

21-5-2024

Department of Conservation

Via Email: [fiordlandvc@doc.govt.nz](mailto:fiordlandvc@doc.govt.nz)

Dear Sir/Madam,

**Fiordland Lobster Company Ltd – Request for permanent fencing, Milford Sound –  
Deepwater Basin, Fiordland National Park**

Fiordland Lobster Company is dedicated to the sustainable fishing and live export of wild-caught southern rock lobsters. Blessed to still be operating in some of the most pristine and wild coastlines the world has to offer, Fiordland Lobster Company is at the same time a progressive and innovative international company. We remain true to our origins, not only in a sole focus on live lobster but also in the conservation of local environments, promotion of sustainable fishing and support of local communities.

Started by fishers in New Zealand's breathtakingly beautiful Fiordland National Park in the 1980s, the company has grown to become the largest supplier of the most prized lobster in the world. In the 1970's, the commercial fishing vessels were moved from Freshwater Basin over to Deepwater Basin (DWB) where berths and the wharf were built to accommodate them, this was designed to allow greater access of Freshwater Basin to the commercial tourism vessels operating on Milford Sound.

Fiordland Lobster Company Limited (FLC) applied for and received a concession from the Department of Conservation (DOC) to operate a depot at DWB in the early 1990's (factory concession PAC-14-18-16 and the Management agreement/licence 45654-OTH).

The depot is located beside the foreshore and adjacent to the wharf, where commercial fishing vessels unload their catch, the wharf is also used as a fuelling station for the commercial fleet, as well as visiting boaties that may require diesel fuel. Live lobsters are stored in a tank at the depot, before being transported though to Te Anau for grading and processing.

After 10 years operating the depot at DWB, FLC was approached by the then Southland Conservator of DOC and requested to take over the management of the berths and wharf structures at DWB from DOC. In 2015, FLC was granted the licence to manage the berths, wharf and associated 'hard area', that effectively contains the land area that the commercial fishing industry operates from.

The Health and Safety at Work Act 2015 brought about significant changes to the way businesses and industries operate. The Act introduced a new term, “Person Conducting a Business or Undertaking” (PCBU), which captures employers, self-employed, principals to contracts, manufacturers, designers, and the public who are covered under the primary health and safety duties. These requirements and responsibilities have meant that all businesses must practically manage the risks that are present and associated within a particular area of operation.

### **Current safety risks associated within the area of FLC licence**

There are significant risks for the safety of the public that enters the FLC’s licenced area when either FLC’s staff or fisherman are working onsite. These include but are not limited to the following:

#### **Forklift operation on site**

The movement of pallet loads of lobster bait that weight up to 1000kg. By the very design of these vehicles, the load impedes the visibility of the driver.

During times when fisherman operate a forklift to move lobster pots throughout the site, the combined weight of these pots is 400+kg which are stacked on pallets and carried 1.5-2 mts above the ground. With an average pot weighing 100kg, severe injury will result if they fall during transportation. Drivers of the forklifts have their visibility obscured because of the lobster pots being carried at the front of the vehicle creating a further hazard to any person on site.

This is a particularly dangerous time, as pedestrian traffic walking around the Deepwater Basin commercial area, really seem to not understand to stay clear regardless of flashing lights or a multitude use of road cones.

Much of the pedestrian traffic has no situational awareness and are often actually lost, and many of them are looking for their activity they are partaking for that day in Milford Sound and or DWB. (Kayaking operators depart from DWB using the public launching ramp located just outside of our licence area).

FLC have through necessity, installed a temporary fence to mitigate some of the risk from the public who enter the licenced area when staff are manoeuvring and operating forklifts in and around the wharf and depot. Combined with the temporary fence, road cones are also placed to restrict access to the area where this work is being carried out. Despite this, there are numerous instances where barriers have been removed and verbal warnings have been ignored by both tourists and recreational users.

Regardless of road cones and temporary fencing, we are still encountering tourists, and the public walking and driving (often at excessive speeds) between the Whitehouse and the depot when forklift operations are taking place. It is a common occurrence for tourists and the public to park their vehicles next to stacks of lobster pots, most stacked six high while they wander around the 'licenced area.' As previously noted, these pots weigh up to 100kg so if they fall from this height, serious injury or death could occur.

### **Main wharf**

The wharf at DWB has narrow access and it is clearly not a suitable or safe place for the public to be milling around when vessels are unloading. Commercial fishers use the wharf crane to unload and load their vessels. Heavy loads are constantly being 'swung' around and over the wharf and are a constant hazard. Despite signage warning visitors to keep a safe distance as well as verbal warnings from fishers and staff, some people are completely disregarding all advice and instructions. The inquisitive nature of people and especially tourists, naturally attracts them, with the majority always wanting to get a closer look.



**Figure 1:** Example of a vehicle leaving the causeway after physically removing cone barriers to gain access to area on 9<sup>th</sup> May 2024.

**Example of tourists visiting the commercial area at Deepwater Basin**



**Figure 2:** Tourist bus parked at the entrance of the wharf after disembarking its passengers.





**Figure 3:** Passengers from the tourist bus in figure 2. (If a fishing vessel arrives during this time to unload, passengers will often continue to mill around while fishers and staff are engaged in unloading operations)

### Examples of wharf hazards to pedestrians

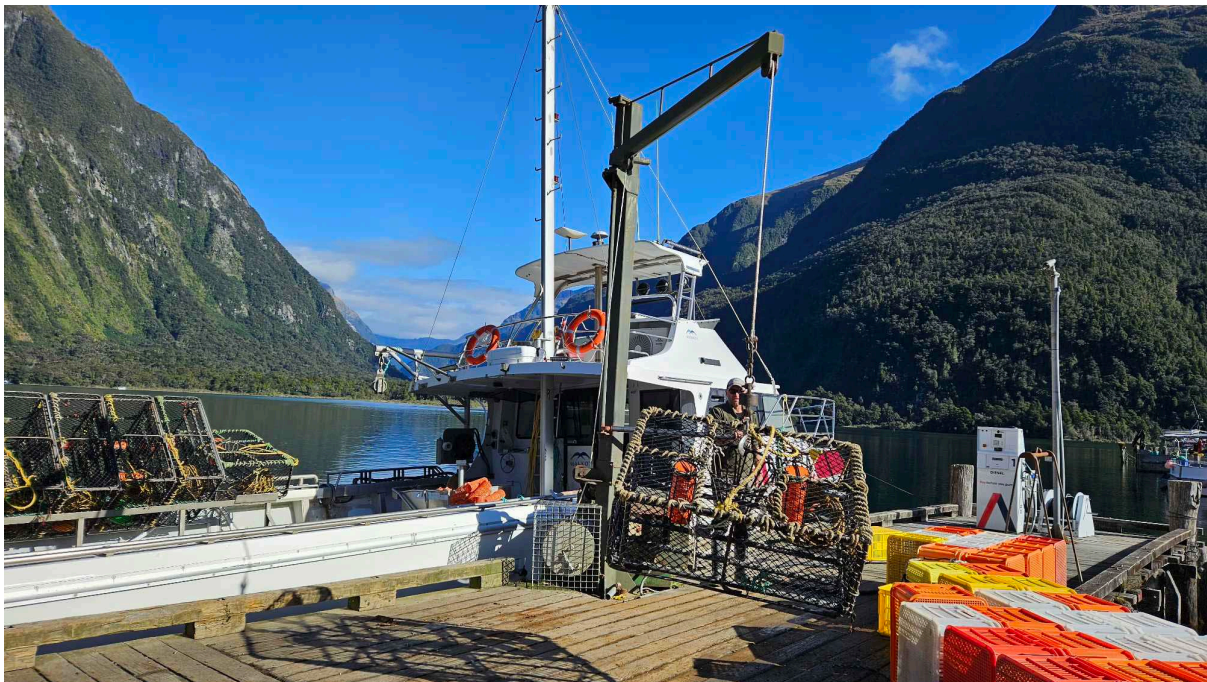


**Figure 4:** Example of space where pedestrians walk between forklift and wharfs edge when operating. The hazard risk to pedestrians is falling into water or been hit by reversing forklift.





**Figure 5:** Example of crane horizontal bar hazard (red arrow) and cranes lifting cages weighing approximately 100kg each which can cause crushing injuries.



**Figure 6:** Fisher loading 90kg pots onto his vessel, fishers also use pots that are 30% larger than the one shown in this photo and are also heavier in weight. Note the limited area on the wharf. Visitors and tourists will disregard notices and verbal warnings and stand around in close proximity and even push past fishers during this time while ignoring verbal warnings to keep clear.





**Figure 7:** Looking to the entrance to the wharf.



**Figure 8.** Local fishing vessel being loaded at DWB showing the confined space where these operations take place.



**Figure 9:** Vehicle parked on wharf in 2023. No bollards or barriers in place to stop vehicle from falling off edge or hitting users of wharf.



## Cray pot storage



**Figure 10.** Stacks of pallets and cray pots (falling hazards and blind spots when forklift operating).



**Figure 11.** Moving cray pots with forklift around corner onto wharf poses potential hazard to general public.





**Figure 12.** Figures 10 to 12 all showing pots stored on the 'hard area'.

These photos show the high-risk visitors or tourists face should these pots fall from heights shown. In figure 12, one row of pots is stacked seven high, serious injury or death would occur if this top pot or pots were to be shaken loose.

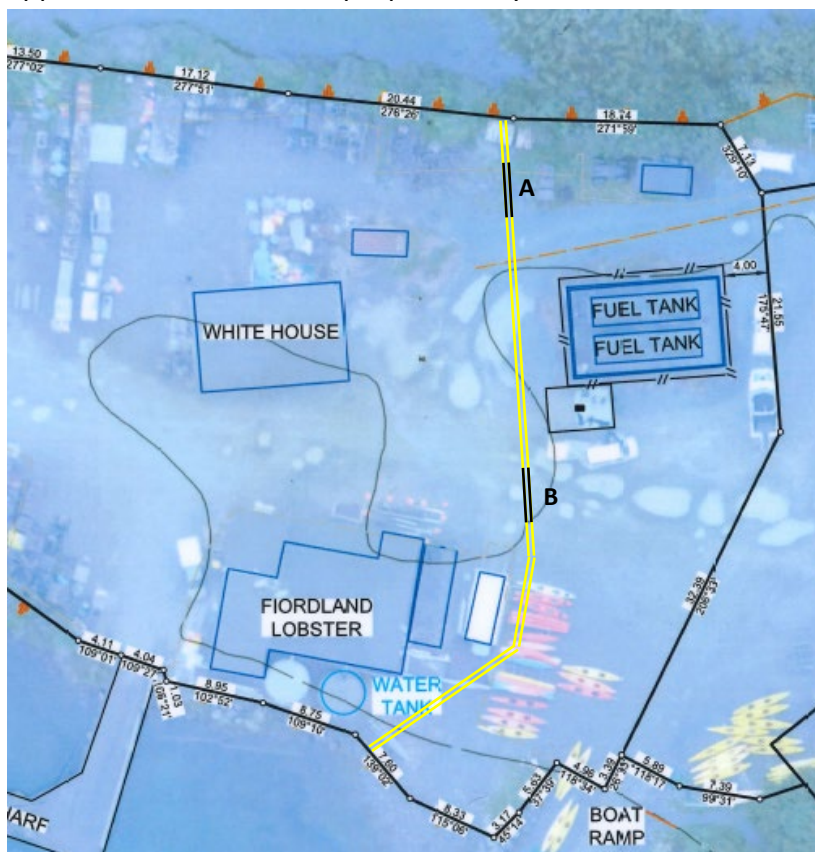
Currently, there are no fixed permanent boundaries or measures in place to stop the public from accessing the area we operate in. Commonly, tourist busses and vans, and visitor cars are driving the causeway (at speed sometimes) and parking on the wharf when commercial activities are underway such as crane and forklift operation.

Our obligation under the Health and Safety Work Act 2015 Section 36 (Primary Duty of Care) is to ensure, as far as is reasonably practicable, that the health and safety of other persons and our own existing workers are not put at risk from work carried out as part of the conduct of the business or undertaking.



## Proposal for permanent fence

We therefore propose to erect a permanent fence around our premises to eliminate the risk of harm we put ourselves and the public at with two access entrances (entrance A & B in attached map). For the purposes of Access A this will be electronic gating that will be accessible 24/7 through an access key provided by Fiordland Lobster Company and the Department of Conservation. Access B will be padlocked and only available for access for the fuel tanker. Permission for access will be treated as a case-by-case basis but be primarily approved for commercial purposes only.



**Figure 14.** Proposed location of permanent fence with access points A and B shown.

- Access A: Main Entrance/Gate.
- Access B: Entrance way through the fence for the fuel tanker that allows them a turning arch to the main gate A.

### **Loss of public/visitor access**

Situated within the Fiordland Lobster Company Ltd (FLC) licenced area of Deepwater Basin, Milford Sound (DWB) is a brick building that houses an ablution block; that in the past was used by the commercial fisherman that day fished out of Milford Sound. The building was originally built in the 1970's for commercial fisherman at the time when the berths and wharf were initially constructed. As the building was painted white, it became known as the Whitehouse.

By the mid 90's, the Whitehouse was showing signs of disrepair, and it was essentially no longer being used by the commercial lobster fleet at Milford Sound. During the late 90's the Whitehouse was predominantly used by commercial kayak operators that had begun working from DWB. The building was available for their clients to change and use the associated showers and toilets facilities.

The impact of the exclusion of the public and visitors from the DWB area of licence, will be most felt by those that currently use the Whitehouse. The Whitehouse is currently the only ablution block at DWB and is predominately used by the commercial kayaking company's clients as well as some tourists and visitors that enter that area. The building is in extremely poor condition and has been that way for many years.

With the ability for DOC to install an additional ablution block near the public launch ramp at DWB, there is little reason for the visitors and tourists to now enter the licenced site that contains the wharf, depot, and berths where the commercial industry operates from. It is now widespread practice throughout NZ that these areas are no longer available to the public and tourists to protect them from undue harm. The associated hazards that are contained within this area of commercial operations are a clear risk to them; coupled with the fact that fisherman and FLC are liable for their safety while on this site.

Overall, we want to ensure the safety of the general public and our own employees and believe in erecting this permanent fence will remove this health and safety risk and work in the best interest of all stakeholders within Fiordland National Park.

Yours sincerely,  
Mark Peychers