

Notice is given that an extraordinary Submissions Hearing meeting will be held on:

Date: Thursday 13 May 2022
Time: 9.30 am
Meeting Room: Zoom
Venue: Join Zoom Meeting
Zoom conference : <https://us02web.zoom.us/j/81373700701?pwd=NIAXSFpISVBNa jRxUUVINWVRWEhVUT09>
Meeting ID: 813 7370 0701
Passcode: 953689

Submissions Hearing

AGENDA

MEMBERSHIP

Chairperson

Cr C Hill

Grant Knowles (GBCB)

Members

Cr C Butler

Kura Stafford (MKM)

(Quorum 2 members)

Contact Telephone: 543 8453

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AGENDA

- 1 OPENING, WELCOME, KARAKIA**
- 2 APOLOGIES AND LEAVE OF ABSENCE**

Recommendation

That apologies be accepted.

- 3 REPORTS**
 - 3.1 Port Tarakohe Fence Proposal - Recommendations Memo 4
- 4 HEARING OF SUBMISSIONS**

Nil
- 5 CONFIDENTIAL SESSION**

Nil
- 4 CLOSING KARAKIA**

3 REPORTS

3.1 PORT TARAKOHE FENCE PROPOSAL - RECOMMENDATIONS MEMO

Decision Required

Report To:	Submissions Hearing
Meeting Date:	13 May 2022
Report Author:	Nick Chin, Enterprise Portfolio Manager
Report Number:	RSH22-05-4

1 Summary

- 1.1 Please find attached a memo to the Hearing Panel, after following a review process, staff have suggested several amendments to the Panel's recommendations to ensure that the recommendation can be properly implemented once Full Council makes its decision. The Panel is being reconvened on Friday 13 May 2022 at 12.30.

2 Draft Resolution

That the Submissions Hearing receives the Port Tarakohe Fence Proposal - Recommendations Memo RSH22-05-4; and

- 1. agrees to revisit its recommendations to Council, from its 27 April 2022 deliberations to consider further officer advice; and**
- 2. Recommends to Full Council, that Council approves the construction of a fence on the western arm of Port Tarakohe, primary to protect the nesting Little Blue Penguins subject to the following measures;**
 - (a) That year- round access will be by permit, issued by Council; and**
 - (b) Administration of permits and access by Council will be on a cost recovery basis; and**
 - (c) the positioning of the recommended two fences proposed by the Hearing Panel, according to the provided map; and**
 - (d) that access is obtained with an educational component; and**
 - (e) that an annual report is provided to the Council by the Mōhua (Golden Bay) Blue Penguin Trust to monitor effectiveness; and**
 - (f) That no dogs, even if leashed, are allowed in the restricted area. An exception will be made for certified detection dogs or service dogs**
 - (g) Council will provide for the cost of the fence installation in the Annual Plan for 2022-23.**
 - (h) *(Any other recommendations from the Panel)***

3 Next Steps

3.1 If the Hearing Panel agree to the recommendations made by staff. The referral report going to the Full Council on the 19 May 2022, will be updated with the changed recommendations.

4 Attachments

- | | | |
|----------------------|--|---|
| 1. ↓ | Port Tarakohe Fence Proposal - Recommendations to Council Memo | 6 |
| 2. ↓ | 27 April 2022 Minutes from the Submission Hearing | 8 |

MEMORANDUM

TO: Port Tarakohe Fence Proposal – Submissions hearing committee
Cr C Hill (Chair), Cr C Butler, Grant Knowles (GBCB), Kura Stafford (MKM)

FROM: Nicholas Chin, Properties and Enterprise Manager

DATE: 12 May 2022

FILE NO:

RE: **Recommendations to Council**

Kei te rangatira, tēnā koutou

Subsequent to the hearings, the Referral Paper to Council recommends the following:

That the Full Council:

1. receives the Referral Report Port Tarakohe proposed penguin enclosure report, **RCN22-05-XX**; and
 2. approves the following:
 - a. that year-round fishing access for regular fishers on the western arm is actioned; and
 - b. that the administration of entry is managed by the Council; and
 - c. the positioning of the recommended two fences proposed by the Hearing Panel, according to the provided map; and
 - d. that access is obtained with an educational component; and
 - e. that an annual report is provided to the Council by the Mōhua (Golden Bay) Blue Penguin Trust to monitor effectiveness; and
 - f. that no dogs be allowed in the restricted area leashed or not; and
 - g. that the Council will pay for the installation of the fence and notes that materials have already been purchased by the Mōhua (Golden Bay) Blue Penguin Trust.
-

On review, it is recommended that some of the items are modified for the following reasons:

[https://tasmandc-my.sharepoint.com/personal/nick_chin_tasman_govt_nz/Documents/Documents/Port Tarakohe/Penguin enclosure/20220512 Penguin Fence recommendations - suggested](https://tasmandc-my.sharepoint.com/personal/nick_chin_tasman_govt_nz/Documents/Documents/Port%20Tarakohe/Penguin%20enclosure/20220512%20Penguin%20Fence%20recommendations%20-%20suggested)

- ✓ **Recommendation A.** The term “regular fishers” is difficult to define and may create legislative risks and administrative issues for the Council. It would also have the effect of excluding groups like the Penguin Trust and DOC from the western arm. Officer advice is that the lowest risk to the Council is not to restrict who can apply for a permit. The granting of this permit would be linked to Council recovering its costs and an educational approach. It is hence recommended that the recommendation is amended to the following:
“Year-round access will be by permit, issued by Council”
- ✓ **Recommendation B.** There have been concerns raised on how cost for administration will be recovered. It is hence recommended that this is amended to the following
“Administration of permits and access by Council will be on a cost recovery basis.”
- ✓ **Recommendation F:** From time to time, certified penguin detection dogs may be required to locate burrows and nests. A dog was used recently to locate nests when demolishing the old wharf. It is hence recommended that this item is changed to:
“That no dogs, even if leashed, are allowed in the restricted area. An exception will be made for certified detection dogs or service dogs,
- ✓ **Recommendation G.** Council resolutions need to adhere to the planning and budget process. It is hence recommended that this is amended to:
“Council will provide for the cost of fence installation in the Annual Plan for 2022-23.”

Additional recommendations

The Committee has the opportunity to clarify whether they recommend that access to the Western Arm will be restricted all year around or just when the Penguins are nesting. If this is what the Committee recommends a proposed recommendation could be:

“Access to the Western Arm of Port Tarakohe be prohibited [for time] for the purpose of protecting the nesting penguins”

This would involve additional amendments to current Recommendations A and F.

Officer advice is that the arrangements should be periodically reviewed. The following is a proposed recommendation:

“That the arrangements be reviewed by the Golden Bay Community Board every three years and the outcome of that review, and any recommendations be reported to Full Council.”

It is also noted for the Committee that the placement of the fences may still require Resource Consent.

Given the tight timeframe, it would be greatly appreciated if this could be resolved by the end of the week. Christina Ewing will be in touch today to organise a Zoom for this matter to be discussed.

Nāku noa, nā
Nick Chin

MINUTES
of the
SUBMISSIONS HEARING MEETING

held
10.30 am - 12.30 pm, Wednesday, 27 April 2022
followed by the Deliberations meeting
at
Takaka Service Centre and via Zoom
Topic: Port Tarakohe Fence Proposal

Present: Cr C Hill (Chair), Cr C Butler, Grant Knowles (GBCB), Kura Stafford (MKM)

In Attendance: Nick Chin (Enterprise and Property Manager) and Christina Ewing (Enterprise Portfolio Officer).

1 OPENING, WELCOME

Cr Hill opened the meeting with a karakia

2 APOLOGIES AND LEAVE OF ABSENCE

Nil

3 REPORTS

3.1 Port Tarakohe - Construction of a fence to protect nesting Little Blue Penguins

The Chair welcomed everyone and went through the housekeeping and explained the process of the meeting. Introductions were said and the first speaker was invited to speak.

4 HEARING OF SUBMISSIONS

Linda Jenkins: Ms Jenkins is for the fence and is part of the conservation efforts of Little Penguins in the Kaiteriteri area.

She explained the threats to Little Penguins for the panel to understand:

- Encroachment on the habitat areas

- Disturbance by people
- Disturbance by dogs, controlled or not, barking is enough to disturb the penguins from returning to their nests
- Feral and domestic cats and stoats
- Car and Boat strikes
- Fishing line and nets

After a grant from DOC, a survey over the Kaiteriteri coastline area was undertaken between Split Apple Rock and Tapu Bay. The research showed that the area had 173 active borrows along the coastline. It was discovered that Little Penguins can have nests in various residential and non-residential areas and are quite resilient. The importance of gathering information and research regarding the habits of Little Penguins for conservation purposes and highlighted the Port Tarakohe colony can provide for further research and plays an important part in that.

Kelcey Chandler: - Does not agree with the fence. Kelcey is very familiar with the wildlife in the area, working as a wildlife photographer. Kelcey believes she first told DOC of the Little Penguin colony in 2005.

- Penguins and people can co-exist with education
- Concerns with 'where does the fencing stop'
- The use of red light torches (that do not disturb penguins) can be used to engage and educate the community.
- The ability for people to be able to fish off the western arm
- Guidelines should be set up and monitored, before fencing, and everyone's lifestyle respected.

Duncan Cavaye – Does not agree with the fence for reasons outlined below, Duncan is a regular user of the area.

- Believes there is a large number of people in the community against the fence who have not submitted.
- In appropriation of what the area was intended for – community use.
- Interim monitoring measures have not been in long enough to know if they are working or not.
- What evidence has been shared with the community that penguins are declining
- 350 active penguins on the arm is a sign that the penguins are flourishing in the current conditions.
- No information on the survival or breeding has been shared with the community
- Propose a wait and see approach – better communication in the community and agrees with restricting dogs to the area.
- Not fiscally responsible in this economic climate of the Council to be spending money on the fence and ongoing maintenance.
- This is sending a message to the youth of the bay, that they cannot be trusted to interact responsibly with the wildlife.
- Not solely fishing issues, but the ability for the community to use the western arm.
- The fence itself has its issues:
 - what does it look like, where is the consideration with the environmental aesthetics.
 - Will it be patrolled, if so, if someone is found jumping the fence, will they be prosecuted.

It was asked of Mr Cavaye, why could fishermen not use the east arm for fishing. He mentioned it's weather dependent and could have different conditions to the west. It also has limited space and is less sheltered.

Angela Lees:- Agrees with the construction of a fence. Ms Lees is part of the wildlife monitoring team at Port Tarakohe, however, is speaking on her opinion and not the Trusts. Some points Ms Lees raised were:

- 106 Adult penguins are currently on the arm, last year there were 25.
- 17 established pairs at the moment with a very active colony of others finding their mates and socialising.
- Believes the interim measures have not helped reduce the tampering of the nesting boxes with 50 incidents reported this year.
- Supports a restricted access area with a key system. A swipe card system was looked at, however, the cost eliminated that.
- Believes some people do not wish to intentionally hurt the penguins, they just don't understand their actions from curiosity disturb them.
- Do not believe that locals are causing the problems, more so from holiday makers and campervan visitors. That's why she believes in restricted access, rather than no access.
- Increase of foot traffic to the area from campers.
- There are 30 boxes placed on the inner port arm, but it is more exposed to the elements and much lower than the western arm, it would need to be developed if the colony was to be expanded on that arm.

It was asked if the Trust has a long term plan developed for the western arm. Ms Lees said this is not her area of expertise, however, the Trust has discussed a focus on education, visits from schools and a viewing platform.

It was also asked if there was an easier solution for people tampering with the boxes and if this issue was controlled would it eliminate most of the problems. It was agreed this would eliminate most of the issues.

It was asked what Ms Lees would do if the Council decided not to construct a fence and what the impact would be. She replied that she would not continue protect and maintain the colony and possibly just leave it as is, in an attempt, not to not cause more attention to the area.

In a response to a question asked, if the fence was imperative to colony research. Ms Lees replied that research equipment is very expensive and equipment cannot be left there at the moment unattended.

Heather Wallace:- Ms Wallace is representing the education side of the Trust and is for the construction of a fence.

- The Trust has purchased educational resources that will go out to schools.
- The Trust is hoping to install five cameras on the arm and for each school to have access to a camera.
- The fishing operators and recreational boaties have allocated areas at the Port and Ms Wallace believes that we should allocate space to wildlife.

A question was asked by a member of the Panel if the Trust had any plans to educate tourists, whom seem to be the problem. Ms Wallace believes educating children regarding the colony is the best defence and that children will educate their families.

Ms Wallace mentioned she would also like to see rodent-proof netting placed at the bottom of the fence to deter stoat and rats.

Cynthia McConville:- Ms McConville is for the construction of a fence. She believes there are:

- Unacceptable level of disturbance

- Lack of understanding of the public
- Consistent disturbance of the birds
- Does believe locals cause problems, not just tourists
- The future strategy for the Trust – is education with schools and a penguin viewing room
- Believes access should be restricted from sunset until sunrise, as that is when the penguins are socialising and more active.

Ms McConville explained that the fencing material will last nine times longer than galvanised fencing. It has proven results in the field for a 20 year lifespan or longer. The Trust was hoping to obtain some timber from the old wharf, to beautify the fence line and add additional plantings.

In response to a question asked about whether the large mesh of the fence would eliminate small dogs and rodents getting through, Ms McConville replied that the Trust have a separate trapping programme for pests.

The location of the proposed fence from the Trust was discussed and clarified to the Panel.

John Cockrem:- Dr Cockrem is for the construction of a fence and a member of the Trust, but also a Professor of Comparative Endocrinology. He took his submission as read and outlined some points.

- Penguin life is a sign of a healthy eco marine system.
- Uncontrolled public access to a penguin colony does not work. People want to interact with penguins and do not know the damage they could be causing.
- There are other endangered wildlife nesting at the arm, for example, Oystercatchers and Reef Heron feeding in the vicinity.
- The work is important for research on penguin conservation.
- He believes penguins and port operations can co-exist.
- The Port Tarakohe colony is important for research, but also for the colony itself. It's the largest Little Penguin colony in Golden Bay.
- If there is uncontrolled public access the colony will not continue to grow, due to interference from the public. Dr Cockrem replied that it would take a long time for all the existing nesting boxes to be populated and in his view, does not think the existing colony should be expanded. Looking at the trends and climate change, if anything the penguin numbers will decline over the years.
- The location of the fence can be re-discussed and the fence footprint reduced. We are trying to provide a safe place for penguins to flourish.

The Chair did outline that the Trust does not seem to be cohesive with their views and also asked what did Dr Cockrem think of the Department of Conservation's (DOC) position that the interim measures were sufficient. It was outlined by Dr Cockrem that he believed the DOC view to be inadequate.

It was asked of Dr Cockrem if there was data on actual deaths of penguins from dogs and nest abandonment from human interference. Dr Cockrem responded, that although Angela and Britta do record some data on incidences, it was hard to know if nest abandonment was from human interference or a natural phenomenon.

The Chair thanked all the submitters for their attendance and the public hearing portion of the meeting concluded at 12.15 pm

Deliberations meeting convened at 1.15 pm

Deliberations

The Chair outlined to the panel that there was a 60/40 split, 60 for the fence and 40 against. The

Panel further discussed:

- The function of the colony for research and analysis of scientific data.
- The need to mitigate threats and protect the species. The fence is the mitigation to threats to the colony. The difficulty is that as the colony grows, and is protected, the public is attracted to the area.
- Acknowledge that the penguins are an important Toanga species and acknowledge that under the Wildlife Act they are a protected species. They are important indicators of the health and wellbeing of our coastal environment.
- That deciding to move from the current interim measures to a permanent fence, needs to be done with updated data from the Trust. There was no clear updated data submitted regarding dog attacks and penguin fatalities.
- Future-proofing the arm. The question remained unanswered with how much space is required for the colony and if indeed it expands, what the expectation will be on Council and the public. It was very clear as regards the importance of the colony and its status, however, no real information (data) was shared on how actions and public interaction are affecting the colony. Dr Cockrem's point was taken that the colony staying as is, is more likely than expansion.
- Education is an important tool targeting the public and visitors.
- Can the boxes be locked better, so the public cannot tamper with them.
- It's not your average fisherman that causes the trouble, it's more the tourists.
- Fence footprint- What is the minimum fencing required to protect the penguins and the scientific equipment. The location of the proposed fence needs to be looked at and how to make it less intrusive in the natural environment. The visual impact can be mitigated through planting. Staff will email a revised plan to the panel following their recommendations.
- What is the Trust's Long Term Plan. The Trust doesn't seem to have one. This will need to be further discussed.
- The RMA Coastal Policy Statement policy 11 requires the penguins be protected.
- The proposed fence is not pest proof, so does not allay those concerns.
- Restricting access to the penguin colony and how can this be done fairly and to whom. It seems that curious tourists are the real problem, not locals.

The Panel and staff adjourned for a site visit at 2.05 pm

The Panel and staff returned from the site visit at 3.15 pm

The Panel agreed on the below bullet points.

- Dogs are kept out
- Fishing access for locals is provided for
- Biodiversity is protected
- All year fishing access is allowed through a locked gate.
- Access includes education measures

The following resolution was passed.

**Moved G Knowles/Cr Butler
SH22-04-2**

That the Submissions Hearing and Deliberation Panel:

- 1. receives the Port Tarakohe - Construction of a fence and locked gate to protect nesting Little Blue Penguins report RSH22-04-3; and**

2. receives and considers the submissions on the proposed permanent fence to protect nesting Little Blue Penguins; and
3. recommends to the Full Council, that the Council approves the construction of two fences, one on the western arm of Port Tarakohe and another fence on the inner (port) arm, primarily to protect the nesting Little Blue Penguins subject to the following measures;
 - i) Year-round fishing access for regular fishers on the western arm;
 - ii) that the administration of entry is managed by Council.
 - iii) the positioning of the recommended two fences proposed by the Hearing Panel, according to the provided map.
 - iv) that access is obtained with an educational component.
 - v) a report is provided to the Council by the Mōhua (Golden Bay) Blue Penguin Trust annually to monitor effectiveness.
 - vi) no dogs allowed in the area leashed or not.
 - vii) that the Council will pay for the installation and notes that materials have already been purchased by the Mōhua (Golden Bay) Blue Penguin Trust.
4. notes that the Submissions Hearing and Deliberation Panel's recommendation will be presented to Full Council for consideration and a decision on 19 May 2022.

CARRIED

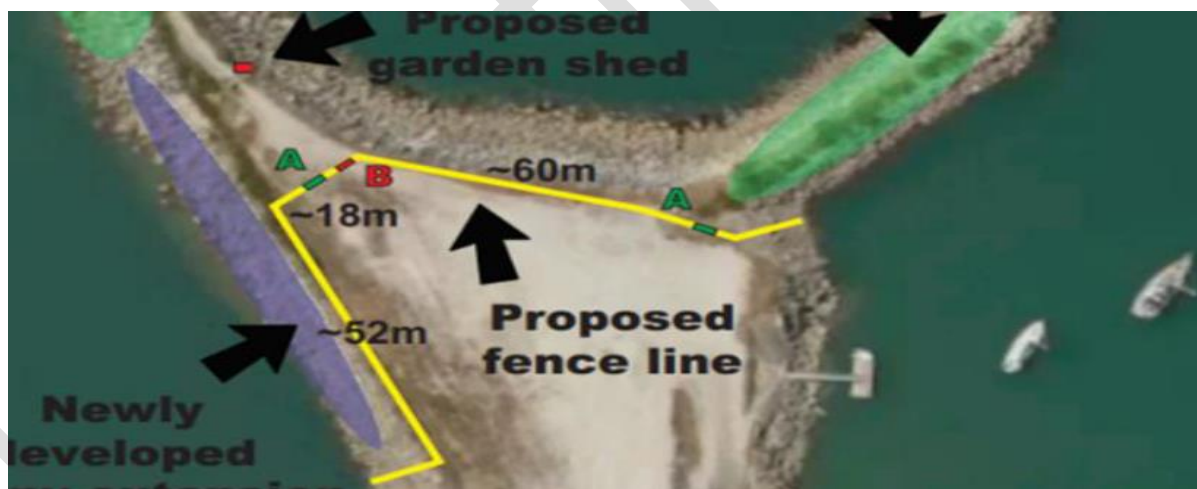


Figure 1: Proposed recommended fenceline by the Mōhua (Golden Bay) Blue Penguin Trust



Figure 2: Recommended fencelines by the Hearing Panel, outlined by the orange lines.

5 CONFIDENTIAL SESSION

Nil

The closing karakia was said by Nick Chin.

The meeting concluded at 3.47 pm

Date Confirmed:

Chair: