

ESG & SUSTAINABILITY

Biodiversity initiatives

An overview of EU and Irish proposals and their impact on business

With the 15th meeting of the Conference of the Parties to the UN Convention on Biological Diversity (**COP15**) underway in Montreal, this is the opportune time to consider the aims of this COP and the current initiatives and proposals at both a European and an Irish level relating to biodiversity and the protection and restoration of nature.

There is a general acknowledgment that the climate and biodiversity crises are linked and need to be considered in tandem. However, while the Paris Agreement sets out a global framework for combatting climate change and its effects, there is currently no corresponding framework for combatting biodiversity.

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COP15 and the adoption of a global biodiversity framework

While there are a number of key objectives for COP15, the main aim is agreement on the adoption of a global biodiversity framework. The proposed framework has four long term goals for 2050 related to the 2050 Vision for Biodiversity with each goal having a number of corresponding milestones to assess in 2030 progress towards these goals. While the exact wording for each of the goals has yet to be agreed, a summary of what each goal is seeking to achieve is set out below:

- maintain, restore or enhance the integrity, connectivity and resilience of all ecosystems
- through conservation and sustainable use, value, maintain or enhance nature’s contribution to people
- fairly and equitably share the benefits from the utilisation of genetic resources
- close the gap between available finance and other means of implementation and those necessary to fully implement the framework and ensure capital flows align with the 2050 vision

In addition, the framework sets out 22 action oriented targets that need to be initiated immediately and completed by 2030 in order to achieve the milestones relating to the four long term goals and ultimately the 2050 goals themselves. The targets are separated into three categories detailed below with the language of each target to be agreed at COP15:

- through conservation and sustainable use, value, maintain or enhance nature’s contribution to people (targets 1 to 8)
- fairly and equitably share the benefits from the utilisation of genetic resources (targets 9 to 13)
- close the gap between available finance and other means of implementation and those necessary to fully implement the framework and ensure capital flows align with the 2050 vision (targets 14 to 22)

“By 2050, biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people”.

The 2050 Vision

European initiatives – Biodiversity Strategy for 2030 and the Proposal for a Nature Restoration Law

The EU’s Biodiversity Strategy for 2030 was published in May 2020 and it identifies five main drivers to biodiversity loss:

- changes in land and sea use
- overexploitation
- climate change
- pollution
- invasive alien species

The aim of this strategy is to put Europe’s biodiversity on a path to recovery by 2030. In order to achieve this aim it is acknowledged that steps need to be taken to protect and restore nature including enlarging the network of protected areas. The strategy states that at least 30% of the land and 30% of the sea should be protected in the EU with at least one third of these protected areas, representing 10% of EU land and 10% of EU sea, to be strictly protected.

While the strategy document notes that nature restoration is already partially required from EU member states through existing EU legislation, it is acknowledged that significant implementation and regulatory gaps currently exist which are hindering progress. An example is that member states are not required to have biodiversity restoration plans. 14 key commitments relating to an EU nature restoration plan are detailed in the strategy including a proposal for legally binding restoration targets to restore degraded EU ecosystems, in particular those with the most potential to remove and store carbon and to prevent and reduce the impact of natural disasters.

On 22 June 2022, the European Commission adopted the proposal for a Nature Restoration Law¹. Chapter II of the proposal sets out the restoration targets and obligations split into seven separate articles dealing with different types of ecosystems:


- terrestrial, coastal and freshwater ecosystems
- marine ecosystems
- urban ecosystems

- natural connectivity of rivers and natural functions of the related floodplains
- pollinator populations
- agricultural ecosystems
- forest ecosystems

Chapter III relates to the preparation of national restoration plans. In its current form, it will require member states to prepare national restoration plans and carry out the preparatory monitoring and research. This is needed to identify the restoration measures that are necessary to meet the targets and obligations relating to each of the ecosystems listed above.

Under the current proposal once national restoration plans have been prepared they will need to be submitted to the European Commission for assessment. The European Commission will have the ability to provide observations to the relevant member state which will need to be taken into account when finalising the plan. The proposal also sets out specifics in relation to monitoring and reporting.

The proposal specifically makes reference to the expectation that a new global biodiversity framework which includes ambitious restoration targets will be concluded at COP15, noting that the Biodiversity Strategy for 2030 is a blueprint to make this a reality in the EU and to show EU commitment at global level.



Restoration is defined in the proposal as the process of actively or passively assisting the recovery of an ecosystem towards or to good condition, of a habitat type to the highest level of condition attainable and to its favourable reference area, of a habitat of a species to a sufficient quality and quantity, or of species populations to satisfactory levels, as a means of conserving or enhancing biodiversity and ecosystem resilience.

¹ Proposal for a Regulation of the European Parliament and of the Council on nature restoration.

**Irish proposals –
Draft Biodiversity Action Plan**

On 1 September 2022, the Irish government through the Department of Housing, Local Government and Heritage launched a public consultation in respect of Ireland’s 4th National Biodiversity Action Plan. In giving an update on the state of biodiversity in Ireland, the draft action plan states that:

“Global trends of biodiversity loss are reflected in Irish land and waterscapes. Intensive agricultural and forestry practices, overfishing, invasive species, changes in land use (particularly for residential, agricultural and commercial development) and the over-exploitation of resources such as peatland are the main drivers of biodiversity loss.”

The decline in bees and other insects, birds, protected habitats and water quality are all specifically highlighted within the draft action plan.

The draft action plan contains six objectives:

- adopt a whole of government, whole of society approach to biodiversity
- meet urgent conservation and restoration needs
- secure nature’s contribution to people
- embed biodiversity at the heart of climate action
- enhance the evidence base for action on biodiversity
- strengthen Ireland’s contribution to international biodiversity initiatives

Each of these six objectives contains a series of outcomes that will be achieved if the relevant actions set out in the draft plan are taken. For each action described in the plan there are associated targets and indicators.

While all of the outcomes detailed under each of the six objectives are important, from a legal and regulatory perspective there are a few worth highlighting:

- **Outcome 1E** – the legislative framework for biodiversity conservation is robust, clear and enforceable. This outcome seeks to strengthen the enforcement of existing legislation and also aims to add to legislation as required to strengthen protection for biodiversity.
- **Outcome 2A** – the protection of existing designated areas and species is strengthened and conservation and restoration within the existing protected area network are enhanced. This outcome aims to enhance Ireland’s implementation of key EU Directives such as the Habitats and Birds Directives as well as the new EU Biodiversity Strategy to 2030. It also contains actions to enhance the connectivity of existing protected areas and the process for their establishment. One of the targets under this outcome is that by the end of 2023, Ireland has identified areas that will be pledged as future protected areas under the EU Biodiversity Strategy.
- **Outcome 2C** – all freshwater bodies are of at least “Good Ecological Status” as defined under the EU Water Framework Directive. This directive requires that rivers and lakes are conserved and restored in order to achieve this status by 2027.
- **Outcome 2E** – a National Restoration Plan is in place to meet EU Biodiversity Strategy 2030 nature restoration targets. This outcome makes reference to the Nature Restoration Law proposal detailed above and states that the actions and targets relating to this outcome will need to be further developed as the EU proposal progresses through the legislative process.
- **Outcome 3D** – planning and development will facilitate and secure biodiversity’s contributions to people. This outcome proposes actions for the planning system that aim to enhance its positive contribution to the protection and enhancement of biodiversity, including through updated guidance and standards for the application of green infrastructure and nature-based solutions in planning and development.

What are the impacts on businesses?

As noted in the EU strategy, businesses have an impact on nature, but they also produce the important innovations, partnerships and expertise needed to help address biodiversity loss. The European Commission set up the 'EU Business @ Biodiversity Platform' to provide a forum for discussion of the links between business and biodiversity and to help businesses to integrate biodiversity considerations into their business practices.

In addition to the proposals set out above, from a European perspective, the draft standards being prepared under the Corporate Sustainability Reporting Directive (CSRD) are also worth highlighting. The first set of these draft standards includes a specific biodiversity and ecosystems standards document, ESRS E4, which in scope entities will be required to consider in the context of their sustainability reporting disclosures in their management reports.

Separately two other proposals adopted by the European Commission will also be of relevance to businesses. The first, a proposal for a regulation relating to certain commodities and products associated with deforestation and forest degradation², intends to make it obligatory for companies to verify and issue a so-called “due diligence” statement that goods placed on the EU market have not

led to deforestation and forest degradation anywhere in the world. While no country or commodity will be banned, companies will not be allowed to sell their products in the EU without this type of statement. The products covered under the initial proposal were:

- cattle
- cocoa
- coffee
- palm-oil
- soya
- wood

This includes products that contain, have been fed with or have been made using these commodities (such as leather, chocolate and furniture), with rubber, charcoal, printed paper products and a number of palm oil derivatives successfully added during the negotiation process. Operators and traders will have to prove that the products are deforestation-free and will also be required to collect precise geographical information on the farmland where the commodities that they source have been grown, so that these commodities can be checked for compliance.

² Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010.



This ties in with the second proposal for a directive on corporate sustainability due diligence³ (**CSDDD**) which seeks to establish a corporate due diligence duty. The intended focus of this duty is the environmental and human rights impacts of a company's own operations, those of its subsidiaries and those within its value chain. Biodiversity is specifically mentioned as one of the environmental issues that should form part of the due diligence process undertaken by in scope companies.

From an Irish perspective, outcome 3C of the draft action plan is of particular relevance to businesses as it deals with ensuring that the role of biodiversity in supporting livelihoods, enterprise and employment is recognised and enhanced. This outcome contains actions that aim to help businesses understand and integrate biodiversity into their future planning. Actions are also proposed to assess the knowledge and skills required for a future in which biodiversity loss is halted and reversed. Reference is made to Irish businesses reporting in line with the CSRD requirements, including on biodiversity. From a practical perspective it is aimed that by the end of 2023 small businesses will have been provided guidance on how to reduce their impact on biodiversity and contribute to the actions within the

action plan. In addition, Business for Biodiversity, a biodiversity initiative platform established to contribute to the realisation of the goals of the action plan, will publish guidance documents for businesses and support businesses in conducting materiality assessments and determining their impacts and dependencies on nature and biodiversity.

On a global level, the work being done by the Task Force on Nature-related Financial Disclosures (TNFD) to develop a risk management and disclosure framework relating to nature-related risks and opportunities will culminate in the publication of recommendations towards the end of 2023. The current draft proposals follow the four pillars of the Task Force on Climate-related Financial Disclosures (TCFD) framework – governance, strategy, risk management and metrics and targets but also provide for an assessment process for nature-related risks and opportunities management, known as LEAP. The development of these recommendations is built on the premise that transparency of information through disclosures facilitates better risk and capital allocation decisions by businesses, investors and lenders.

L	Locate your interface with nature.
E	Evaluate your dependencies and impacts.
A	Assess your risks and opportunities.
P	Prepare to respond to nature-related risks and opportunities and report.

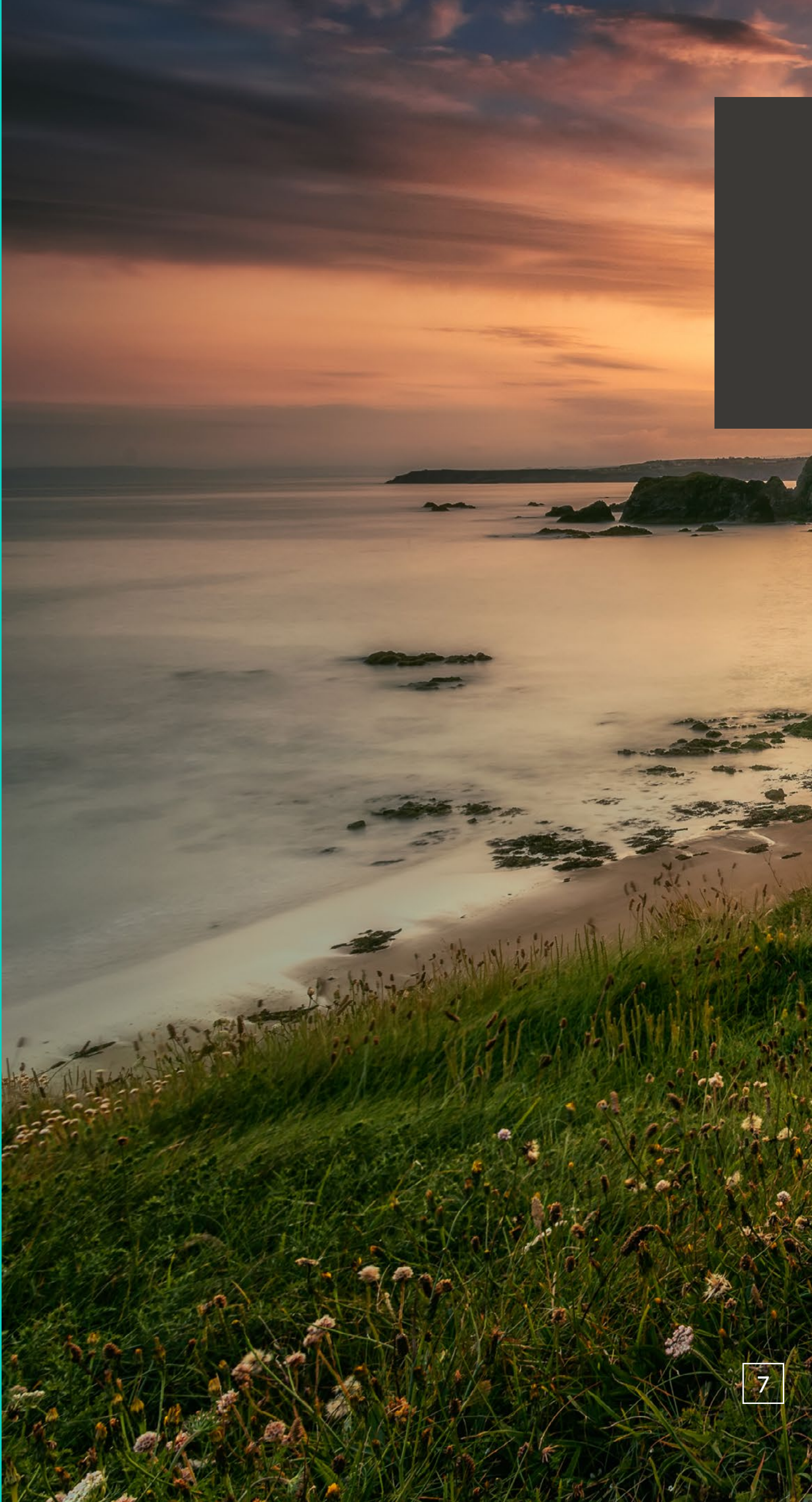
³ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937.



Next steps

Organisations need to understand the biodiversity risks of relevance to them in order to take steps to mitigate those risks. Organisations are increasingly being encouraged by their stakeholders to adopt nature positive business models. This will require an analysis of their current relationship with nature and the development of a strategy to halt and reverse their negative impacts on nature and move towards a more nature positive way of conducting their activities. For those that have not already taken steps to identify nature related risks and opportunities to their business and the impact of their business on nature, establishing a working group to assist with this identification process would be a useful first step.

From a regulatory compliance perspective, considering whether your business falls within the scope of CSRD or the CSDDD proposal is also a key next step. While biodiversity is only one of the topics covered by both pieces of legislation, as they will ultimately place additional reporting and due diligence obligations, respectively, on in scope entities, it will be helpful to determine whether your business falls in scope at an early stage.



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