



# Summary of Intertidal Differences

Date: February 2024

Natural England Joint Publication JP056

## Contents

Introduction .....	3
Irreplaceable intertidal habitats and BNG .....	3
Protected Sites Containing Intertidal Habitats .....	3
De Minimis intertidal projects or those with temporary impacts on habitat .....	4
On-site and Off-site considerations for intertidal BNG projects .....	4
Intertidal and marine net gain .....	5
Permitted deviations from the Statutory Biodiversity Metric for intertidal habitats .....	5
Applying the habitat created in advance function .....	5
Intertidal habitats on habitats of low distinctiveness .....	5
Rule 4 Requests .....	6
Annex 1: Links to further information and resources .....	7
Annex 2: Intertidal Broad Habitat Types .....	7

## Introduction

Biodiversity Net Gain (BNG) is a policy set out in the Environment Act 2021. On 12 February BNG became mandatory for major Town and Country Planning Act (TCPA). BNG will become mandatory for minor developments on 2 April 2024.

The Local Planning Authority (LPA) will decide the BNG requirements for TCPA applications.

The TCPA extends down to Mean Low Water meaning BNG will apply to developments within the intertidal zone.

There are some differences in the way BNG can be applied between intertidal habitats and other terrestrial habitats. Decision makers must understand the differences when considering TCPA planning applications. These differences are summarised below.

## Irreplaceable intertidal habitats and BNG

All saltmarsh is regarded as irreplaceable habitat in broad planning policy as defined in the National Planning Policy Framework (NPPF). Consequently, there is a presumption against loss.

Only 2 types of saltmarsh habitat are considered irreplaceable for BNG. They are Mediterranean saltmarsh and spartina saltmarsh.

Bespoke compensation is required for any project that directly affects [BNG irreplaceable habitat](#).

Saltmarsh is subject to the BNG requirement as calculated through the Biodiversity Metric if they are:

- contained within developments that have been granted planning permission
- not classed as BNG irreplaceable habitats

The Biodiversity Metric could be used as a means of establishing an appropriate level of bespoke compensation for the irreplaceable habitats. However, it does not become part of the Biodiversity Metric calculation.

Bespoke compensation is not recorded in the Biodiversity Metric. If 'bespoke compensation' is selected, the habitat is removed from the calculation. This is because bespoke compensation is agreed outside of the metric.

The Biodiversity Metric does not directly consider species effects or indirect effects that may form part of bespoke compensation.

## Protected Sites Containing Intertidal Habitats

Protected Sites are eligible for biodiversity unit delivery, assuming all necessary consents and permissions have been given. On most protected sites this is only possible on the non-designated features of the site.

For protected sites that contain intertidal habitats, BNG units can be delivered on both designated and non-designated features of the site where such features are on or comprise intertidal habitats. The reason for this difference is explained in the [BNG regulations and implementation consultation \(pages 73 and 74\)](#).

## **De Minimis intertidal projects or those with temporary impacts on habitat**

Some schemes in the intertidal zone may not be above the 'de minimis' threshold for BNG so may be exempt from the mandatory requirements. For example, some cabling projects. This will be the case for intertidal projects containing less than 25 metres squared on intertidal habitats, or less than 5 metres of linear habitats, within their development red line.

If the pre-development baseline habitat is returned to its baseline condition within 2 years, then the BNG requirement would not apply as it counts as a temporary loss. This might be the case for some intertidal projects such as some types of cable laying. This will depend on the location, habitat type and the specifics of the development. Further detail is available in the [Statutory Biodiversity Metric Draft User Guide \(page 32\)](#).

## **On-site and Off-site considerations for intertidal BNG projects**

Many intertidal developments have limited opportunities to achieve meaningful BNG on-site. Strategic off-site BNG delivery in locations already identified as optimal for managed realignment, and other strategic intertidal habitat creation, can be encouraged. These areas may also be identified within the Local Nature Recovery Strategy relevant to the area.

For intertidal habitats an off-site location is 'local' to the development if it falls within the same Marine Plan Area. This is different from equivalent terrestrial habitats and watercourses, where local means within either the same:

- Local Planning Authority boundary
- National Character Area as the development
- catchment area as the development

Projects should ensure that, when delivering BNG, any necessary consents or licences are in place for both on-site and off-site delivery locations. Ideally this should be at planning application stage but needs to be before commencement. Find out more about [developments requiring planning permission and environmental permits](#).

Enhancement or creation of intertidal habitats often contribute to increased bird populations. Bird strike risk should be assessed on projects within 13km of an operational military or civil airport. Certain types of habitat enhancement/creation

may not be appropriate in some locations. Find out [more about wildlife hazard management at aerodromes](#).

## **Intertidal and marine net gain**

Mandatory BNG only applies down to Mean Low Water and therefore so does the Biodiversity Metric. A BNG plan cannot trade between intertidal and subtidal habitats. As of 2024, there is no current way to calculate and compare losses and gains in the subtidal environment.

## **Permitted deviations from the Statutory Biodiversity Metric for intertidal habitats**

In certain circumstances intertidal projects can deviate from 'standard practice' in terms of how the Statutory Biodiversity Metric is applied. There are 2 broad ways in which intertidal projects may deviate. These are:

- a) Deviations permitted without requiring the prior consent of the LPA.
  1. Applying the habitat created in advance function.
  2. Projects creating or enhancing intertidal habitats on habitats of low distinctiveness.
- b) Rule 4 requests, the LPA needs to be 'engaged' and 'satisfied' about the ecological circumstances.

## **Applying the habitat created in advance function**

Projects containing natural intertidal sediment or non-irreplaceable coastal saltmarsh habitats may automatically apply an advance habitat creation date within the Statutory Biodiversity Metric. This only applies if they lie fully within a recognised managed realignment scheme or a Regulated Tidal Exchange (RTE). For further detail, see [Statutory Biodiversity Metric Draft User Guide \(page 53\)](#).

Projects containing natural intertidal sediment or non-irreplaceable coastal saltmarsh habitats that lie outside of recognised managed realignment schemes or RTE must not automatically apply the 2 or 3 year advance creation within the Statutory Biodiversity Metric. For more details, see [Statutory Biodiversity Metric Draft User Guide](#).

## **Intertidal habitats on habitats of low distinctiveness**

Projects restoring intertidal habitat by inundation (restoring natural processes) on low or very low distinctiveness terrestrial habitat (e.g. arable), may record this differently to non-intertidal habitats within the Statutory Biodiversity Metric. Instead of recording the project as having destroyed low distinctiveness terrestrial habitat and created intertidal, applicants may instead describe the project as enhancing intertidal habitat in poor condition.

Projects must only do this when there is evidence dating back no earlier than 1850 that demonstrates that the inundated habitat was once intertidal habitat.

Projects inundating terrestrial habitats of medium distinctiveness and above must still record these habitats as lost within the Statutory Biodiversity Metric. Further detail can be found in the [Statutory Biodiversity Metric Draft User Guide \(page 29\)](#).

## **Rule 4 Requests**

In exceptional ecological circumstances, deviation from this Statutory Metric methodology may be permitted by the relevant planning authority. Rule 4 should not be used for most projects. It may be used in exceptional ecological circumstances occurring when:

- the site has optimal conditions for restoration of a wildlife-rich or historic natural habitat, such as soil condition, hydrology, nutrient status
- the project team has the expertise and resource to deliver the habitat with negligible risk of failure

It can only be used where there are either:

- Highly complex landscape scale habitat changes such as creation of heathland or a heathland grassland mosaic
- River re-meandering
- Large-scale restoration of natural processes

Further details can be found in the [Statutory Biodiversity Metric Draft User Guide \(page 17\)](#).

## **Annex 1: Links to further information and resources**

[Statutory Biodiversity Metric Calculation Tool](#)

[Statutory Biodiversity Metric Draft User Guide](#)

[GOV.UK Biodiversity Net Gain Guidance](#)

[Dept for Transport Guidance on safeguarding aerodromes](#)

## **Annex 2: Intertidal Broad Habitat Types**

Coastal lagoons

Coastal saltmarsh

Intertidal hard structures

Intertidal sediment

Rocky shore

Natural England is here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

Natural England publications are available as accessible pdfs from [www.gov.uk/natural-england](http://www.gov.uk/natural-england).

Should an alternative format of this publication be required, please contact our enquiries line for more information: 0300 060 3900 or email [enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk).

Catalogue code: JP056

This publication is published by Natural England under the Open Government Licence v3.0 for public sector information. You are encouraged to use, and reuse, information subject to certain conditions. For details of the licence visit [www.nationalarchives.gov.uk/doc/open-government-licence/version/3](http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3).

Please note: Natural England photographs are only available for non-commercial purposes. For information regarding the use of maps or data visit [www.gov.uk/how-to-access-natural-englands-maps-and-data](http://www.gov.uk/how-to-access-natural-englands-maps-and-data).

© Natural England 2020