

EN-3	2.55.1	Tidal range energy is a major omission and including policy support only for tidal stream energy appears to contradict the stated 'technology neutral' approach. Tidal stream energy is included for the reason that: "There is a realistic chance of projects above 100MW coming forward for planning consent within the next 5-6 years". However, in contrast in the tidal range sector 350MW has already been consented under *The Swansea Bay Tidal Generating Station Order 2015* (a process made harder through the lack of policy support in the NPSs). Given this consented tidal range generation capacity, the operational tidal range generation capacity of 240MW at La Rance in northern France (and more in other countries) and the several 1-2+GW of tidal range energy in project development around the UK, there is a much more pressing case for NPS policy support for tidal range than there is for tidal stream generation. The government appointed Charles Hendry to undertake a review of tidal lagoons in the UK in 2017. The final report stated: *"It strikes me as unarguable that a fledgling industry would benefit from the clarity and stability represented by an explicit statement of Government policy that welcomes the development of tidal lagoons within defined parameters. Moreover, given that there are only a limited number of sites around the country which would be suitable for tidal lagoons (as they need both a significant build-up of a head of water and also to be of a sufficiently shallow depth where the wall can physically be constructed), there is a limit to how many installations would be possible…. I therefore recommend that the consenting*	BEIS is urged to add a section into NPS3 on tidal range and NIPA members could provide draft text based on their work on tidal range NSIPs to date.

		process should be ***informed by a National Policy Statement similar to nuclear new-build, where specific sites are designated by the Government as being suitable for development****".* The government promised a response in due course and most in the sector expected the review of NPSs to respond to this recommendation. https://www.gov.uk/government/news/independent-review-into-the-strategic-role-of-tidal-lagoons-in-the-uk-published	
EN-4 NPS for Gas Supply Infrastructure and Gas and Oil Pipelines			
EN-4	-	-	-
EN-5 NPS for Electricity Networks Infrastructure			
EN-5	1.4 Geographical Coverage	There is no mention of the devolution position in Wales. This is particularly relevant to network infrastructure as much of the apparatus referred to at various points in the policy (particularly underground cables) are not NSIPs within the meaning of section 16, and to devolved Welsh generating station connections. Devolution in Scotland and Northern Ireland is mentioned, but the position in Wales is much more complex and not noted at all.	Clarify the position in respect of Wales.
EN-5	Footnote 4	Typographic error.	Reference to *"onshore bootstraps"* should be to *"offshore bootstraps"* (those which require seabed leasing and marine licensing).
EN-5	Decommissioning	Decommissioning policy – there is nothing in EN-5 to cover decommissioning.	Clarify that network infrastructure is expected to be long term and part of a national network rather than bespoke to a project and tied to a project's lifetime. Potential issue over longevity of consents and parts of the network not being fit for purpose to connect other projects which come along later because of time limits/decommissioning imposed on the original consent.

			Default should be that consent for network infrastructure is permanent, with decommissioning conditions only kicking in when infrastructure is redundant.
EN-5	2.3 Land Rights	Changes are welcomed in relation to recognising the need for national infrastructure to be supported by permanent easements/freehold acquisition where appropriate.	
EN-5	2.3.3 – compulsory acquisition for mitigation and/or BNG	The inclusion of an updated position in relation to use of compulsory powers to deliver necessary scheme mitigation is welcomed.	The text needs to be clarified – the examples given (landscape enhancement and biodiversity net gain enhancement) are not types of mitigation. It is important that compulsory acquisition powers be made available to developers to deliver both necessary mitigation measures and enhancement measures for both landscape and BNG, tying in with policy requirements (and potential legislative requirements under the Environment Bill, when enacted), but this needs to be made explicit, and the difference between mitigation and enhancement/offsetting should be recognised. This should also be reflected in EN-1 and across the suite of energy NPSs, as the need for clarity on availability of powers to secure appropriate land for mitigation and enhancement measures including BNG amongst other things is equally important across the entire suite of NPS.
EN-5	2.5 – Special Assessment Principles for Onshore-Offshore	Policy encouraging and incentivising co-ordinating and collaborative approaches to connection of offshore generation is welcomed. However, we would caution against planning policy running ahead of the regulatory position and being overly prescriptive before the regulatory treatment of offshore transmission/multi-purpose interconnectors has been determined.	The policy text in EN-5 should match that in EN-1 and EN-3, leaving more flexibility whilst encouraging co-ordinated approaches to connecting offshore generation.

		This may have the unwanted effect of delaying delivery of offshore schemes whilst the regulatory position matures. The text across the NPS suite should also be consistent, where at the moment the policy in EN-5 appears more directive and onerous than equivalent text in EN-1 and EN-3. For example, the proposed policy in paragraph 2.5.5 ("Radial offshore transmission options to single windfarms should only be proposed where these can be demonstrated to be the only feasible solution and a co-ordinated solution is not possible. In these instances, the Secretary of State should have regard to the need case set out in Section 3.3 of EN-1."): this text is more directive/onerous in EN-5 than in equivalent policies in EN-1 (3.3.51, 3.3.57 and 3.3.58) and EN-3 (2.22.15 – 2.22.18), and sets a very high policy bar for a developer to demonstrate (that another solution "is not possible").	
EN-5	2.8 – Environmental and biodiversity net gain	It is important for the NPS to give clear guidance on how projects should approach environmental and biodiversity net gain (in anticipation of the Environment Bill provisions). Consideration of opportunities for increased connectivity and creation of green corridors is sensible but will need to be balanced with other considerations, including effects on land use (often agricultural land is affected by cable oversail for overhead lines), and combining the various competing interests (landowner/human rights, land use/agriculture/protection of BMV land, and biodiversity) may not always sit well together.	Enhancement and connectivity opportunities may work better with mitigation proposals than with the OHL routes themselves (designing landscape mitigation to create connected corridors and to include footpaths and cycleway connections to allow people not only to benefit from landscape screening but from new green areas for recreation which can be managed long term may work better?). Holistic design of mitigation to perform multiple functions should be encouraged.
EN-5	2.11.13 – undergrounding	As recognised in 2.11.14 for undergrounding proposals outside of national parks/AONBs, landscape impacts in sensitive areas often need to be balanced	The starting presumption of undergrounding in those areas which benefit from the highest levels of landscape protection is useful as a guide, it would be helpful to clarify the

	in national parks/AONBs	with impacts on other sensitive and designated receptors (e.g. SPA/SAC/SSSI, sites of geological interest, impacts on buried archaeology etc).	considerations which may displace that presumption, particularly in regard to balancing between sensitive landscapes and sensitive ecological or geological receptors.

National Infrastructure Planning Association

29 November 2021