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Dear Emily,

Defra Technical Consultation on the Biodiversity Metric
Response prepared by Sussex Nature Partnership

This document has been prepared by Sussex Nature Partnership in response to the Defra Technical Consultation *on the Biodiversity Metric*. Several key organisations contributed to its contents via our 'BNG Working Group':

- Arun District Council
- Adur & Worthing Councils
- Brighton & Hove City Council
- East Sussex County Council
- Eastbourne Borough Council
- Environment Agency
- High Weald AONB Unit
- Horsham District Council
- Lewes District Council
- Network Rail
- Rother District Council
- Royal Society for the Protection of Birds
- South Downs National Park Authority
- Sussex IFCA (Inshore Fisheries Conservation Authority)

- Sussex Biodiversity Record Centre
- Sussex Wildlife Trust
- Wealden District Council
- Woodland Trust

Comments used to shape the response were also gathered via our Local Authority Network which pulls together representatives from the 11 district and borough councils in East and West Sussex.

Background

Sussex Nature Partnership operates across the Tier 1 local authority areas of West Sussex County Council, East Sussex County Council and Brighton and Hove City Council and covers a large area of the South Downs National Park, High Weald Area of Outstanding Natural Beauty (AONB) and Chichester Harbour AONB. Supported through donations from its key partners, it brings together over 30 organisations from across the environmental, business, research and public sectors operating in Sussex¹. A core part of its work over the past year has been to engage all partners in emerging policy around 'net gain'. Most of this work has focused on mechanisms for biodiversity net gain set out within the Environment Act. For information, we also submitted detailed responses to the previous Defra consultations on Biodiversity Net Gain (April 2022) and the Principles for Marine Net Gain (August 2022).

Structure of this Response

Please see attached (**Appendix 1**) our response to the specific questions posed within the consultation document. These have also been submitted online.

However, our conversations in Sussex have raised several issues relating to the biodiversity metric which were not covered by the consultation but were felt to be critical to the development of policy in this area. These are set out below.

All the comments have been developed through a process of discussion and consultation across Sussex Nature Partnership. We therefore hope it will be particularly useful as a measure of the issues being raised in the minds of those engaging with and applying the metric at the local level.

Issues Relating to the Biodiversity Metric not covered by the consultation questions.

- Concerns remain about intrinsic problems within the metric that result in outputs which do not support the best solution for biodiversity on the ground. Examples include:
 - areas of proposed habitat to be provided are included as one lumped area within the metric - but often delivered on site in a fragmented way, via a number of small areas scattered across the site which will deliver less benefit for biodiversity;
 - there are circumstances when the metric favours new habitat creation over enhancement of existing habitat, which is often not the most beneficial intervention.
- **Section 1.2 Local distinctiveness.** We would like clarity from Defra as to how local data (which may be more suitable) can be used to confirm local distinctiveness, which is

¹ See Sussex Nature Partnership website for list of current members <http://sussexlnp.org.uk/about-us/our-partners/>

specifically referenced in footnote 1 of the consultation document, as we understand this section is auto-populated in the metric using national data.

- **Section 1.2.1 Small sites metric.** This paragraph contains inconsistencies. Specifically, it states that *“The small sites metric is intended to be a simplified version of the biodiversity metric, incorporating only low or medium distinctiveness habitats. This includes hedgerows and arable field margins”* when in fact hedgerows and field margins are listed as Habitats of Principle Importance within the link provided. This is confusing and contradictory to the April BNG consultation which said that any small site with priority habitats should go through the mandatory BNG metric route. An applicant who is not a qualified ecologist (which is one of the ideas behind the small sites metric) might not properly pick up the importance of hedgerows or field margins on a small site. These sorts of habitats are often impacted by small developments and their loss on small sites can have a large cumulative impact on local biodiversity.
- **Section 2.1 Highlighting units required.** We agree that it would be more helpful to show the current unit shortfall and any like-for-like trading rules for each habitat type. In our view this would help users see which habitats need to be created or enhanced to achieve BNG without having to interrogate the information beneath the metric in great depth (which will take time and may be difficult for less experienced users of the metric).
- **Section 2.4 Biodiversity metric guidance and case studies.** Technical guidance is important and we do not support reduction of the size of the guidance for the sake of its size alone. We support the concept of accessible and clear guidance but it must include sufficient technical detail to be useful and accurate. The statement in this paragraph contradicts a statement which talks about creating new guidance.
- **Section 3.1.1. Review and update.** Timeframes for updates. We appreciate that the final (statutory) metric will be published a year in advance of mandatory BNG coming into force and that this will give time for any glitches and problems to be picked up. However, despite this, it may be practical for Defra to carry out an initial review within a relatively short time period (1-2 years) to pick up any main practical issues and iron out any major problems. Following that, review could take place at longer intervals. More generally, we would also like more clarity on how Defra will actually measure the success of the BNG policy and associated metrics and mechanisms. In our view this must primarily focus on indicators of meaningful net gain achieved for biodiversity, but it would also be instructive to include indicators that pick up efficiency and effectiveness (related to capacity, administration of the system, how local markets for offsite BNG are working etc).

Sussex Nature Partnership will be happy to discuss any of the points raised within this response if that would be helpful and appreciate the opportunity to engage with this consultation.

Yours sincerely,



Kate Rice

Chair, Sussex Nature Partnership

Consultation on the BNG Metric: Responses submitted online

Question Number	Question Text	Answer	Notes for Response
Part 2			
1 (5 online)	Do you think that the spatial risk multiplier values need reconsidering to better incentivise high value off-site delivery?	Yes	<p>We understand and support the intention to include a mechanism in the metric to incentivise the location of offsite net gain close to the impact of the related development.</p> <p>There is a great deal of local support from planning authorities for a mechanism that incentivises location of the offsite net gain within the relevant planning authority that is receiving the development impact. The current spatial risk factor probably fulfils this democratic/political 'need' at present (i.e. provides an incentive for net gain located in same LPA).</p> <p>However, from an ecological point of view many planning authorities cover a huge geography and this multiplier may in fact be ecologically (and socially?) meaningless, i.e. the offsite net gain could still be located many kilometres from the impacted site and community and thus not deliver any local benefits.</p> <p>From an ecological perspective, it would obviously be preferable if the metric could contain an incentive to locate offsite net gain not just close to the impact site, but in a location where it will provide ecological benefit that is approximate to (or better than) that which is lost through the impact of the development. We are also aware that the metric cannot easily accommodate the value a development site (or offsite net gain location) may have for ecological connectivity. We understand that ecological principles like this may be difficult to cover within a metric and that reliance will rest on the multiplier for 'strategic sites' to help steer habitat creation towards specific sites of recognised ecological importance. But whilst we understand what the intention is and recognise the challenges - we would urge Defra to continue to look at how to better incentivise offsite BNG being located both close to the impact of the development and in a manner that provides ecological benefits similar to those that are lost. We acknowledge that as local markets for offsite net gain begin to develop, more sites may come forward thus widening the choice of sites available. This may reduce these concerns, but in the meantime, we would urge Defra to keep</p>

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			<p>an eye on the metric's performance against this intention to locate suitable offsite net gain benefits close to the development site.</p> <p>What it most certainly should not do is somehow perversely lead to lower <u>quality</u> habitat being created at a distance from a development. We support Defra's recognition of this problem and the desire to correct it, including investigation of the interaction of various multipliers and factors as a possible problem.</p> <p>We support Defra in further scrutinising how the spatial risk multiplier can deliver net gain in practice for NSIPs and support further adjustments that ensure that net gain proposed delivers the most meaningful and locally appropriate benefits for nature and eliminate any perverse negative outcomes.</p>
2 (6 online)	Do you think that providing guidance on considerations for what habitats can be typically achieved on-site would be helpful?	Yes	<p>We agree that guidance for the types of habitats that would deliver meaningful BNG onsite would be very helpful both to applicants and those assessing applications.</p> <p>For example, in our experience, onsite BNG proposals are being brought forward which are in effect 'amenity' areas i.e. green spaces and planting are being designed but due to their small size and location in areas of high disturbance and recreational pressure in and around the development, they will support very little biodiversity gain in practice. Our concern is that as application numbers increase, many will include this sort of approach to BNG. Examples include creation of ponds within busy areas of a new housing development, small fragments of habitat dotted around a site (which then have large edge effects and thus lower biodiversity value) when one large area would be much more effective, and play areas within green spaces. We are also seeing the creation of 'Sustainable Alternative Green Spaces (SANGs) intended specifically to absorb local recreational pressure - being proposed to include onsite BNG.</p> <p>It is possible that in terms of benefits to biodiversity, some low value interventions could potentially be more beneficial if created offsite. Examples and scenarios should be included in the guidance.</p> <p>It may also be helpful to include the types of interventions and habitat types that should not be considered onsite as they will simply not deliver effective BNG in such a setting.</p>

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			<p>In addition, we also believe that the guidance should go further and provide pointers to issues to look for when designing and scrutinising proposals which will ensure optimal benefit for biodiversity in practice. This may mean identifying where the metric cannot accommodate specific situations and where applicants and local authorities will need to work together to over-ride such situations to ensure proposals are designed to optimise positive outputs for biodiversity.</p> <p>In these cases, we would prefer to see changes to the metric to iron out these problems but where this is not possible, these intrinsic weaknesses within the metric must be properly flagged within the guidance with particular instruction on how they should actively be avoided by applicants.</p> <p>A specific example relates to fragmentation of proposed new habitat (i.e. small areas of a habitat such as grassland that are dotted around a development). This will appear as a single ‘aggregated’ area of habitat in the metric and as such will be assumed to confer much more biodiversity benefit than several small areas of habitat with high edge effects.</p> <p>We would prefer to see patches of the same habitat presented individually within the Metric. This would allow the assessor to consider size, and whether this could be maintained and make a real-world contribution to biodiversity. But guidance should also be provided on minimum sizes for habitats where appropriate. Some habitats such as grasslands are more likely to be subject to created fragmentation across a site.</p> <p>National guidance should also flag some of the technical pitfalls that relate to habitat creation at the site level, to ensure that both applicants and those scrutinising the submissions can be sure that the proposals will deliver the habitats on the ground as claimed. See case studies below for examples.</p> <p>Two specific audiences should be targeted by the guidance: applicants (to ensure plans submitted are of good quality in relation to delivering BNG on site) and local authorities (to assist in scrutinising and identifying effective BNG proposals).</p> <p>Specific guidance should be included on when and how local ecological expertise can be used to ‘over-ride’ the metric to ensure its weaknesses do not lead to perverse or less good outcomes or where local species or other circumstances cannot be adequately captured within the metric.</p>

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3 (7 online)	Do you have any suggestions for additional case studies that we should produce?	Yes	<p>As well as case studies, Defra could develop and illustrate scenarios - helping to demonstrate good and bad approaches to the same scenario.</p> <p>Existing case studies should include site maps to illustrate the role of design and location of net gain onsite and the importance of the role of layout and location. These could be presented like mini planning applications and narrate the process/journey applications may go through from first submission, through iteration - to final agreed proposal.</p> <p>Locally appropriate case studies - which help to illustrate specific scenarios and approaches to locally typical habitats would be helpful.</p> <p>In Sussex, case studies can be provided from High Weald AONB in relation to the following issues:</p> <ul style="list-style-type: none"> • fragmentation of grassland in design plan - where the area is provided as 'lumped' area in the metric • instances where the metric encourages creation rather than enhancement • importance of understanding what is possible on a site as part of consideration of an application: e.g. creation of species rich grassland requires low Phosphorous levels and this may be impossible to achieve • problems in reflecting the actual ecological condition of a habitat (e.g. grassland) within the metric and the implications this can have for the outputs • The implications of changing the size of the development area being considered, where even minor changes in measurement can have significant impacts on the outputs from the metric.
4 (8 online)	Do you agree with the described measures and proposals to help with applying the metric to minerals developments?	Do not know	Minerals permissions usually have a long-term restoration plan agreed as a condition. We are not clear about how BNG relates to these restoration plans and whether these are now expected to deliver BNG over and above these plans. In our view, compensation and mitigation for initial works are wholly separate from BNG which should be additional to compensation, mitigation and restoration. The previous consultation on BNG raised similar questions but the conclusions from

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			this consultation have not yet been published. Defra should provide more clarity on the situation with regard to requirements for mineral applications.
5 (9 online)	<p>Are there any improvements you would make to the following components of biodiversity metric 3.1 in the short-term, in terms of user-friendliness, simplicity or function?</p> <p>a) the metric calculation and tool (the spreadsheet, values and calculations)</p> <p>b) user guide (including the rules and principles for using the metric)</p> <p>c) habitat condition sheets (included in the technical supplement)</p> <p>d) GIS data import tool (currently not part of the small sites metric)</p> <p>e) case studies</p> <p>f) small sites metric</p>		<p>Some of the weaknesses of the metric have been highlighted above as have some suggestions for improvement to the guidance. Other thoughts include:</p> <p>General improvements in guidance:</p> <ul style="list-style-type: none"> - It would be beneficial to have a “talked through”/narrated or annotated real-world example as part of training for the metric - to help new users work through its various elements and stages. - Troubleshooting guidance - on what to do if a user encounters problems with technical parts of its function (e.g. attaching documents, photos etc) - would be useful. <p>User guide:</p> <ul style="list-style-type: none"> - Include ecological /technical guidance on issues such as fragmentation of habitats across a site (and why it is important to avoid this where possible for ecological reasons). - Guidance on whether professional judgment can override the metric results, with justification and agreement. - Include further guidance on zero / very low baseline sites and urban site BNG options and how best to secure biodiversity net gain when the baseline is very low.

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6 (10 online)	Do you think there are other biodiversity metrics that should be considered alongside biodiversity metric 3.1 for measuring mandatory biodiversity net gain?	Do not know	<p>We are not aware of other metrics that could be used in these scenarios. We know that in some parts of the country, local metrics have been developed and used - and guidance should clarify how different metrics could/should work together.</p> <p>There must be room for ecological / professional expert opinion to work alongside the metric. We are concerned that ecological assessments prepared for sites may be identifying condition of a site at a certain level, only to see this down-graded within the metric. Where ecological evidence does exist to inform the BNG process, there should be a way of using this in 'evidencing' the final submission (and a role for local planning authorities in seeking this and requiring changes to be made to the submission where evidence is contrary to the inputs provided).</p> <p>The interplay between terrestrial and emerging marine net gain is very important. The two systems must compliment and work with each other.</p> <p>With regard to developments that fall under different bits of legislation (e.g. Town and country Planning Act and NSIPs) - we don't see why different BNG tools or metrics should be used. This would only cause confusion.</p> <p>Where LPAs have developed locally specific metrics, these should be permitted provided they result in robust and meaningful BNG proposals.</p>
Part 3			
7a (11 online)	<p>Do you have any practical suggestions on how we could use species or other ecological data to improve:</p> <p>a) the measuring of losses and gains in the metric?</p>	Yes	<p>As already noted above, the professional role and influence of ecologists - particularly on the local government side - should be clarified, particularly where their view is that certain interventions will be needed to support species throughout the process. There should be a specific part of the process where this is sought/supported to ensure experts have a role in the approach. Ecological capacity is going to be variable across the country. So this may determine how well species and local ecological knowledge are integrated into the system.</p> <p>Clarity is required as to whether mitigation or compensation for protected species can or should be counted towards BNG. In reality, mitigation for protected species is often counted as BNG as the metric does not recognise the difference. However, if following the mitigation hierarchy properly, any mitigation or compensation required for species, e.g. retained grassland for reptiles, should not</p>

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			be counted towards BNG. We understand that in the case of district licensing for great crested newts, mitigation for the species can be used to bring a site to no net loss, but cannot be used as a contribution to BNG.
7b (11 online)	<p>Do you have any practical suggestions on how we could use species or other ecological data to improve:</p> <p>b) designing habitat enhancements?</p>	Yes	With regard to species information, it would be useful to have protected species guidance that links to the habitat information - e.g. explaining what habitats may be helpful for specific species (this may need to be specific to certain localities, but even general information may be instructive).
8 (12 online)	Do you think that metric users should be required to attend a verified training course or be accredited before completing the calculation? Explain why and what these should cover	Do not know	<p>We are uncertain about this proposal if accreditation of those submitting applications is seen as a stand-alone mechanism for increasing quality of applications. Equal attention should be made to resourcing and training local authorities in scrutinising applications so that this in itself will ensure more robust examination and therefore drive-up quality of applications.</p> <p>Thus we support training for metric users - both in terms of those submitting applications AND those within local planning authorities who will have to scrutinise submissions and work with applicants to improve proposals.</p> <p>We support the principle that if trained and accredited, those submitting applications are more likely to understand what is required and any technical issues with using the metric and associated tools will be covered.</p> <p>If accreditation for applicants is mandatory, there should be a transition period before the mandatory requirement is enforced - to prevent a backlog and initial delay while sufficient people are trained.</p> <p>Clarity is needed as to whether those scrutinising applications will have to be accredited. At no time should the ability of 'others' (non-accredited individuals or organisations) be removed. This could have negative implications as it could exclude ecological experts and local people from</p>

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			<p>questioning/scrutinising an application. This will be particularly important for those planning authorities who may not have ecological expertise in-house.</p> <p>If training/accreditation is aimed primarily at applicants - it will also be important for the local planning authorities to be aware of the contents of that training so that they understand the guidance being given to applicants.</p> <p>Training will need to be updated regularly.</p> <p>As noted above, training/accreditation of applicants should not be at the expense of investment in ecological capacity and training within local authorities. Defra should consider that by investing in the skills and capacity within the 'regulator' (local planning authorities), this will automatically drive up the quality of applicants as developers and consultants will be expected to submit high quality applications (knowing that they will be fully scrutinised). Accreditation of applicants could come at a later stage.</p> <p>The focus initially should therefore be on training all involved - to bring everyone up to a similar level of understanding of the metric and its application in practice.</p>