

Edinburgh Airport Rail Link



Otter Mitigation Plan Consultation Draft (Public Version) November 2006



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Sections have been removed from this report due to the sensitivity of the information contained and the protection provided to otter under the EC Directive 92/43/EEC (the Habitats Directive) transposed in Scotland by means of the Conservation (Natural Habitats EC) Regulations 1994 ('the 1994 Regulations').

1 Introduction

1.1 Background

The Edinburgh Airport Rail Link (EARL) Bill involves new railway lines or 'chords' (which are short sections of railway that connect main railway lines) leading to a new sub surface (below ground level) station at Edinburgh Airport (see *Figure 1.1*). The new station and railway lines will connect with the existing railway lines between:

- Edinburgh and Glasgow, at Winchburgh and Roddinglaw;
- Edinburgh and Fife, at Gogar and Dalmeny; and
- Fife and Glasgow (Dalmeny Chord), north of Kirkliston.

The new lines will offer services to Edinburgh Airport from towns and cities throughout Scotland and beyond, including towns in Fife, Aberdeen, Perth, Dundee, Inverness, Dunblane, Stirling, Glasgow, Edinburgh and the south, and the opportunity to change between these services and the proposed Edinburgh Tram service at the airport. Overall, between 14 and 15 km of new rail routes and junctions will be provided.

ERM was commissioned by Scott Wilson Halcrow Joint Venture (SWHJV), on behalf of tie Ltd, to undertake an Environmental Impact Assessment (EIA) of the proposed EARL route and all associated works in accordance with the EIA Regulations. ERM produced an Environmental Statement (ES) in December 2005 which was introduced to Parliament with the Bill in March 2006. Following this, a European Protected Species Report ⁽¹⁾ was produced.

1.2 Aim of this Plan

The main aim of this EARL Otter Mitigation Plan (OMP) is to describe the mitigation measures that will be incorporated into the detailed design of the scheme. These measures will provide protection for otters, their holts, couches, foraging habitat and as far as practicable, areas along river corridors that will be affected by the construction and operation of EARL.

As noted above this OMP follows the EARL European Protected Species Report (April 2006)⁽¹⁾ which was developed to inform SNH and SEERAD of the EPS issues relating to the development of EARL. In addition, this OMP has been developed following the publication of a Draft Habitat and Landscape Management Plan and an EPS licensing report.

(1)ERM (2006) Edinburgh Airport Rail Link European Protected Species Report April 2006 by ERM on behalf of SWHJV for tie Ltd.

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of EARL progresses. This other mitigation plan will be updated as the appropriate information becomes available and support any licence applications that are made to SEERAD.

Consultation will continue with the Edinburgh Tram team (led by tie ltd), to ensure that the mitigation proposed for both schemes can work effectively in conjunction; thereby protecting the proposed artificial holts in the area as far as possible.

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This first draft OMP describes the mitigation measures in outline and specifies the long term management for the protection of otters and their movement. These measures will be worked into the detailed design, at which time this OMP will be updated to include the detail of the physical layout and construction specifications for otter protection measures along with providing detailed method statements for construction work likely to disturb otters. This detailed information will be included in the licence applications which will be applied for in advance of any works taking place.

This report has been prepared for review and discussion with SNH and SEERAD in the light of the EPS Report ⁽¹⁾, EPS Licensing Protocol ⁽²⁾ and Landscape and Habitat Management Plan in order to refine and further develop the mitigation principles that were set out in the Environmental Statement (March 2006). This report is a live document which will be developed along with the EARL detailed design over the coming years. Both organisations are invited to continue their involvement in the development of this plan.

1.3 Structure of this Plan

The remainder of this plan is structured as follows:

- *Section 2* describes the legislation relating to otters and development;
- *Section 3* describes the surveys undertaken to date and summarises the otter interest in the area of the proposals;
- *Section 4* reports the predicted impacts on otters that could occur during the construction and operation of EARL;
- *Section 5* outlines the mitigation measures that will be implemented to minimise disturbance to otters; and
- *Section 6* provides summary recommendations for further work to progress the mitigation plan.

(1) ERM (2006) Edinburgh Airport Rail Link European Protected Species Report April 2006 by ERM on behalf of SWHJV for tie ltd.

(2) Euproean Protected Species Licence Application Protocol, August 2006, by ERM on behalf of SWHJV for tie ltd.

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2 LEGISLATIVE BACKGROUND

Otters are protected under *Annex IIa and IVa of the EC Habitats Directive (92/43/EC)* and applied in the UK under *Conservation (Natural Habitats &c.) Regulations 1994 (Habitat Regulations)*. Also a *Schedule 5 species*, otter receive full protection under the *Wildlife and Countryside Act, 1981* as amended by the *Nature Conservation (Scotland) Act 2004*. Under the Act it is illegal to:

- wilfully kill, injure, take, possess or cruelly ill treat an otter or attempt to do so;
- deliberately or recklessly disturb an otter, whether in a place of shelter or not; and
- damage, destroy or obstruct access to, or any entrance of, an otter holt or an otter couch.

Under the *Habitat Regulations*, a licence must be held for any development activity causing disturbance to otters.

The Regulations do not highlight what constitutes disturbance, and therefore SEERAD and SNH advise that any work within 30 m of a holt or couch or where such work is deemed to be likely to cause disturbance to otter activity, requires a licence. Because the construction of EARL does infringe upon otter habitat and is likely to require the closure of a holt, such works will require licensed consent from SEERAD.

Licensed works will be undertaken under the supervision of an appropriately qualified person and follow a detailed mitigation method statement complying with any licence conditions. *Section 5* describes the proposed mitigation measures that will be adopted to reduce the level of disturbance to otters.

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3 Summary and Recommendations

3.1 Introduction

This report provides a summary of available information on otters in the area around the EARL proposals and suggests appropriate mitigation measures to minimise disturbance to otters during construction and operation of the scheme. tie is committed to implementing the mitigation measures proposed in this plan and these measures will be incorporated into the final design of the scheme. The design specification for the structures will be developed through the detailed design process to ensure that they can safely function as part of the operating EARL scheme.

This section summarises the further work required to enable this otter mitigation plan to be developed further.

3.2 Next Steps

Further Otter Surveys

A pre-construction otter survey will be required along the entire route within the limits of deviation (and 50 m either side of the it) which, depending on development phasing, would ideally be undertaken between December and April when reduced vegetation cover allows easier and more reliable identification of holts and couches. This survey will confirm the status of such resting areas and identify any new holts or couches that have been created since the last survey.

Licensing Protocol

A European Protected Species Licence Application Protocol ⁽¹⁾, setting out a suggested programme for future surveys and licence updates, has been drafted and given to SEERAD for comment. The protocol will be finalised once agreements have been reached with SEERAD and SNH.

3.3 Consultation

This plan has been prepared for review and discussion with SNH and SEERAD and their comments will be taken into account in developing this otter mitigation plan further. Both organisations will be consulted during the development of the mitigation designs, to ensure that they meet an appropriate specification for otters. The mitigation design will continue to be developed as the detailed design

(1) European Protected Species Licence Application Protocol, August 2006, by ERM on behalf of SWHJV for tie ltd.

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Consultation will continue with the Edinburgh Tram team (led by tie ltd), to ensure that the mitigation proposed for both schemes can work effectively in conjunction; thereby protecting the proposed artificial holts in the area as far as possible.

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