CONSULTATION INFORMATION

By-Law Proposal: Curio Bay Scientific Reserve

Introduction:

Yellow-eyed Penguins (Hoiho, *Megadyptes antipodes*) are in serious decline on the mainland of New Zealand. Small, fragmented breeding populations are found in localised places in North Otago, Otago Peninsula, Catlins and Rakiura/Stewart Island. Curio Bay is one of these areas. Currently only one breeding pair is active at Curio Bay, this is down from 3 active pairs in 2021.

While there are many reasons for the decline, including starvation, disease, climate change and predators, human disturbance is acknowledged as a contributing factor. The threat from human disturbance is something we are able to, and should, manage.

Curio Bay is well publicised online, in print and at tourist information centres for the opportunity to view Hoiho.

The main access used by Hoiho to traverse between the sea and their nesting/resting/moulting site is the petrified forest rock platform, at the 'Curioscape' end of the bay. When chicks are nearing fledging age they venture into this area to beg from the parents as they return from the sea, chicks will often be visible for much of the day in this area.

Tourists/visitors are able to access the fossilised forest rock platform and wander unrestricted in this area, and will often crowd, or follow penguins, for photo opportunities.

The natural stress responses of the hoiho is to 'freeze', which is a behaviour often mistaken for penguin acquiescence by photographers; or to dash back into the sea, which can compromise the health of the chicks & other adult at the nest.

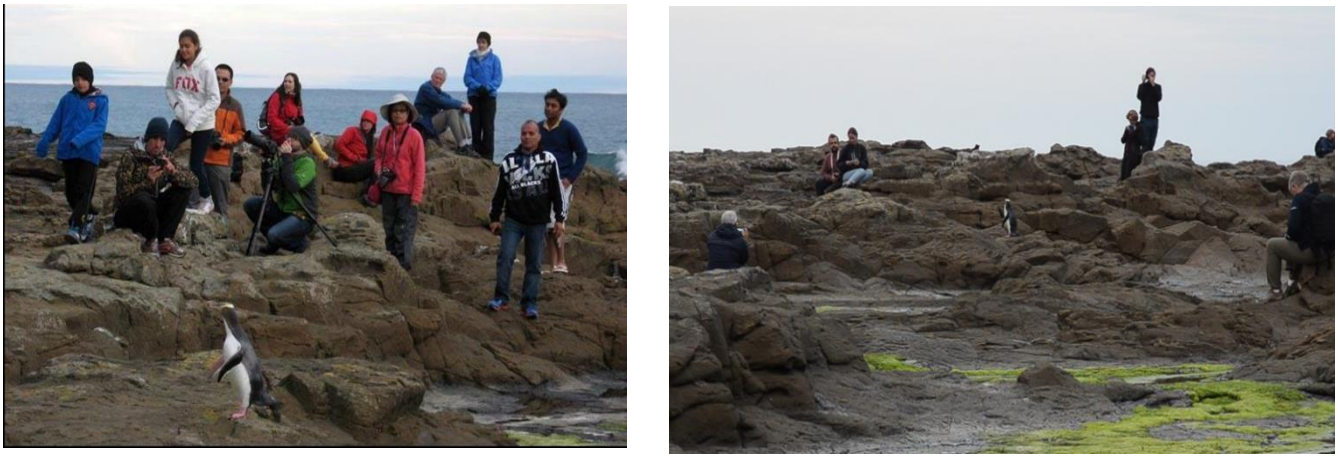


Figure 1 Examples of Human interference at Curio bay on two separate occasions

Currently management is by way of public education, local volunteers, ropes and signage, advising people to keep their distance.

Proposal:

At this point in time, no offence is committed by people coming close to the penguins, unless actual harm is done to the hoiho, so we cannot actively enforce any distance restrictions.

The Department of Conservation is proposing a By-Law that would create the ability to actively enforce distance restrictions, by way of a defined 'no access' zone for visitors.

The 'no-access' zone, would be defined as the area that the Hoiho use to traverse the rock platform as shown in the figure below, covering 100m between lines 1 & 2.

Figure 2 Proposed Bylaw no access zone

Description of the By-law:

"Access is excluded to all persons, except those undertaking Department of Conservation business, to the petrified rock platform between the area NZTM2000 1301600E 4825050N and NZTM2000 1301700E 4825010N and due south to Mean Low Water Springs from each of those points."

DOC solicitors have provided legal advice, being, the advantage of creating a by-law provides the Minister with more freedom under the Reserves Act section106(3) to include provisions for the administration and control of the reserve, and the reason (to benefit hoiho) is compatible with the principal purpose of the reserve. The principal purpose of the reserve is to provide public education and experience of one of the few fossilised forests of this age in the world.

The By-law is being proposed under the Reserves Act 1977, clauses as follows:

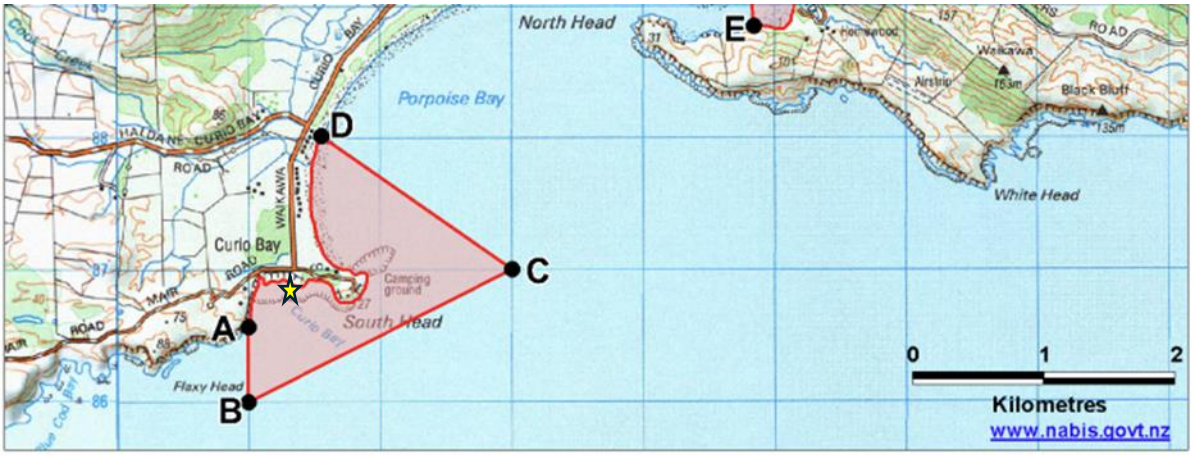
106 (1) (a) the management, safety, preservation and use of the reserve or any part of thereof and the preservation of the flora and fauna and the scenic, historic, archaeological, biological, geological, or other scientific features therein, and for the preservation of the natural environment:
And
106 (1) (c) prescribing the conditions on which persons shall have access to or be excluded from any reserve or any part of a reserve, or on which persons may use any facility (including any building) in a reserve, and fixing charges for the admission of persons to any part of a reserve and for the use of any such facility:

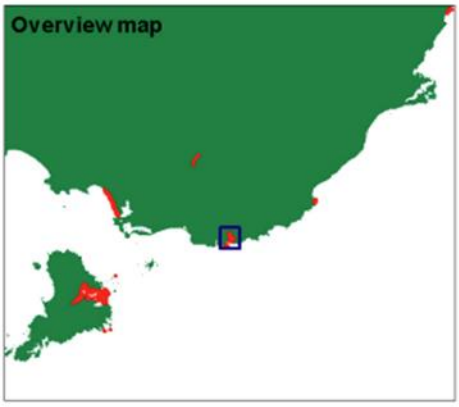
Where a breach of the bylaw is committed, a penalty fine, not exceeding $5000, can be imposed.

How will this affect the use of Curio Bay SR:

Restricting access to this 100m wide portion of the fossilised forest will not encroach on the publics' ability to enjoy the fossilised forest close-up, with the majority of the fossilised forest remaining unrestricted.

This restriction will have minimal effect on access to the Tumu Toka Waikawa Harbour Mataitai area for kai gathering. Reserve boundaries shown below. Access is readily available along the shoreline at Porpoise and Curio Bays, the no access zone covers only 100m of this, indicated by the yellow star.





LEGEND

Mātaitai Reserve Coordinate

Mātaitai Reserve Boundary

Ref: 100339
Projection: NZTM
Coordinates stated in Lat/Long WGS84
Date: 3 October 2011
Produced by: Information Centre

Ministry of Fisheries

This map is intended to be used as a guide only, in conjunction with other data sources and methods, and should only be used for the purpose for which it was developed. Although the information on this map has been prepared with care and in good faith, no guarantee is given that the information is complete, accurate or up-to-date.

Coordinates

A: 46°39.88'S 169°05.75'E
B: 46°40.19'S 169°05.74'E
C: 46°39.70'S 169°07.34'E
D: 46°39.12'S 169°06.24'E
E: 46°38.75'S 169°08.85'E
F: 46°35.41'S 169°08.31'E
G: 46°37.82'S 169°08.47'E
H: 46°37.78'S 169°08.48'E
I: 46°37.86'S 169°08.97'E
J: 46°38.03'S 169°08.79'E
K: 46°37.91'S 169°08.28'E
L: 46°38.18'S 169°08.23'E
M: 46°38.24'S 169°08.39'E
N: 46°38.39'S 169°08.47'E

Figure 3 Fossilied forest from the veiwing platform, indicative no access area shown between the blue lines

The centrally located 'no access' area can only be reached by either descending the stairway from the viewing platform, or by walking at low tide around the Curioscape promontory from the camping ground. Moving from either of these directions will still give adequate opportunity for experiencing the fossilised forest and accessing the sea. There is no 'missed opportunity' by being restricted from entering this area.

However, we hope that this distance of non-disturbance may encourage recruitment of more Hoiho to the area, or at the very least, afford security to those Hoiho that are currently utilising this space.

Should the bylaw be passed, the Department will ensure adequate signage is installed at entry points, and that a public notice is advertised.