

CONCESSION APPLICATIONS

Waka Kotahi NZ Transport Agency
Soil & Vegetation Disturbance for Trenching and Investigations,
Cables and Reinforcement for Replacement Equipment Building
East Homer Tunnel, SH94 and Fiordland National Park



November 2021

Concession Application under Section 37 of the Conservation Act 1987 (Forms 1a, 3b and Easement)

To: Planning, Permissions & Land
Department of Conservation
PO BOX 5244
Dunedin 9058
Attention: Lisa Wheeler - Senior Permissions Advisor

From: Waka Kotahi NZ Transport Agency
PO Box 1479
Christchurch 8011
Attention: Gemma Kean – Senior Planner, Environmental Planning

Contact Person/Agent (Address for Service):

WSP
PO BOX 647
INVERCARGILL 9840
ATTENTION Sarah Hamilton

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Email **Privacy**

FORM 1a – Department of Conservation Contact Information Form

A. Applicant Details

Legal Status of Applicant

OTHER: Crown Entity – Waka Kotahi NZ Transport Agency

1. Applicant Name (Individual)

Phone/Email/Address:

Waka Kotahi NZ Transport Agency
PO Box 1479
Christchurch 8011
Attention: Gemma Kean – Senior Planner, Environmental Planning
Phone: **Privacy**
E mail: **Privacy**

2. Applicant Name (Other)

Trading/NZBN/Office/Phone/Contact – refer A.1. above.

Website: [Home | Waka Kotahi NZ Transport Agency \(nzta.govt.nz\)](http://www.nzta.govt.nz)

B. Pre-Application Meeting

Have you had a pre-application meeting or spoke to someone at DOC?

YES

Date: 5 August 2021 – refer Appendix C

Name of Doc Staff Member:

Alice Sinclair, Kaiārahi Tūtohu Ōtautahi | Team Lead Permissions Christchurch
Whare Ōtautahi | Christchurch Office, Phone: + **Privacy**
Lisa Wheeler, Senior Permissions Advisor Dunedin Office **Privacy**
(advised concession variation to be assigned to this advisor)

Name of Applicants Representative

Gemma Kean, Poutiaki Taiao | Environmental Planning, Christchurch

Phone: **Privacy**Mobile: **Privacy****C. Activity applied for:**

FORM 1a – use of public conservation land for private/commercial facility/structure

FORM 3b – new permanent building in Fiordland National Park.

EASEMENT – new building in FNP and longer-term use.

DESCRIPTION: to construct a 9.15m long x 3.7m wide by 3.2m high pre-cast concrete structure (new equipment building), 11.2m of secure passageway up to 3.2m in height and 2.2 wide, with temporary 5m long passageway and 22m of retaining walls up to 4m high; and, to undertake earthworks and vegetation disturbance to investigate former avalanche shelter, reinforce existing stacked stone wall Tunnel entrance wall, to construct structures and place up to 100m of new cables in and adjacent to State Highway 94 (SH94), the Fiordland/Rakiura Zone and Fiordland National Park (FNP), and existing roading concession area (East Homer PAC-40-18-14) and FNP. The purpose of the works is to provide improved avalanche and rockfall protection of Waka Kotahi NZ Transport Agency services associated with SH94 and Homer Tunnel operational and safety systems.

D. Are you applying for anything else?**Are you submitting any other application forms in relation to this application?**

YES

- Form 3b &
- Application for easement on public conservation land

E. Background experience of the applicant:

Waka Kotahi NZ Transport Agency is a Crown entity with its objective, functions, powers and responsibilities set out in the Land Transport Management Act 2003 and the Government Roothing Powers Act 1989.

Waka Kotahi currently holds long-term concession PAC-40-18-14 for sites associated with maintenance of SH94, with East Homer site an identified gravel storage area.

The site has been actively managed by Waka Kotahi and its contractor Downer over the past 50 years, latterly under partnership as Milford Road Alliance.

F. Attachments

SECTION OF FORM ATTACHMENT RELATES	DOCUMENT TITLE	FORMAT	DESCRIPTION OF ATTACHMENT
A & E	Appendix A - NZ Gazette	PDF	SH94 Gazette
B	Appendix B - DoC Pre-App	PDF	DoC Correspondence
C-D	Application Document	PDF	Sections 1-3
C	Appendix B - Concessions	PDF	Original Concessions
C	Appendix C & D	PDF	Plans & Elevations
E	Application Document	PDF	Section 1

G. Checklist

APPLICATION CHECKLIST	ATTACHED
I have completed all sections of this applicant information form relevant to my application and understand that the form will be returned to me if it is incomplete.	✓
I certify that the information provided in this applicant information form, and any attached additional forms is, to the best of my knowledge, true and correct.	✓
I have completed the activity application form.	✓
I have appropriately labelled all attachments and completed section F Attachments.	✓
I will email permissions@doc.govt.nz my: <ul style="list-style-type: none"> • Completed applicant information form • Completed activity application form/s • Any other attachments. 	✓

H. Terms and conditions for credit account with DoC

HAVE YOU HELD AN ACCOUNT WITH THE DEPARTMENT OF CONSERVATION BEFORE?	YES / NO
Yes	✓
No	
Under what name?	Waka Kotahi NZ Transport Agency

In ticking this checklist and placing your name below you are acknowledging that you have read and agreed to the terms and conditions for an account with the Department of Conservation

TERMS & CONDITIONS	TICK
I/We agree that the Department of Conservation can provide my/our details to the Department's Credit Checking Agency to enable it to conduct a full credit check.	✓
I/We agree that any change which affects the trading address, legal entity, structure of management or control of the applicant's company (as detailed in this application) will be notified in writing to the Department of Conservation within 7 days of that change becoming effective.	✓
I/We agree to notify the Department of Conservation of any disputed charges within 14 days of the date of the invoice.	✓
I/We agree to fully pay the Department of Conservation for any invoice received on or before the due date.	✓
I/We agree to pay all costs incurred (including interest, legal costs and debt recovery fees) to recover any money owing on this account.	✓
I/We agree that the credit account provided by the Department of Conservation may be withdrawn by the Department of Conservation, if any terms and conditions (as above) of the credit account are not met.	✓
I/We agree that the Department of Conservation can provide my details to the Department's Debt Collection Agency in the event of non-payment of payable fees.	✓

FORM 3b – DOC Private/commercial facility/structures Form

A. Description of Activity

Refer Form 1a above for description, location, area of public conservation land affected, proposed use and infrastructure changes.

Site Plans & Elevations are contained in Appendix C-D to the application report. Refer Form 1a.F above for list of attachments.

B. Alternative Sites Considered

Refer attached report (Section 9) for description of alternatives considered.

C. Larger Area

Refer Form 1a above, attached report (Sections 3 & 4) and Appendices B, C & D for descriptions and plans of the areas affected.

D. Exclusive Possession

Refer Form 1a above & attached report (Sections 3 & 4 and Appendix B) for description of possession/ occupation areas.

E. Technical Specifications

Refer attached report and appendices (Appendix C & D) for technical specifications/plans for the proposed building and trenching activities.

F. Terms

Expiry – 28th February 2030 (in line with underlying concession)

G. Bulk fuel storage

Existing storage on site to be relocated. Refer attached report (Section 3).

H. Environmental Impact Assessment

Refer attached report for full AEE/EIA in Section 5.

I. Other

None.

Application for an Easement on Public Conservation Land

A. Applicant Details

Refer Form 1a above.

B. Variation of an existing easement concession

IS THIS APPLICATION VARYING AN EXISTING EASEMENT CONCESSION?	YES / NO
Yes	✓ - Yes (in part)
No	
Easement concession number you wish to vary	*PAC-14-80-40 (SAUCO-591063)

C. Pre-Application Meeting

Yes - Refer Form 3b above.

D. Location and Nature of the proposed easement concession

Refer Form 1a above for description and area of public conservation land affected.

Will your easement concession benefit other land?

Yes – SH94.

Refer Form 1a above.

Site Plans & Elevations are contained in Appendix C-D to the application report.

Refer Form 1a.F above for list of attachments.

E. Description of activity

Easement concession type applying for:

- Right of way (to access new building) ✓
- Right to convey electricity ✓
- Right to convey telecommunications ✓

Refer Form 1a above, attached report (Sections 3 & 4) and Appendices B, C & D for description and plans of the activities.

F. Permanent or temporary structures or facilities

Refer Form 1a above, attached report (Sections 3 & 4) and Appendices B, C & D for descriptions and plans of the activities.

Waka Kotahi will own and maintain the structure.

Alternatives are considered in Section 9 of the attached report.

G. Technical Specifications (for telecommunications).

Not applicable/no telecommunications facilities proposed.

H. Other DOC permissions

Refer Forms 1a and 3b and attached report and appendices for descriptions.

- I. Duration (term of easement)**
Expiry – 28th February 2030 (in line with existing concession).
- J. Consultation undertaken**
Yes – ✓
Te Ao Marama Incorporated, resource management consultancy
Stevie-Rae Blair, 29 September 2021, online via Teams, on-going liaison.
Milford Opportunities governance representatives
- K. Consistency with DOC statutory plans**
No– ✓
Refer attached report (Sections 6-8) and Appendices B & G for assessment of relevant statutory documents.
- L. Effects Assessment**
Yes – ✓
Refer attached report (Sections 5-6) and Appendices for assessment of relevant statutory documents
- M. Attachments**
Yes – ✓
Refer Form 1a above for reference to attached report and Appendices for relevant documents
- N. Registration on a Record of Title**
No– ✓
No RoT for site, SH94 or FNP gazette only.
- O. Checklist**
Yes – ✓
Refer Form 1a above and attached report and Appendices for relevant information.
- P. Terms and Conditions for a credit account with DOC**
Yes – ✓
Refer form 3b above for detail.

DECLARATION

Delegated Authority to make application on behalf Waka Kotahi NZ Transport Agency

Pirvacy

SIGNED BY:

NAME: Richard Shaw
Team Lead South – Poutiaki Taiao | Environmental Planning Transport Services
Pursuant to authority delegated by Waka Kotahi NZ Transport Agency

DATE: 24 November 2021

Applicant Details (for Further Costs):

Waka Kotahi NZ Transport Agency
PO Box 1479
Christchurch 8011
Attention:

ATTENTION: Gemma Kean – Senior Planner, Environmental Planner
Phone: Pirvacy
E mail: Pirvacy

Consultant Details (Address for Service – Not for further costs):

WSP
PO BOX 647
INVERCARGILL 9840
ATTENTION Sarah Hamilton

Ph Pirvacy
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1. INTRODUCTION

Purpose of this Report

This document has been prepared in support of an application made by Waka Kotahi NZ Transport Agency (Waka Kotahi), in accordance with the relevant provisions of the Conservation Act 1987 (the Conservation Act).

This application provides a description of the activity and an assessment of the actual and potential effects on the environment, as required by Part 3B of the Conservation Act. It covers matters that must be considered by the Department of Conservation (DOC) when deciding whether or not to grant concession, and a part variation, as sought by Waka Kotahi.

Application Purpose

The application seeks concession from DOC for a new permanent equipment building, associated earthworks for the new building, investigations, armouring and trenching and cables to service equipment within the new building to be located in Fiordland National Park (FNP) and associated vegetation disturbance.

The purpose of the new equipment building and associated cables and ducting, is to reduce and remove avalanche and rock fall hazard risk to safety equipment and personnel servicing the equipment adjacent to State Highway 94 (SH94) near the Homer Tunnel. The new equipment shed will be situated partly in SH94, partly in an existing concession licence area and partly in FNP. The new equipment building will house existing Homer Tunnel safety and emergency management systems that will be relocated from the existing building, which is subject to avalanche and rockfall hazards.

Background

The objective of Waka Kotahi under the Land Transport Management Act 2003 is to “contribute to an effective, efficient, and safe land transport system in the public interest”. Safety of people is key to functionality of SH94 and the existing safety systems at the Homer Tunnel are continually updated. This includes new technology to improve safety measures in and for the Homer Tunnel, including video links, heat sensors and traffic signals now in operation, along with avalanche warning systems.

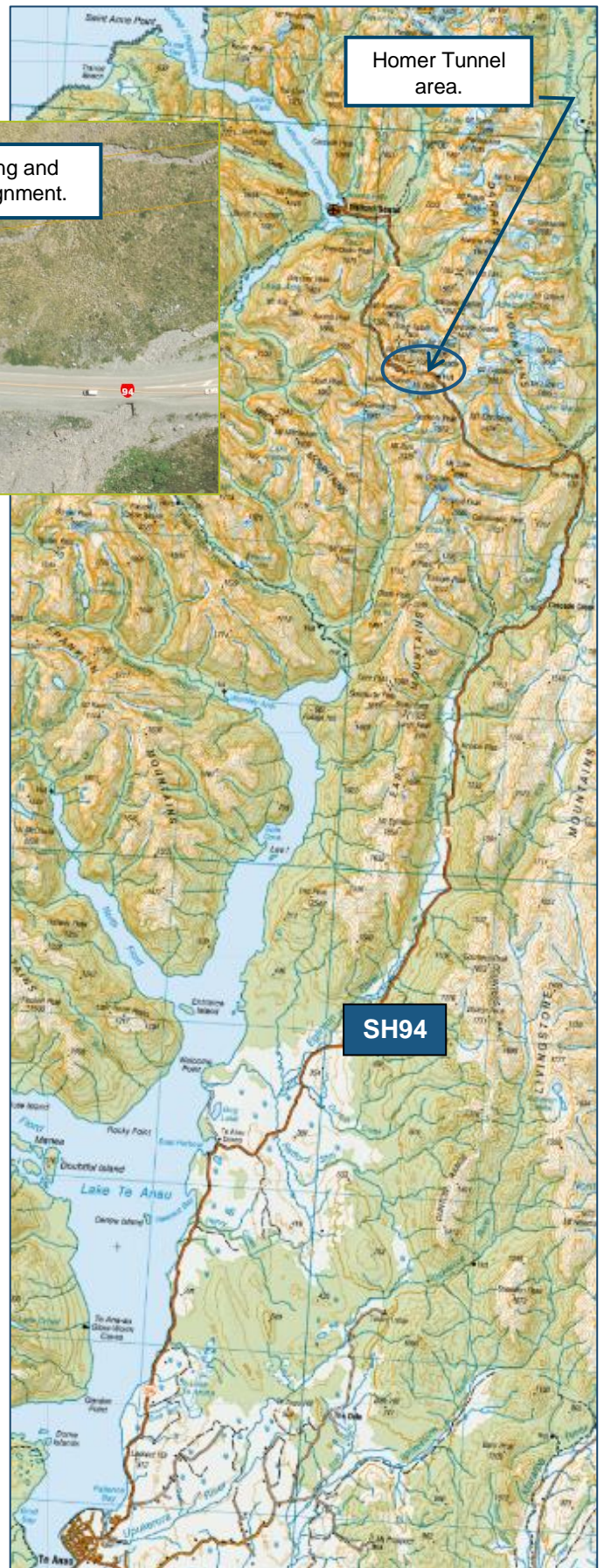
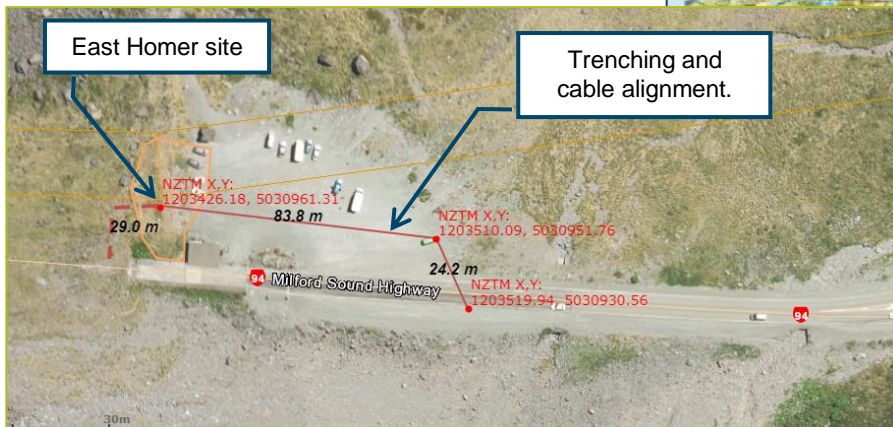
Waka Kotahi holds concession from DOC for various sites in FNP associated with maintaining and operating SH94. An existing licence area within Concession PAC 14-18-40 for “East Homer” has historically provided for gravel storage and road maintenance operations adjacent to SH94 at the eastern entrance to the Homer Tunnel and formerly used as a visitor carparking area for SH94 travellers. However, rock and avalanche safety risks within 200m of the Tunnel has seen the carpark and associated walking track closed to the public.

Safety of people, key resources and power and telecommunications are key to the operability of the existing safety systems at the Homer Tunnel. The relocation of equipment from the existing equipment building adjacent to the eastern entrance to the Homer Tunnel, to the new purpose-designed new equipment building will enable Waka Kotahi to meet its statutory objective for SH94 and work towards the Road to Zero approach for SH94 operations and emergency management. The proposed new building is designed to contain all the necessary SH94 services in one location. The associated earthworks for construction, trenching of ducts and cables will largely be in modified areas associated with SH94 and the East Homer concession maintenance area.

Government announced funding for this project to improve the safety and resilience of the Homer Tunnel in July 2020. Milford Road Alliance has commenced \$3 million worth of “shovel ready” safety improvements for life safety and protection against fire in the Tunnel and associated traffic safety leading up to the Tunnel.

2. LOCATION

The Site



The site is identified as SH94, 1879 and 1932 Milford Sound Highway, being within SH94 administered by Waka Kotahi and FNP administered by DOC.

The site is a small flat area on the northern side of SH94 at the eastern entry/exit point of the Homer Tunnel. This small plateau is formed by debris removed during the formation of the Tunnel.

The East Homer concession area is leased and activities licensed to Waka Kotahi by DOC under Concession PAC-14-80-40.

The site was established as a Ministry of Works storage area for SH94 and is now closed to the public due to avalanche and rock fall risk. Waka Kotahi contractors, Downer (as part of the Milford Road Alliance partnership) manage the site, including the Tunnel and adjacent existing equipment building. The site has been utilised for roading maintenance purposes since the 1960s.

There is some established and regenerating tussock and grasses adjacent to the Tunnel. As the topography rises above the Tunnel it becomes a more sub-alpine environment and devoid of large vegetation with moss and lichens.

There is existing seal widening on both sides of SH94 approaching the Tunnel, as well as some remnants of the former Tunnel avalanche protection structure which was destroyed by avalanches in the 1960s and 1990s.

Figure 1 (right): Location of East Homer site relative to SH94 and Homer Tunnel.

Inset – Aerial of East Homer site.

The proposed new equipment building site is located adjacent to the north side of the existing plant room and the Homer Tunnel. The existing plant room houses an existing generator and associated fuel storage to power the Tunnel operations and emergency management safety systems. This generator and fuel storage will be shifted to the existing Chapel concession area 500m further east along SH94.

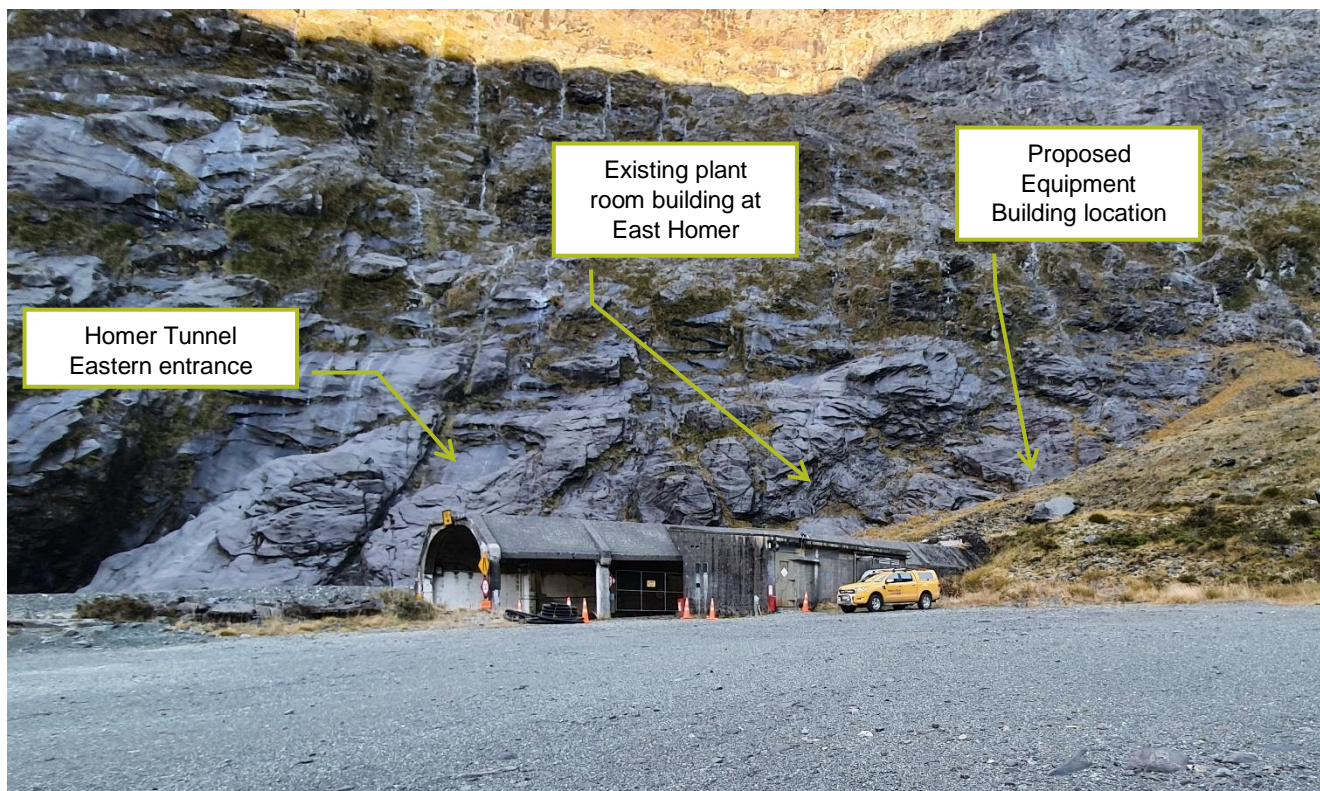


Photo 1: existing plant room adjacent to the Homer Tunnel eastern portal originally known as the "Drill Shed".

The ground surface of the site is modified, initially from the original Tunnel construction and then from operational maintenance activities at the site over time. There is established vegetation on the talus slope (the rocky slope formed chiefly by gravitational falling, rolling, or sliding of rock), with man-made bunds along SH94 and the gravel-surfaced carpark further north and east of the plant room and proposed equipment building site

Surrounding Environment

Fiordland National Park (the Park or FNP) covers an area of 12,500 km² and is New Zealand's largest national park. It is characterised by steep sided valleys, extensive indigenous vegetation and high rainfall. The Park has been shaped by glaciation and brings with it a number of challenges to managing SH94 as it traverses through the Park, particularly in the alpine sections from the Divide through the Tunnel, and into Milford Sound Piopiotahi via the Homer Tunnel.

Located in the upper Hollyford Valley, adjacent to the Cockburn Incline formation to the south and the Darran Mountains to the north, the East Homer valley rises west towards the Homer Tunnel with SH94 comprising a series of climbing sweeping bends up to the Tunnel's eastern portal access, which sits beneath the Homer Saddle (Te Kōhaka-o-Te-Ruru).

The ephemeral west branch of the Hollyford River, Whakatipu Kā Tuka/Ōkare east of the site, flows only during and after rainfall events or snow melt. It descends eastward from the site to the north branch confluence outlet from the Gertrude Valley, and down the Upper Hollyford Valley into the Lower Hollyford approximately 13km from the site.

The Homer Hut (New Zealand Alpine Club hut) is located 1km east of the site in the valley floor at the start of the trail to the Gertrude Saddle.

The Homer Tunnel was officially opened in 1953 and though it is now wide enough for two lanes, traffic lights are used to limit traffic to one direction at a time for safety reasons. This one-way tunnel operation can cause delays of up to 20 minutes, which created vehicle stacking issues in the rockfall and avalanche risk area up to approximately 200m east of the Tunnel.

In winter there is risk of avalanche around the Tunnel portal and immediate surrounds. While this is constantly monitored, along with Tunnel traffic and activity, the Tunnel services and access to them, where possible need to be free of avalanche and rock fall hazards.

SH94 and the Tunnel operations and emergency management are now operated from the “Chapel” licenced concession area under PAC-40-18-14 and variation 52442-OTH, 500m east of the Tunnel.



Photo 2: view east from above Homer Tunnel Eastern portal along SH94.

Statutory Setting

The site is located within the Fiordland/Rakiura Zone of the Operative Southland District Plan 2018. Fiordland is identified in the District Plan Map FRZ.1-6 (at right) as an Outstanding Natural Landscape (ONL).

It is situated within Atawhenua – Fiordland as defined within Te Tangi a Taura Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008.

The site is in the basin below Te Kōhaka-o-Te-Ruru/Homer Saddle and the traditional pathway along Ōkare/Hollyford River passes east of the site, near the Homer Hut and carpark.

There is one recorded archaeological site within the vicinity (D40/11) which is shown as being located near the Homer Tunnel eastern portal.

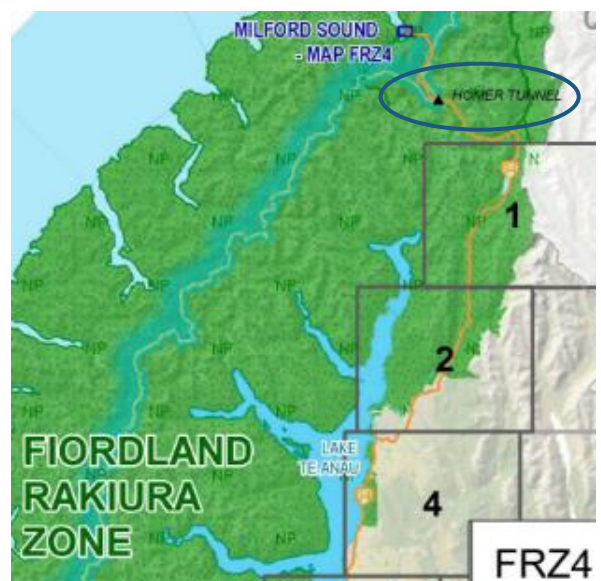


Figure 2: SDC Planning Maps excerpt Map FRZ.1-6.

The Homer Tunnel eastern portal and 480 feet of avalanche protection shelter was completed in the early 1940's.

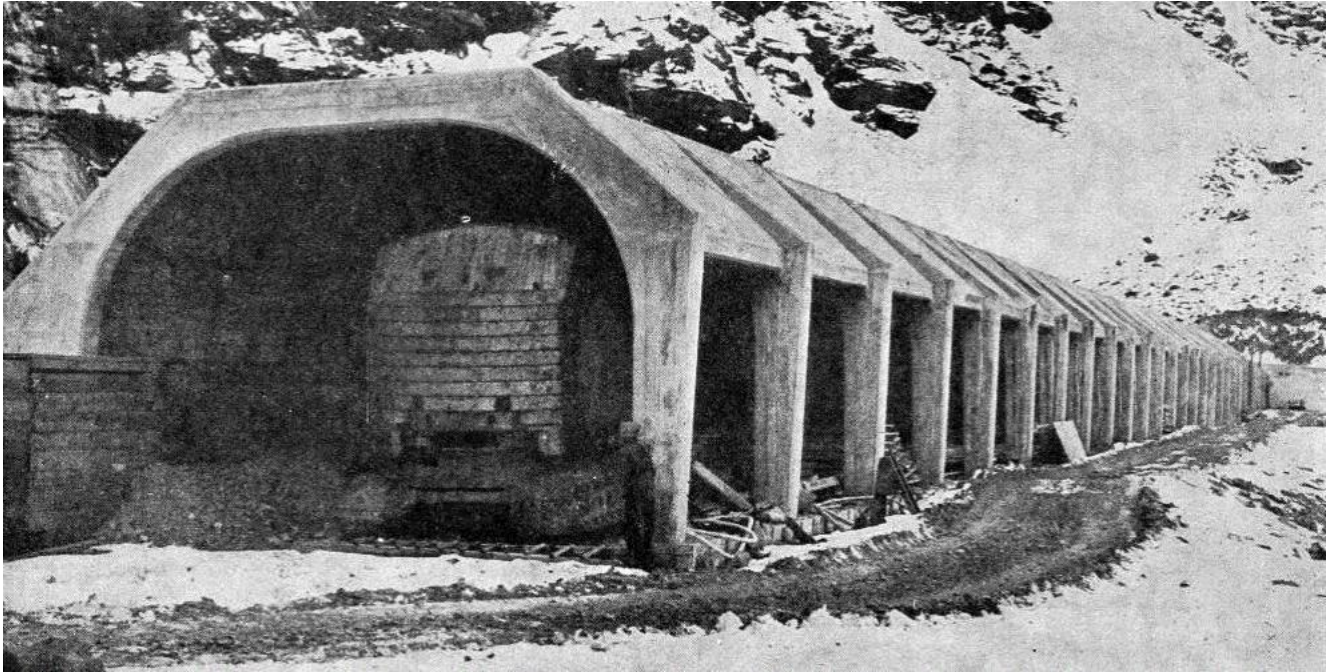


Photo 3: Eastern tunnel avalanche protection 17th July 1940 (Source: Auckland Council)

The shelter was destroyed by avalanche in 1945. The Fiordland National Park Management Plan (FNPMP) Section 4.12 Table 3 lists the “Homer Tunnel Portal Avalanche Damage, Milford Road” as an actively managed historical site by DOC.

The Tunnel, eastern portal and shelter remnants are not identified in the District Plan or Heritage NZ Pouhere Taonga register. Notwithstanding this, a heritage assessment is included in Appendix F and accidental discovery protocol P45 is adopted and promoted in Appendix G.

3. PROPOSED WORKS

New Equipment Building

A new equipment building is proposed on the north side of the Homer Tunnel eastern entry/exit and existing plant room attached to the Tunnel.

The new equipment building is proposed to be approximately 9.15m long by 3.7m wide and up to 3.2m high (subject to detailed design). It will be constructed of connecting pre-cast concrete units. The pre-cast sections will reduce construction time at the site to avoid the rock fall risk to workers and the new building.

The new building will be connected to the Homer Tunnel by a pre-cast concrete corridor of approximately 11.5m in length by 2.2m in width and up to 3.2m high (subject to detailed design). A temporary further 5m long by 2m wide corridor is proposed to connect the existing and new equipment buildings to the Tunnel until all necessary systems and services are shifted to the new equipment building.

Three wing-wall protection structures will be placed at the north and west sides of the new equipment building, to form retaining walls against the talus slope. The 14.5m-long north-facing wing-wall with a sloped outer(east) edge up to 4.5m in height and will extend up to 5m west past the equipment building (measurements to be finalised upon detailed design being completed). A western wing-wall will retain the talus slope to the entry of the new equipment building and will be up to 7.5m in length across the face of the new equipment building and up to 3.5m in height. The wing walls will be pre-cast coloured concrete panels of a non-reflective finish, made to appear similar to the surrounding material and slope colours.

The foundation and footings of these structures will be between 1m -1.8m deep below existing ground level.

The new equipment building, and connected corridors will be largely covered back over with removed, stored and replaced talus material, with retained vegetated talus used to re-naturalise the slope and provide additional avalanche and rock fall protection for the new structures.

Refer to the shed plans and elevations in Appendix C.

A Landscape visual assessment is also contained in Appendix D.



Photo 4: landscape visualisation of proposed new equipment building at East Homer from former car park and concession area (PAC-40-18-40 East Homer)

Earthworks

New Equipment Building

The total volume of earthworks for construction of the new equipment building is approximately 1200m³.

The volume of talus slope cut to stockpile for replacement over the equipment building surface layer is approximately 800m³. 300m³ of material sourced from an approved location will be brought to site for select fill and bedding material. Cut to fill from within the modified car park area will be 100m³.

A total area of 1000m² will be disturbed by the proposed new equipment building construction at the East Homer Tunnel site. This is comprised of 400m² of the existing modified gravel car park area and 600m² of the vegetated talus slope to the northwest around the existing Tunnel.

A further 500m² of the existing modified gravel car park area will be used for access, storage and associated construction activities. Trenching and cabling through the car park area is needed to connect services in SH94 to the new power supply.

For the new equipment building excavations, the top layer of talus material that maintains vegetative cover will be removed and stored for replacement at completion of construction. This will involve stripping an area of up to 33m in length by up to 18m width from the talus slope. This will be stored and managed within the immediate car park area for replacement over the site on completion of construction.

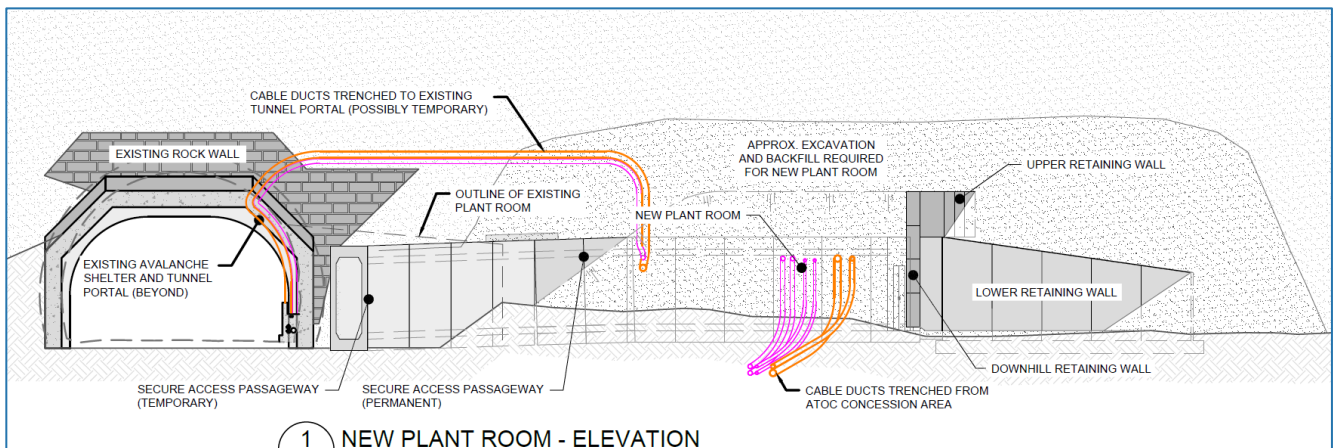


Photo 5: elevation of proposed new equipment building at "East Homer" Concession area PAC-14-18-40.

Cable Trenching

Earthworks are required for trenching of services through the existing modified carpark area to the new equipment building and from the new equipment building to the services in Homer Tunnel.

The additional volume of earthworks for trenching of cables is 220m³.

The length of trenching for replacement cables is 100m from SH94 through the modified carpark to the new equipment building and into the Tunnel. Trenching will be up to 1.2m deep and 1.8m wide. The trenching will reconnect the power source for the Tunnel (generators) that are to be relocated to the Green Shed operations and emergency management site 500m east of the Tunnel along SH94.

The cables will connect to existing trenched cables in SH94, cross under SH94 and continue in the previous widening of SH94 to the Chapel concession area.

No vegetation removal is required for the trenching activities in the carpark as these areas have previously been cleared or modified. Approximately 5m of the trenching crosses through the area identified by DOC as an actively managed historical site under the FNPMP. Refer Section 2 above.

Avalanche Shelter Remnant Investigations

Earthworks are required to investigate remnant foundations of the destroyed avalanche shelter. The investigations are located within SH94 and the existing modified carpark area. No vegetation will be disturbed in the investigations.

The additional volume of earthworks for investigation of the former avalanche shelter is 240m³.

These earthworks will involve six (6) investigation pits of approximately 9m long by 3m wide by 2m deep as shown on the Plan in Appendix C.

All investigation work will be overseen by a suitably qualified person in respect of post-1900 heritage consideration for the site.



Photo 6: view west along SH94 to avalanche shelter remains.

Vegetation Disturbance

As outlined above, the total area disturbed by the proposed new equipment building construction at the East Homer Tunnel site is 1000m², made up of 400m² of the existing modified gravel car park area and 600m² of the vegetated talus slope around the north side of the Tunnel. The greatest area of vegetation disturbance is up to 600m² being 33m long by 18m wide.

An assessment of the ecological effects of this vegetation disturbance and replacement is contained in Appendix E.



Photo 7: Homer Tunnel Eastern Portal original stacked rock wall and surrounding vegetation.

Rock Wall Reinforcement

The stone wall façade at the eastern portal entrance is one of the only architectural elements of the Homer Tunnel and is considered to have high heritage significance. To ensure the earthworks for the new equipment building do not cause damage to the original East Portal rock wall, and to protect it from further deterioration, Waka Kotahi propose to reinforce the stacked rock wall by pinning it back into the slope during the excavation activities.

Pinning the rock face will involve small steel pattress plates being affixed in even spacings to the front east-facing wall, with a capped pin inserted through the plate and rock wall and anchored into the slope behind the wall. Refer to Plans in Appendix C for details of the proposed reinforcement and Appendix F for the Heritage Assessment. The assessment promotes that the Construction Management Plan includes measures to address the use of machinery close to the stone façade. A Construction Management Plan will be completed to manage the works.

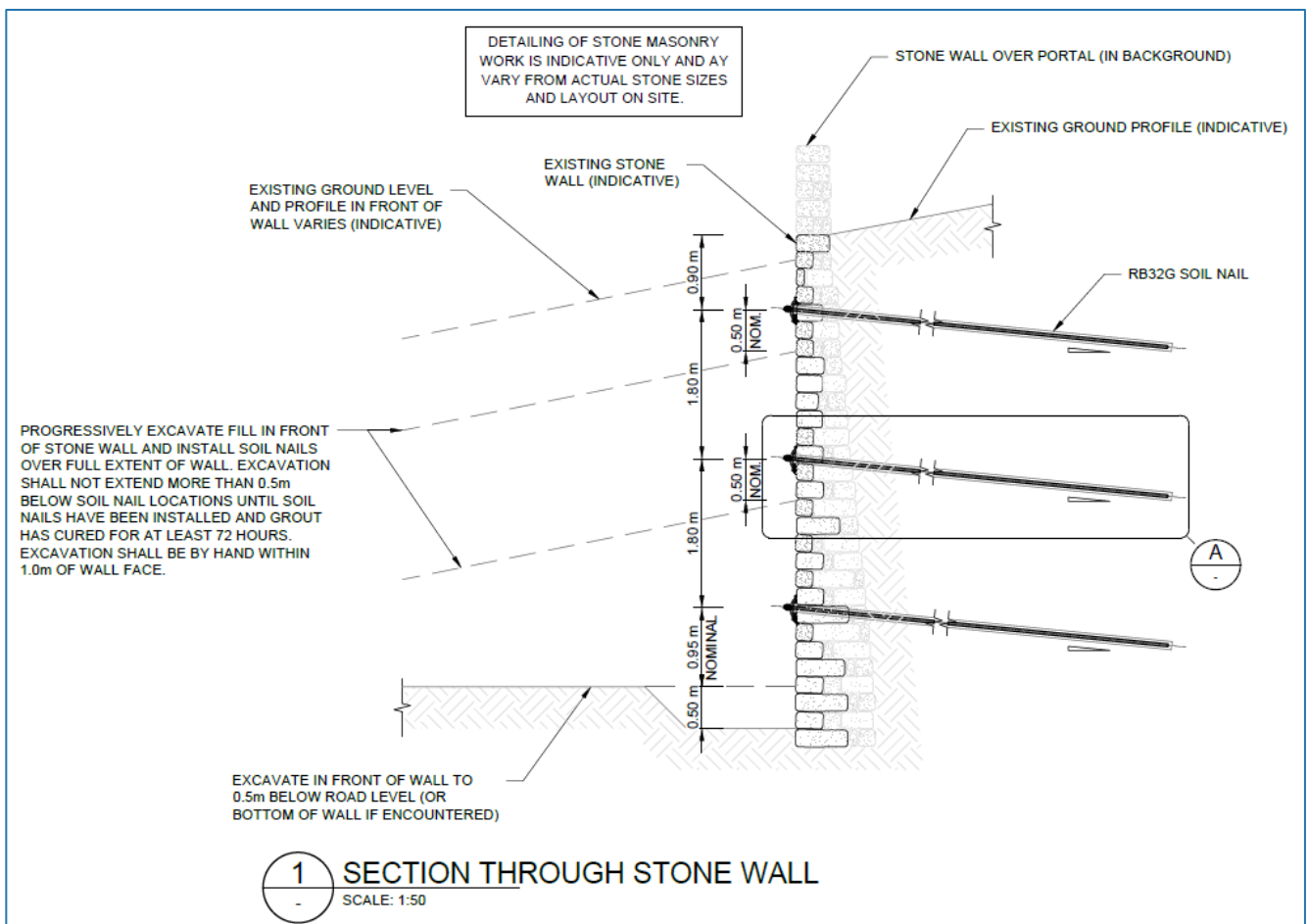


Figure 3: example of rock wall pinning.

Timeframe

The works are proposed to be undertaken in the summer and autumn construction period (January to May) prior to anticipated snowfall and avalanche risk timeframe (late May to end of October).

A five-year timeframe for land use consent will be sufficient to carry out construction, given the works are proposed to be completed in the 2021-2022 season.

4. STATUTORY APPROVAL

Concession – Section 17O & 17R Conservation Act 1987

The site is in DOC administered conservation land which is subject to the Conservation Act 1987 and the Conservation Management Strategy (CMS).

These documents are considered below and will be managed through any concession agreement with DOC. Section 17O of the Conservation Act states:

Except as provided in subsection (3) or subsection (4), no activity shall be carried out in a conservation area unless authorised by a concession.

The proposed activities are not part of any “Other enactments administered by Department” and, therefore, require concession. This report contains those matters required by Section 17S in respect of application for concession as follows:

SECTION 17S CONTENTS OF APPLICATION		COMPLIES (Y/N – WHY)
CLAUSE	DESCRIPTION	COMMENT
(a)	<i>a description of the proposed activity:</i>	Refer Section 3 above.
(b)	<i>a description identifying the places where the proposed activity will be carried out (including the status of those places):</i>	Refer Section 2 above and Appendices 1-2
(c) (i)	<i>the potential effects of the proposed activity:</i>	Refer Section 5 below.
(c) (ii)	<i>any actions that the applicant proposes to take to avoid, remedy, or mitigate any adverse effects of the proposed activity:</i>	Refer Sections
(d)	<i>details of the type of concession for which the applicant is applying:</i>	Refer Forms 1a, 3b & Easement Application, Sections
(e) (i)	<i>the proposed duration of the concession</i>	Expire: 1 March 2030
(e) (ii)	<i>the reasons for the proposed duration</i>	Aligns with existing concessions at the site.
(f)	<i>relevant information relating to the applicant, including any information relevant to the applicant’s ability to carry out the proposed activity</i>	Refer Form 1a, and Section 1 above.
<i>if the applicant applies for a lease, a licence granting an interest in land, or an easement,—</i>		
(g) (i)	<i>reasons for the request; and</i>	Refer Section 2 above.
(g) (ii)	<i>sufficient information to satisfy the Minister that, in terms of section 17U, it is both lawful and appropriate to grant the lease, licence, or easement (as the case may be).</i>	Refer Section above.

The Waka Kotahi highway maintenance partnership with Downer, Milford Alliance, will continue working with DOC to ensure the works are carried out in accordance with any concession granted.

FNPMP provides for the integrated management of FNP and SH94, the former noting SH94 is not considered to be in the National Park and is therefore not controlled by FNPMP.

Other Statutory Approvals

Operative Southland District Plan 2018

RULE/STANDARD		COMPLIES WITH THE RULES (Y/N – WHY)
RULE	DESCRIPTION	COMMENT
Rule FRZ.1 - Permitted Activities	<p>2.(1) Earthworks</p> <p>(a) ... do not exceed... 200m³...</p> <p>(b) (i) greater than 20m from a waterbody that do not alter the existing ground level by more than 5m in depth or 2m in height;</p> <p>...</p> <p>Are permitted provided that the activity:</p> <p>(i) Shall not be undertaken at an elevation greater than 700m amsl...</p> <p>(ii) Shall not be undertaken on slopes of more than 20°;</p>	<p>Excavations will exceed 200m³ volume (1a) and 2m in height (1b(i) and (ii)).</p> <p><u>Criteria Assessment:</u></p> <p>The works will be located above 700m amsl (Homer Tunnel summit is 945m amsl) (1b(ii)(i)).</p> <p>The slope at the is greater than 20° slope (1(1))(ii).</p>
Rule FRZ.3 - Discretionary Activities	<p>2. Any activity or work of the Crown within the National Park or Public Conservation Land that is not consistent with the relevant Conservation Management Strategy or National Park Management Plan and will not have a significant adverse effect beyond the boundary.</p> <p>6. Any activity that does not meet the permitted activity criteria of Rule FRZ.1.</p>	<p><u>Discretionary Activity:</u></p> <p>As outlined above, the activity will not meet Rule FRZ.1.1(1)(a), the criteria of the permitted criteria of FRZ.1((i) and (ii) nor Rule FRZ.1.3.</p>
Rule BIO.1 – Permitted Activities	<p>The following activities are Permitted Activities:</p> <p>2. The clearance, modification or removal of indigenous vegetation for the purposes of providing for the safe operation of an existing network utility or to prevent damage to an existing network utility where the work is undertaken by or on behalf of the authority responsible for the network utility.</p> <p>3. The clearance, modification or removal of indigenous vegetation where it is associated with the operation, maintenance, minor upgrading, repair or removal of any existing regionally significant infrastructure or existing renewable electricity facilities.</p>	<p>Non-Compliance:</p> <p>Indigenous vegetation will be disturbed within the construction area.</p> <p>The works may not be considered “minor upgrade” though will be for an existing network utility that is regionally significant infrastructure.</p>
Rule BIO.3 -	<p>The clearance, modification or removal of indigenous vegetation which is not provided for under Rule BIO.1 or Rule BIO.2 is a Discretionary Activity.</p>	<p><u>Discretionary Activity:</u></p> <p>As outlined above, the activity will not meet Rule BIO.1 2.-3 as works are beyond minor.</p>

RMA 2021/53297 has been applied for to Southland District Council for the activities at existing concession area 52442-OTH. A further land use consent has been applied to SDC for the activities contained in this concession application.

2020/53059 has also been applied for to Southland District Council to enable works outside of the existing SH94 alignment which will enable trenching and cable installation.

Designation 241 for SH94

SH94 is designated under the Southland District Plan (Schedule 5.3 Reference: D241). Further trenching and cabling will be undertaken within the existing SH94 road shoulders from the eastern portal to the Chapel concession site to connect the new power source. The proposed works are for state highway purposes as provided under the SH94 designation

An outline plan waiver in accordance with Section 176A will also be sought for the works in the shoulder of SH94 for connection of cabling and trenching to the cabling and trenches proposed.

Environment Southland Regional Water Plans

No works are proposed in waterways which would trigger the operative or proposed plans.

Environment Southland Operative Regional Air Plan 2016 (Stage 2 1999)

RULE/STANDARD	COMPLIES (Y/N - WHY)
<p>Rule 5.5.3 <i>Any discharges of contaminants into air from the following industrial or trade premises are permitted activities, provided that the criteria which follow the list are met:</i></p> <p><i>10. any gravel extraction processes operating at 100 tonnes or less in any hour;</i></p>	<p>Complies:</p> <p>The talus slope excavations will not exceed 100 tonnes in any hour.</p>

Resource Management (National Environmental Standard) for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) is relevant to the proposed works as parts of Fiordland National Park are identified as having a history of Hazardous Activities and Industries List (HAIL) activities.

The site of the proposed new equipment building is not identified in Environment Southland's Selected Land Use Site (SLUS) Register as having a history of HAIL activities.

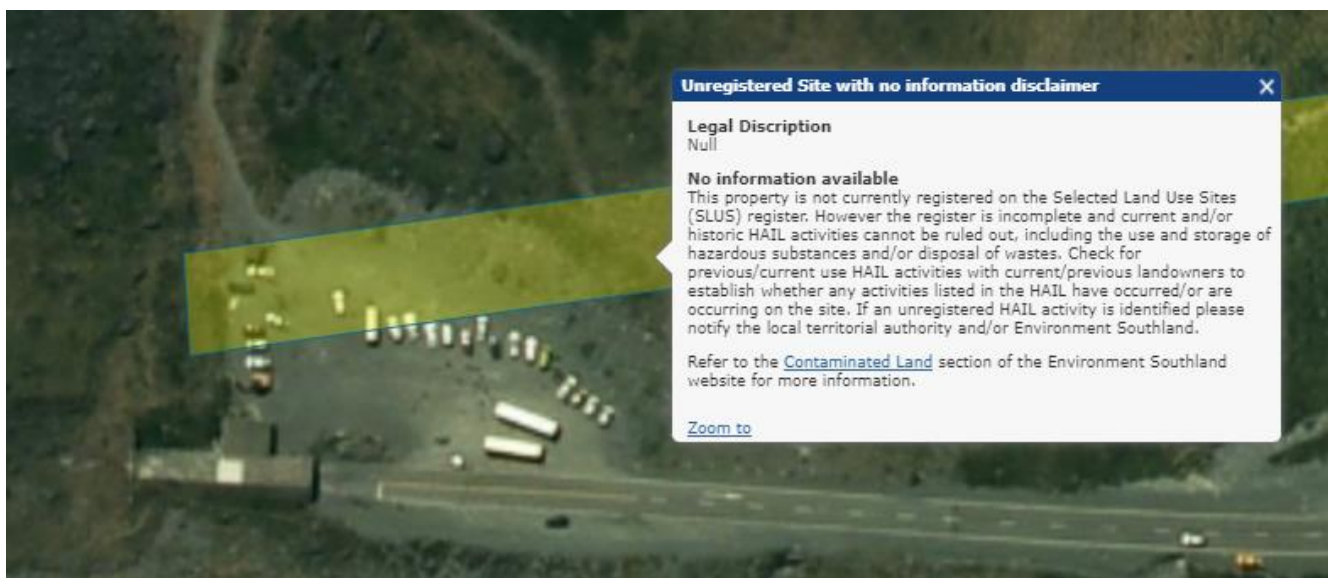


Figure 4: Environment Southland Selected Land Use Site aerial for SH94.

Activity Status Summary

The concession sought is for an additional structure on and easement over conservation land managed by DOC in accordance with Section 17O of the Conservation Act.

This report outlined those matters required to be covered by Section 17S of the Conservation Act.

The sections below outline how the activity is considered consistent with the relevant conservation management strategies and plans, as required by Section 17W of the Conservation Act.

5. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Section 17S of the Conservation Act requires the applicant to assess any actual or potential effects that the proposed works may have on the environment, and the ways in which any adverse effects may be avoided, remedied or mitigated.

This application seeks concession to construct a new equipment building and to undertake associated vegetation disturbance and earthworks in FNP, adjacent to SH94. The Assessment of Environmental Effects (AEE) detailed below focuses on the actual and potential effects of the proposed works.

This assessment of environmental effects/environmental impact assessment has been provided in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment. The actual and potential effects on the environment from the proposal are identified as follows:

- Positive Effects
- Social Effects:
 - Cultural & heritage values
 - Public access & recreation
- Effects on the physical environment:
 - Transport
 - Archaeology & built heritage
 - Landscape & visual amenity
 - Noise
- Effects on the natural environment
 - Air quality
 - Water quality
 - Aquatic ecology
 - Terrestrial ecology
 - Natural hazards
 - Hazardous substances
- Other considerations

These matters are considered and discussed below.

Positive Effects

The proposed works will ensure that Waka Kotahi can operate SH94 in a way which meets the objectives it has set for safety and resilience of the network. SH94 is regionally important infrastructure and Waka Kotahi is responsible for managing it in a sustainable manner. In terms of the definition of natural and physical resources in Section 2 of the RMA, the State Highway network within the region is a significant physical resource and as such, must be sustainably managed. FNP is an internationally recognised natural resource that also must be sustainably managed. The proposed works therefore provide for the sustainable management of this physical resource and are consistent with the purpose and principles of the RMA.

The proposed works will improve the safety of SH94 through people being better protected from avalanches and rockfall. Road to Zero 2020–2030 is the Government's new road safety strategy which seeks to support a significant and sustained improvement in road safety outcomes. In particular, the strategy works towards zero harm on the road under the vision that 'New Zealand is 'where no one is killed or seriously injured in road crashes.

The proposed structure and earthworks are necessary for improved tunnel management and traffic safety as Waka Kotahi sets out to achieve the Road to Zero principles.

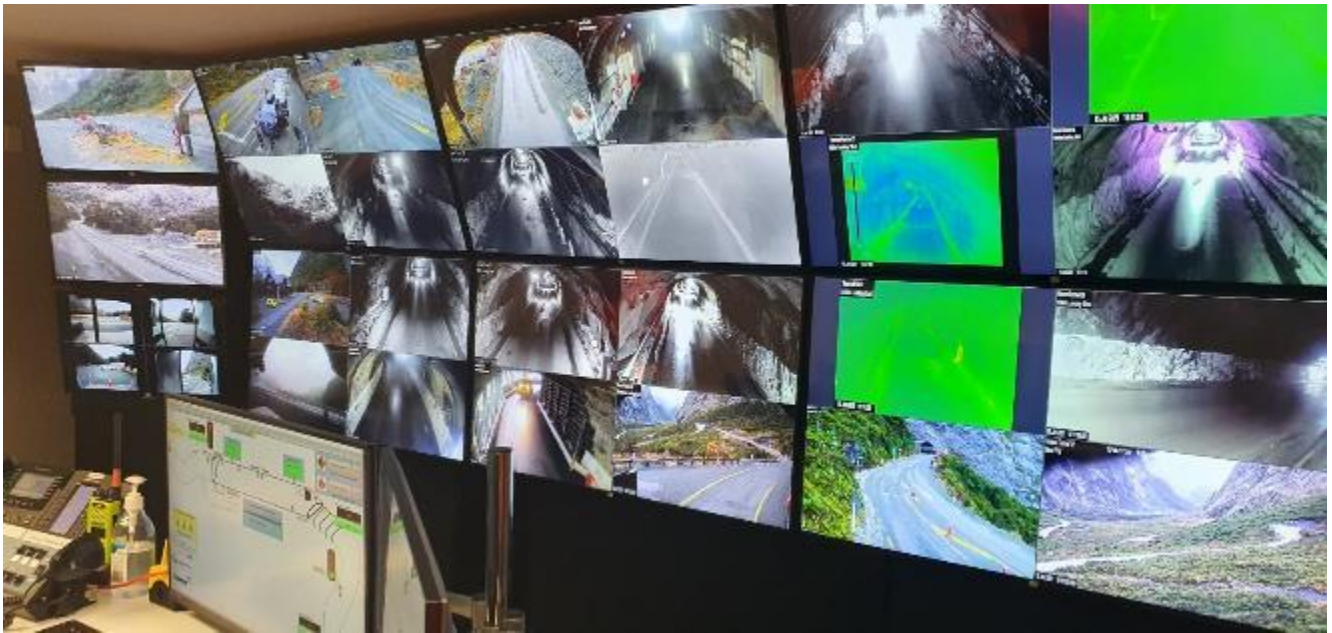


Photo 8: real-time SH94 monitoring from the green shed site emergency management centre.

Social Environment

SH94 is a significant South Island tourist route, which also provides access to related service industries and a lucrative primary marine industry. Delays and disruption to motorists, freight movements, services and industries are critical risks to the Milford, Northern Southland and Lakes District communities.

The new equipment building and connection to services will provide greater certainty and safety for SH94 users, ensuring SH94 functions efficiently and maintains the ability to move people, goods and services along the highway.

For these reasons, the effects on people and communities are positive, as mitigating the risks and improving the experience for state highway users and caretakers will ensure it continues to operate in an integrated manner and maintains connections to Milford for these people and communities.

Cultural & Heritage Values

Consultation has commenced with local iwi. The proposed works site is a previously disturbed area. It is anticipated that the existing level of disturbance for roading activities, historical disturbance and the existing physical site characteristics (minimal topsoil) minimises the potential for discovery of sites of cultural significance.

Te Ao Marama Incorporated provide resource management liaison and representation for rūnunga. Approval has been sought from Te Ao Marama Inc. Through this consultation, effects on iwi will be considered and avoided, remedied and mitigated as required.

An accidental discovery protocol (ADP) will be adopted and initiated for any potential sites uncovered in the foundation activities. Additionally, there are no identified nohoanga or other customary access rights over the river which could be affected by the works.

Further correspondence/approval from iwi will be provided to the Council and DOC as the application progresses, including any proposed mitigation measures.

Public Access & Recreational Values

Public access to the site is restricted, given the site is demarcated as a no-parking area due to rockfall and avalanche hazards. The concession sought is for sole occupation and use of the new equipment building site, given the new building will be accessible by authorised key access only.

It is common for passenger vehicles to stop in the widened area of SH94 at the former Chapel site, opposite and adjacent to the SH94 maintenance depot 500 east of the site, where there is a safer stopping zone than at the Tunnel entrance area which is subject to avalanche and rock fall risk factors.



Photo 9: view along SH94 of vehicles stacking at traffic lights awaiting entry to Homer Tunnel eastern portal.

The Homer Saddle is accessible for trampers via the Homer Nature Walkway, though trampers now either have to make their way along the river from the Homer Hut or along SH94, as no parking is allowed at the eastern Tunnel portal. The Homer Hut access will not be affected by the works. Additionally, the Gertrude Valley Track DOC area has a prohibition on freedom camping, largely due to avalanche risk, but also due to congestion issues and lack of basic facilities.

A road maintenance site adjacent to regionally strategic infrastructure, such as SH94, can be reasonably expected in this location. The history of SH94 and the Tunnel, and the avalanche and rock fall risks around it, lend to the provision of safety systems near the Tunnel, but in a location of relative safety and accessibility. It is promoted that the proposed new structure and trenching will not adversely affect public access and recreational values of FNP, as the works are in an already modified area that is actively managed to prevent access due to the safety risk. For these reasons, any ongoing effects on public access and recreational values of the area are considered less than minor.

Physical Environment

Traffic & Transport

As mentioned above, the proposed works will ensure safer access to services associated with providing safe passage through the Homer Tunnel which forms part of SH94, in turn having a positive effect on the transport of people, goods and services between Milford and Te Anau.

Archaeology & Heritage

The Homer Tunnel eastern portal was completed in the 1940's. The Tunnel and Portal are not identified in the District Plan or Heritage NZ Pouhere Taonga register. There are no recorded sites of archaeological or historic significance identified in the District Plan at, or in, the immediate vicinity (100m) of the works, other than the DOC FNPMP post-1900 actively managed site D40/11.

The FNPMP identifies the avalanche shelter remains as an Actively Managed Historical Site within FNP. DOC submitted the site to the NZ Archaeological Association for recording but it is not otherwise considered an archaeological site under the Heritage NZ Pouhere Taonga Act. An assessment of effects on the history of the Tunnel from the works is contained in Appendix F. The assessment recommends measures to address the effects on heritage values which will mitigate effects on the site.

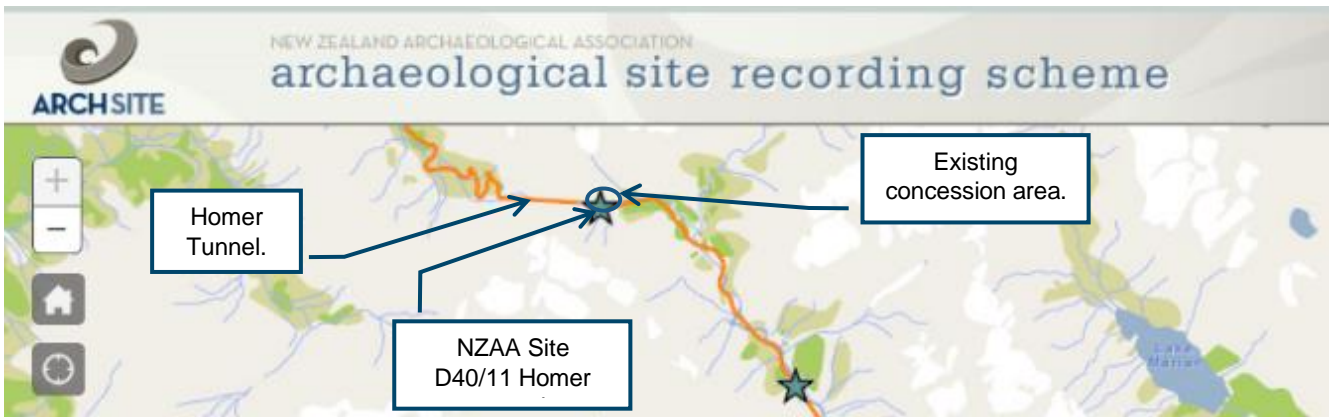


Figure 5: NZ Archaeological Association recorded sites adjacent to SH94.

Most of the works are within existing modified or developed sites used for day-to-day operational works associated with SH94. The effects on the known Homer Tunnel construction legacy will be avoided, remedied and mitigated through appropriate construction techniques to avoid effects of mechanical excavation around the stacked rock wall, the avalanche shelter remnants and by replacing material over the excavated site to appear as similar as possible to the existing slope and appearance around the eastern Tunnel entrance wall. The proposed investigation pit excavations have been discussed with DOC. The archaeological monitoring and recording, and any resultant insights into the site will be used to tie into any interpretation for the Tunnel and inform future works around the Tunnel. The Heritage Assessment in Appendix F outlines that the burial of the new building and the design of the exposed wing walls will result in less than minor adverse effects on the heritage values of the Tunnel. Further, it promotes that the archaeological impacts will be adequately mitigated by the monitoring outlined in the assessment.

Adoption of an accidental discovery protocol (ADP) will be required by Waka Kotahi for all contractors undertaking works at the site. A copy of the ADP is attached in Appendix G. Any potential effects on unknown sites will be mitigated through appropriate ADP requirements and controls. Overall, the effects on archaeology and heritage are anticipated to be minor and temporary only.

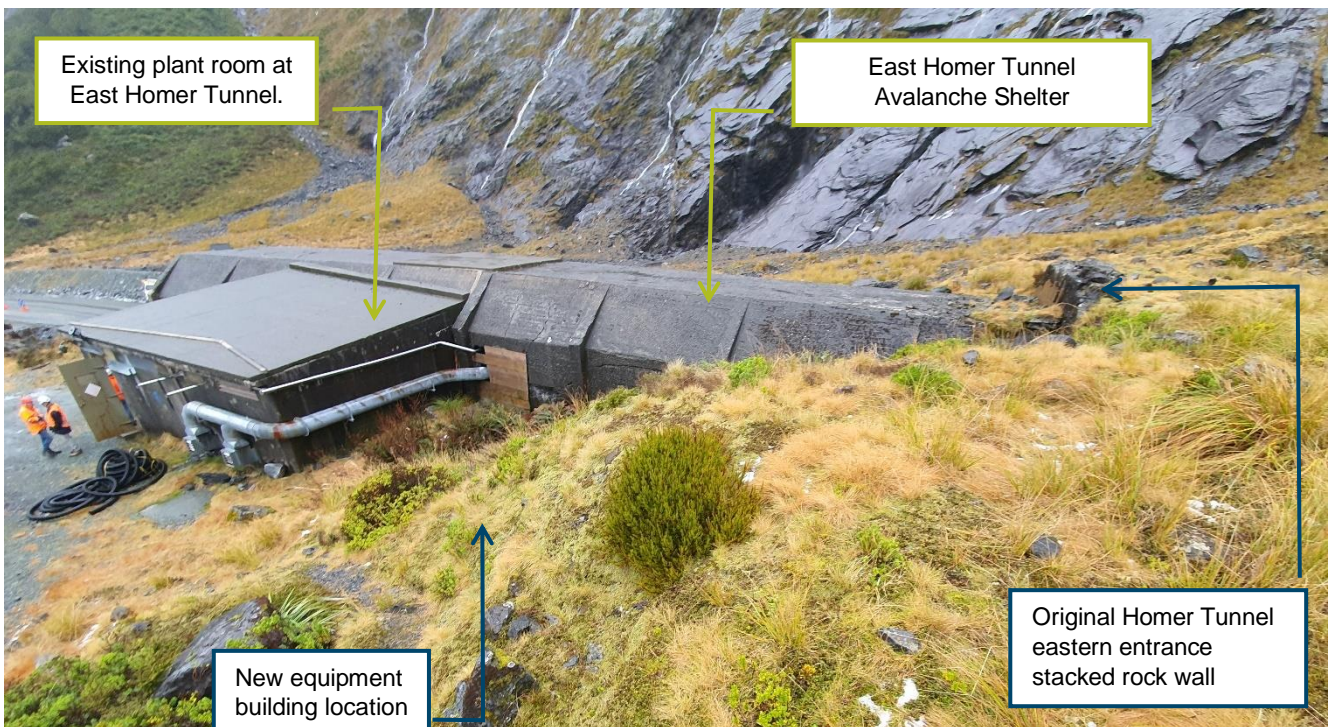


Photo 10: view southeast from above Homer Tunnel eastern portal and new equipment building site.

Landscape & Visual Amenity

Roads are an accepted part of the landscape for access from place to place, including through relatively remote locations such as FNP which can be subject to adverse weather conditions. The proposed earthworks and new equipment building have the potential to adversely affect landscape and amenity values associated with FNP, particularly during construction and immediately following works.

While the new equipment building will not be immediately accessible to SH94 users, the vegetation disturbance, earthworks and structure will be visible to SH94 users within 250-300m of the site. The earthworks will be temporary, with material largely replaced over the site on completion. This is similar to activities that take place along SH94, where rock falls, slips and road works are all experienced and remedied by Waka Kotahi contractors. It is considered that the replacement of excavated material back onto the site and retaining the excavated layer of vegetation to re-establish will ensure that the works are not discernible to passing motorists as differing from other areas adjacent to the site. Further overplanting will assist in the regeneration in the material replaced over the site. The completed works are unlikely to detract from the surrounding environment as they will form part of site and be reasonably expected for operation of SH94 at this location. A landscape visual assessment is contained in Appendix D.

The trenching will be within the existing SH94 formed shoulders and licence area where no vegetation is established. Temporary visual effects will occur during the trenching closer to SH94 but will be reinstated within 48 hours of excavation as required by the District Plan, where possible to limit erosion, but also limiting any temporary adverse visual effect.

The proposed equipment building will be located immediately adjacent to and covered with natural materials from the site so will not be readily discernible at a distance from the site. There is also existing vegetation further from the site, which will screen the structure from different viewpoints.

Apart from passing motorists, recreational users are known to access elevated areas in the wider Homer Basin where the site may be viewed from. There are no currently accessible marked walking tracks in the immediate vicinity, where the works will be visible from. While there will be vegetation disturbance, any vegetation disturbed has been previously modified by site management and earthworks on the site. The modified nature of the vegetation on the site and the return of vegetation to the site, whether with transplanted vegetation from the original site or new, locally sourced seed, plants, will mitigate the visual effect of any vegetation disturbance in the long term.



Figure 6: Visualisation of Homer Tunnel viewed from SH94 eastern entrance approach. Refer Appendix D.

The proposed new equipment building will slightly alter the appearance of the site in the long-term, with visible wingwalls noticeable from the northern aspect, but as noted above, the area has been developed as a depot for SH94 and has a history of use associated with Homer Tunnel and SH94. The new equipment building will be coloured to blend with the surrounding vegetation and structures and will have non-reflective finish in a recessive natural colour tones, similar to the existing equipment building and Homer Tunnel, reasonably expected in SH94 and FNP.

Post-construction, the site will be left in a debris and litter-free state. Overall, the landscape and visual effects of the SH94 widening on the landscape and visual amenity values will be minor. The trenching and new equipment building are considered to have a no more than minor effect on the visual amenity, natural character and physical landscape of the site and wider west Hollyford River branch valley.

Noise

Construction noise from builders and machinery undertaking the works will be the main source of noise associated with the activities. In this relatively remote location, with little to no permanent habitation, the noise effects will be mainly on flora and fauna and temporarily on passing motorists and workers at the site, as well as on potential recreational FNP users passing by the site.

It is unlikely that construction noise will have a significant effect on flora and fauna, given its temporary nature, the existing noise of passing vehicles on SH94, and ongoing associated maintenance which occurs within SH94, as provided for in Section 2.11 of the District Plan (Rule NSE.3(b) for vehicles on public road. The construction noise will be temporary only, during the construction phase which is also provided for as a permitted activity under Section 2.11 (Rule NSE.12).

Noise from the relocated services within the new equipment building will be less with improved ventilation systems, internal housing of the equipment and covering of the new equipment building with the removed fill. Compliance with the District Plan noise levels will be achieved. The operational noise will not be decipherable to passing motorists or recreationalists further east at the Homer Hut. Therefore, the effects of noise on the environment and amenity of the area will be less than minor, and temporary during construction only, with the status quo retained once the works are completed.

Natural Environment

Air Quality

Any potential discharge to air associated with the proposed earthworks and equipment building construction will be negligible. Potential release of dust from earthworks and emissions from construction machinery will not exceed any the Regional Air Plan 2016 requirements. The limited area affected and the generally wet conditions in FNP will subdue potential dust from being released and affecting the surrounding area during construction activities. Therefore, air quality effects of earthworks and generator activities on the environment will be less than minor.

Water Quality

The proposal seeks to undertake earthworks from which there is potential for discharges to land (of runoff-containing sediment) given the high rainfall experienced in Fiordland. The discharge of stormwater and any sediment is likely to have minimal effects on water quality, as excavations are within modified rock talus slope which means there is limited sediment to release. In this instance, there are no waterways immediately adjacent to the excavation site, and where trenching is to occur. Additionally, the ephemeral nature of the waterways in the vicinity will mean there is little risk of significant deposition in the waterway from runoff from the works site as works will be undertaken in times of no flow. Erosion and sediment control measures will form part of the construction management plans for the site.

Aquatic Ecology

Siting of some trenching adjacent to the waterway and the ephemeral nature of the waterway means there is little risk of impact on aquatic habitat and species. It is recognised that there is risk of cross contamination of waterways with *Didymosphenia geminata* (Didymo) through use of machinery and equipment which may have been used in other areas where didymo is present. All machinery and equipment used will be cleaned prior to, and following, all works within the site as heavy rainfall events will likely preclude works occurring at the site. Sediment protection measures will be in place if such events are forecast. Erosion and sediment control measures will form part of the construction management plans for the site. Accordingly, the effects of the works on aquatic ecosystems are considered less than minor.

Terrestrial Ecology

The works will take place in a modified area and will require removal or disturbance of some naturally re-established vegetation and talus materials.

Some of the vegetation is considered to be of high value as it is in the sub-alpine environment and there are rare species known to inhabit the area i.e. Rock Wren/ Pīwauwau, skink and gecko.

“...over the summer of 2004–05. ... a small population of geckos was found in the extensive alpine habitat around the Homer Tunnel. These so-called Darran Mountain geckos were living in a system of creviced but stable rock bluffs nestled between snow pockets, avalanche shoots and dangerously active boulder shoots. They are further members of the forest-gecko complex but seem unrelated to the Otago–Southland animals, having more in common with the Esperance valley species and geckos from Westland. Just days after the Homer Tunnel discovery, and during the same spell of hot weather, rock-climbers Bronwyn and Murray Judge encountered both geckos and skinks on Barrier Knob, 4 km north-west of the tunnel.”

(Jewell, 2005)

Refer Appendix E for ecological assessment and Section 8 for recommended conditions around pre-construction species survey and management, where required.

There is some vegetation located on modified bunds alongside SH94 that is subject to routine maintenance for SH94 and existing plant room i.e. rock-fall and snow-clearing. Disturbed areas adjacent to the trenching alongside SH94 will allow indigenous species to recolonise through natural processes and be managed to prevent pest plant species from establishing.

Natural Hazards

The site is below and within a known avalanche outfall area. Avalanche risk is monitored above Homer Tunnel at all times. The proposed works will not alter the morphology and dynamics of the avalanche fall zone as the excavations proposed will be returned to as-near normal once complete and are located at the base of the fall zone. The purpose of these works is to reduce the risk to those accessing the Tunnel by repositioning and protecting the equipment adjacent to the Tunnel in a position which is accessible and protected from avalanche and rock fall. This will reduce risk to people and infrastructure. For these reasons any adverse effects on natural hazards and their effects, are considered less than minor.

Hazardous Substances

The new equipment building will remove the need for temporary storage of fuel at the site. The permanent fuel storage for the diesel generator power supply will be within a purpose-built shed in the existing Green Shed depot concession site. Therefore, the risk from hazardous substances to be used for the activity is less than minor.

Conclusion

It has been identified that, while there are minor adverse effects associated with the activity, these are similar to and will replace the existing SH94 maintenance activities in the immediate vicinity. For the most-part, the effects can be mitigated through proper management measures in the works methodology and mitigated via those measures listed in Sections 8-9 below.

The proposed site will be partially visible from SH94 and some wider FNP viewpoints, both during the construction phase and once works are completed. However, the works are deemed necessary to improve the safety of SH94. Such physical works and emergency response services are reasonably expected along a sub-alpine state highway to provide the requisite safe egress to and from places for people and services along SH94.

There are significant positive effects associated with undertaking the proposed activities to ensure the integrity of SH94 and the safety of those providing safety systems for SH94 and Homer Tunnel, thereby meeting the statutory obligation for Waka Kotahi.



Photo 11: view southeast from East Homer – Tunnel at bottom right.

6. STATUTORY ASSESSMENT

The application must be considered in accordance with Section 17U of the Conservation Act 1987.

17U Matters to be considered by Minister

- (1) In considering any application for a concession, the Minister shall have regard to the following matters:*
 - (a) the nature of the activity and the type of structure or facility (if any) proposed to be constructed;*
 - (b) the effects of the activity, structure, or facility;*
 - (c) any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity;*
 - (d) any information received by the Minister under sections 17S, 17SD, and 17SE;*
 - (e) any relevant environmental impact assessment, including any audit or review;*
 - (f) any relevant oral or written submissions received as a result of any relevant public notice issued under section 49;*
 - (g) any relevant information which may be withheld from any person in accordance with the Official Information Act 1982 or the Privacy Act 2020.*
- (2) The Minister may decline any application if the Minister considers that—*
 - (a) the information available is insufficient or inadequate to enable him or her to assess the effects (including the effects of any proposed methods to avoid, remedy, or mitigate the adverse effects) of any activity, structure, or facility; or*
 - (b) there are no adequate methods or no reasonable methods for remedying, avoiding, or mitigating the adverse effects of the activity, structure, or facility.*
- (3) The Minister shall not grant an application for a concession if the proposed activity is contrary to the provisions of this Act or the purposes for which the land concerned is held.*
- (4) The Minister shall not grant any application for a concession to build a structure or facility, or to extend or add to an existing structure or facility, where he or she is satisfied that the activity—*
 - (a) could reasonably be undertaken in another location that—*
 - (i) is outside the conservation area to which the application relates; or*
 - (ii) is in another conservation area or in another part of the conservation area to which the application relates, where the potential adverse effects would be significantly less; or*
 - (b) could reasonably use an existing structure or facility or the existing structure or facility without the addition.*
- (5) The Minister may grant a lease or a licence (other than a profit à prendre) granting an interest in land only if—*
 - (a) the lease or licence relates to 1 or more fixed structures and facilities (which structures and facilities do not include any track or road except where the track or road is an integral part of a larger facility); and*
 - (b) in any case where the application includes an area or areas around the structure or facility,—*
 - (i) either—*
 - (A) it is necessary for the purposes of safety or security of the site, structure, or facility to include any area or areas (including any security fence) around the structure or facility; or*
 - (B) it is necessary to include any clearly defined area or areas that are an integral part of the activity on the land; and*
 - (ii) the grant of a lease or licence granting an interest in land is essential to enable the activity to be carried on.*
- (6) No lease may be granted unless the applicant satisfies the Minister that exclusive possession is necessary for—*
 - (a) the protection of public safety; or*
 - (b) the protection of the physical security of the activity concerned; or*
 - (c) the competent operation of the activity concerned.*
- (7) For the purposes of subsection (6), the competent operation of an activity includes the necessity for the activity to achieve adequate investment and maintenance.*
- (8) Nothing in this Act or any other Act requires the Minister to grant any concession if he or she considers that the grant of a concession is inappropriate in the circumstances of the particular application having regard to the matters set out in this section.*

This report addresses the above matters. DOC may consider granting concession.

Relevant Documents

National Parks Act 1980 and Conservation Act 1987

Fiordland National Park is identified as part of Te Wāhipounamu Southwest New Zealand World Heritage Area. The Department of Conservation manages the World Heritage Area on behalf of the New Zealand Government under the two Acts, amongst others, and the management documents such as the Conservation Management Strategies (CMS) and National Park Management Plans set out the measures required to achieve the specific care of the National Park.

Southland Murihiku Conservation Management Strategy

The Southland Murihiku Conservation Management Strategy (CMS) was approved in 2016. It is the statutory document implementing general policies and establishes objectives for the integrated management of natural and historic resources within the conservation areas of Southland, including Fiordland National Park, though the latter has its own Plan also.

Part 1 of the CMS contains the documents vision, objectives and milestones that apply to all public conservation lands, waters and resources in Southland Murihiku. Parts 2 and 3 contain more specific policies and objectives. Section 1.4 of the CMS sets out Treaty partnership intentions with Ngāi Tahu as tangata whenua of Southland Murihiku. Te Tangi au Tauira Ngai Tahu ki Murihiku Iwi Management Plan is considered below in respect of the Iwi values and liaison with respect to the proposed development. DOC may choose to further engage with Iwi in considering this proposal.

Section 1.5 outlines the natural heritage, history, recreation, public engagement and conservation national and regional conservation objectives in respect of business operating within conservation areas. The CMS Section 2.2 addresses Fiordland Te Rua-o-te-moko Place including FNP and refers users to the Fiordland National Park Management Plan 2007 (FNPMP).

Part Two – Places identifies Fiordland Te Rua-o-te-moko including FNP amongst further significant areas of conservation land, with further recognition as part of Te Wāhipounamu – South West New Zealand World Heritage Area. Relevant policy from this section includes the following:

2.2.6 Work with Ngāi Tahu, relevant agencies (such as Southland Regional Council, Southland District Council, Fiordland Marine Guardians, New Zealand Transport Agency, Civil Aviation Authority and Milford Community Trust), commercial interests and the community to:

- b) develop and sustain an integrated approach to managing Milford Sound/ Piopiotahi, and access to it as an Icon destination, thereby enhancing its international reputation;*

Vehicles:

3.2.1 Should allow motorised vehicles only on the roads (including designated parking areas) as identified in:

- a) Part Two—Places; or*
- b) the national park management plan for Fiordland National Park.*

3.2.3 May allow motorised vehicles on public conservation lands and waters for the construction, operation and/or maintenance of authorised utilities, farming operations, and restoration activities.

3.10.1 Should apply the following criteria when considering applications to erect or retain structures or utilities or the adaptive reuse of existing structures on public conservation lands and waters:

- a) the purposes for which the land concerned is held;*
- b) the outcomes and policies for the Place where the activity is proposed to occur;*
- c) whether the structure could reasonably be located outside public conservation lands and waters;*
- d) whether the structure could reasonably be located in another location where fewer adverse effects would result from the activity;*
- e) whether the structure adversely affects conservation, including recreational, values; f) whether the structure is readily available for public use;*
- f) whether the structure is consistent with the visitor management zone on Map 3 and as described in Appendix 12;*
- g) whether the activity promotes or enhances the retention of a historic structure;*
- h) whether the activity is an adaptive reuse of an existing structure;*

- i) *whether the policies for private accommodation and related facilities should be applied (see Policies 3.11.1–3.11.7); and*
- j) *whether any proposed road in the Fiordland National Park is provided for by the Fiordland National Park Management Plan 2007.*

These objectives, along with the implementation section are partially repeated in the FNPMP. The implementation section as listed is generally the same as for the Park below and is not repeated to avoid repetition. The proposed works are located within the Fiordland landscape unit and do not significantly affect natural or historic values or visitor use opportunities prescribed within the strategy, and those effects that are minor will be avoided, remedied or mitigated through conditions and mitigation measures outlined in Sections 8-9 below.

It is considered that potential impacts of the works will be largely avoided by the replacement of excavated material back over the site as proposed and the appropriate siting adjacent to existing modified areas. Further to this, it is considered that the effects of the proposed replacement equipment building on the recreational, cultural and historic values of the Park, will be no more than minor. The proposed activity will also have positive effects, including improved safety for SH94 users and operators within FNP. On this basis of the above assessment, the proposal is considered consistent with the relevant objectives of the CMS.

Fiordland National Park Management Plan 2007

In the FNPMP, Section 5.3 Visitor Settings determines the relevant setting of the proposed works adjacent to SH94, but located within FNP. Section 5.3.9.2 of the FNPMP delineates the Milford Road as being through one of six frontcountry areas to which a pertinent set of objectives apply to FNP in relation to the ongoing integrated operation alongside SH94. These are as follows:

Objectives

1. *The Fiordland National Park that adjoins the Milford Road will be managed to provide for and protect the following attributes:*
 - a) *The spectacular views of forested catchments, open grasslands, lake systems and outstanding mountain-scapes;*
 - b) *Its significant indigenous flora and fauna;*
 - c) *A place which is a destination in its own right; ...*
 - e) *The steep, winding and narrow character that forms large parts of the adjoining road;*
 - f) *The easily accessible and safe visitor opportunities at designated sites; . . .*
2. *To provide for the integrated management of the Milford Road and Fiordland National Park adjacent to the road in a way that ensures visitor safety, protection of park values and a high-quality visitor experience.*

Under 'Implementation' the plan states:

1. *Work with Transit NZ and its consultants and contractors to provide an integrated approach to management of the road corridor.*
6. *All development proposals including those proposed by the Department of Conservation and Transit NZ will demonstrate how the adverse effects on natural, cultural, historical and recreational values can be avoided, remedied or mitigated. Roading proposals will need to be consistent with the provisions of section 5.7 Roading, Vehicle Use and Other Transport Options (Other Than Aircraft and Boating) and will need to demonstrate that existing facilities are being used to their full capacity and potential and that there is a proven demand for the new facility beyond what the existing infrastructure can cope with.*

The Milford Road Alliance partnership of Waka Kotahi with Downer administers maintenance along SH94 and is responsible for the day-to-day management of SH94, in conjunction with advice from DOC regarding the adjacent FNP; primarily accounting for the safety of SH94 users and visitors to the FNP, while acknowledging the unique surroundings and minimising the adverse effects of SH94 on the FNP experience as much as possible.

The proposed works consider the existing infrastructure, topography and visual amenity when viewed from SH94 and adjacent accessible areas to ensure the visitor experience in the wider FNP area is not significantly reduced.

As mentioned in Section 5.3.9 Objective 6 above, Section 5.7 Rooding, Vehicle Use and Other Transport Options (Other than Aircraft and Boating), is also to be achieved. The following provisions from that section pertinent to the proposal are as follows:

- 1. To maintain, subject to natural hazards, the existing road access routes available to visitors within Fiordland National Park, recognising the opportunities they provide for public use and enjoyment.*
- 2. To consider provision of new rooding, or other land transport links, in frontcountry visitor settings only (see Map 7), and then only if they will improve visitor access and enjoyment of Fiordland National Park without impacting significantly on other recreation opportunities and national park values.*

Implementation further delineates the expected proposals and how those should be assessed:

- 4. All planned rooding developments within Fiordland National Park, including reconstruction, upgrading and significant maintenance works, will require an assessment of environmental effects. The assessment will outline the need for the work and deal with the potential adverse affects on visitor experience and the natural, historical, cultural, recreational, landscape and amenity values...*
- 6. The Milford Road will be managed according to the provisions of this section and section 5.3.9.2 Milford Road. The Transit NZ Avalanche Programme for State Highway 94 will be supported, including providing for the necessary infrastructure directly associated with this programme, subject to all statutory and environmental considerations.*

6.15 ACCESS AND UTILITIES

The Department of Conservation may grant a concession or authorisation where:

- A legitimate need for the grant exists because the purpose or activity involved cannot be located on private land;*
- Attributes or features of importance to natural values are not adversely affected; and*
- It does not significantly restrict or alter existing use of an area.*

Objective

- 1. To allow land uses or activities requiring concessions only where they will not significantly compromise natural, historical and cultural or recreation values, and their purposes cannot be reasonably achieved by other means on other land.*

Implementation

- 1. All applications to use lands in Fiordland National Park involving vegetation clearing, earthworks or the erection of any structure will require an environmental impact assessment which should clearly show that all alternatives have been investigated. Applications should only be accepted if the report shows the application to be acceptable in terms of minimising adverse impacts on natural values.*
- 2. Any construction on lands administered by the Department of Conservation as a result of an approved concession, will be subject to performance conditions and the deposit of a performance bond to guarantee compliance with conditions and remedying of any unforeseen effects of constructions.*

Downer, as contractor to Waka Kotahi within the Milford Alliance, sets out to ensure all works are suitably assessed and considered prior to instigating them. The above matters are discussed fully above in the Assessment of Effects on the Environment.

Regarding the timing and lifespan of the proposed equipment building and associated trenching for services, if it were to become defunct it will be upgraded or removed, with all necessary approvals first obtained for any works. This proposal is consistent with the relevant objectives and implementation clauses of the FNPMP. As previously mentioned, consultation with DOC is regularly undertaken in relation to SH94 safety measures and SH94 management, which is the case with this proposal.

DOC Area offices carry out the delivery of conservation, with the support of the conservancy offices. Liaison with the local conservancy representatives continues for SH94 in a partnership arrangement with Waka Kotahi through the Milford Road Alliance, given the unique location and reliance on SH94 by many stakeholders.

Another aspect of the FNPMP in respect of the site is Section 4.12 Historical and Cultural Heritage Management. Section 4.12.3 identifies sites for recognition of historical values. This is outlined in Table 3 of Section 4.12.3, listing actively managed historical sites within FNP. Homer Tunnel avalanche protection shelter damage within the Milford Road is identified in Table 3 as having national significance.

4.12.3 Further recognition of historical values

Objective

1. To attain an understanding sufficient for management purposes of the values of historic resources within Fiordland National Park, and the threats they face.
2. To protect historic resources within Fiordland National Park from injurious human actions.
3. To identify and actively manage, within Fiordland National Park, historical places which are of high significance and provide the best possible balanced representation of the history of those lands.
4. To instil in the public an understanding of the nature and values of historic resources within Fiordland National Park so that those places are understood and treated with respect by visitors.
5. To promote appropriate storage, conservation, display, and interpretation of artefacts, archives, and photographs removed from or relating to Fiordland National Park.

Implementation

4. Actively manage historical places identified in Table 3 and give consideration to managing any other places of importance that papatipu rūnanga may wish to nominate within Fiordland National Park.

The assessment of heritage effects of the proposal on the Tunnel is contained in Appendix F.

The assessment determines...

- .
- .
- .
- .
- .
- .



Photo 12: remnant steel and concrete from 1960s avalanche protection shelter demolished by avalanche in 1960s.

The works include measures set to protect the longevity of key aspects of the Homer Tunnel and avoids the identified areas of significance as much as possible to ensure the remnant portions of the avalanche shelter remain in situ.

Co-locating of infrastructure is encouraged by DOC in the National Park plans and policies. Siting the new infrastructure adjacent to SH94 and in an existing concession area allows the operational systems to be in proximity to each other. The proposal also further consolidates SH94 related infrastructure in this area.

This proposal is therefore consistent with the relevant Fiordland National Park Management Plan policies and objectives.

Other Matters

Te Tangi Au Taura – the Cry of the People: Kāi Tahu Ki Southland Natural Resource Management Plan 2005

Te Tangi Au Taura is the iwi management plan for Murihiku (Southland) and is a relevant consideration for Council when assessing this application. Section 3.3 Te Atawhenua – Fiordland and 3.3.5 Fiordland Future Development is relevant in this instance.

The site is in the basin below Te Kōhaka-o-Te-Ruru/Homer Saddle. The construction activities will not impede access to the saddle and wider surrounding area (Policy 3.3.1.7). The activities will also not impede access to taonga sites. The use of an existing modified area for the proposed activities ensures consolidation of services and avoids further development of other areas within FNP. The relocation of the generators will ensure more efficient use of resources, while still investigating alternative energy sources otherwise limited in this location (Policies 3.3.5.1, -4, -5). The cumulative effects are low, as no new area of FNP is taken up for the development. Works will only be in existing areas of development and operations (Policy 3.3.5.6).

With both resource consent and concession required for the proposed activities, these conditions will be required. The areas of development are modified, and no significant natural indigenous vegetation will be affected by the works. An accidental discovery protocol, along with standard operating procedures for works within FNP will be adopted (Policies 3.3.7.2, -5, -6). Te Ao Marama Inc will be consulted in respect of the application on behalf of iwi via the DOC process along with the resource consent application (Policy 3.3.19.1). For these reasons, the proposal is considered to be consistent with the relevant sections of Te Tangi Au Taura.



Figure 7: Kā Huru Manu Ngāi Tahu Atlas excerpt showing Te Kōhaka-o-Te-Ruru/Homer Saddle and Ōkare/Hollyford River (kahurumanu.co.nz)

National Environmental Standards

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (the NES) relevant to the proposal is assessed under the activity status in Section 4. The proposed structure and trenching are not a change of use or soil disturbance subject to the NES in this instance, as the site is not more likely than not to be considered a HAIL site.

Though the site is associated with transport maintenance, it has not been used as a permanent refuelling or fuel storage site, rather such activities have been undertaken temporarily. The proposed new equipment building area to which the current application relates (the piece of land) has only been used to store gravel, grit and other locally sourced materials, as required by way of concession requirements for materials used in FNP. Therefore, the piece of land has not been and is not more likely to have been used for a HAIL or hazardous substances related activities. For the above reasons, the proposed building site, change of use and soil disturbance does not require resource consent under the NES.

No other National Environmental Standards are considered relevant to this application.

Operative Regional Policy Statement 2017 (RPS)

The Operative Regional Policy Statement is relevant and is required to be considered in assessing the impacts of activities on Southland's resources.

The application takes into account Te Tangi au Tauria. Te Ao Marama Inc will be consulted in respect of the application as resource management liaison on behalf of iwi (Objective TW.2, Policies TW.1, .3).

The siting has minor temporary impact on vegetation while removed and then re-established following replacement. Therefore, the wider effect on FNP flora and fauna is avoided ((Objective TW.BIO.2). While there will be both short-term and long-term adverse effects on the environment, including visual effects during construction and longer-term effects on natural character and landscape from the new building at the site. There are no alternative sites which provide the service, access and associated operational activities in the immediate proximity. This co-siting in turn reduces the potential effect of the activity from additional power supply sources and accesses having to be established for the installation (Objective LNF.1, Policy LNF.4).

The proposal is associated with the provision of regionally significant infrastructure, in that the new building supports and provides for on-going use and safety of a regional and national critical infrastructure element – the Homer Tunnel and SH94. The activity recognises Policies INF.1 & 2, in terms of SH94 safety and resilience as promoted by Waka Kotahi objectives. Therefore, the proposed trenching and new building consistent with the District Plan (Objective INF.1, Policies INF.1, .2).

The assessment of effects on the environment in Section 5 confirms that there will be no significant adverse effects from the proposed works that would result in environmental outcomes inconsistent with the above objectives of the proposed RPS.



Photo 13: SH94 200m east of Homer Tunnel eastern portal (at traffic light stop lane location).

7. NOTIFICATION AND CONSULTATION

Notification of an application lies at the discretion of the Minister. Section 17SC of the Conservation Act determines process for determining public notification of concession applications made under Section 17O of the Act.

In this case, the adverse effects of the earthworks will be largely temporary and the visual effects from the new equipment building structure will not greatly alter the site. The applicant does not request public notification, will undertake and attempt to provide any information sought (s17SD/s17SE).

Consultation

The applicant consulted with DOC permissions staff ahead of submitting this application. Discussion have been held with:

- Alice Sinclair, Kaiārahi Tūtohu Ōtautahi | Team Lead Permissions Christchurch Whare Ōtautahi | Christchurch Office, Phone: +64 27 647 7832
- Lisa Wheeler, Senior Permissions Advisor Dunedin Office +64 27 572 8523 (advised concession variation to be assigned to this advisor).

Refer Appendix C for notes and advice obtained via pre-application discussions.

8. MITIGATION MEASURES

Based on the above assessment, the potential adverse effects of the proposed activities will be mitigated by way of the following measures as discussed in the Consultation and Assessment of Environmental Effects sections above:

These recommendations have been adopted and promoted by the applicant as outlined below.

- The contractors will abide with the Accidental Discovery Protocol attached in Appendix G.
- The contractors will follow the procedures recommended by Biosecurity New Zealand for the control of the spread of didymo.
- All work will be required to comply with best practice Erosion and Sediment Control Guidelines.
- Any vehicle or machinery used on the site will be cleaned prior to its transport to the site to ensure that any weeds and seed sources have been removed.
- The contractors will be instructed to undertake traffic management during the works (where required) in accordance with the Waka Kotahi Code of Practice for Temporary Traffic Management.
- All refuse, rubbish and construction materials will be removed and disposed of in a suitable manner upon completion of the works.
- No refuelling or cleaning of any machinery or vehicle will occur in any waterway or riparian margin.

9. PROPOSED CONDITIONS OF CONSENT

Proposed conditions of consent are provided in the table below.

#	PROPOSED CONDITION
1	During construction, the consent holder shall take all practicable measures to minimise erosion and discharge of sediment beyond the boundaries of the site. The relevant construction management plans will include erosion and sediment control measures.
2	That the site shall be reinstated with excavated vegetation and disturbed material upon completion of the works.
3	The consent holder shall provide Council digital photographs taken before, during and after the works.
4	In the event of a discovery, or suspected discovery, of a site of cultural importance (Waahi Taonga/Tapu) the consent holder will immediately cease operation in that location and inform Te Ao Marama Inc (Full ADP In Appendix G).
5	All works will be undertaken in accordance with outlined in the Heritage Assessment Appendix 2 Mitigation measures and Site Management Plan, and Accidental Discovery Protocols contained in Appendix G.
6	The contractor will comply with the provisions of <i>NZS 6803:1999 Acoustics - Construction Noise</i> .
7	Machinery must be cleaned prior to entry to the site to reduce the risk of the introduction of invasive weed species.
8	The consent holder shall notify Council's Compliance Manager, in writing prior to commencement and upon completion of the works.

10. ASSESSMENT OF ALTERNATIVES

The following alternatives were considered:

- Do nothing; or
- Other safety control options.

To do nothing and retain the current level of service provided for emergency response and state highway management along SH94 does not allow Waka Kotahi to meet its objective of providing a safe highway network and presents an unacceptable risk to SH94 users and maintenance operators. If no further provision for emergency roading services is provided at this location, or in proximity the Homer Tunnel, Waka Kotahi will not be providing the level of service it seeks to achieve.

Closures of SH94 from adverse weather events, tunnel incidents and/or other adverse events in this location presents an unacceptable risk to the tourism industry of the Milford given there is no alternate route by road.

Whilst various other options were considered in terms of siting of the proposed equipment and its housing, the selected site is considered the most practicable option for long term use and reducing

conflict with SH94 and the landscape, which in turn will help to ensure the safety and efficient function of SH94 and retaining the appearance of the modified site.

Alternative sites lacked sufficient shelter from avalanche and rock fall risk, were more conspicuous or had other topographical features which would have required more significant earthworks and/or vegetation removal for the scale of works required. Constructing the new building adjacent to the existing one consolidates structures and avoids the need for development of other sites in new concession areas elsewhere in FNP.

The proposal will allow Waka Kotahi to meet its objectives for the movement of people between places, in an affordable, integrated, safe, responsive and sustainable land transport system.

11. MONITORING

During the proposed works, the contractor will operate in accordance with Waka Kotahi environmental policies and objectives, which require the contractor to adopt best environmental practice.

During the proposed works, the contractor will operate in accordance with Waka Kotahi environmental policies and objectives, which require the contractor to adopt best environmental practice.

Specific monitoring is considered necessary for the investigations and reinforcing works as outlined in the Heritage Assessment in Appendix F. Standard consent compliance monitoring is anticipated before, during and after construction activities. The new equipment building works will also be controlled by Building Act requirements.

12. CONCLUSION

The works will ensure SH94 users can continue to safely travel along this portion of SH94. This will assist Waka Kotahi in achieving its statutory objective under the LTMA, by continuing to provide safe and efficient vehicle access along SH94 between Te Anau and Milford Sound.

The Assessment of Environmental Effects has demonstrated that any effects of the proposed new building, associated vegetation disturbance and earthworks, investigations and reinforcing, for which concession is sought, will be no more than minor.

It is also anticipated that all the necessary written approvals will be obtained. The proposal has been further assessed against the relevant objectives and policies of the relevant statutory documents and has been found to be consistent with the Management strategies and plans for Fiordland National Park as well as the relevant Regional Policy Statements and Iwi Management Plan Te Tangi au Taurira.

The Department of Conservation may consider the concession application and acknowledge the positive aspects of the proposal in the frontcountry setting for the integrated management purpose of safety of those accessing FNP, along with the avoidance of greater effects elsewhere in FNP by co-location of the proposed structure and services at and for the Homer Tunnel.

Appendix A
NZ Gazette SH94