

These guidelines have been prepared by Venture Southland upon request from Southland District Council, to assist people with making informed submissions.

Your guide to making a submission on the 'Dart Passage' (Routeburn - Hollyford Tunnel) concession application by Milford Dart Ltd.

Milford Dart Ltd want to build a tunnel between the Routeburn Road end and the Hollyford Valley and allow only their 'invitees' to use. The concession application consists of investigating, constructing, operating and maintaining a bus tunnel and associated infrastructure. Their concession application has been approved in principle by the Department of Conservation (DOC), subject to public notification. Now is the time for YOU to have your say!

If you wish to have your say on the project, specifically the impact this project may have on Fiordland and Mount Aspiring National Parks, you need to make a submission before **27 January 2012**.

The rationale behind the concession decision should be downloaded from:

<http://www.doc.govt.nz/getting-involved/consultations/current/notified-concession-applications/dart-passage-tunnel-milford-dart-ltd>

Recommended Reading

A good overview of the application and general explanation of effects is contained in the [Executive Summary](#) of the report (copied into these guidelines).

You can also request a copy of all the supporting documentation listed in Appendix A of the report by contacting the Department of Conservation in Invercargill: rroberts@doc.govt.nz. These documents will need to be posted to you on CD-Rom, so make sure you ask for this well in advance.

You can also find out more about what DOC should be considering when making decisions by downloading [Fiordland National Park Management Plan](#), [Mount Aspiring National Park Management Plan](#), [General Policy for National Parks](#), [Conservation General Policy](#), [Conservation Act 1987](#) (relevant sections copied into these guidelines), [National Parks Act 1980](#).

You may also wish to refer to the [New Zealand Tourism Strategy](#).

Important Information

Submissions close 27 January 2012.

Submissions should be sent to:

Director General

Southland Conservancy Office

Phone: +64 3 211 2400

Fax: +64 3 214 4486

Email: invercargill@doc.govt.nz

Postal Address: P O Box 743

Invercargill 9840

Attention: Robyn Roberts

Email: southlandconcessions@doc.govt.nz

Your Actions

1. [Download](#) or request the complete application from DOC.
2. Read the [Executive Summary](#) from the 'Officers Report to Decision Maker'.
3. [Request](#) a copy of the supporting documentation (allow 2 weeks).
4. Discuss the application and how this may affect you. Determine which of this information is subject matter DOC can consider as part of your submission.
5. Write a submission to go to DOC **by 27 January 2012**.

What Happens Next

Hearings for the concession process are likely to be held in the week starting 12 March 2012, and will probably be held locally, if you ask.

A final report to the Decision Maker will be drafted, including information raised in the submission process, and this will go back to the applicant for comment prior to being put forward for a final decision.

- If the final decision is to decline the concession application, anyone may request reconsideration (usually the applicant).
- If the decision is to approve the application, anyone may request reconsideration, if done before the concession document is executed.
- Any person may request a judicial review to ascertain if due process was followed in the course of the application for a concession.

Milford Dart Limited will then have to gain resource consent, which is likely to be processed by the Environmental Protection Authority in Wellington.

Milford Dart Limited will then have to gain a building consent from Southland District Council.



Affected Areas

There is already an existing transport route to Milford Sound from Queenstown, outside the National Parks.

The main areas of the National Parks affected by this proposal, if granted, include Routeburn Road end, Hollyford Road end, and Milford Sound. There is also potential for adverse noise and visual effects on users of the National Parks nearby these areas.

The following shows the alignment of the proposed Milford Dart Tunnel:



Writing your submission

Firstly, it is important to note that the Department of Conservation (DOC) is only able to consider impacts on the National Parks, and users of these places in this process. So, **don't bother including information on the economic impacts on a township such as Te Anau**, as legally DOC are not able to consider this kind of impact in this process. If you want to know what kinds of things they can consider, refer to the [next page](#).

1. Start drafting your submission as a letter addressed to the Director General (address shown [previously](#)).
2. Include a brief description of you, and who you represent (if you are writing on behalf of a group of people). If you have experience, or expertise which relates to the content of your submission, include this information. e.g. "I have been operating a commercial transport business for x years taking people to x locations in the park", or, "I have been visiting x area of Fiordland National park over x years", or "I am an engineer/ecologist who has been involved with x types of projects in the past".
3. Read section 4.2.1-4.2.5 of the 'Officers Report to Decision Maker', which you have downloaded from the [website](#). Do you think this has adequately identified the potential adverse effects, including social effects on you as a user of these areas? In your submission you may want to write about:
 - Which areas within the National Parks will be affected by the proposal, and what do you value about these places? e.g. Natural quiet, birdlife, water quality.
 - How this proposal would impact on your future enjoyment of these places? e.g. Hollyford Road area (Gunns Camp, Humbolt Falls,...), Routeburn Road area, Milford Sound.
 - If you think that the special conditions noted in the report address these adequately? Do you think other conditions should be put in place instead? Or do you think no special conditions are adequate and the application should be declined?
 - If you feel that the duration of the effects (20 months minimum stated in application, and realistically at least 3 years or even longer) should be considered temporary, in the same way that a filming permit is considered to have temporary impacts?
4. We have noted that there is substantial information missing from the application that has made it difficult to identify the effects. e.g. Information on levels of noise, detailed Construction and Specification Plans (and associated safety features).
 - Do you think there is a lack of information in the application that has affected your ability to provide information on how the proposal will impact you?
 - Are you happy for someone to make a judgement call on your behalf over the impacts of this further information, or do you think this should also be available for the public to comment on?
5. Refer to any wording from relevant legislation or plans (see [Recommended Reading](#)), and you may like to refer to the value of these parks as a [World Heritage Area](#) and what this means to you, and how New Zealand is perceived.
6. Finally, if you would like to be heard in person regarding your submission (highly recommended so you can answer any questions or clarify points), state in your submission that you request to be heard at the hearing.

Ensure your submission is posted or emailed in time for it to be received by DOC no later than 27 January 2012.

What subject matter DOC can consider

Extract from Part 3B of Conservation Act 1987, Section 17U

- (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 [section 17S](#) or [section 17T](#):
 - (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 1993](#).
- (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.

Extract from Part 3B of Conservation Act 1987 Section 17W

(1) Where a conservation management strategy or conservation management plan has been established for a conservation area and the strategy or plan provides for the issue of a concession, a concession shall not be granted in that case unless the concession and its granting is consistent with the strategy or plan.

(2) Where—

- (a) there is no conservation management strategy or conservation management plan for a conservation area; or
- (b) the relevant conservation management strategy or conservation management plan does not make any provision for the activity to which the application relates in a conservation area,—

the Minister, after complying with the provisions of [sections 17S](#), [17T](#), and [17U](#), may grant a concession.

(3) The Minister may decline any application, whether or not it is in accordance with any relevant conservation management strategy or conservation management plan, if he or she considers that the effects of the activity are such that a review of the strategy or plan, or the preparation of a strategy or plan, is more appropriate.

(4) On declining an application under subsection (3), the Minister, if requested by the applicant to do so and after consultation with the relevant Conservation Board, may initiate a review of the strategy or plan pursuant to [section 17H](#) or the preparation of a strategy or plan under this Act.

(5) The Minister may require the applicant to pay all or part of the reasonable costs of such a review or the preparation of a strategy or plan.

(6) Subsection (4) does not affect the power of the Director-General to initiate a review or an amendment to a strategy or plan under [section 17H](#) or [section 17I](#).

(7) It shall be a condition of every concession document that the concessionaire must act in accordance with every relevant conservation management strategy and conservation management plan for the time being in force, including any amendments to the strategy or plan, whether the strategy or plan or amendment was approved before or on or after the date on which the concession became effective; and that condition shall be deemed to be included in every concession document.

(8) Any provision of a concession document that contravenes or allows expressly or by implication any action or default on the part of the concessionaire in contravention of the strategy or plan shall have no effect and any breach or contravention of the strategy or plan shall be deemed to be a breach or contravention of the concession and concession document.

EXECUTIVE SUMMARY

(Extract from 'Officers Report to Decision Maker – 'Dart Passage', Department of Conservation, dated 4 November 2011)

The Department has received an application from Milford Dart Limited (MDL) to construct and operate the „Dart Passage“, a 11.3 km long 5m diameter single lane bus/coach road tunnel through the Humboldt and Ailsa Ranges to link the Routeburn and Hollyford roads in Mt. Aspiring and Fiordland National Parks.

The Road tunnel is intended to be operated by Milford Dart Limited for approved bus/coach use only. This is a large scale engineering project with a corresponding level of effects. The tunnel would generate 268,000 m³ of spoil, which would be disposed of on the Hollyford Airstrip. Two portal sites and access ways are proposed – one running off the Hollyford Road in Fiordland National park, the other at the Routeburn road end in Mt. Aspiring National Park.

The application as it currently stands (being a revised application) was received in March 2011. The March 2011 revised application was in response to a preliminary draft first determination report considering a previous application, sent to MDL for comment in April 2010. This report contained analysis recommending that although the concession could be partially granted, on the basis of significant and unmitigated potential adverse environmental effects on long tailed bat and mohua, the previous application be declined in respect of the construction of a 600 m portal access road through forest in the Routeburn Valley.

MDL made a new application to avoid these significant adverse environmental effects, by moving the proposal for the Routeburn portal and portal access road to an area in the open grassy flat near the existing Routeburn Shelter, where no forest vegetation removal would be required. This change in location results in an increase in tunnel length from the originally assessed 10.4 km, to 11.3 km, and an increase in volume of spoil for disposal at the Hollyford Airstrip from 256,000 m³ to 268,000 m³.

This report considers the application in accordance with the relevant legislation to recommend whether the application should be approved in principle, or declined. Readers of any application material and assessments related to this application need to be mindful that the documents comprising the concession application span many years, and various amendments to the proposal. As such some aspects of this material are out of date, or superseded by subsequent information.

This report has been vigilant to ensure that only matters of relevance to the Minister of Conservation pursuant to the Conservation Act and National Parks Act have been considered. The discussions in this report conclude that a number of potential effects of the proposed activities, while potentially significant and adverse, could be remedied, avoided or mitigated to the point where they would be minor, subject to effective mitigation by MDL and concession conditions. This is a large scale engineering proposal. By MDL's own admission, they would need to commission and refine final Construction Specifications and Plans and Construction Management Plans, to give effect to any concession granted.

This report recommends that as a condition of grant of any concession, final Construction Specifications and Plans and Construction Management Plans be provided to the Grantor for final audit and approval, prior to construction works commencing. While there have been various discussions with MDL regarding commercial terms agreements reached in respect of commercial terms to avoid, remedy and mitigate potential effects of the proposed activities (that is, acceptance of bond conditions) no agreements have been reached in regards to concession fee or rental at this point

in time. Should the concession be granted, discussions around concession fee will be resumed, and concession fees set. This report recommends that the concession application to construct and operate the Dart Passage in Mt. Aspiring and Fiordland National parks could be granted, subject to the draft concession conditions outlined in this document, the Department's standard concession conditions, and the outcome of the public notification process.

In June 2011 a preliminary draft version of this Officers Report was sent to MDL for comment. Comment was received on 8 August 2011, and is taken into account in this report.