



Intention to Grant a 30 year Licence

(Approved In Principle)

To David King Technician Limited

For the installation operation and maintenance of a VHF Marine
Radio Repeater in the Pembroke Wilderness Area, Fiordland
National Park

1. Context

The Department has received a Concession application to install, operate and maintain a VHF Marine Radio repeater for purposes of safety of life at sea and if installed would also contribute to improvements to Environment Southland's emergency response safety management system for Milford Sound. The proposed location for this repeater is above Dale Point, Milford Sound within Fiordland National Park's Pembroke Wilderness Area.

VHF Marine frequencies are regulated by an international treaty, to aid navigation and safety of life at sea and inland waterways. The VHF Marine communications primary purpose is based on communicating within a common frequency zone (Channel 62) for all users to broadcast their identification, position and intentions to all others.

Without a repeater service, all VHF marine radio communication is on a line of sight simplex basis operating from sea level. Harbour control at Milford currently can only communicate with vessels in the main part of the Fiord and vice versa, with vessels out on the coast unable to communicate with harbour controller prior to entering the Fiord. An elevated VHF repeater service overcomes current communication issues for arriving, converging and departing vessels as well as providing emergency marine communications in a remote and challenging environment.

The footprint of the proposed VHF Marine Radio repeater cabinet and solar frame is 1m wide x 1.2m long x 1.2 high with two solar panels. The structure will be painted to make it virtually non-visible and will be installed with minimal disturbance to the land.

Aircraft access will be required for the installation and maintenance, estimated to be no more than twice a year.

Location

The proposed location for the VHF radio repeater sits within the Pembroke Wilderness Area. The outcome statement under s5.3.5 Wilderness Visitor Setting of the Fiordland National Park

Management Plan identifies “that Pembroke Wilderness area is arguably considered the most accessible wilderness opportunity in New Zealand. It has a high level of use on its boundaries, particularly adjoining Milford Sound / Piopiotahi. It does not provide the degree of solitude generally regarded acceptable in wilderness areas as it is subject to noise, particularly from overflying aircraft; its western boundary is developed (Milford Sound / Piopiotahi); and due to its accessibility. However, it is essential that the present level of noise tolerance is not exacerbated further.”



Map 1 - Purple circle indicates proposed location of the VHF Marine Radio Repeater site



Map 2 - Radio Signal Coverage shown as the grey area, from Proposed Location (indicated in red)

2. Statutory Analysis

Statutory Analysis: Non-Notified Concession under Part 3B of the Conservation Act 1987

S17S: Contents of application

To be complete (s17S(1)), an application for a concession must include:

- A description of the proposed activity;
- A description of the locations for the proposed activity;
- A description of the potential effects of the proposed activity and proposed action to avoid, remedy, or mitigate adverse effects;
- The proposed term and reasons for that term;
- Relevant information about the application (as requested in the application form).

Criteria for decision:

- Does the application include all the required information as per s17S?

Yes

S17T: Process for complete application

The intention to grant a concession must be publicly notified if it meets any of the following criteria:

- The concession type is a lease – this is for exclusive use of public conservation land;
- The term of the concession exceeds ten years (unless it is an easement – an easement may be granted for a term exceeding ten years without public notification);
- The effects of the activity mean it is appropriate to do so.

Criteria for decision:

- Is public notification required?

Yes –

The term of the concession exceeds ten years The effects of the activity mean it is appropriate to do so

Discussion:

The term of the concession is over 10 years which is a trigger for public notification. In addition the proposed activity is inconsistent with the provision of a wilderness area and public notification is triggered in the Fiordland National Park Management Plan under s5.3.5 Wilderness Visitor Setting implementation 4. c).

However, the activity is consistent with the provision for Telecommunications Facilities in the Fiordland National Park Management Plan, provided that it can be demonstrated that it is not reasonable to site them outside Fiordland National Park and consultation with iwi is completed.

S17U(1) and (2): Analysis of effects

Visual effects:

The applicant has advised that the proposed VHF Marine Radio repeater will only be visible from up to a 50m distance with the proposed location away from the edge of the ridgeline so visibility will be kept to a minimum.

The proposed VHF Marine Radio repeater would consist of a solar frame with two solar panels to be bolted to rock. A structure of this type would not be expected to be encountered by members of the public in a wilderness area.



Example of proposed VHF Marine Radio repeater cabinet

The applicant has provided the dimension for the VHF Marine Radio repeater. A special condition outlining the maximum dimensions is recommended as follows to ensure that the repeater is constructed within the given dimensions, thus keeping visual effects to a minimum.

- The VHF Marine Radio repeater shall not stand more than 1.2m above ground level and not exceed 1 x 1.2 metres in width and length.

The applicant has outlined that they would paint the cabinet in a pre-approved colour to minimise the extent to which it stood out from the background and reduce the reflectivity of the structure. A special condition is recommended to support this.

- The VHF Marine Radio repeater cabinet frame shall be painted in a dark green colour.

Effects on other Radio and Telecommunication Networks

The applicant has identified that the proposed location connects into an existing VHF network to provide an open public channel for communication between different commercial and private vessel operators and for land and sea emergency use. Environment Southland has also identified that the proposed site will link to other repeaters they are proposing to set up along the south coast. Special conditions are recommended to be included to ensure that any mitigating effects of any other existing or future radio and/or telecommunication networks are not compromised by the proposed activity.

- The Concessionaire must ensure that the facility is installed and operated to professionally accepted Telecommunications standards.
- The Concessionaire must ensure that the operations of its equipment on the Land, does not interfere with any other similar operation authorised by the Grantor. If technical/operational interference does occur and it is attributable to the operation of the Concessionaire’s equipment, then the Concessionaire must correct the problem, at no expense to the Grantor.
- The Concessionaire must at all times comply with all statutes, ordinances, regulations, bylaws or other enactments affecting or relating to the Radio Facility and its operation. In particular shall observe all requirements of the Radio Communications Regulations 2001.
- The Concessionaire must obtain at the Concessionaire’s cost all such further consents as may be required from time to time to enable the Equipment to be operated, tested, maintained and used as envisaged by the provisions of this Document.

Effects on flora and fauna:

No disturbance of vegetation is anticipated. Some rock disturbance by way of drilling 4 holes would be required to secure the VHF Marine Radio repeater cabinet to the rock surface. Such works are anticipated to be minimal given the small footprint of the cabinet frame. Bolts (18mm threaded bolts) will be bonded in the holes using epoxy. Special conditions are recommended to ensure that the fixing of the repeater frame is kept within the specifications provided, thus keeping disturbance to a minimum.

- The Concessionaire must advise the Grantor on any additions, moves, or changes to the Concessionaire’s Equipment on the Site.
- The cabinet frame of the VHF Marine Radio repeater shall be bolted to rock using no more than 4 x 18mm bolts bonded with epoxy.

Effects on remoteness setting

No disturbance of the land to access the site is anticipated. It is proposed that aircraft will be used to transport and deliver the repeater to the site and then used to access the site for annual maintenance of one to two times per year. Special conditions are recommended to ensure that helicopter use is restricted to minimise the effects on the remote setting for recreational users of the area.

- The Concessionaire shall comply with any directions of the Grantor regarding avoiding, remedying or mitigating any adverse effects on conservation values at the Site.
- Access to the Land for maintenance and servicing of the equipment is authorised by helicopter using as existing Departmental Concessionaire and is limited to two (2) scheduled routine maintenance inspections per annum. Helicopters are to land as close as is practicably possible to the Site. Should additional visits be required the Concessionaire must seek written approval of the Grantor.

Criteria for decision:

- Is the activity consistent with s17U(1) and (2) of the Conservation Act?

Yes

Discussion:

The proposed activity is of a low impact nature once in place. Given the inclusion of recommended standard and special conditions, identified potential adverse effects can be kept to a minimum.

S17U(3): Purpose for which the land is held

A concession shall not be granted if the proposed activity is contrary to the purpose for which the land is held.

Criteria for decision:

- Is the activity consistent with s17U(3) of the Conservation Act? (That is, not contrary to the purpose for which the land is held).

No

Discussion:

The VHF Marine Radio repeater is proposed to be placed within part of the Fiordland National Park gazetted as Pembroke Wilderness Area subject to the restrictions imposed by section 34 of the National Parks Act 1952 and by the Fiordland National Park By-laws. The proposed activity is inconsistent with the provision of a wilderness area under these Acts.

S17U(4): Can a structure or facility be reasonably undertaken elsewhere?

A concession to build or extend a structure or facility shall not be granted if the activity could reasonably be undertaken in another location that is outside conservation land or in another conservation area where the potential adverse effects would be significantly less, or if the activity could reasonably be undertaken in an existing structure.

Criteria for decision:

- Is the activity consistent with s17U(4) of the Conservation Act? (That is, the activity cannot reasonably be undertaken at another location or in an existing structure?)

Yes

Discussion:

The proposed activity aims to address a gap in the existing marine communication network by placing a VHF repeater at the proposed site. Alternative sites were investigated but would be prone to adverse weather conditions and lightning strikes likely to cause a disruption to the communication network at times when it would be most in needed.

S17W: Relationship between concessions and conservation management strategies and plans

A concession shall not be granted unless the proposed activity is consistent with any established conservation management strategy, conservation management plan, and/or national park management plan.

Criteria for decision:

- Is the activity consistent with all relevant statutory planning documents?

No

Discussion:

The proposed activity is inconsistent with provisions for wilderness areas, however the Fiordland National Park Management Plan does include a public consultation trigger under s5.3.5 Wilderness Visitor Setting acknowledging the wider public interest in this area. The activity is consistent with management strategies and plans for telecommunication facilities.

Southland Murihiku Conservation Management Strategy 2016

Section 2.2 Fiordland Te Rua-o-te-moko Place policy 2.2.3

May grant concessions in the Pembroke Wilderness Area in accordance with the Fiordland National Park Management Plan 2007 until such time as a review of that plan is approved. Beyond that time, if provision is made for concessions they are considered only where necessary or desirable for the preservation of the area's indigenous natural resources.

Concession activity that meets this test will:

- demonstrate that the activity is necessary or that it actively benefits the preservation of the area's indigenous natural resources;
- not use vehicles, motorised watercraft or motorised aircraft in the area, other than in accordance with Policy 3.20.6 wild animal control activities in wilderness areas;
- not involve the erection or maintenance of buildings or machinery;
- be consistent with the outcome and policies for the Fiordland Te Rua-o-te-moko Place;
- be consistent with the relevant aircraft access zones shown on Map 4, the visitor management zones as described in Appendix 12 and shown on Map 3;
- be indistinguishable from independent users of the wilderness area.

The proposed activity does not meet this test criteria.

Fiordland National Park Management Plan 2007

Under s5.2 Visitor Audit Fiordland is valued for its size, remoteness and ruggedness. One of the ways to protect these values in the long term is through the creation of designated wilderness areas. These ensure large tracts of Fiordland National Park retain their wilderness qualities free from facility development and mechanised access. There are two gazetted wilderness areas in Fiordland - the Glaisnock and the Pembroke.

Under s5.3 Wilderness Visitor Setting the FNPMP emphasizes that with explicit regard to wilderness areas, Section 14(2)(d) of the National Parks Act 1980 states that “no helicopter or other motorised aircraft shall land or take off or hover for the purposes of embarking or disembarking passengers or goods in a wilderness area.”

Under s5.3.5 Wilderness Visitor Setting the outcome statement identifies that Pembroke Wilderness area is arguably considered the most accessible wilderness opportunity in New Zealand. It has a high level of use on its boundaries, particularly adjoining Milford Sound / Piopiotahi. It does not provide the degree of solitude generally regarded acceptable in wilderness areas as it is subject to noise, particularly from overflying aircraft; its western boundary is developed (Milford Sound / Piopiotahi); and due to its accessibility. However, it is essential that the present level of noise tolerance is not exacerbated further.

Objective 2 under this section aims to manage each of the wilderness areas recognising and protecting their special qualities. For Pembroke Wilderness Area these are:

b) Pembroke

A rugged, isolated area of difficult access (apart from the border areas around Milford Sound / Piopiotahi), containing a typical cross-section of substantially unmodified landscape. It provides a reasonably accessible opportunity to experience an alpine wilderness.

The Implementations supporting this objective specify that:

3. Concession applications involving the use of wilderness areas should be declined unless otherwise provided for in this Plan.

4. Where applications for activities detailed in Implementation 3 are received, the Department of Conservation will:

- a) Consult with the Southland Conservation Board and seeks its recommendation;
- b) Consult with papatipu rūnanga;
- c) Publicly notify the application, acknowledging the wide public interest in these matters; and
- d) Require a full environmental impact assessment undertaken by appropriate qualified specialists.

Under s6.11 Telecommunication Facilities, Implementation 2 new telecommunication facilities and supply lines should be located away from areas of significant scenic, recreation/tourism, wilderness and/or ecological value.

The proposed activity would meet this criteria if public consultation is undertaken.

3. Proposed Operating Conditions

Conditions

All standard conditions for a telecommunication licence are applicable to the proposed activity and will be included.

Special conditions relevant to this application:

1. The VHF Marine Radio repeater shall not stand more than 1.2m above ground level and not exceed 1 x 1.2 metres in width and length.
2. The VHF Marine Radio repeater cabinet frame shall be painted in a dark green colour.

3. The Concessionaire must ensure that the facility is installed and operated to professionally accepted Telecommunications standards.
4. The Concessionaire must ensure that the operations of its equipment on the Land, does not interfere with any other similar operation authorised by the Grantor. If technical/operational interference does occur and it is attributable to the operation of the Concessionaire's equipment, then the Concessionaire must correct the problem, at no expense to the Grantor.
5. The Concessionaire must at all times comply with all statutes, ordinances, regulations, bylaws or other enactments affecting or relating to the Radio Facility and its operation. In particular shall observe all requirements of the Radio Communications Regulations 2001.
6. The Concessionaire must obtain at the Concessionaire's cost all such further consents as may be required from time to time to enable the Equipment to be operated, tested, maintained and used as envisaged by the provisions of this Document.
7. The Concessionaire must advise the Grantor on any additions, moves, or changes to the Concessionaire's Equipment on the Site.
8. The cabinet frame of the VHF Marine Radio repeater shall be bolted to rock using no more than 4 x 18mm bolts bonded with epoxy.
9. The Concessionaire shall comply with any directions of the Grantor regarding avoiding, remedying or mitigating any adverse effects on conservation values at the Site.
10. Access to the Land for maintenance and servicing of the equipment is authorised by helicopter using as existing Departmental Concessionaire and is limited to two (2) scheduled routine maintenance inspections per annum. Helicopters are to land as close as is practicably possible to the Site. Or with the prior written approval from the Grantor.

Monitoring

Photographs of installation, before and after must be provided to the Te Anau District Office and annually after that.

The Concessionaire must advise the Te Anau District Office when aircraft access is required to the site.

Term

30 Years

Fees

Removed for Public Notification Process

4. Decision Making

Recommendations

Under the Conservation Act 1987 the proposed activity is inconsistent with the provisions of a wilderness area but consistent with the provision for telecommunication apparatus. The Fiordland National Park Management Plan acknowledges that the Pembroke Wilderness Area does not provide the degree of solitude generally regarded acceptable in a wilderness area and is affected by overflying aircraft due to its western boundary being developed (Milford Sound / Piopiotahi). While it states that it is essential that the present level of noise tolerance is not exacerbated further, the proposed VHF Marine Radio repeater is replacing a previous unauthorised repeater and potential adverse effects can be better managed through the inclusion of standard and special conditions

It could be further argued that the purpose of the repeater is to support activities (commercial non-commercial and recreational) in the general Fiordland area and that should any emergency take place the position of the repeater could aid in a timely response to a potential situation which without the VHF coverage that this repeater will provide would likely otherwise result in an increase of activity e.g additional overflights looking for people in distress.

It is being recommended:

That this application for a licence be approved in principle but be publicly notified of the intention to grant a licence for a 30 year term.

That all standard concession licence conditions and the special conditions outlined in section 7 are included in the concession document.

Decision: Non-Notified Concession under Part 3B of the Conservation Act 1987

1. Deem this application to be complete in terms of s17S of the Conservation Act 1987:

Agree

2. Agree that it is **not** considered appropriate to give public notification of the intention to grant the authorisation:

Agree

3. Approve the granting of a *licence* to David King Technician Limited subject to **consideration of public submissions**, the standard concession contract and the special conditions listed below:

Approve

Special conditions to be included:

Decision Maker to list the condition numbers to be included, as per section 3 (Proposed Operating and Special Conditions) of this report.

1 -10



Signed by Greg Lind, Operations Manager, Te Anau Office
Pursuant to the delegation dated 9 September 2015

Date 15/8/17

Decision Maker comments

As the application proposes installation within a gazetted Wilderness Area and is inconsistent with the provisions of the FNP MP it is likely there is public interest in the site hence it requires Notification

Final Decision: Notified Concession under Part 3B of the Conservation Act 1987

1. Approve the granting of a licence to *David King Technician Limited* subject to the standard concession contract and the special conditions listed below:

Approve / Decline

Special conditions to be included:

Decision Maker to list the condition numbers to be included, as per section 6 (Proposed Operating Conditions) of this report.

Signed by Greg Lind, Operations Manager, Te Anau Office
Pursuant to the delegation dated 9 September 2015

Date

Decision Maker comments