

FCS Guidance Note 35c: Forest operations and otters in Scotland

SUMMARY OF KEY INFORMATION

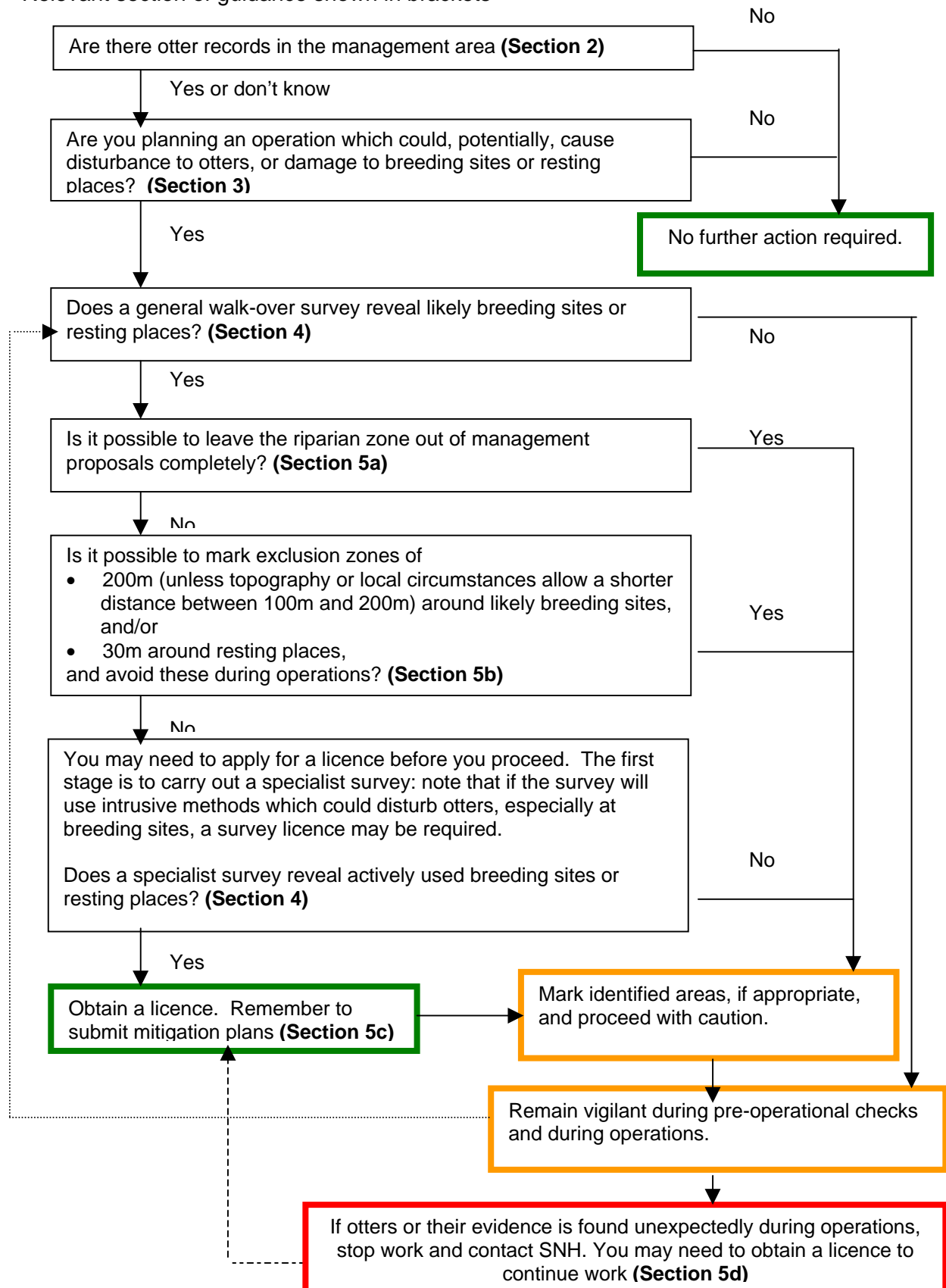
- This guidance note describes reasonable measures that forest and woodland managers should follow to avoid or minimise the risk of committing offences against the otter, a European protected species.
- It is an offence deliberately or recklessly to capture, injure or kill an otter; to disturb it while it is occupying its breeding/resting places; or to obstruct access to its breeding/resting places. It is an offence to damage or destroy breeding sites/resting places even accidentally.
- The greatest risk to otters is that management operations near watercourses or water bodies could destroy or damage otter breeding sites (especially the natal holts, where the young are born) whilst they are in use.
- Otters are found in virtually all small and large watercourses, ponds, lochs, and coasts in Scotland. Therefore, if a management operation is next to any of these habitats, otters should be an operational consideration.
- Prior to any management operation you should survey the watercourse/water-body for otter spraints, footprints, or tracks leading to the river, which often end in slides into the water.
- If no such signs are found, proceed with the management operation, but be vigilant in case otters were missed during the survey. If such signs are found, search likely locations within 50m of the watercourse/water-body for breeding sites.
- If an active breeding site is found, establish an operational exclusion zone of 200m (unless it can be shown that topography and local circumstances allow for a smaller zone, of 100m minimum). A 30m operational exclusion zone should be marked around resting places and operations in this zone should be avoided.
- If management operations are necessary within the exclusion zone above, you must apply for and obtain a licence from Scottish Government before starting operations.
- If otters or their evidence is found unexpectedly during operations, halt work immediately and seek advice from Scottish Natural Heritage on how to proceed.



Otter on the move

FLOWCHART SHOWING THE DECISION-MAKING PROCESS

Relevant section of guidance shown in brackets



PURPOSE OF THE DOCUMENT

This guidance note has been prepared by Forestry Commission Scotland (FCS) and Scottish Natural Heritage (SNH) to advise people who are planning and carrying out felling or other operations in forests or woodlands which have the potential to affect otter (*Lutra lutra*), a European protected species.

This note will be revised as necessary in light of experience and feedback from users. It is one of a series of four detailed guidance notes on European protected species in Scottish woodlands, which supplement more general guidance in FCS Guidance note 34, '[Forest operations and European protected species in Scottish Forests](#)'. The other species featured are bats, great crested newt and wildcat.

FCS will follow this guidance in its management of the national forest estate and will expect it to be followed by those carrying out forestry operations covered by felling licences and grant schemes and forest plans for private forests. FCS and SNH will also promote its use in forestry-related environmental impact assessments and in appropriate assessments for judging the impacts of forestry-related proposals on Natura sites.

1. INTRODUCTION

Scotland has an internationally important population of otters. As a European protected species of animal, the species is fully protected. In summary, it is an offence to:

- deliberately or recklessly capture, injure or kill them
- deliberately or recklessly harass or, in certain circumstances, disturb them
- damage or destroy their breeding sites or resting places, even accidentally

More information on otters and the law is contained in Annex 1.

A person is not guilty of the above offences if they are carried out in accordance with a licence, which can only be issued under very strict conditions. For more information, see section 5 below.

Definitions used in this guidance.

A **breeding site** is any site, whether above ground or below ground, where otters give birth and raise their young.

A **resting place** is any other site used habitually by otters which is not used for breeding.

2. WHERE DO OTTERS OCCUR IN SCOTLAND?

National surveys have found that otters are distributed throughout Scotland

The following resources can help you to tell if otters have been recorded using your woodland, although absence of records does not necessarily mean that otters are not present. Otters, like any animal, will change their range and habitat usage in response to changing conditions. Any watercourse/water-body in Scotland is likely to be used by otters at one time or another.

- National Biodiversity Network interactive map <http://www.searchnbn.net/searchengine/search.jsp?tab=1&pg=1&searchTerm=Otter>
- Local Record Centres (<http://www.brisc.org.uk/Sources.php>) for additional records of otter occurrence

- In addition, SNH may be able to give site specific information on the likelihood of otter presence

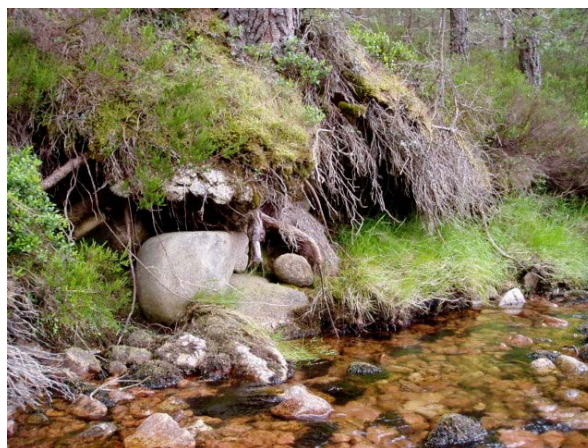
3. FORESTRY-RELATED DAMAGE OR DISTURBANCE TO OTTERS

The greatest risk of committing an offence is when felling and other operations such as forest road construction are likely to:

- **damage or destroy** otter breeding sites and resting places, and
- **disturb otters whilst they are breeding.**

Bank-side holt, Spey Valley

The damage or destruction of any otter breeding site or resting place is the most frequent risk for forest or woodland managers to consider. Importantly, accidental damage or destruction, as well as that which is done deliberately or recklessly, could be an offence. Remember such sites are protected all the time even when no otters are present.



To reduce the risk of accidental disturbance and destruction of breeding sites and resting places, management operations should be planned well in advance to allow time for survey work (see section 4).

In addition, forest operations might:

- cause **disturbance** to foraging otters by altering their habitat.

This is unlikely to be significant enough to constitute an offence if normal good forest practice is followed and riparian areas are treated sensitively. As long as the Forest and Water Guidelines are followed and rapid large scale clearance of riparian woodlands over large areas is avoided, any incidental disturbance to feeding and tending of young should be minimal and unimportant in ecological terms. For more information, see Annex 2.

4. OTTER SURVEYS

If there is a possibility of otters being present, you must carry out survey work to establish whether they are using your woodland and, in particular, to identify breeding sites. These can either be subterranean dens (holts) or above-ground specially constructed 'couches'. Breeding sites are more likely to occur in woodlands if they are:

- relatively undisturbed by humans
- ungrazed by stock
- close (<50m) to water
- rarely flooded or are just above the floodplain level
- contain large patches (at least 0.5ha) of dense cover such as scrub thickets, weedy young plantations, timber stacks and log piles, groups of windblown trees, large bankside root systems, hollow trunks and stands of tussocky tall fen vegetation.

Resting places also tend to be close to water (<50m) but are less restricted and may be found in woodlands as small as 0.5ha or less provided they contain patches of dense (at ground level) scrub, thickets or features as listed above. The less disturbed a site, the higher the possibility that otters may use it, even if it is sub-optimal for resting.

General survey

Surveys to identify suitable otter habitat and otter signs in woodland should be done by a suitably experienced person by careful observation in a walk through the woodland.

Your search should focus on those areas most suitable for otter such as areas of riparian and coastal woodland. A general survey along the edge of the watercourse or water body should be extended up to 50m away from the water's edge where otter tracks or signs are found.

Look for indirect as well as direct evidence of otters. Their signs are most easily seen in winter when they are less likely to be obscured by vegetation, but frequent winter spates can remove evidence and make survey difficult. In areas with peaty heather-dominated riverbanks, always check underneath overhanging heather, as otters sometimes rest in the cavities that often exist underneath. Otter tracks through vegetation can be spotted with experience and spraints and footprints in mud and sand are easily found in spring, summer and autumn. Search and record:

- **Sightings:** otters are large animals (about 1m long) but remarkably inconspicuous. A lack of sightings cannot be taken as evidence of absence. They are most easily confused with the smaller (maximum 75cm long) American mink. The otter has a broad, flat, well-whiskered muzzle, whereas the mink has a pointed face. Mink are less well-adapted to an aquatic lifestyle and appear to float higher in the water than do otters.



Otter showing broad, flat, well-whiskered muzzle

- **Signs:** spraint (droppings), foot prints, and prey remains are usually found close to water. You may also find otter tracks leading to and from the watercourse. These often end in slides into the water. Spraints contain social information through scent and are deposited at conspicuous places, particularly: where a stream flows into a larger river, loch or the sea; on boulders emerging from the water; at culvert entrances and under bridges.



Otter tracks



Otter tracks in sand



Otter spraint on top of a rock

Otter breeding sites and resting places may be located under the roots of trees, within hollow tree trunks, under rock or log piles, in rocky bank sides, in enclosed drains, in bank-side tunnels, under windblown trees, in dense vegetation, or even in old badger and rabbit holes.

Tree-root holt, Galloway



Burrow holt, Glen Affric, Inverness-shire



You should record any breeding sites or resting places you find on a map together with obvious signs of use. This will enable these sites to be avoided during management operations. More detailed survey of breeding sites risks causing disturbance and would need to be licensed.

Intensive specialist survey

Often, avoiding possible breeding sites is the simplest way of proceeding with management, but if this is not practical and you want to find out whether a possible breeding site is active or not so as to be able to apply for a licence, a more detailed survey would need to be undertaken by a specialist surveyor under licence from SNH. Licences for survey are only granted under strict conditions. It would be necessary to:

- consider the impact of the survey on the 'favourable conservation status' of the species, and
- provide a detailed proposal for mitigation work.

Note that one output of a specialist otter survey should be a report which is sufficient to allow decisions on forest planning to be taken and to inform a licence application if one is necessary.

5. IDENTIFYING THE APPROPRIATE MANAGEMENT APPROACH

When carrying out forestry or woodland management operations in an area which could or does have otters present, there are several options:

(a) Avoid operations which could damage breeding sites or resting places.

If you have areas within your wood which are particularly suitable for otters, one option is to retain these features even without being certain that otters are there. In some cases it will be sensible to leave riparian features out of felling plans. However, in accordance with Forest and Water Guidelines, to maintain a balance of open and wooded vegetation will require occasional management such as tree felling and planting in many situations.

(b) Mark exclusion zones

Where appropriate, exclusion zones should be marked and avoided during operations. An exclusion zone of 200m (unless it can be shown that topography or local circumstances allow for a distance between 100-200m) should be created around likely breeding sites, and all operations avoided in this zone.

An exclusion zone of 30m should be marked around resting places identified during the general survey and operations avoided in this area (unless done under a licence).

(c) Obtain a licence for operations when otters are known to be present.

If the above options are not appropriate and you still intend to proceed with operations that may disturb, damage or destroy a breeding site or resting place, you should take reasonable precautions (mitigation) to prevent these impacts occurring (see section 3 for advice).

If you believe an offence would occur despite planned mitigation, you must apply for and obtain a licence from the Scottish Government before operations are started.

A licence application will require evidence:

- of breeding and/or the existence of an otter shelter, as appropriate;
- that there is no satisfactory alternative to disturbing otters, damaging or destroying the otter breeding site or resting place; and
- that there will be no detriment to the maintenance of the species at 'favourable conservation status'.

Please note that, licences can only be issued for limited reasons. For forestry operations, this is likely to be where there are reasons of public safety or other imperative reasons of overriding public interest including those of a social or economic nature.

(d) Otters or their evidence found unexpectedly during management operations. If otters or fresh signs of otters are discovered during operations (especially a likely breeding site), you should immediately stop work and seek advice from SNH and review your plans as required. SNH's advice on these occasions is likely to be to conduct further survey work to confirm the presence or absence of otter or its breeding sites/resting places. If the animal or these sites/places are then identified and damage or disturbance to the woodland features in question cannot be avoided, you will be advised to seek a licence from the Scottish Government bearing in mind the strict conditions under which these are issued.

Should you feel a licence application is necessary or wish to discuss the licensing process in more detail, please write to the Species Licensing Team, Landscape and Habitats Division, Rural Directorate, The Scottish Government, Room 1-A North, Victoria Quay, Leith, Edinburgh EH6 6QQ (or telephone 0131 244 6549, fax: 0131 244 4071, or email: specieslicensing@scotland.gsi.gov.uk).

Anyone who finds they have unintentionally damaged or destroyed a breeding site/resting place during operations should get in touch with SNH for advice on what to do next.

Record any incidents and the action taken, when otters or their resting places or breeding sites are encountered during operations.

6. GENERAL MEASURES TO MAINTAIN OR IMPROVE WOODLAND HABITAT FOR OTTERS

This note focuses on how to plan operations to avoid damage and disturbance and comply with the law. You might also consider the potential for maintaining otter populations by planning regular but sensitive active management that will provide a continuity of habitat over time and will help ensure that populations are maintained at 'favourable conservation status'. Woodland habitats can be improved for otter by increasing the amount of connected woodland along watercourses, encouraging long-term presence of a shrub layer through intervention, and creating larger areas of cover. Once felled, timber should be moved away from watercourse/water-bodies for stacking, as the stacks may be used for denning if left *in situ* for any length of time. Further recommendations for managing woodlands with otters present are available in Strachan *et al* (2004). Detailed guidance on the ecology and habitat requirements of otters is available in [Liles \(2003\)](#) and [Chanin \(2003\)](#). See also Annex 2.

7. REFERENCES AND SOURCES OF ADVICE

[Chanin P. \(2003\) Ecology of the European Otter. Conserving Natura 2000 Rivers Ecology Series No.10 English Nature, Peterborough.](#)

Eds: Harris, S. & Yalden, D.W. (2008) The otter. In: Mammals of the British Isles Handbook - 4th edition. The Mammal Society.

Environment Agency (1999) Otters and River Habitat Management (2nd edition). Bristol.

Forestry Commission 2003. Forest and water guidelines, Forestry Commission, Edinburgh.

[Highways Agency Design Manual for Roads and Bridges, Chapter 10, Section 4 Nature Conservation Advice in Relation to Otters.](#) (Gives appropriate designs for culverts etc. Currently under revision).

[Liles G. \(2003\) Otter Breeding Sites. Conservation and Management. Conserving Natura 2000 Rivers Conservation Technical Series No.5 English Nature, Peterborough.](#)

<http://www.snh.org.uk/scottish/species/mammals.asp>

Strachan R., Liles, G. & Fairfield, T. (2004) Managing woodlands in the presence of otters. In: Eds. Quine, Trout & Shore. Managing woodlands and their mammals. Joint FC and Mammal Society conference, November 2002. 31-35. Forestry Commission. Edinburgh.

[Strachan, R. \(2007\) National survey of otter *Lutra lutra* distribution in Scotland 2003-2004. SNH Commissioned Report No. 211 \(ROAME No. F03AC309\).](#)

PHOTO CREDITS

P1 Otter on the move: Laurie Campbell

P4 Bank-side holt, Spey Valley: Rob Strachan

P5 Otter showing broad, flat, well-whiskered muzzle: snh

P5 Otter tracks: Rob Strachan

P6 Otter tracks in sand: Rob Strachan

P6 Otter spraint on top of a rock: Laurie Campbell

P6 Tree-root holt, Galloway: Rob Strachan

P6 Burrow holt, Glen Affric, Inverness-shire: Rob Strachan

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Annex 1: Otters and the Law

The otter is listed on Annex IV of *EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna* ('Habitats Directive') as a species of European Community interest and in need of strict protection. The Habitats Directive is transposed into domestic legislation by means of ***The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended in 2004, 2007 and 2008)***, (hereafter the 'Regulations'). The otter, whose natural range includes any area in Great Britain, is also listed in Schedule 2 of the Regulations as a ***'European protected species of Animal'*** and is fully protected. (For further general guidance on the amended Regulations and how they affect woodland managers see: the [Scottish Government's explanatory note](#). Under the 2008 version of the Regulations it is an offence, without an appropriate licence, to:

- deliberately or recklessly capture, injure or kill such an animal
- deliberately or recklessly
 - (i) harass such an animal or group of animals;
 - (ii) disturb such an animal while it is occupying a structure or place used for shelter or protection;
 - (iii) disturb such an animal while it is rearing or otherwise caring for its young;
 - (iv) obstruct access to a breeding site or resting place, or otherwise deny the animal use of the breeding site or resting place;
 - (v) disturb such an animal in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species to which it belongs;
 - (vi) disturb such an animal in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young;
 - (vii) disturb such an animal while it is migrating or hibernating;
- damage or destroy a breeding site or resting place of such an animal (this does not need to be deliberate or reckless for an offence to have been committed).

Annex 2: Otter habitat requirements

In Scotland otters use both coastal and fresh waters. Therefore, the possibility of their presence needs to be considered in any area of woodland and scrub adjacent to streams, rivers, ponds, lochs, marshes, estuaries and coastal waters. Woodlands and scrub within a few metres of the coast, standing or flowing fresh waters, or wetlands are most likely to be used by otters. Otters may use woodlands some distance from obvious water bodies¹, (for example, when crossing watersheds to move from one river system to another), and do make use of very narrow streams. However, felling in these areas is unlikely to be a major cause of disturbance. Otters generally have linear home ranges which follow the coastline, loch margins and/or watercourses. The size of otter home ranges varies greatly with the quality of the habitat although 20-30km is the normal range. In the best coastal habitats, 1-2km may be enough to support an otter, whereas in upland rivers home ranges of up to 80km have been recorded. Therefore, there may be cases where tree felling in large coupes may have an impact on otter populations.

Otter resting places can be of two major types, holts and couches. Holts occupy enclosed spaces such as gaps under rocks or tree roots, holes in riverbanks or inside fallen tree trunks, or in piles of woody debris. In peatland areas, holes within the peat itself may be

¹ Exceptionally, otter shelters can be found up to 500m from open water.

used. Holts are the most usual type of shelter used for breeding because they are enclosed. Non-breeding otters also use them for longer rest periods between foraging bouts. Couches are unenclosed places used for lying-up and resting. They are usually located within thick cover, such as reed beds, tall herbaceous vegetation, thickets of bramble, scrub or *Rhododendron*, or within restock sites. These are generally used for shelter and short rests by otters when out foraging, but there have been occasional records of their use for breeding.

Each otter will have numerous holts and couches within their territory, all used with varying frequency. Holts that are being used by breeding otters are the most vulnerable to disturbance by forestry operations, particularly if the operations are prolonged and coincide with the 10-week period when cubs are confined to the holt. Remember that otters can breed at any time of year.