

**A. Permission Application Number and Name of Applicant**

45654-OTH Fiordland Lobster

B. Proposed Activity and Location(s)

Restriction of access via installation of a permanent fence to the commercial port area of Deepwater Basin, Milford Sound Piopiotahi.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised
on behalf of submitter

Kathryn Bell

Organisation

CRA8 Rock Lobster Industry Association

Date

24/02/2025

D. Statement of Support, Neutrality or Opposition
☒
I **Support** this Application (I am making a submission)
☐
I am **Neutral** on this Application (I am making a submission).
☐
I **Oppose** this Application (I am making an objection).**E. Hearing Request**
☐
I **Do Not** wish to be heard in support of this objection or submission at a hearing.
☒
I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

This submission relates to the request by Fiordland Lobster Company Ltd (FLC) for the installation of a permanent fence to secure the commercial wharf, depot, and berths at Deepwater Basin, Milford Sound.

CRA8 Rock Lobster Industry Association fully supports Fiordland Lobster Company's application for permanent fencing at Deepwater Basin. The proposed security measures are essential to ensuring the safety of commercial operators, protecting valuable assets, and complying with health and safety regulations. By implementing these changes, Milford Sound's commercial fishing and tourism industries can continue to operate safely and effectively in their respective areas.

My reasons for my objection or submission are:

A. Introduction

1. Purpose of Submission

The CRA8 Rock Lobster Industry Association (CRA8) strongly supports Fiordland Lobster Company Limited's (FLC) application for permanent fencing at Deepwater Basin (DWB), Milford Sound. This submission sets out why fencing is urgently needed to ensure legal compliance, mitigate safety and security risks, and maintain the operational integrity of one of New Zealand's most important commercial rock lobster export hubs.

Deepwater Basin is the designated commercial fishing port for the region, serving as a vital hub for the live export of rock lobster, vessel maintenance, and operational logistics. However, ongoing safety risks, security breaches, and operational disruptions caused by unregulated public access pose a serious threat to industry operations.

The proposed permanent fencing will:

- **Ensure compliance with the Health and Safety at Work Act 2015 (HSWA)** by mitigating known risks associated with unauthorised pedestrian and vehicle access to a high-risk operational area.
- **Meet the requirements of Maritime Transport Act 1994 and Maritime Rules and the Fisheries Act 1996 and Animal Products Act 1999** – requiring safe and secure operations at ports and wharves and mandating controlled environments for handling live seafood exports, particularly under Licensed Fish Receiver (LFR) requirements and Overseas Market Access Requirements (OMARs).
- **Protect commercial fishing infrastructure** from trespassing, interference, and theft, which have been recurring issues at the site.
- **Improve safety for all users** by restricting access to areas where heavy equipment, forklift operations, and vessel loading activities take place.
- **Maintain fair access for legitimate users**, including recreational fishers, through a managed entry system, while preventing uncontrolled public entry into hazardous zones.
- **Align with best practices at other commercial fishing ports**, ensuring that DWB remains a secure, well-managed, and operationally efficient site.

Given the legal obligations of FLC under its management licence with the Department of Conservation (DOC), failing to implement effective access control measures would expose both FLC and the wider fishing industry to significant legal and financial liabilities in the event of an accident.

This submission provides a comprehensive evidence-based assessment of why permanent fencing is a necessary and justified step in ensuring the long-term safety, security, and economic sustainability of Deepwater Basin.

2. Overview of Deepwater Basin and Its Commercial Importance

DWB's Establishment as a Commercial Fishing Port

DWB was deliberately designated as a commercial fishing port through a coordinated regional council and government planning effort in the 1970s. The industry had traditionally operated out of Fresh Water Basin but as the tourism industry grew – negotiations were made to develop DWB for the commercial industry.

This decision was made to:

- **Relocate commercial fishing vessels from Freshwater Basin**, which was increasingly being prioritised for tourism-related activities.
- **Provide dedicated infrastructure for the commercial industry**, ensuring safe and efficient handling of high-value live seafood exports.
- **Reduce congestion and safety risks** associated with mixed-use maritime facilities, ensuring a clear separation between commercial and tourism operations.

Following this decision, significant investment was made into infrastructure development, including:

- **A dedicated causeway**, providing controlled access to the port.
- **A purpose-built wharf and berths**, designed specifically for commercial fishing vessels.

The relocation of commercial fishing to DWB was part of a long-term strategic plan, ensuring that both the fishing and tourism industries could operate safely and efficiently without unnecessary conflicts.

Fiordland Lobster Company's Management Responsibilities

Since the early 1990s, FLC has held a management licence issued by the DOC to oversee commercial activities at DWB. This licence grants FLC responsibility for managing the berths, wharf, and associated operational areas, ensuring:

- Safe and efficient vessel operations for commercial fishers.
- Compliance with national health and safety laws, including WorkSafe New Zealand's port safety regulations.
- Security and risk management to prevent unauthorised access and potential safety incidents.

In recent years, unregulated public access to Deepwater Basin has created significant safety and security concerns, including:

- **Tourists ignoring safety barriers and warnings**, entering active work areas where forklifts, cranes, and vessel loading operations occur.
- **Incidents of trespassing and equipment tampering**, increasing risks to both workers and public visitors.
- **Congestion at key operational zones**, disrupting commercial fishing activities.

FLC, as the Person Conducting a Business or Undertaking (PCBU) under the HSWA, has a legal duty of care to mitigate these risks. While temporary measures such as road cones, temporary barriers, and signage have been implemented, they have improved safety but have proven ineffective, with tourists repeatedly ignoring safety warnings and physically removing barriers to gain entry.

The only effective long-term solution to address these ongoing issues is the installation of a permanent fence, similar to standard access control measures in place at other commercial ports across New Zealand.

B. The Need for Permanent Fencing at Deepwater Basin

1. Health & Safety Compliance Under the Health and Safety at Work Act 2015

Legal Obligations of FLC as the Site's Person Conducting a Business or Undertaking (PCBU)

FLC is the PCBU under the Health and Safety at Work Act 2015, as it manages the berths, wharf, and associated operational areas of DWB under a licence issued by the DOC.

As a PCBU, FLC is legally required to ensure, so far as is reasonably practicable, the health and safety of workers and other persons affected by its operations. Under Section 36(2) of HSWA, FLC must minimise risks to workers, contractors, and the public by eliminating hazards at their source or implementing effective control measures.

Key Safety Risks That Must Be Addressed

Despite existing temporary controls, unregulated public access continues to expose visitors to serious risks, including:

- **Heavy vehicle operations**, including forklifts moving cray pots, bait, and marine equipment, often with limited visibility.
- **Crane operations** on the wharf, where heavy loads—including 90+ kg lobster pots—are lifted and swung over the worksite.
- **Congestion from unauthorized visitors**, creating unsafe conditions for vessel unloading, live seafood handling, and essential port activities.
- **Risk of falls from height**, particularly from the wharf edge, which lacks protective barriers.
- **Unsupervised pedestrian movement in restricted zones**, leading to near-miss incidents with industrial equipment.

Under **HSWA Section 37**, FLC must also ensure the safety of others present at the workplace, which includes mitigating risks created by the presence of the public in a high-risk industrial zone. Failure to take appropriate control measures exposes FLC to legal liability, regulatory penalties, and potential criminal prosecution in the event of a serious accident.

The only effective long-term solution to comply with HSWA obligations is the installation of permanent fencing, as recommended under WorkSafe New Zealand's hierarchy of risk controls, which prioritises:

1. **Eliminating hazards at their source** (e.g., restricting unauthorised access to high-risk areas).
2. **Implementing physical barriers** as a primary safety control.
3. **Using administrative controls** (signage, warnings) only as a secondary measure, as they are less effective in preventing harm.

Case Studies of WorkSafe Prosecutions at Similar Sites

WorkSafe New Zealand has consistently investigated and prosecuted businesses that fail to implement adequate risk controls in high-risk environments. The following case studies illustrate the legal and financial consequences of failing to address pedestrian and vehicle interaction risks:

Date	Location	Incident Description	Outcome / WorkSafe Findings
July 2022	Air NZ Cargo Facility, Māngere	Truck driver struck by a reversing forklift while in a designated "safe zone."	Severe leg injuries. Forklift operator was charged but discharged without conviction. Air NZ made 13 safety improvements , including installing new safety barriers .
2022	Trade Depot, Onehunga	68-year-old customer struck by a forklift in the customer collections area.	Leg amputation. WorkSafe fined Trade Depot \$350,000 and ordered it to pay \$141,502 in reparations , citing failure to implement adequate pedestrian safety measures .
April 2022	Trevelyan's Packhouse, Te Puke	Worker run over twice by a reversing forklift.	Left leg amputated. WorkSafe found traffic management deficiencies. Company invested in AI pedestrian safety technology to prevent future incidents.
December 2023	Hawke's Bay Orchard	5-year-old child struck by a forklift driven by an uncertified 15-year-old employee.	Serious injuries. Orchard fined \$40,000 and ordered to pay \$25,000 in reparations . WorkSafe highlighted lack of access control and supervision as a key failing.
October 2023	Selwyn, Canterbury	Young child killed by a forklift at a private business.	Fatality. WorkSafe and police investigation pending. Lack of safety barriers cited as a contributing factor.

These cases **reinforce the necessity of robust safety controls**, particularly where:

- Forklifts and heavy machinery are in operation near pedestrians.
- Temporary barriers or signage are insufficient to prevent unauthorised access.
- Businesses fail to take all reasonably practicable steps to separate people from hazards.

Failure to install permanent access controls at Deepwater Basin would expose FLC and the industry to similar legal and financial risks, should a serious accident occur.

2. Preventing Unauthorised Access & Security Risks

Unregulated Public Access and Security Threats

Despite its designation as a commercial-only port, DWB remains one of the few unsecured commercial wharves in New Zealand, experiencing repeated unauthorised access, operational disruptions, and security threats.

FLC has documented multiple incidents where public visitors, unaware of the dangers of an active worksite, have created unsafe conditions by ignoring warnings and entering restricted areas.

Recorded Incidents of Public Safety Breaches at DWB

Date	Incident Description
May 2024	Vehicle drove through the causeway after removing road cones , gaining unauthorised access to the wharf. The driver parked in an active loading area, obstructing vessel operations.
April 2024	A tourist bus parked at the entrance of the wharf , unloading passengers directly into a commercial vessel loading zone. Visitors milled around despite warnings, delaying live lobster exports.
March 2024	A group of visitors ignored safety signs and entered a forklift operating zone, forcing the driver to stop mid-operation to avoid an accident.
January 2024	Tourists climbed on stacked cray pots in the hardstand area to take photos, creating a serious risk of falling injuries or equipment collapse .
December 2023	Unauthorised individuals boarded a moored vessel , handling and tampering with onboard equipment. Due to the remote location, police response was unavailable.

Why These Incidents Matter

- Public ignorance of port hazards is putting lives at risk.
- Temporary measures (signage, road cones) have been repeatedly bypassed.
- Unregulated access creates liability issues for industry operators under HSWA.

In a high-risk marine industrial setting, FLC, as the PCBU, is legally responsible for ensuring only authorised personnel enter the site. However, without permanent fencing, it is impossible to prevent unauthorised access, leaving commercial operators exposed to unnecessary legal and safety risks.

3. Security Challenges at DWB Compared to Other Ports

Deepwater Basin is one of the last unsecured commercial ports in New Zealand, despite handling high-value live seafood exports.

By contrast, all major commercial fishing ports have access controls to prevent unauthorised entry:

Port	Security Measures in Place
Bluff	Fenced commercial wharf with access only for licensed users.
Nelson	Restricted port entry with keycard access for authorised personnel.
Lyttelton	Gated commercial wharf; no public access allowed.
Tauranga	Strict security checkpoints before entering fishing industry zones.

DWB is an outlier.

- Every other major commercial wharf in New Zealand has restricted access due to operational risks and security concerns.
- Fencing at DWB is a necessary step to bring it in line with national standards.

How Permanent Fencing Resolves Security Issues

Unlike temporary controls, permanent fencing will ensure that only authorised users, including recreational fishers with approved access, can enter the site, while eliminating the risk of public entry.

4. Biosecurity Risks, Market Access, and Compliance for Licensed Fish Receivers

Strict Biosecurity Standards for New Zealand's Seafood Exports

New Zealand's seafood industry operates under some of the strictest biosecurity and food safety standards in the world, ensuring the country's exports maintain premium status in international markets. The rock lobster industry, in particular, is subject to rigorous handling, traceability, and hygiene regulations to protect against contamination and maintain access to key overseas markets such as China, the United States, and Japan.

Licensed Fish Receivers (LFRs) like FLC are required to meet and enforce these standards at every stage of the supply chain. However, unrestricted public access to DWB poses a direct risk to biosecurity and international compliance, jeopardising both industry credibility and export market approvals.

Biosecurity and Hygiene Risks from Unregulated Public Access

DWB is a critical handling point for live rock lobster before export. Maintaining a controlled environment is essential to ensure compliance with:

- **New Zealand's Animal Products Act 1999** – requiring strict hygiene, pest control, and contamination prevention in seafood handling areas.
- **Overseas Market Access Requirements (OMARs)** – market-specific rules that dictate seafood processing and biosecurity conditions, particularly for China, New Zealand's largest lobster export destination.
- **Licensing conditions for Fish Receivers** – under the Fisheries Act 1996, only Licensed Fish Receivers (LFRs) can legally receive and export rock lobster, and they must ensure product security and integrity.

Currently, DWB lacks physical security to prevent public interference in areas where live seafood is handled, exposing operations to uncontrolled contamination risks, loss of product integrity, and potential breaches of export certification requirements.

Risks include:

- **Introduction of contaminants** – dirt, debris, or foreign substances could affect water quality in live holding tanks.
- **Disruption to traceability protocols** – unauthorized individuals could interfere with handling or record-keeping.
- **Animal welfare concerns** – mishandling of live lobster due to public interference could lead to regulatory scrutiny.
- **Biosecurity breaches** – exposure to marine pests, foodborne pathogens, or harmful substances.

Failure to control these risks could result in temporary or permanent loss of export approvals, as overseas regulators expect a fully controlled seafood supply chain.

Market Access Threats from Non-Compliance

International markets impose strict conditions on New Zealand seafood exports, particularly for high-value species like rock lobster. Export approval relies on demonstrating biosecurity integrity, and any contamination event—even accidental—could trigger:

- **Immediate rejection of export consignments**, causing financial losses.
- **Regulatory scrutiny or additional compliance checks** from international authorities.

- **Suspension of export certification** if authorities determine biosecurity controls are inadequate.

China, which accounts for **more than 90% of New Zealand's live lobster exports**, has a zero-tolerance policy for food safety and biosecurity breaches. Any reported incident of contamination or improper handling at a licensed facility can result in:

- **Increased inspection requirements** for future shipments.
- **Temporary market bans** or trade disruptions.
- **Loss of trust from importers**, impacting long-term export relationships.

The fencing proposal at DWB is not just about site security—it is a direct requirement to protect New Zealand's trade reputation and ensure FLC and other Licensed Fish Receivers maintain uninterrupted access to international markets.

Regulatory Responsibilities for Licensed Fish Receivers (LFRs)

Under the **Fisheries Act 1996**, Licensed Fish Receivers must:

- Ensure rock lobster is handled only in controlled environments before export.
- Prevent unauthorised access to seafood handling areas, maintaining product integrity.
- Meet all Animal Products Act requirements for safe food handling and traceability.

A failure to prevent unauthorised access at DWB compromises these responsibilities and places LFRs at risk of non-compliance with both domestic and international requirements.

D. Compromise: Recreational Fishers' Continued Access

1. Clarification: The Fence Is Not to Exclude Legitimate Users

Many commercial fishers at DWB also fish recreationally, giving them firsthand insight into the needs of recreational fishers in Fiordland.

Contrary to public perception, it is not recreational users who are causing the operational and safety problems at DWB; rather, these issues stem primarily from unexperienced visitors. Recreational users understand the safety requirements of commercial operations in the marine environment and follow the guidance provided by signage and the FLC staff.

Industry Support for Recreational Fishers

- **Shared Perspective:** Because commercial fishers often fish recreationally themselves, they understand the need for reasonable facilities and fair access.

Managed Entry Preserves Fair Access

The planned fencing is therefore not an attempt to lock out recreational fishers. Instead, it formalises a permission-based entry system to ensure that those who truly need access (including rec fishers) can continue to use DWB responsibly, without the uncontrolled influx of tourists who may compromise safety and operations.

2. Why Managed Access Is Necessary

Ensuring All Users Know Safety Protocols

Because DWB is an active industrial environment with forklifts, crane operations, and live seafood handling, anyone entering must understand and follow basic safety procedures. By requiring recreational fishers to request access through FLC:

- Users receive guidelines on how to navigate safely.
- Accidents and near-miss incidents involving unaware visitors are minimised.

Aligning With National Standards for Commercial Ports

Other commercial fishing ports in New Zealand routinely require gate passes, electronic keys, or prior permission for all users. A similar electronic gate (Access A) at DWB will bring it in line with industry best practices, securing the site while still allowing legitimate recreation wharf users.

E. DOC's Responsibility to Provide Public Toilets

1. The Issue with Public Access to the Whitehouse

The only public toilet facilities at DWB are located within the Whitehouse, a poor condition building situated inside the commercial fishing area. Consequently, visitors unintentionally enter a high-risk worksite simply to use basic amenities. Despite signage, road cones, and verbal warnings, individuals bypass these controls when they need toilet facilities—often unaware of the industrial hazards around them.

The lack of alternative public facilities in the area should not override the fundamental safety requirements of operating a commercial port. The commercial fishing industry cannot be expected to delay critical safety improvements, simply because DOC has failed to provide adequate infrastructure for visitors.

2. DOC's Role in Providing Infrastructure for Visitors

Milford Sound is part of Fiordland National Park, managed by DOC. As a public conservation area and a popular tourist destination, it is DOC's responsibility—not that of the commercial fishing industry—to provide adequate visitor infrastructure such as toilets and safe viewing platforms.

- **Separating Commercial & Public Spaces:** The original plan for DWB intended it to be a commercial-only port, distinct from tourism-centric areas.
- **Visitor Needs Should Not Dictate Workplace Safety:** The absence of DOC-provided toilets should not compromise health and safety obligations under the Health and Safety at Work Act 2015 (HSWA).
- **Avoiding Burden on Industry:** The fishing sector's primary purpose is to operate commercial vessels and meet strict health, safety, and biosecurity requirements. Expecting the industry to finance, maintain, or monitor public toilets places unfair liability on businesses that do not profit from casual visitor traffic.

The safety of commercial operations must come first. The industry cannot be expected to wait for DOC to address these gaps while continuing to work in an unsafe, unsecured environment.

Conclusion

In light of these significant safety, security, and biosecurity challenges, and the critical commercial role Deepwater Basin plays in New Zealand's rock lobster industry, permanent fencing emerges as the only effective long-term solution. It meets FLC's legal obligations under the Health and Safety at Work Act 2015, Fisheries Act 1996, Maritime Transport Act 1994, and Animal Products Act 1999, while aligning with standard security measures already in place at other commercial fishing ports.

By establishing a managed entry system that grants access to legitimate users, recreational fishers can continue to enjoy the port responsibly, and commercial operators can focus on core activities with reduced risk of harm. Any inconvenience to the visiting public caused by fencing must be weighed against the serious risk to public

safety, business continuity, and New Zealand's export reputation if unauthorized individuals continue to enter an active and high-risk marine environment.

The commercial fishing industry should not be required to delay essential safety improvements due to DOC's failure to provide alternative public amenities. Ensuring the safety and integrity of Deepwater Basin operations must take priority, especially given its longstanding designation as a dedicated commercial port. The proposed fencing thus represents a necessary and balanced approach to safeguarding workers, visitors, and the broader Fiordland ecosystem, while preserving the viability of one of the country's most valuable export sectors.

The outcomes that need to be addressed by this application are:

Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Proposed Amendments / Clarifications to the Application

1. Fence Location & Alignment

- **DOC Landowner/Manager Approval:** As the controlling authority for Fiordland National Park, DOC is requested to confirm and finalize any required authorisations to enable the construction of permanent fencing within the designated area at DWB.
- **Detailed Plans:** The application drawings should be updated or clearly annotated to show the exact fence perimeter, along with any proposed gates or controlled entry points used for legitimate commercial operations.

2. Signage & Redirection of Public

- **DOC Coordination for Signage:** To reduce unauthorised access, DOC should install (or coordinate the installation of) clear informational signage on its managed land outside the commercial zone, warning the public of high-risk industrial activity and directing them away from the fenced area.
- **DOC Visitor Management:** Given that DWB lies within Fiordland National Park, DOC is asked to manage or provide suitable public information (e.g., maps, signage, or pamphlets) advising visitors of alternative viewing areas or amenities that do not require entering the commercial loading zone.

General Nature of Conditions Sought

1. Maintenance & Monitoring (Joint Responsibility)

- **Fencing Integrity:** FLC will maintain the fence and any associated gate mechanisms to a safe standard; however, DOC is requested to support ongoing monitoring to ensure public safety outside the fenced boundary, given DOC's broader responsibility for visitor management within the National Park.
- **Incident Reporting:** DOC and FLC should jointly agree on a protocol for reporting incidents or unauthorised entries, ensuring transparent communication.

2. DOC's Oversight of Public Safety

- As manager of Fiordland National Park, DOC has an overarching responsibility to ensure the safety of visitors on adjacent, unfenced public lands. A condition of consent should acknowledge that DOC will continue to monitor and manage pedestrian and vehicle activity immediately outside the commercial zone.
- Any future increase in visitor facilities, tours, or infrastructure near DWB should be undertaken by DOC (and/or relevant concession holders) in a way that does not compromise, or create new risks for, the fenced commercial operations.

3. Compliance With Statutory Obligations

- **HSWA & Maritime Transport Act:** FLC remains responsible for ensuring industrial health and safety standards are met within the fenced port area, while DOC remains responsible for providing safe visitor infrastructure in Fiordland National Park under its broader statutory mandate.
- **Fisheries & Biosecurity Requirements:** FLC will continue to fulfill its licensed fish receiver obligations, but DOC's commitment to managing and informing park visitors is essential to prevent unauthorized interference with live seafood handling and biosecurity measures.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to DNSubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Department of Conservation, Ōtepoti / Dunedin Service Centre, Level 1, John Wickliffe House, 265 Princes Street, Ōtepoti / Dunedin 9016.