



# Biodiversity Net Gain: Registration for Conservation Covenants now open for Responsible Bodies

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For some time now, land managers have been encouraged to kick start a private market to sell “off-site” biodiversity units in advance of mandatory biodiversity net gain (BNG) for planning applications. The Government proposes to implement a mandatory 10% BNG for most major planning applications by November 2023. You can catch up with the proposals and the background by reading DEFRA’s Land Blog: [“BNG: what’s happened and what’s coming next”](#).

In order to assist organisations in participating in the sale of BNG units, [guidance was issued](#) confirming the need for the vendors to enter into a planning obligation (a section 106 under the Town and Country Planning Act 1990) with a local planning authority or a conservation covenant with a responsible body pursuant to section 117 of the Environment Act 2021.

A conservation covenant agreement is a private, voluntary agreement to conserve the natural or heritage features of the land. A conservation covenant agreement is made between the landowner (who holds freehold title of the land or a leaseholder with a lease of more than seven years with time remaining on it) and a responsible body. The Government updated its guidance on 27 July 2023, setting out the scheme of conservation covenants, which may be accessed by clicking [on this weblink](#).

A responsible body is one designated by the Secretary of State pursuant to section 119 of the Environment Act 2021. The organisations eligible for designation are a local authority, a public body or charity (where at least some of its main purposes or functions relate to conservation), or a private sector organisation (where at least some of its main activities relate to conservation). DEFRA has published the [eligibility criteria here](#), together with [a webpage to access](#) an 11-page application form.

Landowners already providing nitrate credits may want to consider registration on the basis that Government guidance elsewhere explains that it is permissible to “stack” credits with BNG units.

## Need advice?

Lester Aldridge's [Planning & Environment](#) team advises national and regional developers on all legal aspects of planning. Contact the team at [online.enquiries@LA-law.com](mailto:online.enquiries@LA-law.com).