

The background of the entire page is a photograph of a coastal landscape. In the foreground, there is a rocky shore covered with dark, wet stones and patches of brown seaweed. The middle ground shows a calm body of water, possibly a bay or a small harbor. In the distance, across the water, there is a small settlement with a few buildings, including a prominent orange-colored house. The background is a rolling green hill under a heavy, overcast sky with grey clouds.

Toft Pier Development

Otter Protection Plan

SHETLAND ISLANDS COUNCIL

8 APRIL 2019

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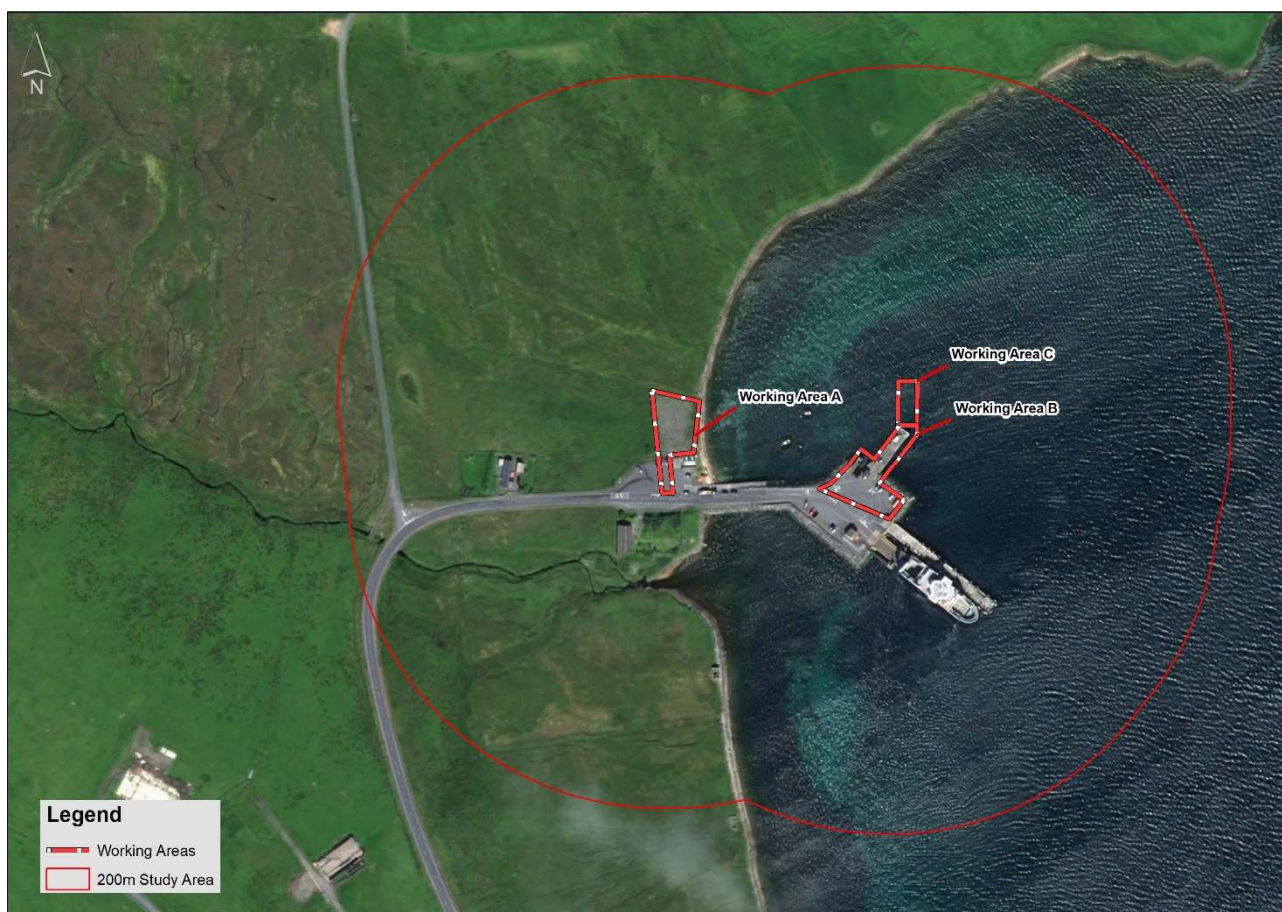
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1 Introduction

1.1 The project

Toft Pier, Shetland (National Grid reference: HU437761) is an active ferry terminal for a roll-on roll-off ferry with approximately 20 departures a day in winter. It is proposed to repair and extend the adjacent original pier which is now used by the fishing community. The construction works are relatively limited in their extent, with the new pier spanning approximately 59m in length, compared to the existing 24.8m. Sheet piling work will involve vibration and percussive piling activities followed by the pouring of rock infill to make up the pier base, compaction using vibro plates/rollers and finally topping with concrete. The construction compound will be located in Work Area A with construction taking place in Work Area B and C (Figure 1.1).

Figure 1 1: Toft Pier and site arrangements



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Otter *Lutra lutra* activity at Toft Pier is very high [Redacted]

Figure 1 2: Active spraint site and potential holt site (not regularly used, if at all as a holt) [Redacted]



Source: Brydon Thomason (Shetland Nature)

1.2 Legal protection afforded to otter

Otter is afforded strict protection under European law by Article 12 of the European Union Habitats Directive (92/43/EEC) and following the principle of subsidiarity, is transposed into Scottish law by The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) ('the Habitats Regulations').

By virtue of being listed in Annex IV (a) of the Habitats Directive, EU Member States are required to enforce a system of strict protection for otter in its natural range, prohibiting, in the context of an infrastructure development:

- all forms of deliberate capture or killing of specimens of these species in the wild [in all stages of life]
- deliberate disturbance of these species [in all stages of life], particularly during the period of breeding, rearing, hibernation and migration
- deterioration or destruction of breeding sites or resting places.

In the context of an infrastructure development Member States may derogate from the protection provisions of Article 12 in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment. Such derogations can however only be applied when there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.

1.3 Protection plan aims and objectives

The aim of the protection plan is to ensure that the strict protection afforded to otter by the Habitats Directive and the Habitats Regulations is maintained in so far as:

- deliberate capture or killing of otter will be avoided
- the deterioration or destruction of otter breeding sites or resting places will be avoided
- the risk of deliberate disturbance of otter will be minimised

The aims of the protection plan will be achieved by:

- providing a toolbox talk related to otter to all contractors and subcontractors
- monitoring inactive holts on the north side of Toft Pier
- covering exposed excavations
- applying national pollution prevention guidance

2 Otter Protection Plan

2.1 Toolbox talk

The toolbox talk will be given by the construction site environmental manager as part of the site induction to all contractors and subcontractors. The purpose of the toolbox talk will be to:

- ensure contractor and subcontractor personnel are aware of the presence of otter at Toft Pier and the importance of pollution prevention in relation to otter and marine fish as the main prey
- make all contractor and subcontractor personnel aware of legal provision afforded to otter and that both the company and an individual may be liable in the event of an offence being committed
- ensure contractor and subcontractor personnel are aware of their collective and individual responsibility for ensuring that no infringement of legislation or breach of any planning or licence conditions occur
- make all contractor and subcontractor personnel aware of the otter protection plan and the Construction Environment Management Plan (CEMP) and their responsibility to implement the measures in these plans
- ensure all contractor and subcontractor personnel understand the chance find procedure in relation to a place suspected of being used by an otter or to a dead or injured otter.
- ensure all contractor and subcontractor personnel understand that all work will be confined to Work Area A, B and C only

2.2 Monitoring inactive holts

28 days prior to construction, entrances to the potential but inactive holt [Redacted] will be soft blocked with sticks/vegetation by a suitably qualified and experienced ecologist. The inactive holts will be monitored once a week by the site supervisor except in the first five days and the last five days of the 28 day period when checks will be conducted once a day by the ecologist. Where no activity is found works will continue and the inactive holts will be monitored daily by the site supervisor throughout the construction programme. On completion of the works the soft block will be removed by the ecologist. Where activity is identified, the ecologist will be called in and if required Scottish Natural Heritage will be informed and consulted.

2.3 Exposed excavations

Excavations and trenches will be left open for minimal durations to avoid otter being entrapped and injured. Protection of deep excavations will be provided overnight or when not actively worked. Excavations will be checked for the presence of otter and wildlife before being filled.

2.4 Pollution prevention

Construction Method Statements will be prepared in accordance with the CEMP to minimise risks to water quality, fish stocks, and otter populations.

The CEMP will include procedures that follow industry guidance 'Works and maintenance in or near water: GPP 5' [Natural Resources Wales (NRW) *et al.*, 2018a] and 'Dealing with spills: GPP 22' (NRW *et al.*, 2018b). Pollution prevention measures in the CEMP will include:

- all relevant personnel will be trained in both normal operating and emergency procedures
- a spill response procedure will be in place in accordance with 'Dealing with spills: GPP 22' (NRW *et al.*, 2018b)
- as part of the site induction all personnel will undertake an environmental toolbox talk that will identify area vulnerable to pollution
- on-site welfare facilities will be adequately designed and maintained to ensure all sewage is tankered and appropriately disposed of off-site or by other means as agree by Shetland Islands Council
- all equipment, materials and chemicals will be stored inside a work area and well away from any drainage ditch (Work Area A) or marine waters (Work Area B and C)
- chemical, fuel and oil stores will be sited on impervious bases within a secured bund of an appropriate size to the volume of stored consumables
- standing machinery will have drip trays of appropriate size to the machine placed underneath them to prevent oil and fuel leaks reaching the ground on which they stand
- where practicable, refuelling of vehicles and machinery will be carried out in a designated area, on an impermeable surface, and well away from any drainage ditch (Work Area A) or marine waters (Work Area B and C)
- routine (daily or weekly) operational maintenance to vehicles and machinery in accordance with manufacturers guidance will be carried out on-site only in a designated area in Work Area A, on an impermeable surface well away from any drainage ditch. In circumstances where a vehicle or machine requires emergency maintenance in order to maintain health and safety should such maintenance be undertaken in Work Area B or C. All annual servicing of vehicles and machinery will be undertaken off-site
- the use of wet concrete and other trade materials in and around any drainage ditch (Working Area A) or marine waters (Working Area B and C) will be minimised
- emergency pollution equipment will be available on site i.e. spill kits and absorbent materials. Spills will be dealt with in accordance with 'Dealing with spills: GPP 22' (NRW *et al.*, 2018b); see Appendix 2.

3 References

Natural Resources Wales (NRW), the Northern Ireland Environment Agency (NIEA) and the Scottish Environment Protection Agency (SEPA), 2018a. Guidance for Pollution Prevention. Works and maintenance in or near water: GPP 5 Version 1.2 February 2018. [pdf] SEPA. Available at: <https://www.netregs.org.uk/media/1418/gpp-5-works-and-maintenance-in-or-near-water.pdf?utm_source=website&utm_medium=social&utm_campaign=GPP5%2027112017> [Accessed 5 April 2019].

Natural Resources Wales (NRW), the Northern Ireland Environment Agency (NIEA) and the Scottish Environment Protection Agency (SEPA), 2018b. Guidance for Pollution Prevention. Dealing with spills: GPP 22 October 2018 (Version 1.). [pdf] SEPA. Available at: <<https://www.netregs.org.uk/media/1643/gpp-22-dealing-with-spills.pdf>> [Accessed 5 April 2019].

Appendix 2: GPP 22: Spill Response Procedure

Spill Response Procedure

If the spill cannot be safely contained or if the spill is causing a threat to life, evacuate the area and call **999** from a safe location

IF SAFE TO DO SO

STOP > CONTAIN > NOTIFY > CLEAN-UP

STOP

- Stop work immediately
- Stop the leak or eliminate the source of the spill
- Eliminate ignition sources and provide natural ventilation

CONTAIN

- Use pollution control equipment (e.g. spill kits, drip trays, bunds of earth and sand) to contain the spill
- Check the spill has not reached any drains, water courses or other sensitive areas
- Cover all drains / manholes to prevent the spill from entering the drainage system

NOTIFY

- Once the spill has been contained notify your emergency contact. Details at the bottom of the page.

CLEAN-UP

- Attempt to soak up the spill using absorbent material
- Always follow your Duty of Care for waste when disposing of contaminated materials including spill kit/equipment.

EMERGENCY CONTACT DETAILS (Complete with your business details)

| NAME | TELEPHONE | NEAREST SPILL KIT |
|------|-----------|-------------------|
| | | |

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