Information Note on Biodiversity Net Gain and its implementation in the Liverpool City Region

Merseyside Environmental Advisory Service

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1. Introduction

Purpose of this Information Note

1.1. The purpose of this Information Note is to set out the current approach to Biodiversity Net Gain (BNG) within the Liverpool City Region and the steps being undertaken towards its implementation.

1.2. It is also intended that this Information Note will provide an overview of BNG in the LCR, key considerations for planning, development and land management in the interim for planning officers, developers and applicants on the current level of information required to support an application before 10% BNG becomes mandatory in November 2023. A view will be taken on whether an Interim Guidance note is necessary to inform the development management process.

1.3. During this transitional period, the use of the Biodiversity Metric and provision of 10% BNG is not mandatory. However, EAS are advising LPAs to require use of the metric when harm to Priority habitats and locally designated sites cannot be avoided; and that a net gain is provided, wherever possible, in line with current planning policies and guidance. The current approach within the LCR to BNG is discussed further in section 2 below.

1.4. Following consultation in March 2022, the Regulations and Guidance has yet to be finalised. This Information Note will therefore be reviewed and updated as further details are published, amendments to the Defra method and experience of implementation of BNG in the LCR during the transitional period. Guidance within this Information Note is in line with emerging policy and best practice[1].

The Environment Act 2021

1.5. The Environment Act 2021 received Royal Assent in November 2021 and will come into force following a two-year transition period which will end in November 2023. Regarding nature and biodiversity, the Act includes provisions to:

- mandate net gain in biodiversity through the planning system, requiring a 10% increase in biodiversity after development, compared to the level of biodiversity prior to the development taking place, as measured by a metric assessment using the Defra-required method;
- require the preparation and publication of Local Nature Recovery Strategies (LNRS), a tool to direct action for nature, and place an emphasis on supporting local leadership of nature improvement;
- provide for Species Conservation and Protected Site Strategies to improve the conservation and protection of the most vulnerable species and habitats; and
- amend section 40 of the Natural Environment and Rural Communities Act 2006 to strengthen and improve the duty on public bodies to

[1] https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain

conserve and enhance biodiversity, in accordance with the proper exercise of their functions.

1.6 Other provisions of the Act relate to the re-focusing of the Habitats Regulations 2017 (as amended) to support delivery of domestic biodiversity priorities, requiring Local Authorities to consult local residents prior to the felling of street trees and the establishment of a new Office for Environmental Protection.

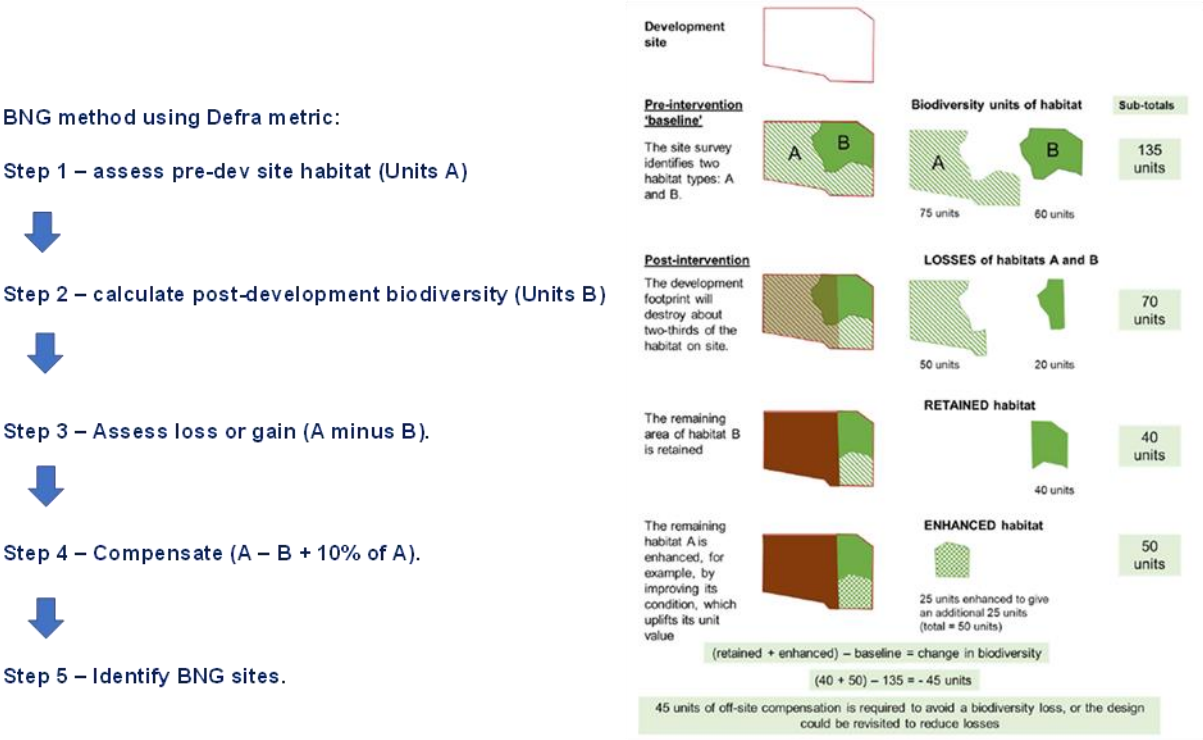
1.7 The Government approach is for the package of measures within the Environment Act to be closely aligned with Planning Reforms as announced in the Queen's Speech (11 May 2022) and the 2021 National Planning Policy Framework (NPPF).

2. Overview of DEFRA approach to BNG

What is Biodiversity Net Gain?

2.1 Biodiversity net gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. The net gain – comparing the site's original, or 'baseline', condition with its post-development status – will be measurably by developers using a 'biodiversity metric'. Figure 1 below provides a summary of the BNG method using the Defra metric.

Figure 1: BNG Defra metric method



2.2 The Environment Act sets out the following key components of mandatory biodiversity gain:

- Minimum 10% gain required calculated using the Biodiversity Metric & approval of a biodiversity gain plan;
- Delivered on-site, off-site (if clear evidence provided on site compensation not possible) or (as a least preferred and last resort) via a new statutory biodiversity credits scheme;
- Habitat secured for at least 30 years via planning obligations or conservation covenants; and
- National register for net gain delivery sites.

2.3 It does not change existing legal protections for important habitats and wildlife species. It maintains the mitigation hierarchy of avoid impacts first, then mitigate and only compensate as a last resort.

2.4 The mandatory provision of BNG will introduce a standardised approach designed to assist applicants to meet their BNG obligations.

2.5 The requirement for 10% BNG and for the submission of Biodiversity Gain Plans (discussed further below) will only be introduced in November 2023 when BNG becomes mandatory. Transitional arrangements prior to BNG becoming mandatory are set out in Section 2 of this Information Note. Section 3 sets out the current policies of the individual authorities regarding BNG.

To which developments will Biodiversity Net Gain apply?

2.6 The mandatory requirement to achieve at least a 10% biodiversity net gain increase from the pre-development biodiversity value will apply to:

- any new planning application submitted on and after the date mandatory BNG commences in November 2023 (it will not be based on the determination date for any applications submitted before November 2023); and
- Nationally Significant Infrastructure Projects consented under the Planning Act 2008. For NSIPs the requirement will apply no later than 2025.

2.7 Biodiversity net gain will apply to development projects, or components of projects, as far as the low-water mark, including the intertidal zone. If, during the transitional period, guidance is provided on marine environment gain, proactive steps will be taken to ensure seamless integration with the BNG process within the intertidal area and following the principles of the MMO Coastal Concordat.

2.8 The following exemptions have been proposed by the recent DEFRA consultation on Biodiversity Net Gain Regulations and Implementation (see below) and the consultation seeks views on these

- permitted development;
- developments impacting habitat areas below a 'de minimis' (minimal) size threshold – the Government consultation sought views on appropriate de minimis size; thresholds between $2m^2$ - $50m^2$ habitat area or 2m - 50m length and the final Regulations and guidance has yet to be published;
- householder applications; and
- change of use applications.

2.9 The Government consultation clarified that brownfield sites will not be exempt from the requirement for BNG. However, it considered whether to make exemptions for the following:

- creation of biodiversity gain sites; and
- self-build and custom housebuilding.

2.10 BNG will apply to outline and phased developments. For outline and phased permissions the applicant will be required to explain the strategy to achieve the biodiversity gain objective across the whole site and to demonstrate how this could be delivered on a phase-by-phase basis. Reserved matters will not be required to fulfil mandatory BNG if the outline was approved prior to mandatory BNG and will only apply to new applications submitted once BNG is mandated (from November 2023).

2.11 The requirement to achieve 10% BNG is currently framed nationally as a pre-commencement condition, meaning that the biodiversity gain condition must be discharged before development can begin. To discharge the condition a Biodiversity Gain Plan (BGP) will need to be submitted and approved by the Local Planning Authority. However, this approach may change for when BNG becomes mandatory. LCR local planning authorities have expressed a preference for BNG provision to be resolved pre-determination rather than by planning condition. This would mean that the BGP would be submitted with the planning application and could be included as a validation requirement

Biodiversity Gain Plan

2.12 Planning applications subject to mandatory BNG will be required to submit a BGP for planning authority approval. The Environment Act sets out that the biodiversity gain plan should cover:

- How adverse impacts on habitats have been minimised;
- The pre-development biodiversity value of the onsite habitat;
- The post-development biodiversity value of the onsite habitat;
- The biodiversity value of any offsite habitat provided in relation to the development;
- Any statutory biodiversity credits purchased; plus
- Any further requirements as set out in secondary legislation.

2.13 A high level of certainty is required that the BGP will be delivered through the development process. The current expectation is that delivery of BNG should be secured through a combination of planning conditions and the appropriate legal obligations e.g. Section 106 or Conservation covenants, with the appropriate parties.

2.14 It is understood, at the time of writing, that DEFRA has plans for a pilot test / trial of a BGP template. Whilst the LCR via EAS will monitor this and provide feedback on the template as and when required, this interim Information Note should be used as a common approach for the local planning authorities in the LCR.

The Biodiversity Metric

2.15 The Biodiversity Metric uses a habitat as a proxy for wider biodiversity with different habitat types scored according to their relative biodiversity value. This value is then adjusted, depending on the condition and location of the habitat, to calculate 'biodiversity units' for that specific project or development. At the time of writing, the latest version of the Biodiversity metric is version 3.1. Version 3.1 incorporates separate calculations for linear habitats that require a different method of measurement such as hedgerows and lines of trees, rivers and streams and urban trees. A simplified version of the Biodiversity Metric 3.1, known as the Small Sites Metric, has been produced by DEFRA and is a simplified version of the for use on small development sites. The small sites metric is discussed further below.

2.16 Biodiversity metric 3.1 can be used to measure both on-site and off-site biodiversity changes for a project or development. It has the ability to measure the change in biodiversity achieved by different land management interventions on the development site and compensation sites to inform the BGP. The metric calculates the change in biodiversity resulting from a project or development by subtracting the number of pre-intervention or 'baseline' biodiversity units (i.e. those originally existing on-site and off-site) from the number of post-intervention units (i.e. those projected to be provided after the development or change in land management), as summarized in Figure 1.

2.17 The metric should be used by developers iteratively, in conjunction with their ecological consultants, to inform site design and layout.

2.18 Biodiversity metric 3.1 does not include species explicitly. Instead, it uses habitat types as a proxy for the biodiversity 'value' of the species communities that make up those different habitats. The metric does not change existing levels of species protection and does not replace the processes linked to protected species regimes. Mitigation and enhancements for protected and notable species, such as provision of bat, bird and hedgehog boxes will still be required.

2.19 This Information Note only provides a brief overview of the Biodiversity Metric. For further details, refer to the User Guide which is available on Natural England's website.

2.20 Irreplaceable habitats or very high distinctiveness habitat are not adequately measured by the Biodiversity Metric. They will require separate consideration which must comply with existing national and local policy and legislation. Data relating to these can be entered into the metric, to give an indicative picture of the biodiversity value of the habitats present on a site. However, bespoke compensation would need to be agreed for any harmful impacts to these habitats.

2.21 The NPPF defines irreplaceable habitats as '*habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity*.' Within the LCR, irreplaceable and high distinctiveness habitats include ancient woodland, ancient and veteran trees, sand dunes, salt marsh and lowland raised bog. Irreplaceable habitats will be further defined in upcoming DEFRA guidance.

2.22 When completing the Biodiversity Metric, the 'strategic significance' score gives additional unit value to habitats that are located within a preferred location for biodiversity. Strategic significance is whether the location of each habitat parcel is identified in a local plan or other strategic document as an important area for biodiversity e.g., Local Nature Recovery Strategies (LNRS). Strategic documents for biodiversity often include planning documents such as supplementary planning documents, green infrastructure plans, nature recovery strategies, biodiversity opportunity areas, biodiversity action plans and local wildlife sites. The Liverpool

City Region LNRS is in development and will support the delivery of mandatory biodiversity net gain and provide a focus for a strengthen duty on all public authorities to conserve and enhance biodiversity.

2.23 River biodiversity units (RBUs) are the unit of measurement for rivers and streams. As stated within the User Guide, this is to differentiate the river values from the biodiversity units representing area habitats and other linear habitats. For the purposes of the metric, 'rivers and streams' include those classified as 'main river' and 'ordinary watercourse.'

2.24 The rivers and stream condition assessment requires users to be trained and accredited[2].

Small sites metric

2.25 The small sites metric (SSM) is a simplified version of the Biodiversity Metric 3.1. Its completion does not require a full habitat survey. The SSM must be completed by a competent person[3], there is currently no specific requirement for the SSM to be completed by a suitably qualified ecologist however, they need to meet the competencies required by the SSM guidance and therefore it is likely that an ecologist will be required to complete the SSM.

2.26 The small sites metric is intended for use on developments where:

- Residential developments the number of dwellings between 1-9 inclusive, on a site having an area of less than one hectare;
- Where the number of dwellings to be provided is not known and the site area is less than 0.5 hectares; and
- For all other development types where the site area is less than 0.5hectares or less than 5,000sqm.

2.27 However, the small sites metric cannot be used to calculate off-site units. Also, it cannot be applied where Priority Habitats are present on a site (excluding hedgerows and arable margins). Applicants must first check whether Priority habitats are present on site.

2.28 The SSM requires habitat creation and enhancement proposals to target a habitat condition for improvement e.g. moderate or good. This must be undertaken by a competent person or preferably a suitably qualified ecologist and accord to the Biodiversity Metric habitat condition assessment guidance.

[2] https://modularriversurvey.org/river-condition/

[3] A competent person is someone who has acquired through training, qualifications or experience, or a combination of these, the knowledge and skills enabling that person to perform a specified task, in this case complete the SSM. The competent person is defined as someone who is confident in identifying habitats present on the site before the development AND identifying the management requirements for habitats which will be created or enhanced within the landscape design (*Small Sites Metric User Guide, Natural England, April 2022*)

2.29 The need for an ecological and/or arboricultural survey should be guided by the habitat and species present on site. For example, if urban trees are present then the applicant may need to commission an arboricultural impact assessment in order to ascertain the required level of information to run the urban trees tool e.g. diameter at breast height (DBH) of trees.

2.30 Further LCR-specific guidance on the completion of both metrics is given in section 3 below.

The Mitigation Hierarchy

2.31 The mitigation hierarchy is set out in paragraph 180(a) of the 2021 National Planning Policy Framework (NPPF). This states that '*if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused*.' To ensure that the mitigation hierarchy is adequately applied, developers must consider BNG early in the development planning process.

The mitigation hierarchy

AVOID	MITIGATE	REMEDIATE	COMPENSATE
Where possible damage and loss of habitats should be avoided	Where possible, habitat damage and loss should be minimised	Where possible, any damaged or lost habitat should be restored	As a last resort, damaged or lost habitat should be compensated for

2.32 The Biodiversity Metric 3.1 supports the application of this mitigation hierarchy as it applies multipliers which are based upon the risks inherent in creating or restoring habitat. These risks do not apply when existing habitat is retained and harm to it avoided. The metric therefore allows overall biodiversity gains to be achieved more easily through the avoidance of on-site habitat losses, rather than relying solely on the creation of new habitat or the enhancement of existing habitat. It therefore encourages high value and Priority Habitats to be retained on the site. Developers should look to enhance these habitats, create buffers around them and improve connectivity with off-site habitats.

2.33 In line with the mitigation hierarchy, the BGP will need to demonstrate that the following steps have been followed:

- Impacts on site have been avoided through site layout;
- Habitats on site will be enhanced and restored;
- Off-site habitats will be created or enhanced, either on land owned by the developer, through a legal agreement between the developer and another land owner or by purchasing biodiversity units on the market; and
- As a last resort to prevent undue delays, that statutory biodiversity credits will be purchased from the UK Government where they can demonstrate

that they are unable to achieve biodiversity net gain through the available on-site and off-site options. This is the least preferred option as, unless there is a national credit scheme within the LCR, then this will result in biodiversity loss from the region. Part of the work of the LNRS will be to ensure that there are relevant schemes within the LCR to deliver national credits.

Sequential Approach

2.34 BNG sets a spatial hierarchy of habitat delivery, with a preference for onsite or local enhancements. The Environment Act requires that '*information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat*' is included in the biodiversity gain plan.

2.35 In addition, the Biodiversity Metric 3.1 incentivises habitat delivery on or close to the development site through a 'Spatial Risk Multiplier', which reduces the biodiversity value of habitats delivered further away from the development. It is recommended that the onsite first, then local offsite hierarchy is also included in future local plan policy.

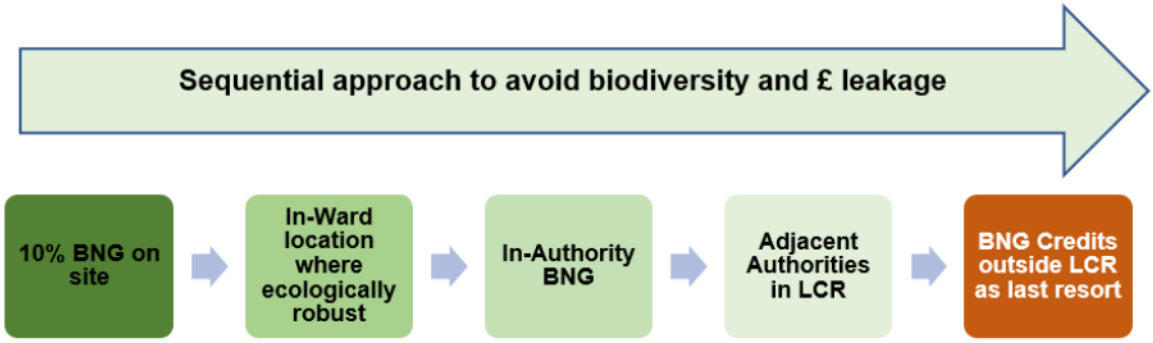
2.36 The sequential approach:

- Where a development cannot achieve BNG either wholly or partly onsite, then the developer can secure the unit shortfall by securing a bespoke site for net gain, or from appropriate sites on the local net gain habitat market from other landowners, using the sequential approach set out in paragraph 2.35 and Figure 2 below;
- These sites will need to meet the criteria of the biodiversity gain sites register (when available);
- If a shortfall in units required to achieve BNG remains, having explored the onsite and local offsite options following application of the mitigation hierarchy, the applicant will have the option to purchase biodiversity units from an offsite habitat market. If units cannot be sourced from local habitat markets, developers will, as a last resort, be able to purchase their required units (as 'biodiversity credits') from the national credit scheme which will be invested in habitat creation;
- The statutory credit scheme will be run by a national body not at the local level. At the time of writing it is not known whether credits can be delivered locally through the national scheme or not;
- Further detail relating to this process will be set out in the forthcoming government consultation on BNG secondary legislation and regulations and in future guidance for developers and LPAs.

2.37 Within the LCR, to avoid biodiversity and investment loss from a local area, where 10% BNG cannot be achieved onsite, offsite options within the same ward (or Council area as the application site) or are adjacent to the site (the LNRS will seek to ensure that opportunities are available at this level), which are ecologically

feasible, should be investigated as a first option as set out in Figure 2 below. Where this is not possible, other sites in the local authority area should be investigated. Where this is not possible the rest of the sequential approach in Figure 2 should be followed:

Figure 2: Sequential approach



Options for achieving Biodiversity Net Gain

2.38 To allow for a smooth transition to a new culture of BNG in the planning process there will need to be a number of BNG delivery mechanisms available.

Onsite provision

2.39 In the first instance, developers should seek to retain and avoid harm to existing habitats in line with the above mitigation hierarchy (this will reduce the required amount of BNG and will require less investment from the developer). If this is not possible, first preference should be given towards the creation of onsite compensatory habitat to provide a minimum of 10% BNG.

2.40 Even relatively small enhancements to existing habitats can make valuable contributions towards achieving the 10% target. These could include measures such as:

- Enhancing existing habitats, e.g. improving condition of existing grassland habitat from 'poor' to 'good';
- Incorporation of green roofs and walls into the development;
- Including existing habitats, such as ponds for example, into landscaping areas;
- Ensuring that all areas of the site are utilized, e.g. undertaking habitat creation in parts of the site likely to be less utilised instead of hardstanding;
- Improving connectivity of habitats through the provision of corridors and stepping stones within the development, e.g. planting native hedgerow to improve linkages between woodland compartments

2.41 It should be noted that many of these interventions make a positive contribution to other ecosystem or natural capital services such as air purification (increase in trees), carbon sequestration (new habitat creation) and natural flood risk management (creation of wetland as part of a development-specific Sustainable Drainage Scheme or SuDS). Therefore, BNG should also help achieve environmental net gain also.

Off-site provision

2.42 If the applicant demonstrates that 10% BNG cannot be achieved within the development site boundary through the application of the BNG method, the next preference will be for offsite provision. Offsite provision could be achieved through the following:

- Provision of BNG on land owned or controlled by the applicant - land owned by the applicant offsite could be used to created or enhance habitats to ensure that sufficient net gain is provided. However, the above sequential approach would need to be followed to retain the benefits of the scheme locally;
- Provision of BNG on land owned by a third party - BNG achieved through conservation covenants or agreements with third-party landowners. A high level of certainty Is required that the BGP will be delivered and this should be secured through the appropriate legal obligations e.g. Section 106 agreements or Conservation covenants, with the appropriate parties. It is unlikely is most cases that these would be located within the same ward as the development, although sites should be chosen based upon the best strategic net gains for biodiversity within the LCR and this could potentially be within Nature Improvement Areas, for example; or
- Habitat banking (further details below).

2.43 Habitats of lower distinctiveness (i.e. of lower biodiversity value) should not be created to compensate habitats of higher/more important distinctiveness being lost. The provision of replacement habitats will need to be of the same habitat type or of a higher quality as measured through the metric as such a like for like basis will be adopted unless otherwise agreed. The metric automatically discourages down trading through the use of habitat distinctiveness multipliers. The acceptability of any compensation measures will be dependent on the extent to which that habitat or feature can be satisfactorily recreated.

2.44 Habitat banks provide another potential mechanism through which 10% BNG can be achieved. Through habitat banking, developers will be able to purchase biodiversity credits in the form of habitat creation/enhancement to offset the debit from the biodiversity loss caused by development.

2.45 Habitat banking will require a ‘front-loaded’ approach and before credits can be purchased, available land and legal agreements will need to be in place for

habitats to be created and/or enhanced and managed over at least a 30-year period. For a habitat bank to be used, it should be registered as part of the national scheme and BNG interventions identified, in line with DEFRA regulations. Front-loading can also include up-front investment in biodiversity enhancement measures on the compensation site so that they are immediately available for inclusion in a development-specific BGP subject to the appropriate agreements.

2.46 Habitat banking could provide a strategic approach to Biodiversity Offsetting within the LCR. Developer investment acquired though this, could be used to achieve strategic targets within the LCR such as creation and enhancement of habitats within the LCR Nature Improvement Areas (NIAs), (http://www.lcreconet.uk/), which are part of the adopted Ecological Network (2015) evidence base for the LCR local planning authorities.

2.47 A Natural Environment Investment Readiness Fund (NEIRF) bid (finalised by EAS and led by the LCR Combined Authority) was submitted in early 2022 and was successful (see paragraphs 4.2 to 4.4 below). The funds acquired from this will assist in the establishment of a local authority led framework for habitat banking within the LCR. There is currently no LCR-wide habitat banking system in place. In the absence of this, any offsetting required should follow the above sequential approach and, ideally, consider any sites available for off-setting within the NIAs.

2.48 In the absence of an LCR habitat bank, private operators may offer the option for developers to purchase biodiversity credits. However, this approach may not avoid "biodiversity leakage" (see Figure 2) and may not help to achieve LCR-wide strategic targets and it may present the risk of poor-quality habitat delivery which does not deliver the stated BNG gain required. This would be assessed on a case-by-case basis in the interim through the planning process.

2.49 Local authorities will be able to sell biodiversity units from their own land or act as a broker for third party units. At the time of writing, early discussions have been held by Local Authorities within the LCR regarding the identification of Council-owned land holdings which may be potentially suitable for inclusion as BNG sites and as a Habitat Bank. Given that the local Councils are significant landowners, the implications for estate assets, management and potentially land sales, should be considered very carefully and considered across departments to achieve a Council-wide response.

2.50 During the transition period prior to November 2023, EAS will work collaboratively with the LCR districts to determine Biodiversity Unit value within the LCR. The recent DEFRA BNG consultation refers to a price per Biodiversity Unit of between £20k and £25k.

Timeline for Implementation of Biodiversity Net Gain

2.51 At the time of writing, the current understanding of the timetable towards mandatory BNG is as follows:

- Spring 2022 - Government response to consultation on BNG statutory instruments and regulations.
- Spring 2023 - BNG site register and statutory credits sales platform goes live
- Winter 2023 - Biodiversity net gain expected to become mandatory for all TCPA developments

3 Current Approach to Biodiversity Net Gain in the LCR during transition period

Biodiversity Baseline

3.1 The State of Nature Report for the LCR (MEAS, 2022)[4] clearly shows widescale biodiversity loss across the city region of 5% over the past 40 years. In addition, the habitat and species trends show more significant trends and rates of decline in some habitats such as species rich grassland and peatland. The interim approach to BNG should take account of this baseline during the identification of BGP sites and the most appropriate interventions on these sites.

Biodiversity Net Gain now

3.2 Paragraph 174(d) of the 2021 NPPF states that planning decisions should provide net gains for biodiversity and paragraph 180(d) adds that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity. Paragraph 130 refers to wider design requirements for all development, including visual attractiveness and appropriate and effective landscaping. The 2019 National Design Guide further emphasises the importance of nature as one of ten national design characteristics.

3.3 Paragraph 179(b) of the NPPF states that to protect and enhance biodiversity plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

3.4 In addition to this, paragraphs 22 to 27 Natural Environment Planning Practice Guidance (PPG) provides further guidance on BNG and how it can be achieved through development.

3.5 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector. Ensuring that BNG is provided

[4] Pending publication

through development may help local authorities to meet their duty under Section 40 of the Natural Environment and Rural Communities Act 2006.

3.6 Section 40 of the Natural Environment and Rural Communities Act 2006 has been amended and strengthened by section 102 of the Environment Act 2021 and will require local authorities to consider what actions the authority can take, consistently with the proper exercise of its functions, to further the general biodiversity objective (the general biodiversity objective is the conservation and enhancement of biodiversity). This will come in force in 2023.

3.7 For development within Liverpool, the Liverpool Local Plan 2013 - 2033 contains several policies which give support towards the provision of BNG:

- Policy CC26 requires all new development proposals within the city centre to, where possible, provide elements of green infrastructure within the overall design of the scheme, including green roofs and walls, water features linked to SuDS and landscaping with native species;
- Policy GI 7 requires that development within Nature Improvement Areas contributes towards opportunities for habitat creation and management as set out within the NIA Focus Profiles;
- Policy GI 8 requires that green infrastructure solutions such as green roofs and walls be considered on development sites with limited space for planting and that opportunities for the creation of new habitats are taken;
- Policy GI 10 requires that all development proposals should contribute to ensuring a net gain in biodiversity, where relevant, contributing towards the recovery of Priority Species and Habitats and that major development proposals be designed to incorporate green infrastructure measures including integrating or enhancing existing biodiversity features.

3.8 For development in Wirral, Wirral has produced a Local Plan 2021 – 2037 Submission Draft which was submitted to the Secretary of State on the 26th October 2022. Policy WS 5.4 of the draft Local Plan will require development to provide a minimum 10% biodiversity net gain, calculated using the Biodiversity Metric.

3.9 For development within Sefton, within the Sefton Local Plan the following policies are relevant to the provision of BNG:

- policy NH1 states that development should seek to protect and manage Sefton's natural assets and, where possible, restore, enhance and extend these assets, create new habitats and green infrastructure and secure the long-term management of natural assets; and
- policy NH3 require that development within the Nature Improvement Area contributes towards opportunities for habitat creation and / or enhancement as set out in the NIA Focus Profiles.

3.10 Sefton has also adopted a Nature Conservation SPD which provides further guidance to applicants, developers and other stakeholders.

3.11 For development in St Helens, the St Helens Local Plan encourages opportunities to secure measurable biodiversity gain within development sites, for example through the design of open space, landscaping or sustainable drainage schemes. These opportunities range, for example, from significant habitat creation within larger sites to bat boxes or tree planting on smaller urban sites. Policy LPC 06 encourages a sequential approach, similar to that set out above, for the provision of compensatory habitat, with first preference given to creation on the development sites, then to offsite in the immediate locality. Of least preference would be sites with the NIA outside of St Helens.

3.12 For development in Knowsley, policy CS8 Green Infrastructure of the Knowsley Local Plan Core Strategy states that new development should seek to protect, maintain and enhance biodiversity within and around new developments.

3.13 The following policies of the Knowsley Local Plan Core Strategy are also relevant to BNG:

- Policy CS19 Design Quality and Accessibility in New Development - clause 1d) relates to promoting biodiversity. Clause 3b) regards tackling climate change, by integrating biodiversity in accordance with CS8;
- Policy CS21 Greenspaces and Trees clause 3c) states development will be resisted that harms biodiversity. Clause 10 a) relates to biodiversity retention, and clause 10 b) regards habitat planting; and
- Policy CS24 Managing Flood Risk clause 4a) states new development should include flood mitigation that contributes to biodiversity

3.14 For development in Halton, Policy CS(R)20 of the Halton Local Plan states that opportunities to enhance the value of Halton's natural assets should be taken including restoring or adding to natural habitats and the creation of habitats where appropriate.

3.15 The developing LCR Combined Authority Spatial Development Strategy will prioritise and identify opportunities for Green Infrastructure, habitat provision and BNG which will be in line with the LNRS.

3.16 For development between the high water mark and low water mark, policies in the North West Marine Plan are also relevant, especially those relating to Marine Protected Areas and Biodiversity, such as NW-BIO-3 which states that proposals that conserve, restore or enhance coastal habitats in their own right and/or for ecosystem functioning and provision of ecosystem services, will be supported.

Current planning approach

3.17 During the Environment Act transition period, there is no mandatory requirement for developers / applicants to provide a completed Biodiversity Metric and 10%

BNG. However, the provision of BNG is being strongly encouraged within the LCR in line with the above legislation, policy and guidance and especially the NPPF. It is also important to arrest the decline in biodiversity given the losses and trends identified in the State of Nature report as the targets under the Environment Act will be challenging to achieve. Also, some of the larger development proposals within the LCR are now being supported by a completed metric and details of how 10% BNG will be provided and this is welcomed.

3.18 The Biodiversity Metric provides the best way for habitat losses and gains to be quantified in line with the policy and legislative requirements outlined above. Therefore, EAS (and other bodies) are strongly advising that it is used for the larger, major developments where habitats are to be lost and for schemes affecting designated sites and Priority Habitats.

3.19 EAS will advise LPAs to require that Biodiversity Metrics submitted in support of planning applications, and field surveys used to inform the metric, have been completed by suitably qualified and experienced ecologists. In most cases, it is anticipated that the small sites metric will also need to be completed by an ecologist, as this metric still requires judgements to be made which could only be undertaken by a suitably qualified person, e.g. whether habitats present qualify as Priority Habitat for example.

3.20 To enable the applicant to demonstrate that sufficient BNG will be provided and managed for the long-term (30 year minimum), EAS will advise the LPAs that the following information be submitted in support of planning applications (these requirements are in line with emerging practice):

- Preliminary Ecological Appraisals (PEA) or ecological site survey using methods that are suitable for application of the metric e.g. UK Hab (see paragraph 3.30 below)
- completed Biodiversity Metric, along with evidence which supports the choice of habitat present (i.e. a Preliminary Ecological Appraisal) and their condition;
- GIS layers, compatible with MapInfo, to enable the extent of each habitat type on the development site to be more easily verified;
- summary which explains the level of net gain achieved, how harm has been avoided in terms of the mitigation hierarchy, whether a desired achievement of 10% has been demonstrated and whether on-site or off-site options are required to secure the net gains in biodiversity; and
- habitat plan showing where habitats are to be lost, retained, enhanced and/or created on site.

3.21 For outline applications, the principles of an appropriate scheme for achieving BNG will need to be agreed. EAS would expect an indicative landscape plan to inform BNG. However, this and the BNG assessment would need to be reviewed and updated at the reserved matters stage.

3.22 Within the LCR, EAS propose that habitats within or identified by the following areas / plans are considered to be of strategic significance (within the Biodiversity Metric, the 'strategic significance' score is a landscape scale factor, which gives additional unit value to habitats that are located in preferred locations for biodiversity and other environmental objectives):

- Statutory protected sites (e.g. SAC, SPA, Ramsar and SSSI) (although they are out of scope for BNG directly, these sites are still of strategic significance and could be enhanced by BNG, e.g. through adjoining habitat creation, corridors etc);
- Local Wildlife Sites;
- Local Nature Recovery Strategy (when produced);
- Nature Improvement Areas;
- Core Biodiversity Areas;
- North Merseyside Biodiversity Action Plan Habitats;
- Bold Forest Park, St Helens;
- Sankey Catchment Action Plan, St Helens;
- Draft Wirral Green and Blue Infrastructure Strategy;
- Knowsley Strategic Green Links (as defined in policy CS8 of the Knowsley Local Plan Core Strategy); and
- Green Wedges in Liverpool.

3.23 Locally designated sites (Local Wildlife Sites) have been included in the above list. However, to ensure that any harmful effects to these, and other designated sites, are appropriately mitigated, separate consideration and assessment outside of the metric will be required. Existing assessment requirements with regards to nationally and internationally designated sites will not change e.g. requirements under the Habitats Regulations will remain.

3.24 EAS will advise the LPAs that the above information will be required in all cases within the LCR, with the only exceptions being:

- where an existing baseline is suitable for the Defra metric to be used accurately; and
- where there has been an intervention on a development site prior to a planning application being submitted. In cases such as site clearances, the pre-clearance biodiversity value of the site will be assessed using the best available information at the time the Environment Bill entered Parliament (January 2020). Best available evidence sources should be used to calculate pre-intervention biodiversity value. In these circumstances EAS should be consulted to advise and verify the baseline.

3.25 Regarding the small sites metric, the LCR Ecological Network interactive map is best available habitat data and can be used as a tool to check Priority Habitat presence. If a site contains these habitats, or if off-site habitat creation is proposed, use of version 3.1 of the Biodiversity Metric would be required.

3.26 EAS will not be requiring a full Biodiversity Gain Plan during the transition period. However, information will still be required on how impacts have been minimized, the pre-development and post-development value of onsite habitats and the biodiversity value of any offsite habitats provided.

3.27 Regarding the Trading Rules of the Biodiversity Metric, the Biodiversity Metric 3.1 User Guide states that "*whilst it is important that the Rules and Principles are followed, ecological judgement should always be applied in determining the most appropriate replacement habitats, based on the nature of the habitats being lost and the location.*"

3.28 Up to now, EAS has advised on several schemes where the trading rules of the metric have not been met although, in these cases, the applicant was retaining Priority Habitats and also providing enhancement of other habitats which allowed for no net loss overall. However, if Trading Rules are not being met due to impacts on a Priority Habitat not being adequately compensated, then EAS will advise that the principles of an appropriate compensation scheme need to be agreed pre-determination. Off-site options would need to be explored if it was not possible to provide sufficient compensation within the site.

3.29 In pre-application advice, EAS is raising awareness of BNG and the fact that it will become mandatory in autumn 2023. EAS is also increasing advising on the use of ecological surveys following the UK Habitat Classification (UKHab) methodology.

UK Habitat Classification

3.30 The completion of the Biodiversity Metric will require habitat surveys to be completed following UKHab survey methodology. This methodology will therefore eventually replace the traditional Phase 1 Habitat Survey. Further details of UKHab can be found at www.ukhab.org. When UKHab surveys have been undertaken within the LCR, EAS will ensure that they have been undertaken in accordance with the methodology set out in the UKHab handbook and by a suitably qualified and experienced surveyor (e.g. FISC Level 4 or above). However, in the interim period EAS will continue to accept Phase 1 Habitat Survey although this will be subject to review.

4 Steps towards implementation within the LCR

LCR 'Duty to co-operate'

4.1 The LCR districts and Combined Authority, supported by EAS, work collaboratively on a number of issues; engaging constructively and actively, and addressing strategic cross-boundary matters in preparing Local Plans. These include ecological issues, such as Local Wildlife Sites, the Ecological Network, the forthcoming Local Nature Recovery Strategy. Local Nature Partnership and visitor pressure on the LCR Coast. A LCR BNG officer-level task group sits within this policy collaboration framework.

Natural Environment Investment Readiness Fund (NEIRF) Round 2

4.2 In January / February 2022, EAS finalised a funding bid on behalf of the LCR Combined Authority (with the support of the LCR local authorities) to the Environment Agency for the NEIRF. The NEIRF is a competitive grants scheme to support the development of environmental projects in England that:

- Help achieve one or more natural environmental outcomes from the 25-year environment plan;
- Have the ability to produce revenue from ecosystem services to attract and repay investment; and
- Produce an investment model that can be scaled up and reproduced.

4.3 The NEIRF bid was successful and will be used for a pilot project in respect of local authority led habitat banking for provision of offsite BNG as well as other ecosystem services such as carbon credits, and water catchment services. This would include:

- Identifying strategic potential BNG offset sites within the Liverpool City Region (LCR) local authority areas. Initially this would be focused on the Nature Improvement Areas (NIA) that forms part of the Liverpool City Region Ecological network (http://www.lcreconet.uk/);
- The project will explore and identify habitat creation and restoration opportunities within the pilot NIA areas;
- Undertake site profiling of each site including UKHab surveys, Defra Biodiversity metric v3.0 calculations to generate biodiversity units to inform BNG credits;
- Generate habitat ecosystem service values of the sample sites to identify where habitat delivery can achieve wider natural capital benefit – to include key services such as carbon sequestration, water, air quality and access to natural greenspace;
- Explore test and develop the potential to monetise these ecosystem services to develop an investment model for biodiversity credits, carbon and nutrient credits, credits linked to mitigation measures for recreational pressure at the LCR coast and nature-based flood solutions;
- Develop a sites register of habitat banking sites within the LCR; and
- Develop and online platform to host the register and which developers and landowners can be directed to when offsite BNG is required.

4.4 A Steering Group has now been developed which will guide the above work. The Group includes EAS, Natural England and LCR local authority officers.

BS8683:2021 on implementing Biodiversity Net Gain

4.5 In August 2021, the BS8683:2021 on the Process for Designing and Implementing Biodiversity Net Gain – Specification was published. It builds on and adds to the Good Practice Principles of BNG (as outlined above) by converting principles into actions and standards to enable a clear process for achieving biodiversity net gain

(BNG). By doing so the new British Standard (BS) provides a framework to include BNG into the planning process. This framework would enable development projects to demonstrate they have followed good practice regarding the design and implementation of BNG. The actual delivery of BNG, i.e. the practical decisions on habitat creation and/or enhancement on/off site and mechanisms for this, are not covered in the document. EAS has reviewed the BS in order to determine the implications of the BNG process which is proposed.

4.6 Going forward, it will be expected that applicants will meet the requirements of BS8683:2021 and any subsequent updates.

Local Nature Recovery Strategy (LNRS)

4.7 LNRSs are a new system of spatial strategies for nature, contained in the government's flagship Environment Act 2021. These spatial strategies will establish priorities and map proposal for specific actions to drive nature's recovery and wider environmental benefits. Each LNRSs will provide a Local Habitat Map which will help identify strategic areas important for biodiversity and inform the locations of BNG delivery. The LCR Combined Authority (CA) is the responsible body for the preparation of the LNRS within the LCR. To date, a Natural Capital Group has been formed which, in addition to EAS and the CA, includes Natural England, Liverpool John Moores University, the Mersey Forest and other stakeholders. The work undertaken by this Group will help to identify priorities for nature recovery for the LNRS in collaboration with local partners.. At the time of writing, DEFRA regulations and statutory guidance on LNRS is due to be released in late summer / early autumn 2022.

UK Habitat Classification (UKHab) training

4.8 As noted above, the use of the Biodiversity Metric will require the use of a new survey method known as UK Habitat Classification (UKHab). Ecologists at EAS undertook training in the undertaking of UKHab Classification Surveys in 2021. Also, EAS who co-ordinate and undertake the majority of Local Wildlife Site (LWS) monitoring in the districts of Sefton, Knowsley, Liverpool and St Helens will be undertaking LWS monitoring this year following the UKHab methodology and biodiversity 3.1 habitat condition assessment.

5 Next steps or Recommendations

5.1 EAS will continue to advise the LCR Local Authorities on how to prepare for BNG both through development management and the development of offsite BNG opportunities and habitat platforms.

5.2 In June 2022, EAS held a workshop on BNG with key local authority stakeholders regarding the provision of sites for BNG and ensuring that they are appropriately managed. This is likely to feed into an LCR sites register.

5.3 As the NEIRF bid was successful, EAS will take steps to help implement a system of habitat banking that will be the model for a habitat bank that will be rolled out across the LCR.

5.4 During the transition period, EAS will increase engagement with ecological consultants engaged by applicants / developers to ensure that they are aware of BNG requirements within the LCR.

5.5 EAS will produce a short BNG guidance note for developers and planners for use in the interim period and, as noted above, this Information Note will be reviewed and updated.

5.6 EAS is also scoping training requirements for Planning teams of the LCR Local Authorities and a potential local accreditation scheme for users of the metrics.

5.7 With the exception of Liverpool, EAS is project managing the undertaking of ecological surveys of a selection of local authority owned sites within the LCR to identify the current baseline of these sites so that they may be used in future for offsite habitat creation and enhancement.

5.8 In addition to this, EAS has responded to Government consultations on BNG, the small sites metric and nature recovery and will continue to do so as future consultations come forward.