BEFORE THE COMMISIONER APPOINTED BY THE
SOUTHLAND REGIONAL COUNCIL

IN THE MATTER APP-20262029

APPLICANT MITRE PEAK CRUISES LIMITED

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# BRIEF OF EVIDENCE OF THE FIORDLAND MARINE GUARDIANS, REPRESENTED BY DR REBECCA MCLEOD (CHAIRPERSON) AND MR JASON HAGGERTY (GUARDIAN)

DATED 11 NOVEMBER 2026

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## INTRODUCTION

1. The Fiordland Marine Guardians ("the Guardians") submit this evidence for the matter above. The Guardians are formally recognised as an advisory board for the Fiordland Marine Area (FMA) in the Fiordland Marine Management Act ("the Act") 2005. Our vision is that the quality of Fiordland's marine environment and fisheries, including the wider fishing experience, be maintained or improved for future generations to use and enjoy.

2. The functions of the Guardians relevant to this submission include 13 (1) (a) (ii) "…to advise and make recommendations to management agencies… including…advice and recommendations on likely threats to the Fiordland (Te Moana o Atawhenua) Marine Area." It is in this context that we make the following submission on Mitre Peak's application to undertake commercial surface water activity in the coastal waters of Fiordland, between Yates Point and Puysegur Point.

3. The Guardians are represented at this hearing by Dr Rebecca Jane McLeod and Mr Jason Haggerty.

4. Rebecca was appointed by the Minister for the Environment to the Fiordland Marine Guardians in 2012. She was reappointed in 2016, 2021 and 2025 and has chaired the Guardians since 2014.

5. Rebecca is a marine ecologist and works as a strategic advisor. She conducted her doctoral research in the Fiordland Marine Area and has continued to engage in scientific research in the area since she graduated with a PhD from the University of Otago in 2008.

6. Rebecca has travelled extensively throughout the fiords and has SCUBA dived throughout the area also.

7. Jason was appointed by the Minister for the Environment to the Fiordland Marine Guardians in 2026. He has served on the CRA 8 board for the last 10 years.

8. Jason has spent most of his adult life as a commercial rock lobster fisherman; coming from a fishing family he is the fourth generation. He is extremely passionate about his job and the Fiordland Marine Area.

9. Jason has spent extensive time in the Fiordland Marine Area. He gained his skippers ticket in 2010, and operates a 18.3 m fishing vessel. Over the last 19 years he would have spent at least 100 days each year in the Fiordland Marine Area. He is very experienced in navigating the area, including Fiordland's anchorages and dealing with the extremes of weather and sea conditions.

## OPPOSITION TO APPLICATION

10. The Fiordland Marine Guardians submitted in opposition to the application on 2 May 2026 and recommended that the council deny the consent. The application sought a new coastal permit, upon which being granted, the applicant would surrender coastal permit AUTH-20191120.

11. If granted, the net result would be a renewal of existing activities (AUTH-20191120 - trip numbers, days of operation, geographic extent etc.), but an increase in the size of the vessel as detailed in the table below.

| **Existing consent (Coastal Permit AUTH-20191120)** | **Proposed consent** | **Difference** |
|---|---|---|
| Commercial day trips within Milford Sound.<br>• Seven trips per day 1st October to 30 April.<br>• Three trips per day 1 May to 30 September. | Commercial day trips within Milford Sound,<br>• Seven trips per day 1st October to 30 April<br>• Three trips per day 1 May to 30 September | No change |
| Vessel up to 18.3 m in length<br>Note that Mitre Peak I has a:<br>• beam of 5.76m<br>• max. height above the water line of 5.56m | Vessel up to 24 m in length<br>Proposed Mitre Peak III has a:<br>• beam of 7.2 m<br>• max. height above the waterline of 5.7m | + 5.7 m in length (+31%)<br><br>+ 1.44 m beam (+25%)<br>+0.14 m max. height (+2.5%) |
| Capacity for up to 64 passengers (including crew) | Capacity for up to 154 passengers (including crew) | + 90 passengers (+141%) |

12. In May 2021, the Guardians and Te Ao Marama Incorporated formed a position that we would not provide written approval for any new applications for surface water activity consents in the FMA (apart from straight renewals) until we had sufficient information to fully assess the cumulative effects of their activities on the essential values of remoteness, isolation, wilderness and natural character of the internal waters of Fiordland. Our joint letter to Environment Southland informing them of this position is appended (Appendix A).

13. The Guardians advocated to the regional council for a plan change to the Southland Regional Coastal Plan, essentially to freeze any further increase in surface water activity until the carrying capacity could be assessed and reflected in the revised Coastal Plan.

14. The Guardians' approach was supported by several commercial operators in Fiordland who shared concerns about the growth of commercial charter activity, and its impacts on fisheries and navigational safety (Appendix B).

15. The Plan Change was publicly notified on 18 July 2022 and became operative on 18 October 2024.

16. Throughout this time, the Guardians have consistently opposed applications that contradict the intent and provisions of Plan Change 5. These includes applications for new or larger vessels and/or increased operational intensity (eg. An increase in permitted trip numbers).

17. When adopting Plan Change 5, the intention was to keep the measure in place until such time as the vessel carrying capacity of the Fiordland Marine Area was assessed and regulatory measures put in place to keep commercial surface water activity at a level that ensures the values of the area are protected.

18. When the council adopted Plan Change 5, it was intended as an interim measure to prevent further expansion of surface water activities until the new coast plan was

notified. In the Report and Recommendations on Plan Change 5, considered by Environment Southland in November 2023, para 172, the report states that the Council's section 42A reporting officer: "*agreed further comprehensive assessment was necessary to determine an appropriate threshold or carrying capacity for the Fiordland coastal environment.*"

19. To the best of our knowledge, this assessment has not been completed, although the Guardians have been providing advice to the Council to inform it. The applicant's briefs of evidence make no mention of, or give any consideration to, the carrying capacity of anchorages.

20. The most relevant policy in this regard is "Policy 16.2.2 Avoid adverse effects on the international, national, and regionally significant values of the Fiordland coastal environment, by:

    (a) not granting resource consent for new or intensifying (above that which lawfully existed at 18 July 2022) commercial surface water activities, including ancillary activities, where adverse effects on those matters identified in Policy - 16.2.2(1) will increase"

21. The Guardians do not see any justification for granting this consent in contradiction to Plan Change 5 and Policy 16.2.2.a. Granting this consent before the assessment of carrying capacity has been completed and the revised Coast Plan (or its equivalent) is adopted risks undermining the goals of the plan with respect to public access, navigational safety and environmental values.

22. The new regional spatial plan requirements provide an excellent opportunity for surface water activities to be managed in the Fiordland Marine Area. We expect Environment Southland to complete the assessment of carrying capacity in the FMA in time to inform the first Southland Regional Spatial Plan, and note that latest guidance from the Ministry of Cities, Environment, Regions and Transport is that spatial plans will be notified in June 2028, and decided in March 2029.

## CONCLUSION

23. The Guardians regard the proposal as an increase in the level of surface water activity in the FMA, contrary to Plan Change 5 of the Southland Regional Coastal Plan.

24. The Guardians have consistently maintained that there should be no increase in activity until Council has completed a full assessment of the carrying capacity of Fiordland and determined appropriate levels of activity and development for the area.

25. We oppose this application as we consider it important to be consistent in our response to applications that will increase the total surface water activities in the FMA.

26. We are concerned about precedent setting in terms of strength of the provisions in Plan Change 5.

27. The Guardians request for the application for consent to be declined.



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Ph. [redacted]
Jason Haggerty
Fiordland Marine Guardian

Fiordland Marine Guardians
Beneath the Reflections

Te Ao Marama Inc.

24th May, 2021

Nicol Horrell
Chairman, Environment Southland
220 North Road, Invercargill 9810

Tēnā koe Nicol,

**Fiordland Surface Water Activity Consents**

Two of the main affected parties for consents in the Fiordland Marine Area (FMA), being the Fiordland Marine Guardians and Te Ao Marama Inc. have met recently to discuss concerns about consents for surface water activities.

It is widely acknowledged that the current Coastal Plan is limited in its ability to effectively deal with the cumulative effects of Surface Water Activities (SWA)'s on the essential values of remoteness, isolation, wilderness and natural character of the internal waters of experiences in Fiordland.

These two affected parties have discussed the current high number of applications for SWA consent applications in the FMA and the consequential risks of this occurring whilst the review of the Southland Regional Coastal Plan is underway. We have identified several concerns that the parties have in common, namely:

1. the inability to accurately measure and assess the cumulative adverse effects of SWA consents in the FMA,

2 the inability to manage cumulative effects of SWA's on natural character, isolation, remoteness and wilderness values in the FMA under the current Coastal Plan and,

3. the lack of recognition of the increase in SWA's on the qualities of remoteness in the southern fiords in particular.

We have agreed that the natural character values of the FMA are at risk of being degraded should consents for SWA continue to be issued whilst there is a high degree of uncertainty existing around managing the cumulative effects of multiple consents being operative. We are firmly of the view that to continue to provide our written approval for consents in the absence of this information would preclude us (and Council) from meeting our respective statutory responsibilities, and obligations under Te Tiriti o Waitangi for the FMA.

With respect to providing our written approval for SWA consent applications, we intend to proceed as follows:

a. we will provide written approval for applications that are in effect renewals of existing consents provided that the applications do not request any increase in the level or scope of the activities and, with the inclusion of a condition that the term of the consent is 15 years,
b. we will work with applicant(s) who have already lodged an application to seek to mitigate the impacts of their activities and will then provide written approval with the condition that the term of the consent expires in 2032 and,
c. we will not provide written approval for any new applications for SWA consents in the FMA apart from those described in (a) until such time as we have sufficient information to fully assess the cumulative effects of their activities on the essential values of remoteness, isolation, wilderness and natural character of the internal waters of experiences in Fiordland.

We will also raise our concerns with the Minister for the Environment when we meet with him later this year.

In closing, this is our unified call for action on the part of the council to support us to ensure the values we all hold dear for this 'last frontier' of the southern Fiordland marine area are not lost forever. We value our relationship with Council and look forward to our continued work with you on this matter.

Nāku iti noa, nā

Rebecca McLeod
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Te Anau 9640

Dean Whaanga
Kaupapa Taiao Manager
Te Ao Marama Incorporated
408 Tramway Road
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24 June 2021

To Whom it may concern,

Collectively we represent 5 local charter operators/owners in Dusky, Breaksea Sounds over a very long period of time. We all have a very unique skill set, expertise and engagement across all levels being on and off the water with multiple different operations but a common ground and work with local and central Government agencies. We are expressing our concerns to you on a personal level not a commercial level from our perspective and we need to urgently address the carrying capacity in Dusky and Breaksea Sounds currently in 2021 and into the future as we believe currently it is at saturation point and cannot continue without addressing some key points/issues outlined below.

Key issues/points

1. Increased pressure on Dusky, Breaksea Sound marine area
   - A recently developed commercial charter vessel, voluntary fishing code of conduct has addressed local fish stocks, but no one has addressed the issue of too many vessels by the 3 main agencies - why?

2. The availability of safe anchorages is likely to be diminished as more/larger vessels are granted access.
   - Given the increased frequency of severe and adverse weather conditions we are experiencing, there is concern that the existing charter vessel operations safety will be compromised. (this was highlighted back in early April 20201 when we had 6 different operators/vessels all in Cascade Cove sheltering from a standard NW front)

   - The new vessels arriving (Heritage Explorer/Strannik/Island Passage) where are they proposing to anchor? What moorings do they propose to utilise? No correspondence or engagement with local operators/owners on this. Why?

   - Poor management of structures and moorings (and positions of such) has the potential to compromise the availability of safe anchorages.

3. Diminishing natural remote wilderness values

   - Effects on current users (Us - owners/operators) Where was the consideration or information based on?

     IWI - Where do they sit with more people/larger vessels utilising Dusky, Breaksea Sounds in regards to cultural values and respect. IWI response to more fish species being taken, more noise and visual effects and the natural wilderness values reduced. More visitors visiting historical IWI sites (Eg Indian Cove)

     ES with increase in larger vessels coming into Dusky, Breaksea Sounds which contradict ES Coastal plan (current and proposed draft)

     During the last decade some local operators (Fiordland Charters, Deep Cove Charters, Fiordland Expeditions, Pure Salt) have been raising concerns with ES and FMG indicating that there is too much pressure on the Dusky, Breaksea Sounds area.

With next to no output/response we feel as though it is falling on deaf ears. The lack of action and urgency is of deep concern
DOC National Park plan of low impact tourism keeping in check with remote Wilderness values. Eg Low impact small vessels with no increase in activities

- Is there a documented consistent outline (across all agencies/stakeholders) of the actual capacity of the Dusky, Breaksea Sounds area taking into account the following:

  Commercial charter vessels
  Syndicate vessels
  Recreational vessels

  And if so how is this being monitored?

We support positive and tangible change with place at heart. As responsible, passionate ambassadors of Fiordland Marine Area and our desire to protect the wilderness values which are at the very core of this world class destination, we strongly believe we have the responsibility to send a collective call to action:
the urgency to protect and preserve Fiordland is paramount - where are the values of Kaitiakitanga, Kotahitanga, Manaakitanga

We await your response,

Regards

Paul and Katherine Mitchell - Fiordland Charters
Brian Humphrey and Fiona Lee - Wild Fiordland
Sean Ellis and Maria Kuster - Pure Salt
Richard and Mandy Abernethy - Fiordland Expeditions
Chris and Diane Lemin - Deep Cove Charters