



Complex Recommendation and Decision Report

Applicant: Fiordland Lobster Company Limited
Permission number: 45654-OTH
Application Type: Variation to Head Licence (granted under S51A of the National Parks Act 1980 & S33W of the Maritime Transport Act 1994)
Decision Maker: Aaron Fleming, Director Regional Operations Southern South Island

From: Ellanor Babbage, Permissions Advisor
Peer Reviewed by: Aimee Paterson, Solicitor

Executive Summary - Whakarāpopoto ā kaiwhakahaere

1. Fiordland Lobster Company Limited (the Applicant / FLC) has applied to install a permanent fence in Deepwater Basin, Fiordland National Park and reduce the area they manage on the Department's behalf (the Application).
2. The Department's position is that the Application is best processed as a variation to FLC's existing license ("45654-OTH" or "the head license"). The license provides for FLC to use and manage Facilities at Deepwater Basin. The purpose of the variation is to support the safe and efficient use of the Facilities by several parties and management of the Facilities by FLC.
3. While the Applicant has not requested an alteration to the existing term for 45654-OTH, it is recommended you extend the term, currently due to expire on 30 June 2026, to 31 July 2030 so that the expiry date coincides with the expiry the Applicant's concession (PAC-14-18-16) which enables the Applicant's commercial activities in Deepwater Basin.
4. The Application requires the exercise of powers under sections 51A(1) National Parks Act 1980 and 33(W)(2) Maritime Transport Act 1994. For the majority of the processing of this Application, the Minister of Conservation was the necessary decision maker because the powers in the Maritime Transport Act 1994 had not been delegated, and the two parts of the decision could not sensibly be separated. On 29 July 2025, the Minister delegated his powers under the Maritime Transport Act to the Director-General, and on 20 August 2025, the Director-General further delegated

these powers to named Department roles, including Director of Operations. You therefore now have the powers to make this decision.

5. The Te Anau district is supportive of the Application and noted that work was underway to replace the Whitehouse facilities with an alternative, outside of the area impacted by the proposed fence.
6. The Southland Conservation Board presented concerns that alternative options had not been fully investigated before considering a permanent fence. However, they also expressed a preference for the final proposed fence location over the original proposed fence location.
7. Te Rūnanga o Ngāi Tahu and Awarua Rūnanga did not provide any comments to the Department on this Application. Te Rūnanga o Makaawhio, Te Rūnanga o Hokonui, Ōraka-Aparima Rūnaka, and Waihōpai Rūnaka did not raise any concerns with the Application. The three members of Murihiku Papatipu Rūnaka indicated a preference for the final proposed fence location over the original proposed fence location.
8. The Application was publicly notified and received 33 submissions. Donna Shepard, the hearing chair made a number of recommendations following a public hearing in Te Anau in March. These have been addressed in full further below, but conditions 8(h), 9(e), 9(d), 17(h) and 25 are recommended.
9. The Application is not inconsistent with the National Park Act 1908 and the Maritime Transport Act 1994. In particular, the Department agrees that the health and safety risks identified by the Applicant exist and have been accurately described by the Applicant and submitters who operate at the site. The Department agrees that a further management response is required, and that lesser interventions have been unsuccessful at addressing the risk. The Department considers that the proposal for a fence, provided public access is facilitated through the fence and in accordance with the existing terms of the head license (with some additional minor restrictions), meets the relevant statutory tests.
10. Several changes to the original licence are recommended should the decision be made to approve the Application. These can be found throughout this report.
11. Licence for approval: [DOC-10285993](#)

I recommend that you..... (Ngā tohutohu)

	Recommendation	Decision
a)	Approve the Application under section 51A(1) of the National Parks Act 1980, subject to the special conditions identified in this report.	Yes / No
b)	Approve the Application under section 33W(2) of the Maritime Transport Act 1994, subject to the special conditions identified in this report.	Yes / No
c)	Sign and date the Licence variation document (DOC-10285993) provided with this report.	Yes / No

Decision Maker Rationale:

I agree with the recommendations set out in this report. I am satisfied that this application meets the tests of the National Park Act and the Maritime Transport Act, and that the assessment of it has been done with full regard of Section 4 of the Conservation Act 1987. Approving this application also helps to satisfy accountabilities under the Health and Safety at Work Act.

Time spent reading this report to make a decision. All other time e.g. attending meetings etc should already be captured in the Cost Recovery Tool.	1 hr 30 mins
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Date: 26 August 2025

Aaron Fleming, Director Regional Operations Southern South Island
Pursuant to a written delegation from the Director-General of Conservation

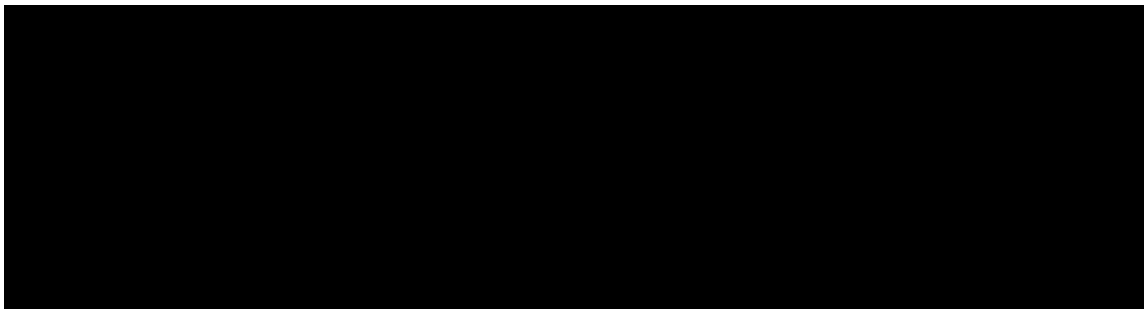
Purpose - Te aronga

12. The purpose of this report is to support you to decide Fiordland Lobster Company's (the Applicant) application to vary their existing license ("45656-OTH" or "the head license") under section 51A of the National Parks Act 1980 and section 33(W)(2) of the Maritime Transport Act 1994, to install a fence and to reduce the size of the license area at Deepwater Basin.

Context - Te horopaki

13. Fiordland Lobster Company (the Applicant) holds the head licence for the non-exclusive use and management of national park land and "Facilities"¹, on behalf of the Minister of Conservation, at Deepwater Basin, Piopiotahi Milford Sound. The Applicant also has a concession in the form of lease to occupy and maintain a building that services their commercial fishing interests in Fiordland ("PAC-14-18-16" or "the concession").
14. The Applicant has applied to install a fence to separate the commercial fishing fleet operation area from the wider Deepwater Basin. The Applicant has also applied to reduce the footprint of the area they manage on behalf of the Minister of Conservation to the area behind the proposed fence.
15. The head license was granted pursuant to:
- (a) section 51A National Parks Act 1980 (to authorise the use and management of land within Fiordland National Park); and
 - (b) section 33W Maritime Transport Act 1994 (to authorise the use and management of the Facilities in the common marine and coastal area).
16. The concession was granted pursuant to section 49 National Parks Act 1980 and Part 3B Conservation Act 1987.

17.



¹ Defined at clause 1 of the head license to include "all of the existing Crown commercial berthage facility located at Deepwater Basin, Milford Sound / Piopiotahi, consisting of 30 berths along pens, a five-pile mooring together with the wharf and an adjacent area of 6660m² of land known as the 'hard area' ("the hard") that is located within Fiordland National Park."

18. The Applicant submitted the Application on a form to vary their concession ([DOC-7663652](#)). The Department's position is that the Application is best processed as a variation to the head license, rather than as a variation to the concession. The Department did not require the Applicant to resubmit their application on a different form as we considered we had the necessary information to proceed.
19. In addition to the application, the Department recommends an increase to the term of the head licence (from 30 June 2026 to 31 July 2030) to align with the expiry date for PAC-14-18-16. This will allow the Applicant and the Department to reassess both arrangements, which are interdependent, at that point.
20. For the majority of the processing of this Application, the Minister of Conservation was the necessary decision maker because the powers in the Maritime Transport Act 1994 had not been delegated, and the two parts of the decision could not sensibly be separated. On 29 July 2025, the Minister delegated his powers under the Maritime Transport Act to the Director-General, and on 20 August 2025, the Director-General further delegated these powers to named Department roles, including Director of Operations. You therefore now have the powers to make this decision.

Health and Safety as the root of the Application

21. The Applicant is applying to install a fence due to their obligations as a Person Conducting a Business or undertaking (PCBU) under the Health and Safety at Work Act 2015. They have identified risks to both the general public and their staff from the unfettered access of the public to the Facilities. The district office agrees with this risk assessment and supports the proposal. Further information from other Deepwater Basin users provided during the public notification period has further supported that there is a health and safety risk, including a risk to life.
22. The mechanisms outlined by the Applicant as attempts to manage this risk with lower impacts on the area and other users (road cones & temporary fencing) are supported with evidence in the Permissions Database, and their failure to sufficiently remove or manage the risk was also supported by both local district staff, and submitters in the public notification process.
23. As the manager of the Land, the Department also has a responsibility under the Health and Safety at Work Act to remove or mitigate the risk presented by this situation.

Summary of public notification process

24. Public notification was authorised under S51A of the National Parks Act.
25. The Department has delegations under this section of the National Parks Act, and as such the Southern South Island Operations Director (Director) was the delegate responsible for this process.
26. The initial decision, made on 29 November 2024, was that the Application should be publicly notified. 33 submissions were received during the public notification process, and all were accepted for consideration. The full breakdown of these submissions, analysis of the public notification process, the Director's endorsement of the Hearing Chair's recommendations, and the Director's satisfaction with the process, can be found in the Notification Report, linked in Appendix 1 – Contributions document register.
27. Following the notification hearing, the Applicant revised the applied for location of the fence to enable the turning area around the fuel tanks to sit fully outside the restricted area. This final proposed fence location (and the one discussed throughout this report) is shown in figure 1:



Figure 1 - Applicant supplied map showing where the fence is proposed to be located (black line). This enables the turning area around the fuel tanks to remain open access to all vehicles and trailers using Deepwater Basin.

Notification Recommendations

28. Donna Shepard, the Hearing Chair, has made a number of recommendations following the public notification which have been endorsed by the Acting Southern South Island Operations Director. These are:
- a) Address the following points raised by submitters prior to any approval:
 - 24-hour access to toilet and water facilities for recreational users;
 - access to fuel for recreational users;
 - access for recreational users with mobility issues who previously used the wharf;
 - details on the proposed approach to manage access for berth holders and commercial fishing operators (including ensuring any access gates are sufficiently wide); and
 - clarity on whether large boats and trailers can safely enter the water using the boat ramp.
 - b) Include conditions ensuring
 - access for emergency services is always maintained; and
 - access to an oil spill kit is always available

24/7 access to toilet and water facilities for recreational users

29. Submitters were concerned that public access from Fiordland National Park to the building known as the 'Whitehouse', which contains toilet and water facilities, would be removed by the fence.
30. Following the decision on the Milford Opportunity Project (MOP), the Te Anau district have indicated that they have budget to replace the Whitehouse with a structure outside of the fenced area, that provides toilet and water facilities. The district is currently in talks with Real Journeys Limited to acquire a shipping container structure located in Deepwater Basin which previously housed Real Journeys Limited's kayaking gear. As Real Journeys Limited no longer hold a concession to operate kayaking tours, this structure is currently surplus to requirements.
31. However, even moving at pace, it is unlikely that any replacement for the Whitehouse will be in place and operational prior to the installation of the proposed fence. As such a new condition 9(e). is recommended to ensure that unrestricted public access is retained to the Whitehouse until the replacement facility is operational. This unrestricted access is required for the Whitehouse only and does not apply to the remainder of the area under head licence 45654-OTH.

Access to fuel for recreational users

32. Currently, vessels can refill using a tap located near the wharf. There are existing fuel tanks which will sit outside of the fenced area and provide the fuel to this tap. Submitters were concerned that the fence would remove access to this tap.
33. Currently members of the public can use the wharf but must apply to the Applicant and are subject to restrictions based on vessel size, space availability, previous bad debts, weather or other prevailing conditions.² The proposed fence, and the Applicant's Access Guidance, would further restrict this access.³ The Department's position is that overall the changes are minor and reasonable to address the health and safety risk, discussed further below. In other words, access to the fuel tap will still be available for all authorised users, as it is now.

Access for those who need the wharf to access their vessel due to disability

34. Submitters were concerned that the fence would prevent use of the wharf by disabled persons who can only board or disembark their vessels from the wharf.
35. As noted above, all members of the public, including those who can only access their vessel from the wharf due to disability, can use the wharf but are subject to restrictions based on vessel size, space availability, previous bad debts, weather or other prevailing conditions.⁴ The proposed fence, and the Applicant's Access Guidance, would further restrict this access, but in a way that is unlikely to significantly impact disabled users.⁵ As noted above, the Department considers these restrictions are reasonable to manage the health and safety risk.
36. While it is not anticipated that the Applicant would unreasonably withhold access to the wharf for those who can only access their vessel from the wharf due to disability, condition 9(d). is recommended for assurance purposes to address this issue.

Ensuring access gates are sufficiently wide

37. Submitters were concerned that there needed to be a vehicle access gate through the fence of sufficient width to accommodate large vehicles.
38. Recommended condition 8(h). will ensure that Department approval of the details of the planned fence is required prior to installation and can ensure that the fence gate is of reasonable size.

² Clause 11.

³ See Access Guidance which limits access to working hours (8am to 5pm), and times when the crane is not in operation and vessels are being unloaded.

⁴ Clause 11.

⁵ See Access Guidance which limits access to working hours (8am to 5pm), and times when the crane is not in operation and vessels are being unloaded.

Whether large boats and trailers can safely use the boat ramp

39. Submitters were concerned that the fence location (as notified) would remove vehicle access to the turning area around the fuel tanks, and that this area is needed to allow large boats and trailers to line up with the boat ramp. There was also a concern that the loss of this area would contribute to crowding.
40. On 31 March 2025 date, the Applicant provided a new fence location that excludes the turning area around the fuel tanks. The Department considers this new fence location adequately addresses these concerns.
41. Some submitters requested an upgrade to existing facilities, including the boat ramp. Any upgrades to the boat ramp will occur through the scope of MOP and are not of further relevance to this Application.

Recommended conditions

42. The conditions suggested by the Hearing Chair (accessible oil spill kit & 24/7 emergency services access) have been included as new condition 17(h) and existing condition 25.

Contributions

Treaty partners are not opposed to the Application

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45.

46.

[REDACTED]

47.

[REDACTED]

48.

49. Links to full Treaty partner engagement summaries and correspondence can be found in Appendix 1 – Contributions document register.

The Ngāi Tahu Claims Settlement Act 1998

50. There are no specific obligations in the Ngāi Tahu Claims Settlement Act triggered by this Application.
51. The proposed alteration of the term from the Department, creates a total term for the head licence 45654-OTH of 26 years. This does not trigger the right of first refusal.
52. The area is also subject to the DOC protocols⁶ as indicated in the Settlement Claims Act. These are not relevant to the Application.

Section 4: Giving effect to the Principles of The Treaty of Waitangi – Ngā mātapono Tiriti

53. The Department has given effect to the principles of the Treaty of Waitangi through the processing of this Application.
54. Four principles have been identified as most relevant to the work of Te Papa Atawhai: Partnership, Informed Decision-Making, Active Protection, and Redress and Reconciliation.
55. The Department has given effect to the principle of partnership by engaging with Treaty partners in accordance with the mutually agreed to triggers for engagement. The Department has also given effect to this principle by inviting Treaty partner engagement in the notification hearing, and by doubling checking with Te Rūnanga o Makaawhio on their interest in this Application.

⁶ Ngāi Tahu – Protocols: [OLDDM-531441](#)

56. The Department has given effect to the principle of informed decision-making by ensuring that we are clear on Treaty partner interest and thoughts on this Application, and by assessing the relevant information available to us (including the Ngāi Tahu Claims Settlement Act 1998 & Kā Huru Manu – Ngāi Tahu Cultural Atlas) to ensure that all known information was included in the analysis. Neither of these resources raised specific concerns that should be addressed by the Application.
57. The Department has given effect to the principle of active protection by engaging with Treaty partners to understand their interests regarding this Application. Where Treaty partners have engaged on the Department, they have indicated that they do not regard that this Application impacts cultural values (Te Rūnanga o Makaawhio) and have supported the secondary fence location (Murihiku Papatipu Rūnanga). The Department has ensured that Treaty partners are well informed of the proposed fence (and its conditions around access) and have given Treaty partners multiple opportunities to express any interests / rights that may be impacted by the Application.
58. The Department has given effect to the principle of redress and reconciliation by ensuring that nothing in the Ngāi Tahu Claims Settlement Act (including in the DOC Protocol Agreement) is of specific relevance to this Application. The Department has also given effect to this principle by engaging with Treaty partners as agreed on a matter concerning Milford Sound / Piopiotahi and ensuring that we understand Treaty partner position on this Application, further building the relationship between Treaty partners and the Department.
59. The Department's recommended option (i.e. the variation of the head license to provide for the amended fence location, a smaller license area, and a longer term to coincide with the expiry of the Applicant's concession), gives effect to these principles because it is supported by the Treaty Partners who have engaged on the Application. Further, the Department considers that we have a good understanding of Treaty Partner interests in this area and the proposal has minimal impact on those interests.

Southland Conservation Board are open to considering management options

60. The Southland Conservation Board (the Board) recognised the health and safety challenges outlined by the Applicant but questioned if all options to manage these challenges have been considered.
61. The Board also indicated that the fence option which allows for the vehicle turning area around the fuel tanks to remain open to the public was preferred.
62. The Te Anau district engaged with the Board. The full engagement can be found in Appendix 1 – Contributions document register.

Te Anau District Office are supportive of the Application

63. The district consider that the effects of restricting access in this part of Fiordland National Park should be weighed against the health and safety of users. They note that the commercial operators have been granted concessions to operate, and that these rights need to be reconciled with safe public access in Deepwater Basin.
64. They also note that the Application will help avoid conflict between differing users, as well as the need to ensure emergency services retain access.
65. The district has also noted that it is exploring options for new toilet facilities to address the issues surrounding the Whitehouse. There is a historic agreement with the Applicant to find an alternative, but this has been delayed due to flood protection works in the area and the awaited outcome of MOP. As discussed above, with a decision on MOP the district have a clear budget for this and are now in active discussion with another party to acquire a structure for this replacement.
66. Full comments from the district can be found in Appendix 1 – Contributions document register.

Statutory Analysis

67. As noted above, a variation to the head licensed requires the exercise of two statutory powers:
 - a) Section 51A(1) National Parks Act 1980 empowers the Minister to authorise a person to do any thing that the Minister considers appropriate for the proper and beneficial management, administration and control of the Park. This power is relied on to authorise the portion of the application within Fiordland National Park, including construction of the fence and the further restrictions on public access to a portion of the Park created by the fence and changes to the sub-licensing regime.
 - b) Section 33W(2) Maritime Transport Act 1994 empowers the Crown to regulate and charge for Crown-owned maritime facilities and works. The Facilities at Deepwater Basin are Crown-owned maritime facilities and are administered by DOC. Where DOC is the administrator, the Minister of Conservation can exercise the power on behalf of the Crown. This power is relied on to authorise the further restrictions on public access to the Facilities created by the sub-licensing regime.

Section 51A (1): Proper and beneficial management, administration and control of a park

Is the Application appropriate for the proper and beneficial management, administration and control of the park?	Yes
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68. The Application is to address an existing health and safety risk presented by the differing parties accessing Deepwater Basin.
69. The Applicant states that the reason for the fence is that there are significant risks for the safety of the public that enters the licensed area. The risks come from:
- a) Operation of a forklift by the Applicant to move very heavy pallet loads of lobster bait and lobster pots around the area. Often the vision of the driver is obscured. The Applicant notes that other measures such as road cones, flashing lights and a temporary fence, have been unsuccessful in addressing this risk.
 - b) Commercial fishers unloading heavy loads from their vessels by “swing” on the narrow wharf. Again, the Applicant notes that other measures such as signage and verbal warnings, have been unsuccessful in addressing the risk.
70. Other submitters provided further information on specific incidents that have occurred endangering health and safety.⁷
71. While some submitters disagreed with the Applicant’s assessment of health and safety risk, other submitters in opposition agreed that some risks were present.
72. The Department’s view is that these risks exist and have been accurately described by the Applicant and submitters who operate at the site. The Department agrees that a further management response is required, and that lesser interventions have been unsuccessful at addressing the risk. The Department considers that the proposal for a fence, provided public access is facilitated through the fence and in accordance with the existing terms of the head license (with some additional minor restrictions), is appropriate for the proper and beneficial management, administration and control of the Park.
73. It also enables the Applicant to better undertake the management activities delegated to it by the Department through head licence 45654-OTH.

Section 51A (2): Management Plan

Is the activity consistent with the relevant management plan?	Yes
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Fiordland National Park Management Plan 2007

74. The Application is not inconsistent with the Fiordland National Park Management Plan 2007 (FNPMP) with the inclusion of recommended conditions 8(h), 8(i), 18, and 23A.

Frontcountry Visitor Setting Objectives

75. The Application is not inconsistent with the general frontcountry visitor setting objectives.
76. The proposed fence protects the safety of short stop visitors to Milford Sound / Piopiotahi by separating them from hazards from commercial operators in Deepwater Basin. The history of the commercial fishing fleet is an important part of the Milford Sound / Piopiotahi history and operates in a heavily modified area. The installation of a fence does not compromise or adversely affect the Fiordland National Park values in the area⁸.

Milford Sound / Piopiotahi Frontcountry Setting Objectives

77. The Application is consistent with the Milford Sound / Piopiotahi Frontcountry Setting objectives.
78. The fence enhances Deepwater Basin as a place a small fishing fleet can operate from. The fence also enables the Applicant to meet their obligations under the Health and Safety at Work Act, protecting the ability of the small fishing fleet to operate. Approving the Application therefore manages Deepwater Basin as a place a small fishing fleet can operate⁹.
79. Additionally, the fence clearly and physically separates the commercial operating area from other users of Deepwater Basin, allowing for the separation, and separate management of these users¹⁰.

Milford Sound / Piopiotahi Frontcountry Setting Implementations

80. The Application is not inconsistent with the Milford Sound / Piopiotahi Frontcountry Setting implementations with the inclusion of existing condition 18 & 8(h).

⁸ Objectives 2 & 4, 5.3.9 Frontcountry Visitor Setting, Fiordland National Park Management Plan, 2007.

⁹ Objectives 1(e), 4, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹⁰ Objective 1f), 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

81. The FNPMP requires that all new structures and all upgrades and extensions to structures have an assessment of natural hazard risks and how these will be addressed at site¹¹. Existing condition 18 addresses this requirement.
82. The FNPMP also outlines physical considerations for structures within Milford Sound / Piopiotahi¹². With the inclusion of special condition 8(h), the Application is not inconsistent with these considerations:
- The fence occurs in an already heavily modified area and protects a historical business that forms part of the identity of Milford Sound / Piopiotahi¹³.
 - Recommended special condition 8(h). protects the ability of the Licensor to only approve a design having minimal visual impact¹⁴.
 - While the fence is not proposed to sit within a change of landform, it matches the existing structures at this location and is visually dominated by Mt Phillips on the opposite side of the water behind it¹⁵.
 - Recommended condition 8(h). addresses implementations 14 c) and 14 d), by protecting the ability of the Licensor to only approve a design in conformity with these points, as well as the need to relate to the site and environs in which it occurs¹⁶.



Figure 2 - Google Maps streetview image of the area in Deepwater Basin. The proposed fence will sit in front of the two buildings visible after the open gravel area.

¹¹ Implementation 5, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹² Implementation 14, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹³ Implementation 14 a) i, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹⁴ Implementation 14 a) ii, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹⁵ Implementations 14 b) iv, 14 b) v & 14 b) vii, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹⁶ Implementation 14 b) vi, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

Deepwater Basin Activity Area Implementations

- 83. The Application is consistent with the Deepwater Basin Activity Area implementations.
- 84. The Application does not alter the existing footprint of the commercial fishing area and supports the existing operations by enabling the Applicant to meet their obligations under the Health and Safety at Work Act¹⁷.
- 85. The proposed location of the fence does not present an impact on or require alteration of the Delta Forest¹⁸.

Boating and Facilities Objectives

- 86. The Application is not inconsistent with the Boating and Facilities objectives.
- 87. The proposed fence does not prevent recreational boating or boat access to Fiordland National Park¹⁹. The boat ramp remains available for unrestricted public access, and the public can continue to apply to the Applicant for access to the wharf and berths through the fence, on the terms and conditions set out in the head license, which requires public access subject to conditions.
- 88. The proposed fence helps avoid conflict between other users and the commercial fishing fleet by removing the contact between the parties²⁰.
- 89. Finally, the FNPMP objectives allow for the consideration of appropriate shoreline facilities to meet boating needs²¹. As discussed throughout this report, the Application is not inconsistent with the relevant visitor setting, or the national park values. Allowing this fence enables the commercial fishing fleet to continue operating safely.

Facilities Associated with the Commercial Fishing Industry

- 90. The Application is not inconsistent with the objective and implementations of the Facilities associated with the Commercial Fishing Industry section of the FNPMP with the inclusion of recommended conditions 8(h), 8(i) and 23A.
- 91. The Application is not inconsistent with the objective²²:

¹⁷ Implementation 25 a), 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹⁸ Implementation 27, 5.3.9.1 Milford Sound / Piopiotahi, Fiordland National Park Management Plan, 2007.

¹⁹ Objective 1, 5.6 Boating and Facilities, Fiordland National Park Management Plan, 2007.

²⁰ Objective 4, 5.6 Boating and Facilities, Fiordland National Park Management Plan, 2007.

²¹ Objective 5, 5.6 Boating and Facilities, Fiordland National Park Management Plan, 2007.

²² Objective 1, 6.14 Facilities Associated With the Commercial Fishing Industry, Fiordland National Park Management Plan, 2007.

- The fence occurs within a heavily modified area of Deepwater Basin and has such minimal (if any) impacts on the natural values of Fiordland National Park.
 - The fence does not occur on any known historic remnants (as shown through a DOCgis check). Additionally, it protects a historic industry in Milford Sound / Piopiotahi.
 - No impacts on cultural values were raised through engagement with Treaty Partners. There are no site-specific Treaty Settlement provisions for this area and the only item that shows on the publicly available Kā Huru Manu (Ngāi Tahu Cultural Atlas) are the iwi names for the Cleddau River.
 - As discussed in the public notification section, there are impacts on the recreational values of this area. Most notably, some increased restrictions for access to the wharf (already part of the Applicant's delegated managerial responsibility). There are also issues around a potential increase in congestion outside the fence, and the loss of access to toilets. The recommendations made in the public notification section address these impacts. It is worth noting that the FNPMP continually prioritises the presence of a small fishing fleet within Deepwater Basin.
92. The FNPMP outlines several matters which should be applied to applications for structures when associated with the commercial fishing industry:
- As discussed above, the need for the fence is linked to the activity occurring within Fiordland National Park²³. There is no way to install the fence outside of the Park and achieve the desired outcomes.
 - The effects on the natural character and recreation opportunities are discussed through out this report, and it is felt that these are either minimal, or can be addressed through condition 8(h).²⁴.
 - The installation of the fence has minimal (if any) impacts on biodiversity values given the highly modified nature of the area and recommended condition 8(i). addresses the low risk of biodiversity threats caused by the installation of the fence²⁵.

²³ Implementation 1 a), 6.14 Facilities Associated With the Commercial Fishing Industry, Fiordland National Park Management Plan, 2007.

²⁴ Implementation 1 b), 6.14 Facilities Associated With the Commercial Fishing Industry, Fiordland National Park Management Plan, 2007.

²⁵ Implementation 1 c), 6.14 Facilities Associated With the Commercial Fishing Industry, Fiordland National Park Management Plan, 2007.

- Condition 23A is recommended to require the Applicant to remove the proposed fence if / when it is no longer required²⁶.

Section 43(1)(a): General Policy for National Parks

Is the activity consistent with the General Policy for National Parks?	Yes
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General Policy for National Parks

93. The Application is not inconsistent with the General Policy for National Parks 2005 (GPNP).
94. By running a public notification process for this Application, the Department has consulted with those who have significant interest in the proposal²⁷. The Department has also done this by engaging with Treaty partners²⁸ and the Southland Conservation Board.
95. The section of the GPNP addressing hazards to people does not address this situation. It outlines that people are responsible for their own decision on risks they are prepared to take, and that recreational activities creating hazards should be managed to reduce the risk²⁹. Through the information provided by the Applicant, and supportive submissions, it has become clear that the level of acceptable risk by visitors (and other users) to Deepwater Basin is higher than appropriate.
96. The conveying of responsibility to concessionaires for the safety of their operations, and compliance with legal obligations is also applicable to the Applicant³⁰. The Department considers that adequate safety measures were imposed in the Applicant's concession (PAC-14-18-16) for that concession activity, but that risks are arising from a range of activities arising at the site, including unsafe public behaviour, and this requires addressing through a mechanism that covers the whole site. This is a safety action to protect staff, the public, other concessionaires and the Applicant.
97. The GPNP also requires that applications for authorisations in National Parks are consistent with other requirements:
 - The fence does not modify the Deepwater Basin area any further, and with adherence to the FNPMP does not cause further impact to the scenery or natural features within or around Deepwater Basin. As such the Application with

²⁶ Implementation 1 g), 6.14 Facilities Associated With the Commercial Fishing Industry, Fiordland National Park Management Plan, 2007.

²⁷ Policy 3(e), 3 Public participation in national parks, General Policy for National Parks, 2005.

²⁸ Policy 2(e), 2 Treaty of Waitangi responsibilities, General Policy for National Parks, 2005.

²⁹ Policies 8.3(a) & 8.3(b), 8.3 Hazards to people, General Policy for National Parks, 2005.

³⁰ Policy 10.1(e), 10 Activities Requiring Specific Authorisation (not covered elsewhere, including tourism activities), General Policy for National Parks, 2005.

recommended conditions can be considered to comply with the purpose for which the land is held under the National Parks Act 1980³¹.

- The Southland Murihiku Conservation Management Strategy does not comment on this particular activity and generally defers to the Fiordland National Park Management Plan for guidance on decisions within the Park.
- As discussed above, the Application can be granted in a manner consistent with the Fiordland National Park Management Plan³².

Section 43(1)(a): Southland Murihiku Conservation Management Strategy

Is the activity consistent with the Southland Murihiku Conservation Management Strategy?	Yes
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98. As noted above, the Southland Murihiku Conservation Management Strategy does not comment on this particular activity and generally defers to the Fiordland National Park Management Plan for guidance on decisions within the Park.

Section 51A (3): Terms and conditions

Are there any terms and conditions appropriate in the circumstances?	Yes
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99. Throughout this report conditions (including the variation of existing conditions) are recommended to address the concerns raised through the public notification process or ensure that the Application is granted in a consistent manner with the relevant statutory documents and National Parks Act.
100. The changes are:
101. Amend condition 1 Schedule 1 to read:
“Area: approximately *4971 m²*”
102. Amend condition 2 Schedule 1 to read:
“Facilities: All of the existing Crown commercial berthage facility located at Deepwater Basin, Milford Sound / Piopiotahi, consisting of 30 berths along pens, a five-pile mooring together with the wharf and an adjacent area of *4631m²* of land known as the ‘hard area’ (“the hard”) that is located within the Fiordland National Park. (As particularly shown in Schedule 3.)”
103. Amend condition 3(e) Schedule 1 to read:
“e. ... concerning the wharf and *4631m²* of land adjacent to the wharf...”

³¹ Policy 10.1(b), 10 Activities Requiring Specific Authorisation (not covered elsewhere, including tourism activities), General Policy for National Parks, 2005.

³² Policy 10.1(b), 10 Activities Requiring Specific Authorisation (not covered elsewhere, including tourism activities), General Policy for National Parks, 2005.

104. Insert new conditions 3(f) and 3(g) in Schedule 1:
*“f. the authority to construct a fence at the edge of “the hard”, as shown in Schedule 5;
and
g. manage access through such a fence and into “the hard” over which this Agreement applies.”*
105. Amend condition 4 Schedule 1 to read:
“The hard: means the 4631m² area of land adjacent to the wharf and ending at the fence (as outlined in Schedule 5) and located within the Fiordland National Park and commonly known as the ‘hard area’.”
106. Amend condition 5 Schedule 1 to read:
“Term: From the date of signing this Agreement until 31 July 2030.”
107. Amend condition 8(c) Schedule 1 to read:
“Maintain the Facilities
c. maintain the wharf, pole moorings and berthage pen facility in good repair, appearance and condition to the satisfaction of the Licensor, including as required by any applicable consent, *including the Environment Southland Coastal Permit outlined in Schedule 4.*”
108. Amend condition 8(g) Schedule 1 to read:
“g. undertake the day-to-day management of the land adjacent to the wharf that is commonly known as the ‘hard area’, including maintaining the access road (causeway) contained within the hard area to a safe and reasonable standard; *managing access through the fence;* ensuring compliance with any authorisations issued by the Department; and reporting on any matters of interest to the Department.”
109. Insert new conditions 8(h), 8(i) and 8(j) in Schedule 1:
“Install and maintain the fence
*h. obtain the Department’s approval of detailed plans of the fence, including material and colour, prior to any installation of said fence.
i. ensure that all materials and machinery involved in installing the fence are free from weeds, plant debris, and mud / soil.
j. maintain the fence in good repair, appearance and condition to the satisfaction of the Licensor.”*
110. Amend condition 9(d) Schedule 1 to read:
“d. public access *through the fence* is maintained as described in Schedule 4. For the avoidance of doubt, the Licensor must provide access to the wharf in accordance with this License, including for anyone who requires access to the wharf to access their

vessel due to disability, except when there are commercial operations occurring on the wharf.”

111. Insert new condition 9(e) in Schedule 1:

“e. The Licensee will ensure that free and constant access to the ‘Whitehouse’ is retained until the Department has constructed a replacement and it is operational.”

112. Insert new condition 17(h) in Schedule 1:

“h. The Licensee must provide in an accessible location an oil spill kit available to users of the Land and Facilities.”

113. Insert new condition 23A in Schedule 1:

“On expiry or termination of this Agreement, the Licensee is not entitled to compensation from the Licensor for the fence. The Licensee:

a) May, with the Licensor’s consent, remove the fence.

b) Must, if the Licensor gives written notice, remove the fence.

Removal under this clause must occur within the time specified by the Licensor, and the Licensee is to make good any damage and leave the Land and other public conservation area affected by the removal in a clean and tidy condition. For the avoidance of doubt, if the fence is not removed, it becomes the property of the Licensor. The Licensee is responsible for the cost and organisation of the removal of the fence.”

114. Amend condition 26 Schedule 1 to read:

*“a. **Licensor:** Department of Conservation, PO Box 29, Te Anau 9640”*

115. All Schedules are deleted and replaced as in the variation document, and two new schedules are inserted.

Section 33W(2) Maritime Transport Act 1994

116. This section empowers the Minister (on behalf of the Crown) to regulate the use of the Facilities. There are no explicit statutory restraints on this exercise of power, however it must be exercised consistently with the purpose and context of the Act, which includes providing for the safe use of the Facilities. The Department’s position is that the Application supports the safe use of the Facilities as described in the section titled section 51A(1) National Parks Act 1980.

Te Wahipounamu – South West New Zealand World Heritage Site

117. Deepwater Basin and Milford Sound / Piopiotahi are within the Te Wahipounamu – South West New Zealand UNESCO World Heritage Site (Site). This Site is held as such for its natural values and attributes, including examples of tectonic, climatic, and glacial processes. Its large area and relatively little modification mean that it has “become the world’s best intact modern representation of the ancient biota on Gondwana”³³.
118. While the installation of a fence in Deepwater Basin represents a modification occurring within this “relatively pristine state”, this is occurring in a heavily modified area. The installation of a fence has minimal impacts on both the values for which the area is recognised under the FNPMP, and the reasons for which the World Heritage Site has been recognised as having exceptional and outstanding natural characteristics.

Recommended Operating Conditions

119. **Fence:** It is recommended that the proposed fence is approved, with the recommended new, amended, and existing conditions.
120. **Area of Licence:** Reduce the area of the head licence to match the area behind the proposed fence.
121. **Term:** Extend the expiry date to 31 July 2030 to match the expiry of the lease-licence held by the applicant for activities in the same area (PAC-14-18-16).
122. **Fees:** No alteration to the existing fees is proposed.
123. The full drafted variation can be found here: [DOC-10285993](#)

³³ [Te Wahipounamu – South West New Zealand - UNESCO World Heritage Centre](#)

Appendices

Appendix 1 – Contributions document register

Contributor Name	Document description	DOCCM link
Public notification (website)	Potential restriction of access to part of Fiordland National Park: Have your say	
Ellanor Babbage, Permissions Advisor	Public notification documents	DOC-7834863
Donna Shepard, Permissions Team Lead	Notification Report	DOC-7862561
Jane Gill, Community Ranger, Te Anau	Request for Comments	DOC-7897517
Jane Gill, Community Ranger, Te Anau	Southern Conservation Board Engagement	DOC-10224444
Jane Gill, Community Ranger, Te Anau	Mana Whenua Engagement	DOC-10224450
Ellanor Babbage, Permissions Advisor	Communications with Applicant (each revision is a different email)	DOC-10347941