

Fiordland Marine Management Bill

Government Bill

Explanatory Note

General policy statement

This Bill gives effect to aspects of the Fiordland Marine Conservation Strategy. This strategy was developed by the Guardians of Fiordland's Fisheries and Marine Environment---a locally-based incorporated society that represents major stakeholders in Fiordland's marine environment. The Bill will recognise the national and international importance of Fiordland's marine environment and resources, and implement measures specifically designed to facilitate the integrated management of these special features, for future generations to use and enjoy.

The Bill establishes a geographic entity known as the Fiordland Marine Area over which the Bill applies. This area encompasses that part of the Southland coastal marine area, adjacent to the Fiordland coast, from Awarua Point in the north, to Sandhill Point in the south, but specifically excludes the coastal marine area around the Solander Islands.

To give effect to the strategy the Bill:

- o creates 8 Marine Reserves (a total area of nearly 10 000 hectares) with special conditions:
- o amends the proposed Southland Regional Coastal Plan as it applies to Fiordland, for vessel anchoring, diving activities, erection and placement of structures, biosecurity, and Resource Management Act 1991 functions in marine reserves and "china shop" areas:
- o establishes the Fiordland Marine Guardians:
- o requires the Ministers and government departments responsible for resource management, fisheries and marine reserves, marine biosecurity, and the Southland Regional Council, to recognise and have regard to the advice of the Fiordland Marine Guardians:
- o requires a review of the effectiveness of the management measures to be initiated after 5 years.

In addition to the Bill, the Government is undertaking other initiatives to give effect to the strategy, including new fisheries management measures under the Fisheries Act 1996.

Clause by clause analysis

The Preamble describes the background to the Bill.

Clause 1 relates to the Title of the Bill. This Bill is the Fiordland Marine Management Bill.

Clause 2 relates to commencement. This Bill will come into force on the day after it receives the Royal assent.

Clause 3 sets out the purpose of this Bill. The purpose is to recognise the national and international importance of the Fiordland Marine Area, its unique marine environment, and outstanding landscape and cultural heritage. To assist in meeting this purpose, this Bill---

- o establishes the Fiordland Marine Area:
- o implements measures to assist in the preservation, protection, and sustainable management of the area:
- o establishes the Fiordland Marine Guardians (the Guardians):
- o facilitates and promotes co-operation between the Guardians and management agencies:

- o acknowledges the importance of kaitiakitanga.

Clause 4 relates to interpretation. Unless the context otherwise requires, terms and expressions used and not defined in this Bill, but defined in the

Resource Management Act 1991, have the same meaning as in that Act.

Clause 5 provides that this Bill binds the Crown.

Clause 6 establishes the Fiordland Marine Area. The area, and the marine reserves established by clause 7 are indicated by the map in Schedule 1.

The Fiordland Marine Area is described in detail in Schedule 2. If there is inconsistency between Schedule 1 and Schedule 2 or Schedules 4 to 11, Schedule 2 or Schedules 4 to 11 prevail.

Clause 7 establishes 8 new marine reserves in the Fiordland Marine Area. These

new marine reserves are indicated in Schedule 1 and described in detail in

Schedules 4 to 11. The reserves are subject to any conditions specified in

those schedules and in Schedule 3.

Clause 8 permits amendments to Schedules 3 to 11. In the case of amendments, the Marine Reserves Act 1971 applies.

Clause 9 imposes a moratorium on the making of Orders in Council under section

4 of the Marine Reserves Act 1971 declaring new marine reserves in the Fiordland Marine Area.

The moratorium remains in force until the occurrence of the first of the

following events:

- o 7 years from the date that this Bill comes into force; or
- o until the completion of a Ministerial review conducted under clause 21(1).

During the moratorium, the Director-General must not process or determine any

application made under section 5(1)(a) of the Marine Reserves Act 1971, and must return any application to the applicant.

Clause 10 makes amendments to the proposed Southland Regional Coastal Plan. The amendments may, however, be varied or amended in accordance with the Resource Management Act 1991. The amendments are set out in Schedule 12. The Minister of Conservation's approval is not required in respect of the amendments referred to in clause 10(1).

Clause 11 establishes the Fiordland Marine Guardians. Clause 12 sets out the functions of the Guardians. These functions include---

- o to advise and make recommendations to management agencies and Ministers:
- o to facilitate and promote the integrated management of the Fiordland Marine Area:
- o to obtain, share, and monitor information on the state of the Fiordland Marine Area:
- o to assist management agencies in relation to certain aspects of the roles of the agencies.

Clause 13 allows the Guardians to be appointed as an advisory committee under section 56 of the Conservation Act 1987 or as a committee under section 6N(2)(b) of that Act. If the Committee is appointed under those provisions, the Conservation Act 1987, with any necessary modifications, applies.

Clause 14 deals with the membership of the Guardians. The Guardians are limited to no more than 8, and no less than 5, members. Members are appointed, for a term of 4 years, by the Minister for the Environment (the Minister). Reappointments may be made for further terms of 4 years. Provision is made for the removal or resignation of a member. The appointment of a person as a member of the Guardians is not invalid because of a defect in the appointment.

Clause 15 provides for the appointment of a chairperson of the Guardians. The Guardians appoint their own chairperson, for a period agreed by the Guardians at the time of the chairperson's appointment.

Clause 16 deals with the procedure of the Guardians. Unless the Minister directs otherwise, the Guardians are responsible for regulating their own procedures.

Clause 17 applies the fees framework to the Guardians. Guardians members are entitled to be remunerated for their services (in accordance with the fees framework) and paid their expenses.

Clause 18 exempts Guardians members from liability for any act or omission done in good faith in the performance of the Guardians' functions.

Clause 19 provides that a member is not entitled to compensation or other payment if he or she ceases to hold office.

Clause 20 sets out the functions of the Minister. The Minister's functions include---

- o appointing members to the Guardians:
- o providing directions to the Guardians:
- o conducting reviews on the effectiveness of the management of the Fiordland Marine Area.

Clause 21 sets out the times at which Ministerial reviews of the effectiveness of the management of the Fiordland Marine Area may occur. The first review must be initiated within 5 years after this Bill comes into force, and subsequent reviews may be conducted at intervals determined by the Minister in consultation with management agencies and the Guardians.

Clause 22 sets out the requirement that persons exercising powers or performing functions in the Fiordland Marine Area, under specified Acts set out in Schedule 13, must have regard to any advice or recommendations provided by the Guardians.

Clause 23 amends Schedule 1 of the Official Information Act 1982 by inserting a reference to the Fiordland Marine Guardians.

Schedule 1 contains an indicative map that shows the location of the Fiordland Marine Area (established by clause 6) and the new marine reserves (established by clause 7).

Schedule 2 describes the Fiordland Marine Area established by clause 6.

Schedule 3 describes the conditions that apply to the marine reserves established by clause 7. The conditions relate to the taking of pounamu, the taking of marine mammals, and the taking off and landing of aircraft. Schedules 4 to 11 describe the marine reserves established by clause 7, and the conditions that apply to each of those reserves.

Schedule 12 specifies the amendments to the Southland Regional Coastal Plan.

Schedule 13 specifies the Acts to which Part 3 applies.

Regulatory impact statement

Statement of nature and magnitude of problem and need for government action

Fiordland is a globally unique marine environment that contains both exceptional marine biodiversity and valuable marine resources. Many species are found nowhere else. Other species, such as the protected black and red corals, are found here because of the unique combination of high mountains, high rainfall, and rainforest. The result is a darkly stained freshwater layer causing a huge reduction in light levels, allowing normally deepwater species

to live much closer to the surface. The diversity of species and habitats of the rock wall communities in Fiordland rival those in the most species-rich regions of the globe. Fiordland is also an important economic area. The landscapes of the fiords are iconic and over 300 000 tourists visit Milford Sound annually. The marine environment harbours important fisheries stocks, most notably rock lobster and blue cod. The Fiordland marine environment faces an escalation in human activity. These activities include cruise ships, fishing, diving, electricity generation, and boating. These activities bring a wide variety of risks, including oil spills, bioinvasion, over-fishing, and anchoring damage to sensitive marine habitats and ecosystems. Activities are managed by a variety of agencies and under a range of legislation, including both central and local government. Statutory planning and management processes can be very time-consuming and have conflicting objectives. Fiordland's great size and relative remoteness can also contribute to a lack of integration between the agencies, and this risks significant harm to Fiordland's values through poor co-ordination and information exchange. Additionally, the amount of formal involvement by the community in decisions around the management of the Fiordland system varies between agencies. The Guardians of Fiordland's Fisheries and Marine Environment Inc (the Guardians of Fiordland) is a community group from the Fiordland area established in 1995, with major stakeholders from within the community represented. This group includes commercial and recreational fishers, environmental groups, charter and tourist operators, scientists, and tangata whenua. The Guardians of Fiordland identified that the marine area of Fiordland had many special features that need careful management, and believe this is best resolved at the local level. To do this, the Guardians of Fiordland produced the Fiordland Marine Conservation Strategy (the Strategy). This Strategy was launched in Te Anau on 6 September 2003 by the Minister of Fisheries and the Minister for the Environment, who made a commitment to implement this Strategy within 2 years. Cabinet noted the Ministers' endorsement to implement the Strategy by September 2005 (Cabinet Minute (03) 38/4). The Government appointed an investigative

group, which included the Guardians of Fiordland, to investigate and report on ways of giving effect to the intent of the Strategy.

Statement of public policy objective

The public policy objectives below are consistent with the Guardians of

Fiordland's vision that "the quality of Fiordland's marine environment and

fisheries, including the wider fishery experience, be maintained or improved

for future generations".

The public policy objectives for the Fiordland Marine Area are to---

o ensure that, in the management of natural and physical resources, full and

balanced account is taken of:

o the intrinsic values of ecosystems:

o all values held by individuals and groups on the quality of the environment:

o the needs of future generations, in accordance with the Environment Act 1986:

o provide for utilisation, while ensuring sustainability, in accordance with

the Fisheries Act 1996:

o advocate the conservation of natural and historic resources generally, in

accordance with the Conservation Act 1987:

o ensure that 10% of the marine environment is protected by 2010, in accordance with the New Zealand Biodiversity Strategy:

o implement the efficient and effective integration of the regulatory

management agencies:

o ensure that the Fiordland Marine Area is established by September 2005.

Statement of feasible options (regulatory and/or non-regulatory) that may

constitute viable means for achieving desired objectives

Status quo

Currently, the Fiordland marine area is managed by a number of different

agencies and under a range of legislation. These include the Ministry of

Fisheries, the Department of Conservation, Southland Regional Council, and the

Maritime Safety Authority.

It is not appropriate to maintain the status quo as it does not meet the public

policy objectives.

Preferred option: change to management of natural resources in Fiordland

The preferred option includes a package of non-regulatory and regulatory

measures, and legislative change. In September 2004, Cabinet agreed to

implement this package of measures (Cabinet Minute (04) 31/4). The package includes---

- o non-regulatory measures, which include---

- o establishing voluntary industry codes of practice for users of Fiordland's resources, such as good anchoring practices:

- o establishing dedicated planning and implementation groups, comprising relevant central and local government management agencies, with community input through the Fiordland Marine Guardians (the Guardians) to---

- o address the threats associated with marine bioinvasion and seek to reduce this threat (the Ministry of Agriculture and Forestry (Biosecurity New Zealand) to lead):

- o improve information availability and awareness by users of the Fiordland area of the changes in management measures (the Ministry for the Environment to lead):

- o in a more integrated and effective way, implement compliance and enforcement measures (the Ministry of Fisheries to lead):

- o gather appropriate information and undertake monitoring of the state of the marine environment, the level of activities, and any associated impacts (the Department of Conservation to lead):

- o new regulations, under the Fisheries Act 1996, to---

- o prohibit commercial fishing inside much of the inner fiord area:

- o alter the recreational daily bag limits for a range of species, including for example,---

- o blue cod (down from 30 to 3 per day within the fiords, down to 20 per day outside the fiords, both with no accumulation, and a total catch ban within Milford and Doubtful Sounds for 2 years):

- o groper (proposed to be 3 per day within the fiords, and 5 per day outside, with no accumulation):

- o rock lobster (down from 6 to 3 per day within the fiords, with no accumulation, and remaining at 6 per day outside the fiords, but with a maximum accumulation of 15):

- o prohibit or restrict accumulation of recreational daily bag limits for blue cod, groper, jock stewart, rock lobster, paua, and scallops:

- o restrict the following bulk harvesting methods inside most of the fiords:

- o scallop dredges, cod pots, and set nets will be banned within the inner fiords due to their capacity to damage delicate species and habitats, and to prevent excessive catches:

- o dahn (multiple hook) lines will be limited to 2 per boat and 5 hooks per line:

- o rock lobster pots will be limited to 3 per boat:

- o legislative change, through a new Fiordland-specific Bill, to---

- o establish the Fiordland Marine Area, comprising an estimated 882 000 ha, with commercial fishing excluded from approximately 46 000 ha of the inner fiords, including 9 515 ha within 8 new marine reserves:

- o recognise the national and international importance of the area:

- o create the Fiordland Marine Guardians as a statutory body---

- o that comprises between 5 and 8 members appointed by the Minister for the Environment and who are a fair reflection of the range of interests (community, tangata whenua, commercial and recreational fishers, charter boat operators, tourism, research and environment sectors) relating to the Fiordland Marine Area:

- o to provide integrated advice on marine management within the Fiordland Marine Area:

- o to facilitate integration between other central and local government management agencies and provide a forum for these management agencies to work together:

- o to assist the management agencies in their operational capacity, as needed:

Note: The Fiordland Marine Guardians are not the same body as the Guardians of Fiordland's Fisheries and Marine Environment Inc.

o require the various management agencies (including the Ministry of Fisheries, Department of Conservation, Ministry of Agriculture and Forestry (Biosecurity New Zealand), and the Southland Regional Council) to have regard to the advice provided by the Guardians:

o create 8 new marine reserves (9 515 ha in total) with appropriate conditions for each to provide for and manage a number of Fiordland-specific issues, including tangata whenua collection of non-living taonga, the storage of live rock lobster prior to export, the storage of rock lobster pots out of fishing season, restricting public access to sensitive areas, and managing vessel anchoring practices:

o require within 5 years after enactment, a review to be initiated of the effectiveness of the management of the Fiordland Marine Area:

o modify the Southland Regional Coastal Plan to include specific requirements for the Fiordland Marine Area relating to vessel anchoring, diving activities, erection and placement of structures, biosecurity, and Resource Management Act 1991 functions in marine reserves and "china shop" areas.

Other options considered, but rejected

The first option involved using only existing legislation and management systems to bring in the changes. Most of the specific immediate management measures could be implemented through existing statutory processes or government policy by September 2005 (to meet commitments made to the Guardians of Fiordland). However, the changes to the Southland Regional Coastal Plan could not be guaranteed to be completed in time. The overall result would have been a piecemeal and complex system, with lower certainty of delivering sound outcomes over time and would not meet local expectations. The second option of developing new comprehensive legislation to improve integrated management is considered to be too complex and time-consuming, and carries the very high risk of not being able to meet the expected timetable. In addition, it would set the precedent of completely replacing existing legislation within a defined geographic area of the country. The third option proposed using a Fiordland-specific Act, but only to implement the management measures requiring immediate change. It did not propose to provide for ongoing management. It did not include: a purpose provision to

identify the special values and to guide decision makers; a statutory body with specified functions, including to provide advice on future management measures; nor a requirement that agencies have regard to its advice; and would not meet local expectations.

Statement of net benefit of proposal, including total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of proposal, and other feasible options

Environmental and societal

Fisheries stocks, in particular the longer lived species (such as groper) and the iconic rock lobster and blue cod, will benefit from improved and more intensive management inside the fiords. More focused monitoring of populations and catches will improve sustainable utilisation of these important resources; in particular for rock lobster. The fisheries management measures anticipate and allow for increased future recreational fishing demand, while still allowing fishers to "fish for a feed" today---this meets the principles of sustainable fisheries management. Additional benefits also come from maintaining a quality recreational experience in Fiordland, in the face of increasing visitor numbers and demand. Diving and fishing charters are the main tourist activities outside the main tourist destinations of Doubtful and Milford Sounds. Maintaining healthy fisheries, marine habitats, and well protected iconic local attractions, such as black and red corals and underwater vistas, will continue to guarantee Fiordland a role as a premier dive location and fisheries experience. Improved risk management for Fiordland, especially from the effects of over-fishing, bioinvasion, and oil spills, will safeguard many of the area's unique resources and opportunities. Many of the species are slow-growing and long-lived. They are effectively irreplaceable. Greater effort and improved integration of compliance and enforcement, as well as monitoring and information provision, should result in more effective management of these risks. The likelihood of damaging effects from over-fishing, bioinvasion, and oil spills, among others, should be greatly reduced. This proposal has generated significant local support. It is not possible to place a financial value on this. However, the non-financial benefit of local

support to the various management agencies (information, compliance, logistics, etc) will be significant, both in terms of direct cost savings from logistical assistance and in the benefits of opportunity costs of lower enforcement costs. The value to the local community of the Government's recognition of their contribution (local solutions developed by local people) is inestimable.

Government (central and local)

In implementing this proposal in Fiordland, the Government gains a significant contribution towards its targets under the New Zealand Biodiversity Strategy of achieving 10% of the New Zealand marine environment within marine protected areas.

A significant amount of new marine protected area will be created. This includes 8 new marine reserves covering approximately 9 515 ha and comprising about 13% of the inner fiord area and associated habitats, and a further 36 570 ha within the areas closed to commercial fishing. The formal review of the effectiveness of the whole package of management measures, to be initiated within the first 5 years of operation, provides a significant opportunity for the community and management agencies to evaluate the overall effectiveness of the programme. The review will be able to include recommendations for the revocation of, retention of, or changes to, existing measures, or propose new measures.

Costs fall in a number of areas. Implementing the strategy will require central government agencies to allocate greater resources to Fiordland to guarantee success. These resources are not currently allocated within baselines, and additional resources will be needed.

The costs associated with ongoing management activities, such as monitoring, compliance and enforcement, education and information, and biosecurity activities are to be included in the Government's 2005/06 budget estimates. Special inter-agency working groups are being established to plan and integrate these activities to improve delivery and effectiveness, and reduce overall costs.

Industry and community

The most significant outcome of the Guardians of Fiordland's process is the package of measures proposed in their Fiordland Marine Conservation Strategy.

This package arose from a process known as the "gifts and gains" whereby each stakeholder group gave up some of their access to marine resources for the wider gain of the Fiordland marine environment. Because of this process, the costs that may fall on each of the stakeholder groups implementing these management measures is understood and accepted by them as part of the benefits to accrue to the wider Fiordland area.

Rock lobster and paua are the most significant commercial fisheries. Commercial fishers catch less than 10% of their catch in the inner fiords. They have agreed to forego this opportunity by fishing their entire quota on the outer coast. Some of the proposed marine reserves include areas where commercial rock lobster fishers have traditionally stored unused pots and temporarily stored (coffed) their live rock lobster prior to export from Fiordland. Due to the geography of Fiordland, there are no alternatives to these areas. Marine reserves that encompass these storage areas will include provisions for these activities to continue. As they no longer have to compete with commercial fishers, recreational fishers have agreed to reductions in their catch. This includes temporary closures of Doubtful and Milford Sounds to blue cod fishing, to allow these stocks to rebuild. Additionally, there will be restrictions on the ability to accumulate daily catches over a multi-day expedition in the Fiordland Marine Area and there will be some method restrictions to reduce accidental damage to delicate or slow-growing species, such as the corals.

Overall, as part of the Guardians of Fiordlands consultation, all fishers agreed to the establishment of the 8 new marine reserves to safeguard representative areas. Environment groups have also agreed to these areas, provided adequate monitoring is included and the 5-year review is carried out.

With the proposed reform of the Marine Reserves Act 1971, tourist operators will require concessions from the Department of Conservation if their business includes commercial activities associated with the use of the marine reserves. The Department of Conservation anticipates the annual cost of administering a concession to be between \$600 and \$1,600 and this cost will be passed on to the charter boat operator. The concession fee may be reduced or waived in situations that involve the public good, core educational or non-commercial activities, or clear benefits to management. If a charter boat does not operate

within a marine reserve, then this additional concession is not required.
Fishing charters therefore would not require a concession. Marine reserves do not restrict the right of free passage.

Statement of consultation undertaken

The Guardians of Fiordland engaged in wide consultation with their draft strategy prior to its launch. Submissions on the draft strategy were carefully recorded and evaluated, and the final strategy document reflected many of these recommendations. Due to the thorough consultative process, and the representative nature of the Guardians of Fiordland, it is considered that there has been sufficient consultation over the issues raised by stakeholders in the Fiordland community. In preparing their recommendations, officials held discussions with representatives of the Guardians of Fiordland, and these resulted in no significant concerns over the final proposals. In preparing this proposal for Cabinet, the Ministry for the Environment, the Ministry of Fisheries, the Department of Conservation, the Treasury, the Ministry of Justice, Te Puni Kokiri, Land Information New Zealand, the Ministry of Transport, the Maritime Safety Authority, and the State Services Commission were consulted. No significant concerns were raised. In addition, advice was sought from Southland Regional Council, the Guardians of Fiordland, and Te Runanga o Ngai Tahu.

Business compliance cost statement

The compliance costs to commercial fishing and charter boat businesses are---

- o learning the new regulatory compliance regime:
- o obtaining a concession from the Department of Conservation for commercial activities associated with the use of the new marine reserves, subject to the reform of the Marine Reserves Act 1971.

For all businesses, learning the new regulatory compliance regime will involve being able to access information and a small amount of time for study. The Ministry for the Environment is leading an education and information working party that will include management agencies (the Department of Conservation, the Ministry of Fisheries, the Ministry of Agriculture and Forestry (Biosecurity New Zealand), and Southland Regional Council), as well as the community and industry representatives. This working party will develop simple and effective means to supply all users, but in particular businesses, with

information on the new rules and regulations. It is expected that this material, once developed, will be supplied to the various businesses free of charge and in a form most useful to them and their clients. This will benefit not only the businesses and their clients, but also the management agencies. At present, no concessions are required under the Marine Reserves Act 1971. Should the proposed Marine Reserves Bill become law, new requirements for concessions for commercial activities associated with the use of marine reserves will apply. However, the Department will know who these commercial users are and has committed itself to consulting with them in the development of a concession system. Both the charter and fishing industries are mostly small, owner-operator, locally-based businesses. There are approximately 15 locally-based, owner-operator, commercial rock lobster fishers who will require such a concession. There are currently around 31 charter vessels that hold a resource consent from Southland Regional Council to operate within the fiords. Some vessels are permanently based there; others cruise in from outside.

Hon Marian Hobbs

Fiordland Marine Management Bill

Government Bill

Contents

Preamble

1 Title

2 Commencement

Part 1
Preliminary provisions

3 Purpose

4 Interpretation

5 Act binds the Crown

Part 2
Marine Management Measures

6 Establishment of Fiordland Marine Area

7 Establishment of marine reserves

- 8 Amendments to schedules
- 9 Moratorium on marine reserve applications
- 10 Amendments to Southland Regional Coastal Plan

Part 3
Fiordland Marine Guardians

- 11 Establishment of Guardians
- 12 Functions of Guardians
- 13 Guardians may be appointed as a committee under Conservation Act 1987
- 14 Membership of Guardians
- 15 Chairperson
- 16 Procedure
- 17 Remuneration of Guardians
- 18 Members not liable for things done or omitted in good faith
- 19 No entitlement to compensation
- 20 Functions of Minister
- 21 Ministerial reviews
- 22 Advice and recommendations of Guardians
- 23 Amendment to Official Information Act 1982

Schedule 1
Indicative map of Fiordland Marine Area and marine reserves

Schedule 2
Description of Fiordland Marine Area

Schedule 3
General conditions applying to all marine reserves established by section 7

Schedule 4
Description of, and specific conditions applying to, Te Hapua (Sutherland Sound) Marine Reserve

Schedule 5
Description of, and specific conditions applying to, Hawea (Clio Rocks) Marine Reserve

Schedule 6
Description of, and specific conditions applying to, Kahukura (Gold Arm) Marine Reserve

Schedule 7
Description of, and specific conditions applying to, Kutu Parera
(Gaer Arm)

Marine Reserve

Schedule 8
Description of, and specific conditions applying to, Taipari Roa
(Elizabeth

Island) Marine Reserve

Schedule 9
Description of, and specific conditions applying to, Moana Uta (Wet
Jacket Arm)

Marine Reserve

Schedule 10
Description of, and specific conditions applying to, Taumoana (Five
Finger

Peninsula) Marine Reserve

Schedule 11
Description of Te Tapuwae o Hua (Long Sound) Marine Reserve

Schedule 12
Amendments to Southland Regional Coastal Plan

Schedule 13
Acts to which Part 3 applies

Preamble

(1) Fiordland is a unique area that contains both exceptional marine biodiversity and valuable marine resources. Many marine species are found only in Fiordland, and some species (such as black and red corals) that are usually found only in very deep water, occur in relatively shallow water in Fiordland. The fiords have become national icons and annually attract large numbers of tourists. The fiords and outer coast also support important commercial and recreational fisheries, notably rock lobster and blue cod.

(2) In 1995, a group of stakeholders in the Fiordland marine environment formed the Guardians of Fiordland's Fisheries and Marine Environment Inc (the Guardians of Fiordland). Its membership now includes commercial and recreational fishers, environmentalists, charter boat and tourism operators, scientists, and tangata whenua (Ngai Tahu). The formation of the Guardians of Fiordland was a response to their concerns regarding the escalating pressures on the Fiordland area resulting from increasing human use, the need for improved and integrated management of the area, and a desire that the community

be more involved in the management of Fiordland's marine environment.

(3) At their first meeting, the Guardians of Fiordland adopted the following vision:

"That the quality of Fiordland's marine environment and fisheries, including the wider fishery experience, be maintained or improved for future generations to use and enjoy."

(4) This vision guided the Guardians of Fiordland in developing its Fiordland Marine Conservation Strategy (the Strategy), which was published as a draft in October 2002. The production of the Strategy involved publishing information, prioritising issues, and consulting the public and stakeholders (including local and central government management agencies).

(5) A major success for the Guardians of Fiordland was in their gaining stakeholders' agreement to proposals for the integrated management of the Fiordland marine environment. Generally, this involved each stakeholder group relinquishing benefits in the interests of achieving the overall protection and sustainable management of Fiordland. The Guardians of Fiordland referred to this process as the "gifts and gains". One notable proposal by the Guardians of Fiordland was for the protection of small, discrete areas containing items of special significance. These areas have become known as "china shops".

(6) In September 2003, the Guardians of Fiordland presented their finalised Strategy to the Minister of Fisheries and the Minister for the Environment. On that occasion, the Ministers made a commitment to implement the Strategy by September 2005. Subsequently, the Government appointed an Investigative Group (comprising representatives of central and regional government and the Guardians of Fiordland) to report on how best to implement the Strategy. In September 2004, the Government accepted the recommendations in the Investigative Group's report, and agreed to develop special legislation to give effect to many of those recommendations. The Government also agreed to amend fisheries regulations for non-commercial harvesting, to exclude commercial fishing from large areas of the inner fiords, and to implement a range of other non-legislative measures.

(7) The Strategy provided a framework for the future management of the Fiordland marine environment. The Government's commitment to implementing the Strategy recognises this fact and also acknowledges the local community's wealth of knowledge of the Fiordland area. The spirit of goodwill and co-operation that exists among stakeholders will underpin the collaborative approach proposed for the future management of the area. To ensure community input into that management, a new body (that is distinct from the Guardians of Fiordland) is established by this Act. The new body is to be known as the Fiordland Marine Guardians (the Guardians).

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Fiordland Marine Management Act 2004.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

3 Purpose

In recognition of the Fiordland Marine Area's national and international importance, unique marine environment, and outstanding landscape and cultural heritage, this Act---

(a) establishes the Fiordland Marine Area:

(b) implements measures to assist in the preservation, protection, and sustainable management of the marine environment of the Fiordland Marine Area:

(c) establishes the Fiordland Marine Guardians to provide advice on fisheries management, biosecurity, sustainable management, and marine preservation and protection:

(d) facilitates and promotes co-operation between the Guardians and management agencies, to assist in achieving the integrated management of the Fiordland Marine Area:

(e) acknowledges the importance of kaitiakitanga.

4 Interpretation

(1) In this Act, unless the context otherwise requires,---

fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest

Guardians means the Fiordland Marine Guardians established by section 11

management agency means---

- (a) the Department of Conservation:
- (b) the Ministry for the Environment:
- (c) the Ministry of Agriculture and Forestry:
- (d) the Ministry of Fisheries:
- (e) the Southland Regional Council

Minister means the Minister for the Environment

Ngai Tahu Whanui has the meaning set out in section 2 of Te Runanga o Ngai Tahu Act 1996

pounamu has the meaning set out in section 2 of the Ngai Tahu (Pounamu Vesting) Act 1997

Southland Regional Coastal Plan means the version of the proposed Southland Regional Coastal Plan as at 1 December 2004.

(2) Unless the context otherwise requires, terms and expressions used and not defined in this Act, but defined in the Resource Management Act 1991, have the same meaning as in that Act.

5 Act binds the Crown
This Act binds the Crown.

Part 2 Marine Management Measures

6 Establishment of Fiordland Marine Area

(1) This section establishes the Fiordland Marine Area.

(2) The Fiordland Marine Area and the marine reserves established by section

7 are indicated by the map in Schedule 1.

(3) The Fiordland Marine Area is described in Schedule 2.

(4) If there is any inconsistency between the areas indicated in Schedule 1 and the corresponding descriptions in Schedule 2 or Schedules 4 to 11, the descriptions in Schedule 2 or Schedules 4 to 11 prevail.

(5) The co-ordinates shown in Schedule 2 are in terms of WGS84 Datum.

7 Establishment of marine reserves

(1) This section establishes the following areas of the Fiordland Marine Area as marine reserves:

(a) the area described in Schedule 4, to be known as Te Hapua (Sutherland Sound) Marine Reserve:

(b) the area described in Schedule 5, to be known as Hawea (Clio Rocks) Marine Reserve:

(c) the area described in Schedule 6, to be known as Kahukura (Gold Arm) Marine Reserve:

(d) the area described in Schedule 7, to be known as Kutu Parera (Gaer Arm) Marine Reserve:

(e) the area described in Schedule 8, to be known as Taipari Roa (Elizabeth Island) Marine Reserve:

(f) the area described in Schedule 9, to be known as Moana Uta (Wet Jacket Arm) Marine Reserve:

(g) the area described in Schedule 10, to be known as Taumoana (Five Finger Peninsula) Marine Reserve:

(h) the area described in Schedule 11, to be known as Te Tapuwae o Hua (Long Sound) Marine Reserve.

(2) The marine reserves established by subsection (1) are subject to any conditions---

(a) specified in their corresponding schedules; and

(b) specified in Schedule 3.

(3) The co-ordinates shown in Schedules 4 to 11 are in terms of WGS84 Datum.

8 Amendments to schedules

(1) The marine reserves established by section 7(1) are deemed to be marine reserves declared under section 4(1) of the Marine Reserves Act 1971.

(2) The Marine Reserves Act 1971 (other than section 4(1) and section 5) applies, with any necessary modifications, to the marine reserves established by section 7(1) and the conditions referred to in section 7(2).

(3) The descriptions and conditions set out in Schedules 3 to 11 may be amended, varied, or revoked in the same way and to the same extent as amendments, variations, or revocations would be permitted under the Marine Reserves Act 1971.

(4) Amendments, variations, or revocations to the conditions set out in Schedule 3 may be made in respect of all or any of the marine reserves established by section 7(1).

(5) Subsections (3) and (4) are for the avoidance of doubt.

9 Moratorium on marine reserve applications

(1) During the period referred to in subsection (2), no Order in Council may be made under section 4 of the Marine Reserves Act 1971 declaring any area in the Fiordland Marine Area to be a marine reserve.

(2) The period referred to in subsection (1),---

(a) begins on the commencement of this Act; and

(b) expires on the earlier of the following:

(i) 7 years after the commencement of this Act; or

(ii) on completion of the Ministerial review conducted under section 21(1).

(3) If, during the period referred to in subsection (2), the Director-General receives an application under section 5(1)(a) of the Marine Reserves Act 1971, the Director-General---

(a) must not process the application; and

(b) must not determine the application; and

(c) must return the application to the applicant as soon as practicable.

10 Amendments to Southland Regional Coastal Plan

(1) The Southland Regional Coastal Plan is amended in the manner indicated in Schedule 12.

(2) The amendments referred to in subsection (1)---

(a) become operative on the date that the Southland Regional Coastal Plan, or the relevant part of that Plan, becomes operative in accordance with clause 20 of Schedule 1 of the Resource Management Act 1991:

(b) apply only to the Fiordland Marine Area (except for the amendments to section 7 of the Plan, some of which may apply to the wider Southland coastal marine area):

(c) may become operative at different times:

(d) do not require the Minister of Conservation's approval under clause 18 or clause 19 of Schedule 1 of the Resource Management Act 1991.

(3) Nothing in this section prevents the Southland Regional Coastal Plan being varied or amended in accordance with Part 1 of Schedule 1 of the Resource Management Act 1991.

(4) Subsection (2)(d) does not apply to subsequent variations or amendments to the amendments referred to in subsection (1).

(5) Subsections (2), (3), and (4) are for the avoidance of doubt.

Part 3 Fiordland Marine Guardians

11 Establishment of Guardians

This section establishes the Fiordland Marine Guardians.

12 Functions of Guardians

(1) The functions of the Guardians are---

(a) to advise and make recommendations to management agencies and Ministers who exercise functions under the enactments listed in Schedule 13, to achieve the purpose of this Act, including, but not limited to,---

(i) advice and recommendations on activities occurring outside

the Fiordland Marine Area if those activities impact, or are likely to impact, on the Fiordland Marine Area:

(ii) advice and recommendations on likely threats to the Fiordland Marine Area:

(b) to facilitate and promote the integrated management of the Fiordland Marine Area:

(c) to obtain, share, and monitor information on the state of the Fiordland Marine Area:

(d) to assist management agencies to---

(i) prepare and disseminate information about the Fiordland Marine Area, including educational information:

(ii) monitor the state of the marine environment in the Fiordland Marine Area:

(iii) plan for the enforcement of, and compliance with, the management of the Fiordland Marine Area:

(iv) review the effectiveness of the management of the Fiordland Marine Area:

(e) to perform any other functions given to them under this or any other Act.

(2) Advice and recommendations under subsection (1)(a) may be given on the Guardian's own initiative or at the request of---

- (a) a management agency; or
- (b) the Minister; or
- (c) the Minister for Biosecurity; or
- (d) the Minister of Fisheries; or
- (e) the Minister of Conservation.

13 Guardians may be appointed as a committee under Conservation Act 1987

(1) The Minister of Conservation may appoint the Guardians as an advisory committee under section 56 of the Conservation Act 1987.

(2) The Guardians may be appointed as a committee under section 6N(2)(b) of the Conservation Act 1987.

(3) If the Guardians are appointed under subsection (1) or subsection (2), the Conservation Act 1987, with any necessary modifications, applies.

14 Membership of Guardians

(1) The Guardians consist of not more than 8 members, and not less than 5 members, appointed by the Minister.

(2) In appointing members to the Guardians, the Minister must---

(a) consult the Minister for Biosecurity, the Minister of Conservation, the Minister of Fisheries, and the Southland Regional Council; and

(b) ensure that the membership reflects a balanced mix of knowledge and experience in relation to the Fiordland Marine Area; and

(c) ensure that 1 member is nominated by Te Runanga o Ngai Tahu; and

(d) ensure that at least 2 members are ordinarily resident in the Southland region.

(3) In appointing members to the Guardians, the Minister may seek recommendations from persons whom the Minister considers appropriate.

(4) A member may be appointed for a term not exceeding 4 years, and may be reappointed for further terms not exceeding 4 years each.

(5) The Minister may, by notice in writing, remove a member from office at any time if the Minister is satisfied that the member---

(a) is unable to perform the functions of office:

(b) is under a legal incapacity:

(c) is bankrupt:

(d) has neglected his or her duties as a member:

(e) has been guilty of misconduct.

(6) A member may resign by notice in writing to the Minister.

(7) The appointment of a person as a member of the Guardians is not invalid because of a defect in the appointment.

15 Chairperson

(1) The Guardians must appoint a member to act as chairperson.

(2) The chairperson holds office for the period agreed by the Guardians at the time of the chairperson's appointment.

(3) The chairperson may be reappointed.

16 Procedure

(1) The Guardians are responsible for regulating their own procedures.

(2) Subsection (1) is subject to any directions given to the Guardians by the Minister.

17 Remuneration of Guardians

The members of the Guardians are entitled to receive---

(a) remuneration determined by the Minister in accordance with the fees framework for members of statutory and other bodies; and

(b) payment of reimbursing allowances or for actual and reasonable expenses incurred in undertaking the functions of the Guardians.

18 Members not liable for things done or omitted in good faith
A member of the Guardians is not liable for anything done or omitted in the performance of the Guardians' functions if done or omitted in good faith.

19 No entitlement to compensation

A member of the Guardians is not entitled to compensation or other payment or benefit if he or she ceases for any reason to hold office as a member of the Guardians.

20 Functions of Minister

The Minister has the following functions:

(a) to appoint members to the Guardians in accordance with section 14:

(b) to provide directions to the Guardians as permitted under section 16(2):

(c) to conduct reviews to determine the effectiveness of the management of the Fiordland Marine Area in accordance with section 21:

(d) to exercise any other powers or perform any other functions under this Act.

21 Ministerial reviews

(1) The Minister must initiate a review, to determine the effectiveness of the management of the Fiordland Marine Area, within 5 years after the commencement of this Act.

(2) The Minister may conduct subsequent reviews at times determined by the Minister in consultation with management agencies and the Guardians.

(3) On completion of a review under subsection (1) or subsection (2), the Minister must prepare and publish a report.

22 Advice and recommendations of Guardians

(1) All persons (including management agencies) exercising powers or carrying out functions in the Fiordland Marine Area must have regard to any advice or recommendations provided by the Guardians.

(2) The powers and functions referred to in subsection (1) are the powers and functions authorised or required by this Act or by any Act specified in Schedule 13.

(3) If there is any inconsistency between this Act and a provision of an Act specified in Schedule 13, the provision of the Act specified in Schedule 13 prevails.

(4) Subsection (3) is subject to section 8(2), section 9, and section 10.

(5) Nothing in this section requires a management agency or a Minister to consult the Guardians in relation to the exercise of any power or the carrying out of any function by the agency or Minister.

23 Amendment to Official Information Act 1982

The Official Information Act 1982 is amended by inserting in Schedule 1, in its appropriate alphabetical order, the item "The Fiordland Marine Guardians".

Indicative map of Fiordland Marine Area and marine reserves

[PLEASE REFER TO HARDCOPY FOR MAP]

Schedule 2

s 6

Description of Fiordland Marine Area

1 Description of Fiordland Marine Area

The Fiordland Marine Area is all of that part of the coastal marine area shown on SO Plan 345612 enclosed by a line---

(a) commencing at the mean high-water springs of the west coast of the South Island at the westernmost point of Awarua Point (at a point approximately 46° 15'33'S and 168° 03'13'E); and

(b) proceeding---

(i) in a generally north-westerly direction to a point 46° 07'45'S and 167° 50'33'E; then

(ii) in a generally south-westerly direction, following the limit of the territorial sea around the west coast of Fiordland, to a point 46° 24'52'S and 166° 39'36'E; then

(iii) in a generally easterly direction to a point 46° 27'39'S and 167° 09'35'E; then

(iv) in a generally easterly direction, following the limit of the territorial sea around the south coast of Fiordland, to a point 46° 27'13'S and 167° 21'30'E; then

(v) in a generally north-westerly direction to the mean high-water springs of the south coast of the South Island at the southernmost point of Sandhill Point (a point approximately 46° 15'20'S and 167° 19'05'E); then

(vi) in a generally westerly direction, and then a generally northerly direction, along the line of mean high-water springs to the point of commencement.

2 Co-ordinates in terms of WGS84 Datum

The co-ordinates shown in this schedule are in terms of WGS84 Datum.

Schedule 3

s 7

General conditions applying to all marine reserves established by section 7

1 Authority to take pounamu

(1) Subject to subclause (2), access is granted under the Crown Minerals Act 1991 for members of Ngai Tahu Whanui to remove pounamu from the marine reserves established by section 7(1).

(2) Subclause (1) is subject to---

(a) any prohibition, or requirement for a resource consent under the Resource Management Act 1991; and

(b) authorisation by the kaitiaki runanga; and

(c) the conditions specified in subclause (3).

(3) The conditions referred to in subclause (2)(c) are that---

(a) No person may, in any one day, take a greater weight of pounamu than they can carry on their own in one trip; and

(b) the method of collection must not involve the use of machinery or cutting equipment; and

(c) collection must not disturb the foreshore, seabed, or marine life in more than a minor way.

2 Authority to take marine mammals

(1) Subject to subclause (2), a member of Ngai Tahu Whanui may take all or part of a marine mammal in a marine reserve established by section 7(1), if the mammal---

(a) washes up dead; or

(b) strands and dies.

(2) Subclause (1) is subject to the person applying for and obtaining a permit, issued by the Minister of Conservation under the Marine Mammals Protection Act 1978, to take all or part of the mammal,

(3) Subject to section 4(5) of the Marine Mammals Protection Act 1978, a member of Ngai Tahu Whanui may collect bones, teeth, ivory, or ambergris that---

(a) have naturally separated from a marine mammal; and

(b) have been found in a marine reserve established by section 7(1).

(4) Subclause (1) and subclause (2) override the Marine Reserves Act 1971.

3 Authority to take off and land aircraft
A person may land or take off an aircraft in the marine reserves established by section 7(1).

Schedule 4 s

7(1)(a)
Description of, and specific conditions applying to, Te Hapua (Sutherland

Sound) Marine Reserve

1 Description of Te Hapua (Sutherland Sound) Marine Reserve
Te Hapua (Sutherland Sound) Marine Reserve comprises the area (within the meaning of the Marine Reserve Act 1971) of 449 ha shown on section 1 of SO Plan 344884, being the entire inner Sutherland Sound.

Schedule 5 s

7(1)(b)
Description of, and specific conditions applying to, Hawea (Clio Rocks) Marine

Reserve

1 Description of Hawea (Clio Rocks) Marine Reserve
The Hawea (Clio Rocks) Marine Reserve comprises the area (within the meaning of the Marine Reserve Act 1971) of 411 ha shown on section 2 of SO Plan 344884, being the area between Turn Point and Clio Rocks in the Bligh Sound.

2 Activities permitted in Hawea (Clio Rocks) Marine Reserve

(1) The following activities are permitted in the area of the Hawea (Clio Rocks) Marine Reserve described in clause 3:

(a) the holding of live rock lobster (*Jasus edwardsii*) caught from the wild outside the reserve, in cages for up to 2 months:

(b) the storage of---

(i) cages used for holding rock lobster, with all doors open; and

(ii) pots used to catch rock lobster, with all doors open.

(2) Despite subclause (1), the taking of marine life is not permitted.

(3) Subclause (2) is for the avoidance of doubt.

3 Area of Hawea (Clio Rocks) Marine Reserve in which activities permitted

(1) The area of the Hawea (Clio Rocks) Marine Reserve referred to in clause 2(1) is described in subclause (2).

(2) All of that part of the Hawea (Clio Rocks) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 44o 47'58.1451'S and 167o 32'36.8229'E (being at the northern end of section 2 of map SO 344884); and

(b) proceeding---

(i) in a generally southerly direction to the seacoast at a point 44o 48'29.3897'S and 167o 32'37.2164'E; then

(ii) along the line of the high-water mark at mean spring tides in a generally northerly direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

4 Activities prohibited in Hawea (Clio Rocks) Marine Reserve Anchoring is prohibited in the area of the Hawea (Clio Rocks) Marine Reserve described in clause 5.

5 Area of Hawea (Clio Rocks) Marine Reserve in which activities prohibited

(1) The area of the Hawea (Clio Rocks) Marine Reserve in which the activity referred to in clause 4 is prohibited is described in subclause (2).

(2) All of that part of the Hawea (Clio Rocks) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 44o 50'09.6223'S and 167o 31'07.6554'E, marked "DB28" on sheet 3 of SO Plan 344884; then

(b) proceeding---

(i) in a generally north-westerly direction to a point 44o 49'54.6968'S and 167o 30'48.6758'E; then

(ii) in a generally north-easterly direction to a point 44o 49'31.0004'S and 167o 31'25.6513'E; then

(iii) in a generally south-easterly direction to the seacoast at a point 44° 49' 40.0459"S and 167° 31' 37.1899"E; the

(iv) along the line of the high-water mark at mean spring tides in a generally south-westerly direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

6 Co-ordinates in terms of WGS84 Datum
The co-ordinates shown in this schedule are in terms of WGS84 Datum.

Schedule 6 s 7(1)(c)
Description of, and specific conditions applying to, Kahukura (Gold Arm)

Marine Reserve

1 Description of Kahukura (Gold Arm) Marine Reserve
The Kahukura (Gold Arm) Marine Reserve comprises the area (within the meaning of the Marine Reserve Act 1971) of 464 ha shown on section 3 of SO Plan 344884, being the Gold Arm of Charles Sound.

2 Activities permitted in Kahukura (Gold Arm) Marine Reserve

(1) The following activities are permitted in the area of the Kahukura (Gold Arm) Marine Reserve described in clause 3:

(a) the holding of live rock lobster (*Jasus edwardsii*) caught from the wild outside the reserve, in cages for up to 2 months:

(b) the storage of---

(i) cages used for holding rock lobster, with all doors open; and

(ii) pots used to catch rock lobster, with all doors open.

(2) Despite subclause (1), the taking of marine life is not permitted.

(3) Subclause (2) is for the avoidance of doubt.

3 Area of Kahukura (Gold Arm) Marine Reserve in which activities permitted

(1) The area of the Kahukura (Gold Arm) Marine Reserve referred to in clause 2(1) is described in subclause (2).

(2) All of that part of the Kahukura (Gold Arm) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 45o 06'06.3510'S and 167o 07'54.5148'E (being the northwest corner of section 3 of SO 344884 and marked "DB24" on sheet 4 of that plan); and

(b) proceeding---

(i) in a generally easterly direction to the seacoast at a point 45o 06'10.6510'S and 167o 08'25.7619'E (being the northeast corner of section 3 of SO 344884 and marked "DB25" on sheet 4 of that plan); then

(ii) along the line of the high-water mark at mean spring tides in a generally northerly direction to the seacoast at a point 45o 07'28.7038'S and 167o 08'29.3518'E; then

(iii) in a generally north-westerly direction to the seacoast at a point 45o 07'18.3808'S and 167o 08'08.8363'E; then

(iv) along the line of the high-water mark at mean spring tides in a generally northerly direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

4 Activities prohibited in Kahukura (Gold Arm) Marine Reserve
Anchoring is prohibited in the area of the Kahukura (Gold Arm) Marine Reserve described in clause 5.

5 Area of Kahukura (Gold Arm) Marine Reserve in which activities prohibited

(1) The area of the Kahukura (Gold Arm) Marine Reserve in which the activity referred to in clause 4 is prohibited is described in subclause (2).

(2) All of that part of the Kahukura (Gold Arm) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 45o 07'18.3808'S and 167o 08'08.8363'E (being at the southern end of section 3 of map SO 344884); and

(b) proceeding---

(i) in a generally south-easterly direction to the seacoast at a point 45o 07'28.7038'S and 167o 08'29.3518'E; then

(ii) along the line of the high-water mark at mean spring tides to

the seacoast in a generally southerly direction to the seacoast at a point
45o 08'03.0454'S and 167o 08'34.5196'E; then

(iii) in a generally south-westerly direction to the seacoast at a point 45o 08'05.1081'S and 167o 08'15.5893'E; then

(iv) along the line of the high-water mark at mean spring tides in a generally northerly direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

6 Co-ordinates in terms of WGS84 Datum
The co-ordinates shown in this schedule are in terms of WGS84 Datum.

Schedule 7 s

7(1)(d)
Description of, and specific conditions applying to, Kutu Parera (Gaer Arm)

Marine Reserve

1 Description of Kutu Parera (Gaer Arm) Marine Reserve
The Kutu Parera (Gaer Arm) Marine Reserve comprises the area (within the meaning of the Marine Reserve Act 1971) of 433 ha shown on section 4 of SO Plan 344884, being the entire Gaer Arm of the Bradshaw Sound.

2 Activities prohibited in Kutu Parera (Gaer Arm) Marine Reserve
Anchoring is prohibited in the area of the Kutu Parera (Gaer Arm) Marine Reserve described in clause 3.

3 Area of Kutu Parera (Gaer Arm) Marine Reserve in which activities prohibited

(1) The area of the Kutu Parera (Gaer Arm) Marine Reserve in which the activity referred to in clause 2 is prohibited is described in subclause (2).

(2) All of that part of the Kutu Parera (Gaer Arm) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 45o 19'08.0172'S and 167o 10'10.4736'E; and

(b) proceeding---

(i) in a generally northerly direction to the seacoast at a point 45o 18'50.1402'S and 167o 10'22.1454'E; then

(ii) along the line of the high-water mark at mean spring tides around Shoal Cove in a generally easterly direction; then

(iii) across the mouth of the Camelot River; then

(iv) along the line of the high-water mark at mean spring tides in a generally westerly direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

4 Co-ordinates in terms of WGS84 Datum
The co-ordinates shown in this schedule are in terms of WGS84 Datum.

Schedule 8

s

7(1)(e)

Description of, and specific conditions applying to, Taipari Roa (Elizabeth

Island) Marine Reserve

1 Description of Taipari Roa (Elizabeth Island) Marine Reserve
The Taipari Roa (Elizabeth Island) Marine Reserve comprises the area (within the meaning of the Marine Reserve Act 1971) of 613 ha shown on section 5 of SO Plan 344884, being the area around Elizabeth Island and Deep Cove in the Doubtful Sound.

2 Activities prohibited in Taipari Roa (Elizabeth Island) Marine Reserve
Anchoring is prohibited in the area of the Taipari Roa (Elizabeth Island) Marine Reserve described in clause 3.

3 Area of Taipari Roa (Elizabeth Island) Marine Reserve in which activities prohibited

(1) The area of Taipari Roa (Elizabeth Island) Marine Reserve in which the activity referred to in clause 2 is prohibited is described in subclause (2).

(2) All of that part of the Taipari Roa (Elizabeth Island) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 45° 26' 19.6158" S and 167° 06' 54.6080" E marked "DB14" on sheet 6 of SO Plan 344884; and

(b) proceeding---

(i) along the line of the high-water mark at mean spring tides in a generally northerly direction to a point 45° 25' 44.2680" S and 167° 06' 40.3333" E; then

(ii) in a generally north-easterly direction to the seacoast of Elizabeth Island at a point 45o 25'30.8977'S and 167o 07'14.5776'E; then

(iii) along the line of the high-water mark at mean spring tides in a generally south-easterly then northerly direction to the seacoast of Elizabeth Island at a point 45o 25'28.3879'S and 167o 07'30.5427'E; then

(iv) in a generally south-easterly direction to the seacoast at a point 45o 25'29.3402'S and 167o 07'40.4304'E; then

(v) along the line of the high-water mark at mean spring tides in a generally south-easterly direction to the seacoast at a point 45o 27'26.2960'S and 167o 09'31.6229'E, marked "DB18" on sheet 6 of SO Plan 344884; then

(vi) in a generally north-westerly direction to the seacoast at a point 45o 27'00.9921'S and 167o 08'43.1654'E, marked "DB17" on sheet 6 of SO Plan 344884; then

(vii) along the line of the high-water mark at mean spring tides in a generally north-westerly direction to the seacoast at a point 45o 26'40.0269'S and 167o 07'53.6795'E, marked "DB13" on sheet 6 of SO Plan 344884; then

(viii) in a generally north-westerly direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

4 Co-ordinates in terms of WGS84 Datum
The co-ordinates shown in this schedule are in terms of WGS84 Datum.

Schedule 9

s 7(1)(f)

Description of, and specific conditions applying to, Moana Uta (Wet Jacket Arm)

Marine Reserve

1 Description of Moana Uta (Wet Jacket Arm) Marine Reserve
The Moana Uta (Wet Jacket Arm) Marine Reserve comprises the area (within the meaning of the Marine Reserve Act 1971) of 2 007 ha shown on section 6 of SO Plan 344884, being the area of Wet Jacket Arm off the Acheron Passage.

Resolution Island at a point 45° 42'01.1566'S and 166° 33'12.1906'E; then

(ii) along the line of the high-water mark at mean spring tides in a generally easterly direction to the seacoast of Resolution Island at a point 45° 42'06.8676'S and 166° 33'30.9803'E; then

(iii) in a generally southerly direction to the seacoast of Pigeon Island at a point 45° 42'21.0608'S and 166° 33'20.5886'E; then

(iv) along the line of the high-water mark at mean spring tides in a generally south-westerly direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

4 Co-ordinates in terms of WGS84 Datum
The co-ordinates shown in this schedule are in terms of WGS84 Datum.

Schedule 11

s 7(1)(h)

Description of Te Tapuwae o Hua (Long Sound) Marine Reserve

1 Description of Te Tapuwae o Hua (Long Sound) Marine Reserve
Te Tapuwae o Hua (Long Sound) Marine Reserve comprises the area (within the meaning of the Marine Reserve Act 1971) of 3 672 ha shown on section 8 of SO Plan 344884, being the entire area of Long Sound to Useless Bay and Revolver Bay.

2 Activities permitted in Te Tapuwae o Hua (Long Sound) Marine Reserve

(1) The following activities are permitted in the area of Te Tapuwae o Hua (Long Sound) Marine Reserve described in clause 3:

(a) the holding of live rock lobster (*Jasus edwardsii*) caught from the wild outside the reserve, in cages for up to 2 months:

(b) the storage of---

(i) cages used for holding rock lobster, with all doors open; and

(ii) pots used to catch rock lobster, with all doors open.

(2) Despite subclause (1), the taking of marine life is not permitted.

(3) Subclause (2) is for the avoidance of doubt.

3 Area of Te Tapuwae o Hua (Long Sound) Marine Reserve in which activities permitted

(1) The area of Te Tapuwae o Hua (Long Sound) Marine Reserve referred to in clause 2(1) is described in subclause (2) and subclause (3).

(2) All of that part of Useless Bay in the Te Tapuwae o Hua (Long Sound) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 46o 03'14.7232'S and 166o 43'50.5902'E; and

(b) proceeding---

(i) along the line of the high-water mark at mean spring tides in a generally northerly then generally southerly direction to the seacoast at a point 46o 03'31.9946'S and 166o 44'17.9067'E; then

(ii) in a generally north-westerly direction to the point of commencement.

(3) All of that part of Revolver Bay in the Te Tapuwae o Hua (Long Sound) Marine Reserve enclosed by a line---

(a) commencing at the seacoast at a point 46o 04'17.0978'S and 166o 43'30.2608'E, marked "DB01" on sheet 9 of SO Plan 344884; and

(b) proceeding---

(i) in a generally north-easterly direction to the seacoast at a point 46o 04'02.7269'S and 166o 44'00.8914'E; then

(ii) along the line of the high-water mark at mean spring tides, around Revolver Bay in a generally south-easterly, then generally north-westerly direction, to the point of commencement.

(4) The areas described in subclause (2) and subclause (3) exclude all islands and stacks.

4 Activities prohibited in Te Tapuwae o Hua (Long Sound) Marine Reserve
Anchoring is prohibited in the area of Te Tapuwae o Hua (Long Sound) Marine Reserve described in clause 5.

5 Area of Te Tapuwae o Hua (Long Sound) Marine Reserve in which activities prohibited

(1) The area of Te Tapuwae o Hua (Long Sound) Marine Reserve in which the activity referred to in clause 4 is prohibited is described in subclause (2).

(2) All of that part of Te Tapuwae o Hua (Long Sound) Marine Reserve (being an area in the vicinity of Narrow Bend in Long Sound) enclosed by a line---

(a) commencing on the seacoast at a point 46o 03'50.1968'S and 166o 44'13.7049'E; and

(b) proceeding---

(i) in a generally northerly direction to the seacoast at a point 46o 03'31.9946'S and 166o 44'17.9067'E; then

(ii) along the line of the high-water mark at mean spring tides in a generally north-easterly direction to the seacoast at a point 46o 02'54.3363'S and 166o 45'58.8213'E; then

(iii) in a generally easterly direction to the seacoast at a point 46o 02'55.2115'S and 166o 46'20.3221'E; then

(iv) along the line of the high-water mark at mean spring tides in a generally southerly, and then generally south-westerly, direction to the point of commencement.

(3) The area described in subclause (2) excludes all islands and stacks.

6 Co-ordinates in terms of WGS84 Datum
The co-ordinates shown in this schedule are in terms of WGS84 Datum.

Schedule 12

s 10(1)

Amendments to Southland Regional Coastal Plan

Section 3.2---Coastal values: Awarua Point to Big River

Section 3.2.3

Insert the following paragraph after the 3rd paragraph in section 3.2.3:

"The Fiordland Marine Conservation Strategy document developed by the Guardians of Fiordland's Fisheries and Marine Environment Inc^[supl] recommended the creation of 8 additional marine reserves in Fiordland, in Sutherland, Bligh, Charles, Bradshaw, Doubtful, Breaksea, Dusky, and Long Sounds. The

document describes these areas (and the two other marine reserves in Fiordland) as containing `a range of habitats, communities and diversity that represent Fiordland's marine environment'. In 2005, central government made these new marine reserves a reality by legislating for them through the Fiordland Marine Management Act 2004. The location and extent of these marine reserves is illustrated on maps in Appendix 3 of this Plan."

Section 3.2.3

Insert, at the foot of the page containing the footnote reference, as a footnote:

"¹The Guardians comprise Ngai Tahu, commercial and recreational fishing representatives, charter and tourism operators, and environmental and community interests, all of whom have a direct involvement in the Fiordland marine environment. The Department of Conservation, Ministry of Fisheries, Southland Regional Council, and Ministry for the Environment have provided advice and support to the group in an ex officio capacity since 2000."

Section 3.2.5

Omit the last sentence of paragraph 2 of section 3.2.5, and substitute:

"Prior to 2005, there were 2 marine reserves within the fiords, 1 in Milford Sound (Piopiotahi) and the other in the Te Awaatu Channel at the Gut in Doubtful Sound."

Omit paragraph 3 of section 3.2.5 and substitute:

"Over a number of years there has been a lot of discussion concerning the creation of additional marine reserves within the internal waters of Fiordland. Among others, the New Zealand Marine Sciences Society has investigated possible options for further protection of the marine areas in Fiordland. The values of the internal waters of Fiordland are outstanding. In 2003 the Guardians of Fiordland's Fisheries and Marine Environment Inc completed a strategy document ('the Fiordland Marine Conservation Strategy') that proposed the protection of representative areas within Fiordland by creating 8 new marine reserves. This recommendation was implemented through the Fiordland Marine Management Act 2004.

"The Fiordland Marine Conservation Strategy also identified `China Shops'--- these are described as `small discrete areas that are outstanding for the abundance and/or diversity of animal communities ... mixed animal and plant communities or ... particular animal species'. Of the 23 china shops, 10 are now within the boundaries of marine reserves."

Section 4.1---Protection of values

Policy 4.1.2

Omit the first 2 sentences of paragraph 2 of Policy 4.1.2 and substitute:

"Currently within the Southland Region there are 10 marine reserves in the following areas of Fiordland:

Milford Sound (690 ha):
Sutherland Sound (454 ha):
Bligh Sound (411 ha):
Charles Sound (464 ha):
2 in the main arm of Doubtful Sound (93 ha and 613 ha):
Gaer Arm (433 ha):
Wet Jacket Arm (2 007 ha):
Goose Arm and Facile Harbour, Dusky Sound (1 466 ha):
Long Sound (3 672 ha).

A marine reserve is also proposed for Paterson Inlet, Rakiura/Stewart Island."

"Eight of the Fiordland Marine Reserves were established as a result of the work of the Guardians of Fiordland's Fisheries and Marine Environment Inc. This group comprises Ngai Tahu, commercial and recreational fishing representatives, charter and tourism operators, and community interests, all of whom have a direct involvement in the Fiordland marine environment. The group has been supported by the Southland Regional Council, the Ministry for the Environment, the Department of Conservation, and the Ministry of Fisheries."

Policy 4.1.4

Insert as policy 4.1.4:

"Policy 4.1.4 Management of Resource Management Act functions in marine reserves and in China Shops within the Fiordland Marine Area

"Ensure that in considering applications, under the Resource Management Act 1991, for activities within marine reserves and within China Shops in the Fiordland Marine Area, the activities are compatible with the values and purposes of these areas."

"Explanation---The purposes and functions of Marine Reserves are established under the Marine Reserves Act 1971. The Resource Management Act 1991 controls activities in the coastal marine area including the erection and placement of structures, commercial surface water activities, and aircraft landings and take-offs, and applies to areas that have marine reserve status, as well as the China Shops identified in the Fiordland Marine Conservation Strategy."

"The Fiordland Marine Conservation Strategy was produced by the Guardians of Fiordland's Fisheries and Marine Environment Inc in June 2003, and describes China Shops as follows:

"China Shops are small discrete areas that are outstanding for the abundance and/or diversity of animal or mixed animal and plant communities or for the abundance of particular animal species. Communities associated with a wide variety of habitats in a confined area may also qualify. On the basis of local knowledge and the best available information, 23 areas were identified from Bligh Sound to Preservation Inlet. Collectively, these areas support a wide range of special features and values. Proposed management measures are based on particular values and whether these are under threat from existing or future activities."

"China Shops that are not within marine reserves are recognised in Appendix 3, which identifies the general location of these China Shops, but not the specific location. Any person undertaking an activity within these areas can contact either the Southland Regional Council or the Fiordland Marine Guardians to determine whether or not their activity is likely to have an impact on the China Shop in the vicinity. Each China Shop has its own values and potential threats to these values will vary."

"The purpose of the Marine Reserves Act 1971, as well as the threats to marine reserves will be taken into account when processing and considering whether or not to grant a coastal permit for an activity within a marine reserve. The values and potential threats to China Shops will be taken into account when processing and considering whether or not to grant a coastal permit for an

activity within a China Shop."

"Communication with the Fiordland Marine Guardians and the Department of Conservation will be essential in achieving this part of the policy."

Section 7.3---Discharges

Section 7.3.8.2

Omit paragraph 1 and substitute:

"The cleaning and repainting of structures and ships on land and within the coastal marine area can result in discharges to coastal water, antifoulants in particular, which lead to discoloration, deposition, and adverse effects on aquatic life. Structures, equipment, and ships that have been in coastal waters where invasive organisms are present pose a potential risk to the Southland coastal marine environment if these organisms, or viable parts of these organisms have become attached to these structures, equipment, or the hulls of ships and then consequentially arrive in Southland without having been cleaned or disinfected before entering Southland's waters. To the extent that it is practicable, discharges from the cleaning and repainting of structures and ships on land and within the coastal marine area, should be avoided."

Issue 7.3.8.2.2

Insert, after issue 7.3.8.2.1:

Issue 7.3.8.2.2 The unique habitats of the internal waters of Fiordland are particularly susceptible to invasive species that may arrive as hull attachments or on equipment or structures brought into these waters from other areas.

Objective 7.3.8.2.2 Insert, after objective 7.3.8.2.1:

"Objective 7.3.8.2.2 Minimise risk of bioinvasion
"Minimise the risk from hull cleaning, structure cleaning, and the introduction of invasive organisms from ships, structures, and equipment from outside this region."

"Explanation---Ships, equipment, and structures that have been in coastal waters outside the Southland region have the potential to introduce invasive organisms into the Southland coastal marine area, if they are not appropriately cleaned before entering Southland waters. Of particular concern is the

protection of sensitive and unique areas such as the internal waters of Fiordland. Where there is a known risk, for example, if a ship or structure is relocating to the Fiordland area from an area where there are known invasive organisms such as Undaria, measures should be taken to minimise that risk."

Policy 7.3.8.2.3

Insert, after policy 7.3.8.2.2:

"Policy 7.3.8.2.3 Hull cleaning of ships in the coastal marine area

"Provide for hull cleaning of ships in areas where materials containing bioaccumulative, toxic or noxious substances or viable unwanted or pest organisms do not enter or are not released into the coastal marine area."

"Explanation---Boats are periodically cleaned to remove marine growths from their hulls, or other maintenance work is undertaken that has similar effects to those that occur during hull cleaning. Where this is undertaken with appropriate controls the effect is insignificant. However, where there is the potential to discharge bioaccumulative, toxic and noxious substances and growths of unwanted or pest marine organisms, this can have significant adverse effects, particularly where unwanted and pest organisms become established in Southland waters.

"If a ship has operated inside the territorial waters of a foreign country or has spent time in New Zealand ports where unwanted or pest organisms are established, and has not subsequently cleaned its hull, potential exists for these organisms to be attached to the hull of the ship. This is particularly true if the ship has spent time in shallow coastal waters such as in ports or bays and coves. The waters of the Southland coastal marine area are relatively free of these types of organisms and it is important that this status is maintained, if the highly significant areas of Fiordland, Rakiura/Stewart Island and the sub-Antarctic islands are to be protected from infestation."

"Policy 7.3.8.2.4 Cleaning of ships, structures, and equipment destined for the internal waters of Fiordland

"Require that any ships to be used in commercial surface water activities, in Fiordland, and any structures or equipment that are to be erected or placed within the internal waters of Fiordland that have been in coastal waters in other parts of New Zealand or in foreign waters, be thoroughly cleaned and disinfected before entering, or being placed in, Fiordland's internal waters."

"Explanation---Through hull cleaning or through the presence of organisms on ships, structures or equipment that enter or are placed in coastal waters, a potentially invasive organism could be introduced to Fiordland's internal waters.

"Fiordland is a globally unique environment. It has high value marine resources and biodiversity, including species found only in this part of the world. Many habitats are found at unusually shallow depths because of the influence of the freshwater layer in the fiords. The internal waters of Fiordland are particularly sensitive to the introduction of unwanted or pest organisms. It is appropriate to reduce the risk of the introduction of a potentially invasive organism being introduced to Fiordland, by thoroughly cleaning and disinfecting all ships that are to be used in commercial surface water activities and any structures and equipment that are to be erected or placed within the internal waters of Fiordland. This should be done before the ships, structures or equipment that have been in coastal waters in other parts of New Zealand or in foreign waters, enter, or are placed in, Fiordland's internal waters."

Section 11.2---Erection or placement of structures
Policy 11.2.19

Insert, after policy 11.2.18:

"Policy 11.2.19 Structures in the Fiordland Marine Area

"Recognise that the erection and/or placement of structures in the Fiordland Marine Area must be consistent with the very high natural values of that area."

"Explanation---Fiordland contains amenity and natural character values that are very high due to the pristine nature of the area. It would be inappropriate to allow the erection of structures that are incompatible with the character of

this area. The sensitive communities and habitats of marine reserves and China Shops may be particularly affected."

Section 11.7.7---Anchorages and moorings

Issue 11.7.7.4

Omit issue 11.7.7.4, and substitute:

"Issue 11.7.7.4 Anchoring can damage and destroy fragile organisms such as Black Coral and cause damage to sensitive habitats."

Objective 11.7.7.5

Insert, after objective 11.7.7.4:

"Objective 11.7.7.5

Anchoring or mooring in China Shops in the Fiordland Marine Area

"To provide for anchoring and mooring in China Shops in the Fiordland Marine Area where these activities are not incompatible with the special values of these areas and the cumulative adverse effects of these activities are not likely to be significant."

"Explanation---Anchoring and mooring is not necessarily incompatible with protecting China Shops. However, in China Shops the adverse effects of anchoring or mooring (such as the disturbance of the seabed and destruction of marine communities) have the potential to be significant. Where activities pose a threat to these values, the areas should be identified and specific controls put in place to prevent damage."

Policy 11.7.7.22

Insert, after policy 11.7.7.21:

"Policy 11.7.7.22 Anchoring or mooring in sensitive areas of the Fiordland Marine Area"

"Prohibit anchoring or the placement of moorings in various areas in the Fiordland Marine Area identified as particularly sensitive to the adverse effects of these activities."

"Explanation---The Guardians of Fiordland's Fisheries and Marine Environment Inc identified, in the Fiordland Marine Conservation Strategy document, areas of special significance where the natural values would be severely compromised"

Insert, after the second sentence of the explanation to policy 14.3.1:

"However, research has shown that in frequently dived areas damage can be caused to fragile species such as corals, from fins and inappropriate diver behaviour or accidental damage. In the long term, unchecked damage from divers can threaten the long-term viability of these unique habitats."

Outcome 14.3.2

Insert, after outcome 14.3.1:

"14.3.2 Unique and fragile habitats in the Fiordland Marine Area are protected from the adverse effects of diving."

Section 20.1---Introduction

Section 20.1

Omit the third sentence of paragraph 4 and substitute:

"Other types of organisations with a management role in the coastal marine area include Statutory Advisory Groups such as the Fiordland Marine Guardians, Fish and Game Councils, and the Historic Places Trust."

Section 20.2---Procedures

Section 20.2

Insert, after paragraph 1:

"1.a Have regard to the Guardians of Fiordland's Fisheries and Marine Environment Inc Fiordland Marine Conservation Strategy to the extent that the Strategy is consistent with the Fiordland Marine Management Act 2005."

Appendix 1---Glossary of terms

Omit the definition of "Fiordland" and substitute:

"Fiordland" means that area of the coastal marine area adjoining the coastline from Awarua Point to Sand Hill Point, including that part of the coastal marine area around the Solander Islands and includes all of that area known as the Fiordland Marine Area.

"Fiordland Marine Area means that part of the Southland coastal marine area adjoining the coastline from Awarua Point to Sand Hill Point, but not including the coastal marine area around the Solander Islands, and has the same meaning as set out in the Fiordland Marine Management Act 2004."

Appendix 6---Anchorages

Insert, in their appropriate numerical order, the following items:

Map Type	Anchor ID	Name	Usage
3	038a	Cove north of Macdonell Island (Bradshaw Sound)	Moderate
Anchorage			
3	041a	Bauza Island (Doubtful Sound)	Unknown
Anchorage			
5/5a	089a	Shoal Point (Chalky Inlet)	Unknown
Anchorage			
5/5a	089b	Blind Entrance (Chalky Inlet)	Unknown
Anchorage			
5/5a	089c	Passage Islands (Chalky Inlet)	Unknown
Anchorage			
5/5a	092a	Cliff Cove (Cunaris Sound)	Unknown
Anchorage			
5/5a	097a	Anchorage Cove (Chalky Inlet)	Unknown
Anchorage			
5/5a	098a	Welcome Bay (Preservation Inlet)	Unknown
Anchorage			
5/5a	098b	Red Head (Chalky Inlet)	Unknown
Anchorage			
5/5a	099a	Brokenshore Bay (Preservation Inlet)	Unknown
Anchorage			
5/5a	104a	Fishing Bay (Preservation Inlet)	Unknown
Anchorage			
5/5a	104b	Cavern Head (Preservation Inlet)	Unknown
Anchorage			

Schedule 13

s 22(2)

Acts to which Part 3 applies

Biosecurity Act 1993
Environment Act 1986
Fisheries Act 1996
Marine Reserves Act 1971
Resource Management Act 1991