

## The Nature Conservancy's Response to the public consultation on the implementation of non-price criteria in renewable energy auctions

TNC welcomes the publication of the Implementing Act (IA) specifying non-price criteria (NPC) in renewable energy auctions. This is an important step towards scaling-up the use of NPCs across the EU while ensuring clarity, simplicity and harmonisation across Member States. However, TNC has identified areas for improvement and outlines them in this paper.

### Recommendations:

- **For the biodiversity criteria,**
  - **The Commission should clearly state that mitigation measures must be additional to existing obligations, such as those required under the Birds and Habitats Directives or the Environmental Impact Assessment and Strategic Environmental Assessment Directives.** Introducing NPCs related to biodiversity should not replace the strong EU environmental legislation already in place.
  - **A monitoring system should be put in place whether the NPC is applied as prequalification or award criteria, and as early as site selection phase, covering the installation, operation, and decommissioning phases to assess the project's overall impact across its entire lifecycle.** This will establish a transparently set biodiversity baseline, enabling effective monitoring and analysis of the impact of both the installation and the biodiversity criterion (mitigation or net-positive) once implemented. It will also support well-informed decision-making regarding decommissioning and repowering.
  - **The European Commission should develop a toolbox incorporating both qualitative (guiding principles) and quantitative (metrics-based) methods for implementing net-positive contributions to biodiversity.** This would help ensure clarity and consistency across EU Member States while allowing flexibility to adapt to local ecosystem specificities.
- **TNC recommends the European Commission to include an NPC related to community engagement and community benefits.** This criterion is already being implemented by Member States and is crucial for enhancing community buy-in. A successful energy transition hinges on local engagement and broader public support for renewables.
- **In case of non-compliance, the level of penalties should be sufficiently high to deter bidding strategies that disregard NPCs and their implementation.**

### TNC strongly welcomes the inclusion of biodiversity criteria

TNC is pleased that the European Commission included an NPC focused on biodiversity impact. The climate and biodiversity crises are deeply interconnected, making it essential to integrate biodiversity considerations into renewable energy deployment. Biodiversity-focused NPC will encourage both offshore and onshore projects to follow best environmental practices from siting through to planning. This will also send a strong market signal about “a race to the top”: projects should include well-conceived and long-term environmental considerations into their proposals from the outset. Finally, encouraging Member States to adopt biodiversity NPC will help to accelerate investment in nature-inclusive renewable energy while addressing potential negative impacts and community concerns associated with large-scale renewable energy expansion.

**TNC warmly welcomes the shift from focusing solely on risk avoidance and mitigation measures towards including restoration and a 'net-positive contribution to biodiversity.'** This marks an important first step in defining the concept of 'biodiversity net gain' or 'net contribution' at the EU level. It also has the potential to contribute to the achievement of a wide range of policy objectives under the European Green Deal:

- Objectives under the EU Biodiversity Strategy to 2030 to restore degraded ecosystems at land and sea;
- Objectives under the EU Nature Restoration Law, such as restoring at least 20% of the EU's land and sea areas by 2030;
- Objectives under the EU's 8th Environmental Action Programme to 2030, particularly strengthening environmentally positive incentives;
- Meeting the EU's international obligations under the Kunming-Montreal Global Biodiversity Framework, including Target 1 to ensure that all areas are under participatory, integrated and biodiversity inclusive spatial planning and/or effective management processes addressing land- and sea-use change.

**Finally, TNC greatly values the recognition of the need for a monitoring system, as well as for information and data to be shared with the scientific community and public authorities.** This will promote cross-sector collaboration and contribute to the broader public good by improving data availability and advancing understanding of onshore and offshore ecosystems.

### **TNC's recommendations and explanation**

#### ***Application of biodiversity NPC as pre-qualification criteria – Article 10.2***

The IA states that when applied as pre-qualification criteria, developers should commit to implementing mitigation measures and ensure the effectiveness of solutions to contribute positively to biodiversity if such solutions are deployed.

**First, TNC recommends that the European Commission clarifies that these mitigation measures must be additional to existing obligations** such as those required under the Birds and Habitats Directives or Environmental Impact Assessment and Strategic Impact Assessment Directives.

Secondly, it is also unclear whether the European Commission intends for Member States to include a net-positive impact criterion as a pre-qualification requirement, or only to require mitigation measures. **The language should be clearer to encourage Member States or at least give them the opportunity to ask for net-positive contributions to biodiversity** as pre-qualification criteria, not only at the award stage – especially when a strong opportunity for net-positive impact has been identified.

TNC welcomes the inclusion of a monitoring system to evaluate both the positive and negative impacts of the installation. **However, such a monitoring system could only work if there is a monitoring, reporting and evaluation plan established as early as the site selection phase, covering the installation, operation, and decommissioning phases to assess the project's overall impact across its entire lifecycle.** This will enable a transparently set biodiversity baseline that will allow for effective monitoring and analysis of the installation's and the NPC's net impact as well as potentially influencing decisions around decommissioning and repowering.

TNC is also pleased that the information and data collected will be shared with scientists and public authorities, as this is key to enhancing knowledge and understanding of both marine and terrestrial ecosystems.

### *Application of biodiversity NPC as award criteria – Article 10.3*

TNC welcomes the fact that the award criteria focus solely on nature restoration rather than on mitigation measures, and appreciates the clear differentiation between net-positive impacts and offsets.

**TNC strongly recommends that the same monitoring requirement applies for biodiversity criteria applied as prequalification or award criteria.** As explained above, a monitoring, reporting and evaluation plan established as early as the site selection phase, covering the installation, operation, and decommissioning phases to assess the project’s overall impact across its entire lifecycle.

The Act states that positive net-contributions to biodiversity can occur either onsite or offsite. **While this flexibility may be appropriate where onsite net-positive contribution is not feasible or desirable, it could represent a missed opportunity in cases where onsite positive-net contribution is possible.** Offshore wind projects, in particular, offer a significant opportunity to positively impact marine biodiversity, and prioritising onsite contributions could help to maximise this potential.

Onsite net-positive contribution will also enhance the acceptance of the project by citizens and local communities. **When this is not possible, offsite restoration should still happen locally, e.g. in the surrounding of the area.** This will address the concerns of local communities and enhance community buy-in. Local communities and stakeholders should be able to see and benefit from biodiversity improvements linked to renewable energy projects they host. Again, this is key in addressing community concerns associated with large-scale renewable energy expansion.

### *The need for a methodology and further guidance*

Further guidance from the European Commission to EU Member States on how to implement ‘net-positive contribution to biodiversity’ is needed. **TNC invites the European Commission to develop a toolbox incorporating both qualitative (guiding principles) and quantitative (metrics-based) methods for implementing net-positive contributions to biodiversity.** This would help to ensure clarity and consistency across EU Member States while allowing flexibility to adapt to local ecosystem specificities.

Such a toolbox should:

1. **Ensure consistent terminology.** While the IA is a good first step in defining ‘net-positive contribution to biodiversity,’ the concept could be further clarified. A precise definition would enhance clarity and ensure consistency across EU renewable energy auctions.
2. **Provide a clear methodology.** The European Commission should develop a **toolbox** incorporating both qualitative (guiding principles) and quantitative (metrics-based) methods for implementing net-positive contributions to biodiversity. This would help ensure clarity and consistency across EU Member States while allowing flexibility to adapt to local ecosystem specificities.
  - a. **Qualitative methods:** a set of principles and best practices - based on a **mitigation hierarchy** and additional to existing EU environmental legislation - that developers should apply when designing projects. The principles outlined in the [PowerPlant II](#) report can serve as a basis, as well as Ørsted’s [biodiversity measurement framework](#).

- b. **Quantitative methods:** some well-established biodiversity metrics already exist and can be found in the [PowerPlant II report](#) and in the recommendations of the [Net-Positive Biodiversity report](#) developed by the Ocean Stewardship Coalition. However, in the longer term, an EU-specific metric should be developed with input from industry, academia, civil society and governments.
3. **Introduce reporting standards.** Net-positive contributions to biodiversity should be monitored and reported to relevant stakeholders. This would facilitate transparency, allow concerns to be addressed, and enable best practices to be shared across the sector.

### *The lack of NPC related to community engagement and community benefits*

**TNC regrets that the European Commission has not included any NPC addressing community benefits, despite it being included in its guidance on renewable energy auctions.** As mentioned in the guidance, this type of NPC enables consumers to further benefit from the deployment of renewable energy sources, and can help to promote a stronger engagement from local communities in deploying renewable energy sources, while increasing the public acceptance of renewable energy projects, leading to an overall acceleration of deployment.

TNC recognises that the IA seeks to facilitate the participation of renewable energy communities in auctions by simplifying their reporting process on the prequalification criteria related to responsible business conduct (Article 4). However, this is not enough to incentivise projects that bring wider, targeted and fair benefits to communities.

This omission is particularly surprising given that NPC relating to community benefits already exist in several EU Member States. France uses award criteria related to shared financial participation or shared governance. Belgium incorporated both prequalification and award criteria for citizen participation in its Princess Elisabeth Zone auction. TNC encourages the European Commission to acknowledge these existing criteria and their key role in advancing community buy-in and public acceptance of renewable energy projects.

**TNC invites the European Commission to include this NPC in the IA.** Community-related criteria might include:

- **A comprehensive community engagement plan** submitted by the developer, outlining how they will gather local feedback, take it into account, address concerns and emphasize the broader benefits of the project (e.g. energy security, fair energy prices, financial benefits, job creation, skills development, etc.). **Again, this should be additional to existing EU legislation, i.e. the EIA and SIA directives.** Under the EIA, project developers are required to inform and consult communities. **The application of community-related NPC should go further across the spectrum of community engagement** (available [here](#), page 21), **towards involving citizens** (working directly with the community throughout all stages of the project ensure community concerns and aspirations are consistently understood and considered), **collaborating with them** (partner with the community in each aspect of planning, development and decision making, including the development of alternatives and the identification of the preferred solution) and **empowering them** (community to co-lead the development of the renewable energy project). Some companies are already leading the way, see [here](#).

- **Direct citizen participation** through shared financial participation or shared governance, similar to practices in France and Belgium. A share of the project's CAPEX could be allocated to citizen financial participation or renewable energy community access.
- **Direct financial benefits for citizens**, such as through community investment funds, as some of the progressive renewable energy developers are already doing (see [here](#) and [here](#)). This has already been done in Ireland. Their second offshore wind auction under the Offshore Renewable Electricity Support Scheme (ORESS), to be running in 2025, includes a requirement related to establishing a community benefit fund, with around EUR 7 million per year to be paid into the fund over 20 years to communities of the south coast. The fund will support the sustainable environmental, economic, social, and cultural well-being of the local community, with grants to local clubs and other community groups and projects.

**Those many examples are the proof that such criteria are relevant and should be included in the Act. A successful energy transition hinges on local engagement and broader public support for renewables.**

#### ***Penalties – Article 17***

TNC agrees that penalties should be imposed if developers fail to deliver on the commitments made during the bidding process. **The level of penalties should be sufficiently high to deter bidding strategies that disregard NPCs and their implementation.**