

Recommended Amendments post the Hearing

Plan Change 5 – Section 16 Surface water activities on the internal waters of Fiordland from Yates Point to Puysegur Point

27 July 2023

Any changes to the provisions presented in the s42A report are shown in ~~red with strike through~~ for existing wording proposed to be deleted and red with underline for proposed new wording. Black strike through and black underline show additions and deletion proposed in the s42A report.

16 SURFACE WATER ACTIVITIES ON THE INTERNAL WATERS OF FIORDLAND FROM YATES POINT TO PUYSEGUR POINT¹

See also Figure 7.3.2.1 and Section 4.7

Introduction

The internal waters of Fiordland constitute a marine environment which is largely unmodified by use of adjacent land use or contributing catchments. The values of the Fiordland Coastal Environment are valued internationally, nationally and regionally. The surrounding Fiordland National Park, that forms part of the Fiordland coastal environment, is internationally recognised as a UNESCO World Heritage Site. The coastal waters and seabed of Fiordland (Te Moanan o Atawhenua) have been submitted for the tentative list for World Heritage recognition. There are also ten marine reserves present within the Fiordland coastal marine area that together encompass over 10,000 hectares of inner fiord marine habitat.¹

The pristine state of ~~these~~ Fiordland's² waters complements the natural state of the adjoining Fiordland National Park. Being very deep, and relatively sheltered compared with the open coast, the fiords are navigable to almost any ship. As such, they provide a ready means of experiencing this unique high quality coastal environment. In fact, boat and floatplane access and helicopter access directly to ships is a popular means of getting about in Fiordland National Park, especially its western and seaward boundary to which there are only two points of road access. State Highway 94 to Piopiotahi / Milford Sound is the only public road access to any of the fiords.

The value of wilderness or remoteness is therefore an important additional value to all the other natural values of the area. Wilderness is a condition in which there is an extremely high probability of experiencing complete isolation from the sights, sounds and activities of humans. Remoteness is a similar condition, but the probability of experiencing complete isolation from the sights, sounds and activities of humans is reduced from extremely high to high.

Wilderness and remoteness are becoming increasingly rare values both nationally and internationally. They are values which can either be managed or allowed to establish a new equilibrium in the face of increasing population and access. In the latter process, there is a strong possibility that natural character, landscape, natural feature, wilderness and remoteness values will be significantly diminished if not lost.

Given the use of Fiordland's internal waters for access to port facilities, and given that much of these waters are used for commercial rock lobster fishing, it is unreasonable to expect a true wilderness condition to continually exist. However, there are areas such as Hāwea / Bligh Sound, which is surrounded by land zoned in the Fiordland National Park Management Plan 2007 for wilderness experiences, and the upper reaches of fiords which can only be reached via the air or open coastal water, where wilderness conditions are more probable than remoteness conditions. The existence of adjoining land managed for wilderness does not necessarily contribute to such values on the water, for example most of the northern side of Piopiotahi / Milford Sound is zoned as a wilderness area. Access is the key influence on isolation. Lack of access contributes to remoteness and for people seeking this experience it is a value in itself.

¹ Tourism NZ 1089/00 withdrew all references concerning Section 16 - 20 March 2002

¹ *Real Journeys LTD 12.2*

² *Consqential amendment to Real Journeys LTD 12.2*

In managing recreational activities, the Department of Conservation published a *Visitor Strategy* (1996) which recognises seven different visitor groups, those being:

- short stop travellers;
- day visitors;
- overnighers;
- backcountry comfort seekers;
- backcountry adventurers;
- remoteness seekers;
- thrill seekers.

Generally, the internal waters of Fiordland, with the exception of Piopiotahi / Milford Sound, potentially provide for all such experiences. The reality is, however, that because the area is not highly accessible, short stop travellers are few in number. Similarly, thrill seeking activities are almost non-existent and given that backcountry comfort seeker and adventure experiences by definition usually involve overnighing, the overnighing classification is virtually superfluous. Lack of access however, contributes to remoteness, and for people seeking this experience, it is a value in itself.

That reduces the visitor categorisation to day visitors, backcountry comfort seekers, backcountry adventurers and remoteness seekers. In Fiordland, where for the most part there is not intense visitor use, backcountry users are likely to experience conditions of remoteness which enhance their experience of a natural environment. Day visitors may also experience feelings of remoteness depending on the location and time of year, their expectations and previous experiences. Day visitors are concentrated at Piopiotahi / Milford Sound and Patea / Doubtful Sound. Generally, they rely on commercial tourism operators to facilitate their experience. Day visitors represent the bulk of visitors to Fiordland's waters.³

Increasingly, there is demand for backcountry comfort seeker experiences facilitated by commercial tourist operators. These operators provide comfort in the form of ships, showers, food and facilities, operational knowledge sufficient to reduce risk to comfortable levels, and knowledge of the environment and its vegetation and fauna. Some of the private ships entering, or based in, Fiordland are also providing backcountry comfort seeker experiences.

While backcountry adventurers may undertake many of the same activities as backcountry comfort seekers, their experience places more emphasis on self reliance and is based more on hope and discovery, rather than expectation and learning. Their desire for remoteness or "to get away from it all" is generally stronger than that of the comfort seeker. Generally, backcountry adventurers seek a diving, fishing, boating, exploring, or hunting experience in the "great outdoors". They are a moderate use group compared to the comfort seekers. Typically, they are New Zealanders in "kayaks" or motorised pleasure craft. The diffuse nature of these activities and of the size of the craft involved means that they have minor effects on the values of the area.

Remoteness seekers desire a setting containing remote to wilderness conditions. They desire little interaction with other visitors and seek the challenge, freedom and risk associated with meeting nature on its own terms. They are unlikely to fulfil that experience solely within the coastal marine area. In fact, they are more likely to want to use that area as a means of access to the wilderness. This group represents very low usage relative to other groups. However, the values that attract those people are also an important element of the visitor experience enjoyed by all visitors to Fiordland, including day-trip visitors.

Over time, recreational and commercial use of the internal waters of Fiordland has increased and has ~~changed become more diverse.~~⁴ A 2021 study (*Wilderness and Remoteness Values of Fiordland Waters* by Lindis Consulting) found that for some people the wilderness values of the fiords have been lost; whilst others believe they remain unaffected by changes in use.

³ *Real Journeys LTD 12.2*

⁴ *Real Journeys LTD 12.2*

Visitor categorisations are not definitive, but they do provide a broad understanding of the experiences and values sought by visitors. Relative visitor numbers give an indication of the level of use by the various categories of recreational users. However, visitor numbers should not be regarded as the sole measure of the importance of that use.

From a sustainable management point of view, preserving the opportunity for future generations to partake in any of the four categories, and maintaining that opportunity so that people and communities of the current generation can provide for their social, economic and cultural well-being are key principles. In doing so, it is also necessary to avoid, remedy or mitigate any adverse effects of activities to preserve the quality of the environment. The fiords are probably the most significant coastal landform in this region and are outstanding natural features. They are valued internationally, nationally, and regionally. The majority of the fiords are incorrectly referred to as sounds.

This section seeks to avoid further adverse effects on the significant values of the Fiordland coastal environment until a long-term carrying capacity is developed through the review of the Regional Coastal Plan. Ongoing monitoring will be required to assess the impacts of surface water activities on visitor experiences and the physical characteristics of environment itself.

ISSUE

Issue 16.1.1 - The increasing frequency, scale and/or duration of commercial and non-commercial surface water activities on coastal waters within Fiordland, has the potential to diminish the values that attract people to these waters and adjoining land

Objectives 16.1.1, 16.1.2, 16.1.3 Policies 16.2.1, 16.2.2, 16.2.3, 16.2.4, 16.2.5, 16.2.6, 16.2.7, 16.2.8, 16.2.9, 16.2.10, 16.2.11, 16.2.12, 16.2.13, 16.2.15, 16.3.1, 16.3.2, 16.3.3, 16.3.4, 16.3.5, 16.4.1, 16.4.2, 16.4.3, 16.4.4, 16.4.6, 16.4.7, 16.4.8, 16.4.9 Rules 16.2.1, 16.2.2, 16.3.1, 16.3.2, 16.3.3 and 16.3.4

OBJECTIVES

Objective 16.1.1 - Maintain essential characteristics

To maintain the essential characteristics, including the internationally, nationally and regionally significant values, of the pristine Fiordland coastal environment that contribute to a range of high quality experiences in a natural coastal environment.

Policies 16.2.1, 16.2.2, 16.2.3, 16.2.4, 16.2.5, 16.2.7, 16.2.8, 16.2.9, 16.2.10, 16.2.11, 16.2.12, 16.2.13, 16.2.14, 16.2.15, 16.3.1, 16.3.2, 16.3.3, 16.3.4 and 16.3.5 Rules 16.2.1, 16.2.2, 16.3.1, 16.3.2, 16.3.3 and 16.3.4

Explanation – Commercial surface water activities allow people to experience the unique and significant values of Fiordland. Since 2007, there has been an increase in the use of the Fiordland coastal marine area by commercial and recreational ships. Use was previously largely focused in Piopiotahi / Milford Sound, and to a lesser extent in Patea / Doubtful Sound. However, more recently use has increased in Southern Fiordland. Surface water activity, individually and cumulatively, can impact on the essential characteristics of the Fiordland coastal environment. For some people the intensity of activity within some areas (for example Piopiotahi / Milford Sound, Patea / Doubtful Sound and to a lesser extent Tamatea / Dusky Sound) has already eroded, to varying degrees, the intrinsic values of these places. These values largely stem from the very high natural character and the physical and perceptual characteristics of the landscape. Landscape as a human experience combines both aesthetic values and other values which people attribute to landscape such as tranquillity, remoteness and lack of intrusion. The essential characteristics of the coastal environment of Fiordland that contribute to a range of high quality visitor experiences include outstanding natural character, natural features, landscape and amenity values, fauna and vegetation values, finite character and wilderness/remoteness values. These values are internationally, nationally and regionally significant. The surrounding Fiordland National Park, that forms part of the Fiordland Coastal Environment, is internationally recognised as a UNESCO World Heritage Site. The coastal waters and seabed of Fiordland (Te Moanan o Atawhenua) have been submitted for the tentative list for World Heritage recognition. There are also ten marine reserves present within Fiordland's coastal waters.⁵ These significant⁶ values need to be maintained so that people can continue to enjoy a range of high quality experiences. Failure

⁵ Real Journeys LTD 12.2

⁶ Consequential amendment to Real Journeys LTD 12.2

to maintain these values will result in people feeling the need to travel elsewhere to experience the values they once experienced in a particular locality. The increase in use in Southern Fiordland indicates this has already occurred in the Fiordland coastal marine area.

A sustainable "carrying capacity" that maintains the essential characteristics of the area needs to be determined. This will maintain the internationally, nationally and regionally significant values of the Fiordland coastal environment for future generations.

Objective 16.1.2 - Preserve remoteness and wilderness values

Policies 16.2.1, 16.2.2, 16.2.4, 16.2.5, 16.2.7, 16.2.8, 16.2.9, 16.2.10, 16.2.11, 16.2.12, 16.3.1, 16.3.2, 16.3.3, 16.3.4 and 16.3.5
Rules 16.2.1, 16.2.2, 16.3.1, 16.3.2, 16.3.3 and 16.3.4

To preserve the remoteness and wilderness values of the Fiordland coastal environment.

Explanation - The internal waters of Fiordland offer a range of experiences, as does the adjoining Fiordland National Park. The Fiordland National Park Management Plan 2007 zones the western parts of the Park as "Wilderness" or "Remote" areas. Notwithstanding this, there are areas of the coastal marine area which provide these values, whether or not the National Park Plan zones adjoining areas that way. The boundary of the National Park is the mean high water mark. The experience of the coastal environment, however, integrates the contribution of the qualities of the land and the sea. It does not recognise administrative boundaries.

In order to achieve a wilderness or remote experience in the coastal marine area that is compatible with that of the adjoining land, the coastal management regime will need to differ from that applied elsewhere in the coastal marine area.

Over time, recreational and commercial use of the internal waters of Fiordland has increased and has ~~changed become more diverse~~⁷. A 2021 study (*Wilderness and Remoteness Values of Fiordland Waters by Lindis Consulting*) found that for some people the wilderness values of the fiords have already been lost; whilst others believe they remain unaffected by changes in use. Management of increasing levels of use is required, to preserve the wilderness and remoteness values of the internal waters of Fiordland and to manage impacts on the recreational experience of Fiordland National Park.

Objective 16.1.3 - Effects of surface water activities on intrinsic values

Policies 5.5.1, 5.5.2, 5.5.9, 5.5.10, 16.2.1, 16.2.2, 16.2.3, 16.2.4, 16.2.5, 16.2.6, 16.2.7, 16.2.8, 16.2.9, 16.2.10, 16.2.11, 16.2.12, 16.2.13, 16.2.15, 16.3.1, 16.3.2, 16.3.3, 16.3.4, 16.3.5, 16.4.1, 16.4.2, 16.4.3 and 16.4.4
Rules 16.2.1, 16.2.2, 16.3.1, 16.3.2, 16.3.3 and 16.3.4

To ensure that commercial and private recreational surface water activities do not adversely affect the intrinsic values of the Fiordland coastal environment.

Explanation - Recreational activities, whether privately organised or facilitated by a commercial operator, can adversely affect the natural and physical environment and the enjoyment and pleasantness of other people's recreational experience.

To protect the environment and the quality of experience people gain from it, users should conduct their activities in a manner that avoids adverse effects on each other and the environmental conditions that attract them to the area.

Surface Water Activities

POLICIES

Policy 16.2.1 – **Recognise, identify and protect areas at risk of diminished natural character, landscape and amenity values**

Rules 16.2.1, 16.2.2

- (a) Recognise that natural character, landscape and amenity values are not uniform across all fiords and some areas are more vulnerable than others to the adverse effects of increased use; and

⁷ Real Journeys LTD 12.4

(b) Identify areas in the fiords where natural character, landscape and amenity values are vulnerable to the adverse effects of increased use.

Explanation - This section adopts a precautionary approach to the management of adverse effects of commercial surface water activities on the values of the Fiordland coastal environment. All areas of Fiordland are valued for their natural character, landscape and amenity values. The attributes of different fiords can affect their resilience to increased and change in use and Some⁸ areas are more at risk than others. These attributes include difficulty of access, activity level, remoteness, human-built infrastructure, natural quiet, type of landscape, extent of connected fiord waterways and proximity to formally protected areas.⁹ Patea / Doubtful Sound, in particular, is seen as offering an alternative or complementary experience to Piopiotahi / Milford Sound. Patea / Doubtful Sound is particularly vulnerable because it is directly accessible by a combination of boat and road access. Hall Arm and Kaikiekie / Bradshaw Sound have been identified as highly valued areas of Patea / Doubtful Sound.

Access to other areas is either by air or by boat around open coast. Such access is generally relatively expensive or difficult and consequently less popular. However, recently this use has been increasing also for example within Southern Fiordland. Intensification of use needs to be managed if the current values of these areas are to be maintained for future generations.

Amenity values are defined by the Resource Management Act as those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes. They are a subset of landscape values.

Landscape values include the environment's visual appeal and attributes of the environment that are pleasing to the mind, feelings or senses. These values pertain directly to the quality of the human perceptual experience evoked by phenomena or elements or configurations of elements in the environment as perceived by sight, sound, feel, touch and taste.

While such values are inherently subjective, many are widely shared and supported by research already formally recognised by the community, particularly by those who have studied the relationship of people to the natural and physical environment.

This policy requires case-by-case consideration, for example through the resource consent process, of the vulnerability of an areas values to the adverse effects of commercial surface water activities.¹⁰

Policy 16.2.2 – Avoid adverse effects on internationally, nationally, and regionally significant values

Rules 16.2.1, 16.2.2

Avoid adverse effects on the international, national, and regionally significant values of the Fiordland coastal environment, by:

- 1 recognising that the international, national, and regionally significant values of the Fiordland coastal environment include:**
 - a outstanding natural character values, including wild and scenic values and outstanding naturalness;**
 - b outstanding landscape and natural feature values;**
 - c amenity values;**

⁸ *Real Journeys LTD 12.5*

⁹ *Real Journeys LTD 12.5*

¹⁰ *Real Journeys LTD 12.5*

- d significant habitats of indigenous fauna, significant indigenous vegetation and indigenous biological diversity (including marine reserves and habitat of the protected black coral, marine mammals and sea birds);
 - e spiritual and cultural values, relationships, and beliefs of tangata whenua;
 - f Ngāi Tahu customary use;
 - g taonga species present; and
 - h wilderness, remoteness and tranquility values;
- 2 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; and
- 3 using a precautionary approach in the consideration of resource consents for commercial surface water activities, including ancillary activities, to ensure the international, national and regional values of the Fiordland coastal environment are protected, or maintained where values have been degraded¹¹;

until allocation limits are established through the Regional Coastal Plan Review process.

Explanation – The Fiordland coastal environment is largely unspoilt. It is an area that is known nationally and internationally as one of the last remote vestiges in the world. This unspoilt nature, which generally has no habitation from the presence of for example bach's with the exception of Kisbee Lodge and limited habitation at discrete development nodes at Deep Cove and Piopiotahi / Milford Sound,¹² combined with its dominating and awe-inspiring landscapes and diverse array of indigenous biodiversity results in an area which is internationally, nationally, regionally, and culturally significant. The surrounding Fiordland National Park, that forms part of the Fiordland Coastal Environment, is internationally recognised as a UNESCO World Heritage Site. The coastal waters and seabed of Fiordland (Te Moanan o Atawhenua) have been submitted for the tentative list for World Heritage recognition.¹³ Tangata whenua have a long association with Te Mimi o Tū Te Rakiwhānoa (Fiordland coastal marine area). Ngāi Tahu have extensively visited Te Mimi o Tū Te Rakiwhānoa for example for the gathering of mahinga kai and taonga. The traditional routes followed are of significance, as are the places they journeyed to and the uses.

The unique climate, terrestrial vegetation and topography in this area has resulted in distinctive marine and terrestrial ecosystems. The pristine, forested catchments of the fiords are recognised through their National Park and World Heritage status, with a number of important marine areas identified as Marine Reserves and china shops. The Fiordland coastal environment is highly valued for its outstanding natural character and recreational experiences offered, such as wilderness and remoteness values. It is home to a wide variety of coral, seaweed, fish and marine mammals. The fiords provide important habitat for protected species such as bottlenose dolphins (terehu), New Zealand fur seals (kekeno), Fiordland crested penguins (tawaki) and blue penguins (kororā). The latter three are recognised under the Ngāi Tahu Claims Settlement Act 1998 as taonga species. Taonga species are more than just those which are protected in the Act however, including marine mammals, birds, plants and all indigenous species. The significant values of Fiordland are sensitive to increasing activity which can, if not managed appropriately, result in a degradation of these values.

Too much activity can diminish the values that initially attracted people to an area. People then start seeking areas elsewhere, for example Rakiura / Stewart Island,¹⁴ which still offer the values they originally found in the now more popular area. The growth in activity can be both commercial and private. Over the last decade there has been growth in the level of commercial and recreational activity that is occurring within the Fiordland coastal environment. To ensure the

¹¹ *Real Journeys LTD 12.2*

¹² *Fiordland Marine Guardians 8.7*

¹³ *Real Journeys LTD 12.2*

¹⁴ *Fiordland Marine Guardians 8.7*

significant values of the Fiordland coastal environment are maintained for future generations, it is imperative that increasing levels of activity do not compromise Fiordland's intrinsic values, such as outstanding natural character values, indigenous biological diversity, and wilderness and remoteness values, and values held by mana whenua. The capacity of the Fiordland coastal environment to absorb human use including commercial surface water activities is limited if Fiordland's intrinsic values are to be retained¹⁵. If use continues to increase, for example from an increased frequency of vessel trips, larger vessels, more vessels, and/or more ancillary activities, eventually the intrinsic values of the Fiordland coastal environment will be eroded. For some people these values have already been eroded. As such, this policy limits the effects of commercial activities across the Fiordland coastal marine area to consented levels that existed at [insert date of notification] until such a time as a comprehensive assessment is completed through the Regional Coastal Plan Review. This comprehensive review should take into account the natural values of the Fiordland CE and users experiences and perceptions.¹⁶ Given the international, national, and regionally significant values present and their sensitivity, this approach is appropriate to ensure these values are preserved and protected for future generations.

Policy 16.2.3 – Avoid or mitigate adverse effects on marine mammals

Rules 16.2.1, 16.2.2

Avoid or mitigate adverse effects from commercial surface water activities on marine mammals including by:

- 1 considering the level of underwater noise of the vessel, including ancillary activities, and methods proposed to minimise underwater noise (for example speed restrictions);**
- 2 considering speed restriction where this could minimise potential effects on marine mammals;**
- 3 where relevant, including conditions in resource consents focused on avoiding adverse effects on habitats that are particularly significant ~~excluding activities from areas which are significant habitat~~¹⁷ for marine mammals including whales, seals and the endangered bottlenose dolphin populations; and**
- 4 advocating for the use and understanding of current measures to avoid or mitigate potential adverse effects on marine mammals as appropriate.**

Explanation - Fiordland is home to a number of marine mammals and is also an important area for migratory marine mammals including humpback whales. Surface water activities can adversely affect marine mammals and their habitats. In particular, the bottlenose dolphins of Fiordland are thought to be the world's most southern dolphins. There are three separate populations present: one in Patea / Doubtful Sound and Te Awa-o-Tū / Thompson Sound, one in Tamatea / Dusky Sound and one in the northern fiords. Bottlenose dolphins are nationally endangered. The bottlenose dolphins of Fiordland are significant in their own right. However, they also contribute to the natural character of Fiordland. Research has shown that vessels, including both recreational and commercial, can adversely affect bottlenose dolphins primarily through behaviour disruption, such as vessel noise masking dolphin communications, and increased dive times, and vessel strikes. Calves are particularly vulnerable to the effects of vessels.

The Patea / Doubtful Sound marine mammal (and other wildlife) code of management has been prepared by the Department of Conservation. The code is a voluntary measure, and its focus is to protect and ensure the long-term sustainability of marine mammals and other wildlife in the Patea / Doubtful Sound complex and should be taken into consideration by all users of the area. The code established dolphin protection zones where motorised vessels are only permitted if dolphins are not present, and access is required such as to access an anchorage or view a shore feature. In terms of adverse effects on marine mammals, it is intended that this policy have the flexibility to apply current research and/or guidelines but also to be informed by new research outputs¹⁸, which

¹⁵ *Real Journeys 12.6*

¹⁶ *Totally Tourism 18.2*

¹⁷ *Real Journeys LTD 12.7*

¹⁸ *Fiordland Marine Guardians 9.4*

may then be taken into consideration in the consenting process as well as in the advocacy of additional measures to avoid or mitigate potential adverse effects on marine mammals.

Policy 16.2.4². Restrictions on Commercial Day-trips in Patea / Doubtful Sound and Arms thereof

Exclude commercial day-trip activities from Kaikiekie / Bradshaw Sound, Gaer Arm, First Arm and Crooked Arm west of Turn Point

Rule 16.2.1

Explanation - The reason for this Policy is to provide areas where people who are actively experiencing the environment or seeking a backcountry experience, can do so without interruption from people who are there for mainly scenic reasons. While both groups of visitors will experience elements of both the physical and perceptual aspects of the landscape, the intensity of perceptual experience will be stronger, and most probably more important, to those people who seek to live within it rather than visit.

It is the people in the environment, not the physical environment that are principally affected by day trip activities. These activities principally affect values people place on these areas, and although many of the values are subjective, they are widely shared, supported by research or already formally recognised by the community. These values are usually some form of landscape or amenity value that contribute to the pleasantness or beauty of the area, such as a lack of unnatural noise, feelings of peace and quiet, stillness, remoteness, inspiration, lack of commercialisation or a lack of smoke and odour. It is often these values that are the key to providing for people's social and cultural and spiritual well-being. Too many intrusions by day trip ships, and to some extent ships providing backcountry experiences, can damage the aesthetic coherence of the landscape.

The effect of this policy is to restrict the use of Kaikiekie / Bradshaw Sound, Gaer and First Arms, Precipice Cove and Crooked Arm west of Turn Point to commercial activities that share an element of active participation with the environment, whether that be exploring, vegetation and fauna observation, fishing, diving, interpretation, etc.

Such activities often involve overnighing in the area on ships or in huts and camps close to the coastal marine area or stopping and visiting the adjoining land and rivers. This policy effectively prevents the use of these areas by ships undertaking predominantly scenic trips on a daily basis. Such trips out of Deep Cove will be confined to Patea / Doubtful Sound including Deep Cove, Hall Arm, Te Awa-o-Tū / Thompson Sound and Crooked Arm east of Turn Point.

One of the values of Patea / Doubtful Sound is the contribution it makes to the remote educational experience of school children who visit the Deep Cove Hostel at the head of the Sound. Annually, over 2,500 children stay at this facility for a few nights whilst on class camps. As part of that educational experience and as a means of appreciating their natural heritage, the children usually take a launch trip on commercial ships based at Deep Cove, as well as engaging in tramping, fishing and nature study activities in, on and around Deep Cove. Such trips are considered appropriate.

Policy 16.2.5 - Non-commercial users

Rules 16.2.1, 16.2.2

E Using a range of non-regulatory tools, such as Codes of Practice, in collaboration with the Department of Conservation and the Harbour Master actively encourage non-commercial users of the internal waters of Fiordland to avoid or mitigate the adverse effects of their activities on natural character, natural features, landscape and amenity values, as well as areas of significant indigenous vegetation, significant habitats of indigenous fauna and marine mammals.

Explanation - Non-commercial users refer to those accessing the internal waters of Fiordland for activities which are not undertaken for the purpose of generating profit and are not Commercial Surface Water Activities as defined in this Plan. They include, but are not limited

to, people engaging in recreational activities, undertaking statutory functions and cleaning up activities. The activities of non-commercial users can also adversely impact on natural character, the landscape and amenity values and areas of significant indigenous vegetation, significant habits of indigenous fauna and marine mammals of Fiordland.

² Royal Forest & Bird Protection Society (NZ) RMA 1086/00 does not intend to pursue part 4.3.1 which relates to Policy 16.2.4 - confirmed in letter dated 12 March 2003

It is felt that the most effective means of addressing the effects of such users is a code of practice. In some respects, this may overlap with similar codes for fishers and the "environmental care code". The code could also address other matters such as the effect of diving activities on indigenous vegetation and fauna.

Through a code users can be made aware of the potential effects of their activities on the experience of others and the environment. Codes of practice need to be developed in conjunction with users groups and other organisations with a management role in the coastal marine area to ensure consistency and avoid overlap. Other methods can be used in conjunction with, or independently of, a code of practice. Examples include provision of a suitable guideline, increasing the monitoring role of the Harbourmaster, and undertaking educational promotions at various public events.

The Fiordland Marine Guardians' *'Beneath the Reflections: Guide to Fiordland'* (2021) is a comprehensive guideline developed in cooperation with multiple agencies representing users' groups and government. It contains detailed guidance relating to a number of themes including pest management, protection of marine mammals, diving and recreational fishing. All visitors to Fiordland are strongly encouraged to familiarise themselves with the rules contained within it before visiting. In addition, the Patea / Doubtful Sound marine mammal (and other wildlife) code of management has been prepared by the Department of Conservation. The code is a voluntary measure, and its focus is to protect and ensure the long-term sustainability of marine mammals and other wildlife in the Patea / Doubtful Sound complex and should be taken into consideration by all users of the area.

The Fiordland Marine Regional Pathway Management Plan (FMRPMP) sets out several rules and standards that must be met by all vessels (including recreational vessels) entering within one nautical mile of the landward boundary of the Fiordland Marine Area (as defined in the FMRPMP). It requires all vessel operators to obtain a Fiordland Clean Vessel Pass.¹⁹

Policy 16.2.6 - Fiord terminology

Advocate that the fiords in Fiordland be correctly referred to including the use of dual place names.

Explanation - Historically, many of the fiords of Fiordland have been referred to as sounds, for example Piopiotahi / Milford Sound. The reference to 'Sound' within this terminology is incorrect. Given that the fiords are probably the most significant coastal landform in the Southland region and are outstanding natural features, it is appropriate that they be correctly referred to. The fiords have dual place names, which recognise the cultural significance of Te Mimi o Tū Te Rakiwhānoa (Fiordland coastal marine area) to tangata whenua. Place names along the Fiordland coast record Ngāi Tahu history and point to the landscape features which are significant to people for a range of reasons. The dual place names are:

- Piopiotahi / Milford Sound
- Patea / Doubtful Sound
- Hāwea / Bligh Sound
- Hinenui / Nancy Sound

¹⁹ *Real Journeys LTD 12.10*

- Kaikiekie / Bradshaw Sound
- Moana-whenua-pōuri / Edwardson Sound
- Rakituma / Preservation Inlet
- Taiari / Chalky Inlet
- Taiporoporo / Charles Sound
- Taitetimu / Caswell Sound
- Tamatea / Dusky Sound
- Te Awa-o-Tū / Thompson Sound
- Te Awaroa / Long Sound
- Te Hāpua / Sutherland Sound
- Te Houhou / George Sound
- Te Korowhakaunu / Cunaris Sound
- Te Puaitaha / Breaksea Sound
- Te Rā / Dagg Sound

Piopiotahi / Milford Sound and Patea / Doubtful Sound are not the official geographic names of the geographic features to which they apply, respectively. The official geographic names of those features are Milford Sound / Piopiotahi and Doubtful Sound / Patea, respectively.²⁰

It is interesting to note that the Fiordland National Park was originally named the "Sounds National Park" when it was gazetted as a national park in 1905. The name was changed by Section 3 of the National Parks Amendment Act 1955 to what was described at the time as "the more correct descriptive name, Fiordland National Park". The Southland Regional Council will therefore advocate to the NZ Geographical Board and other Crown agencies that the official name of these fiords referred to as sounds be amended.

Policy 16.2.7 - Remote and wilderness Protection and maintenance of remoteness, wilderness and recreational²¹ values in the fiords, inlets and arms

Rules 16.2.1, 16.2.2

Manage adverse effects of commercial surface water activities, including ancillary activities, in the Fiordland coastal marine area:

- 1 to protect wilderness experiences values²² of Rakituma / Preservation Inlet and Taiari / Chalky Inlet;
- 2 to protect the wilderness experiences values²³ of the northern fiords, between (but not including) Piopiotahi / Milford Sound and Te Awa-o-Tū / Thompson Sound;
- 3 to protect remoteness experiences values²⁴ of the Tamatea / Dusky Sound complex (including Tamatea / Dusky Sound, Te Puaitaha / Breaksea Sound, Te Rā / Dagg Sound and all associated 'arms') and wilderness experiences values²⁵ of the Cook and Bowen channels within the Tamatea / Dusky Sound complex;
- 4 to maintain the predominantly remote experiences values²⁶ of the Patea / Doubtful Sound complex (including all 'arms', Te Awa-o-Tū / Thompson Sound and Kaikiekie / Bradshaw Sound); and
- 5 to maintain the recreational and visitor experiences values²⁷ of Piopiotahi / Milford Sound and Deep Cove²⁸.

Explanation - Apart from Piopiotahi / Milford Sound and Patea / Doubtful Sound, all of the principal arms, inlets and fiords in Fiordland offer significant remoteness and

²⁰ *Real Journeys LTD 12.11*

²¹ *Real Journeys LTD 12.12*

²² *Real Journeys LTD 12.12*

²³ *Real Journeys LTD 12.12*

²⁴ *Real Journeys LTD 12.12*

²⁵ *Real Journeys LTD 12.12*

²⁶ *Real Journeys LTD 12.12*

²⁷ *Real Journeys LTD 12.12*

²⁸ *Real Journeys LTD 12.12*

wilderness values. These wilderness and remoteness values are largely contingent on the naturalness of the Fiordland coastal environment, noting that access to the fiords is primarily through mechanical means such as ship or aircraft.

Remoteness and wilderness values are similar, with remote areas being a less strict version of wilderness and having better access. Key elements of wilderness values for Fiordland's coastal waters are remoteness, naturalness, minimal human presence, natural quiet, aesthetic appreciation/scenery, conservation-related activity, personal experience, and scale. In remote and wilderness areas there is an expectation of a greater degree of isolation than can be expected in Piopiotahi / Milford Sound and Patea / Doubtful Sound, principally because they are difficult to get to. The northern fiords are those fiords between Piopiotahi / Milford Sound and Te Awa-o-Tū / Thompson Sound, they generally have the lowest level of use of all the fiords. The southern fiords of Rakituma / Preservation Inlet and Taiari / Chalky Inlet generally have the next lowest level of activity. The southern fiords are also surrounded by land which is managed by the Department of Conservation for a wilderness experience.

Notwithstanding the access difficulties, the amount of activity in the Fiordland coastal marine area is increasing, some being attributable to people utilising more remote areas in an effort to find a place that offers the same degree of isolation once found in what are now more frequently visited areas. The effect of such activity is a matter of concern to people who value the remoteness of these parts of Fiordland.

Landform plays an important role in a fiord's ability to accommodate activity. In fiords with limited landform variation (i.e., open 'corridor' in nature), there is generally less ability for the fiord to absorb the adverse effects of vessels than a fiord which is highly indented. The length of different reaches of the fiords also plays an important role in a fiord's ability to accommodate vessel activity. Long reaches mean vessels will be visible and audible for extended periods of time. This Plan describes wilderness as a condition in which there is an extremely high probability of experiencing complete isolation from the sights, sounds and activities of people. Remoteness is a similar condition, but the probability of experiencing complete isolation from the sights, sounds and activities of people is reduced from extremely high to high (Section 16.1 Introduction).

Effects of individual ships on wilderness and remote values are generally transient and are unlikely to permanently reduce the naturalness of the area. However, the number, duration and frequency of vessels in one area, particularly if consistently maintained, can make a transitory and temporary effect more permanent, which can lead to greater levels of adverse effects.

Policy 16.2.8 - Impacts on wilderness and remoteness values

Rules 16.2.1, 16.2.2

When considering a resource consent for a commercial surface water activity, recognise and take into account matters that can impact on the international, national, and regionally significant wilderness and remoteness values of the Fiordland coastal environment including:

- 1 ~~increasing ship size~~ including increases in ship size from those lawfully established at 18 July 2022²⁹;**
- 2 frequency of ship³⁰ use and type of use (including day trips or backcountry trips)³¹;**
- 3 vessel appearance, including scale, bulk and form of the ship exterior³²;**
- 4 cumulative effects including increasing number of ships and concentration of ships³³;**
- 5 ~~increased~~-ancillary activity (including helicopters, tenders craft³⁴ and kayaks) associated with the commercial surface water activity proposal, in particular**

²⁹ *Real Journeys LTD 12.13*

³⁰ *Real Journeys LTD 12.13*

³¹ *Fiordland Marine Guardians 8.13*

³² *Real Journeys LTD 12.13*

³³ *Fiordland Marine Guardians 8.13*

³⁴ *Real Journeys LTD 12.13*

increases in ancillary activity levels above those levels lawfully established at 18 July 2022³⁵;

6 location, landform and scale of the landscape, including its ability to absorb change³⁶;

7 ~~non-natural~~ anthropogenic³⁷ noise; and

8 ~~presence and use of structures, including moorings, related to~~ required for³⁸ the commercial surface water activity proposal.

Explanation – Generally, descriptions for wilderness and remoteness values are focused on natural environments with little evidence of human modification. This Plan describes wilderness as a condition in which there is an extremely high probability of experiencing complete isolation from the sights, sounds and activities of people. Remoteness is a similar condition, but the probability of experiencing complete isolation from the sights, sounds and activities of people is reduced from extremely high to high (Section 16.1 Introduction).

It is challenging to place a limit on the amount of activity which can be accommodated within the internal waters of Fiordland for a number of reasons including: each fiord is different in terms of landform and values and access to the Fiordland coastal marine area is largely motorised. However, increasing activity and changing use patterns (both recreational and commercial) in the internal waters of Fiordland has raised concerns that the international, national and regionally significant wilderness and remoteness values of the Fiordland coastal environment are at risk of being eroded and for some users have already been eroded. Policy 3 of the New Zealand Coastal Policy Statement requires the adoption of a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood but potentially significant. Given the international, national and regional significance of the Fiordland coastal environment a precautionary approach towards the consideration of commercial surface water activities is appropriate. The matters identified in this policy can adversely affect the wilderness and remoteness values of the Fiordland coastal environment. A 2021 report *The Wilderness and Remoteness Values of Fiordland Waters* (Lindis Consulting) has identified that for some people wilderness and remoteness values have already been eroded and any further increase in activity will exacerbate adverse effects on wilderness and remoteness values. As such careful consideration needs to be given to each matter to ensure the wilderness and remoteness values of Fiordland are maintained for future generations. This policy should be considered in conjunction with Policy 16.2.2 and Policy 16.2.7.

Policy 16.2.9 - Use of Patea / Doubtful Sound and Te Awa-o-Tū / Thompson Sound as a Thoroughfares

Rules 16.2.1, 16.2.2

Provide for commercial surface water activities to use Patea / Doubtful Sound and Te Awa-o-Tū / Thompson Sound as thoroughfares where it is necessary to:

- 1 ~~pick up~~ embark or off-load ~~disembark~~**³⁹ passengers to or from shore;
- 2 access services including maintenance, and repairs and vessel refueling**⁴⁰;
- 3 access wharves, moorings, launching areas or slipway;**
- 4 travel from one arm of Patea / Doubtful Sound to another in the case of commercial backcountry activities and day trip activities;**
- 5 off-load cargo, waste or wastewater (sewage)**⁴¹ and uplift supplies; and
- 6 carry out activities associated with the construction and maintenance of the Manapouri Power Scheme and tailrace.**

³⁵ *Real Journeys Ltd 12.13*

³⁶ *Real Journeys LTD 12.13*

³⁷ *Real Journeys LTD 12.13*

³⁸ *Real Journeys LTD 12.13*

³⁹ *Real Journeys LTD 12.14*

⁴⁰ *Fiordland Marine Guardians 8.14*

⁴¹ *Real Journeys LTD 12.14*

Explanation – Patea / Doubtful Sound and Te Awa-o-Tū / Thompson Sounds are important thoroughfares for a range of ships wanting access to facilities or the road end at Deep Cove. They also provide access to anchorages or bases within the sounds themselves, for example, Blanket Bay and Deep Cove. Such access is necessary, but is largely incidental to the principal surface water activity of the ship. Access is also required for ~~picking up and off-loading~~ embarking and disembarking⁴² passengers, and for activities associated with the Manapouri power scheme.

This policy seeks to minimise the presence of other commercial vessels in Patea / Doubtful Sound and Te Awa-o-Tū / Thompson Sound so as to protect the amenity of the area.

Policy 16.2.10 - Monitoring of surface water activities including ancillary activities and their effects

Monitor the scale, geographic scope⁴³ and distribution of surface water activities, including ancillary activities, and their effects on visitor perceptions and the physical environment.

Explanation - Surface water activities in a remote and pristine area like Fiordland have more significant effects than they would elsewhere, both in terms of their impact on the physical environment and visitor experiences. However, they are difficult to readily quantify. Consequently, it is necessary to gather information on the nature of the use and the effects of that use in a structured, repeatable, rigorous manner. Where possible, the opportunity should be taken to obtain baseline information in advance of activities (including their ancillary activities)⁴⁴ becoming an issue. Monitoring needs to be repeatable and representative to provide a sound basis for future management. As such, a large proportion of the monitoring will be part of the Council's general environmental monitoring pursuant to Section 35 of the Resource Management Act 1991 rather than consent monitoring, although the latter still has a role.

Policy 16.2.11 - Fiordland National Park Management Plan

- 1 ~~To~~ Use the Fiordland National Park Management Plan review process as a means of achieving the sustainable integrated management of the coastal environment; and**
- 2 Require resource consent applications to consider adverse effects on Fiordland National Park by having regard to the Fiordland National Park Management Plan ~~through the consideration of resource consent applications.~~⁴⁵**

Explanation - Nearly all of the land adjoining the coastal marine area of Fiordland is gazetted National Park. Under Section 66(2)(c) of the Resource Management Act 1991, the Southland Regional Council is required to have regard to management plans prepared under other legislation, and that includes the Fiordland National Park Management Plan. Policy 5 of the New Zealand Coastal Policy Statement 2010 requires the consideration of adverse effects on lands or waters in the coastal environment held under the Conservation Act 1987 and the National Parks Act 1980.

Activities taking place in the Fiordland coastal marine area can adversely impact the values of Fiordland National Park. Increasing levels of surface water activities can result in increases of unnatural noise, air emissions (smoke and odour) and visual amenity effects. The land surrounding the Fiordland coastal marine area is predominantly managed for remote and wilderness experiences. It is therefore sensitive to increased activity. Likewise, activities taking place within the Fiordland National Park can also impact upon the coastal marine area, for

⁴² Real Journeys LTD 12.14

⁴³ Fiordland Marine Guardians 8.14

⁴⁴ Fiordland Marine Guardians 8.15

⁴⁵ Real Journeys LTD 12.16

example, activities and structures allowed on land adjoining the coast can adversely affect amenity values. Such development can also enhance the use of the coastal areas.

The Fiordland National Park Management Plan is reviewed every 10 years, and any person may make submissions to that review process. The Southland Regional Council will take such opportunity that it considers appropriate in order to achieve integrated management of the coastal environment.

See also Section 20.2.

Policy 16.2.12 - Research ships

Rule 16.2.2

Provide for ships that facilitate monitoring and research on the coastal marine area of Fiordland.

Explanation - The future management of the coastal marine area in Fiordland will necessitate monitoring and research. Given the remoteness of the area and the predominance of the sea, ships will be required to either undertake research or accommodate researchers. It is unlikely that research ships will represent a significant proportion of overall use. Nevertheless, the amount of activity associated with research should also be properly managed especially given the recent increase in surface water activities taking place in the internal waters of Fiordland. Ships undertaking an assessment of the adverse effects of activities within the internal waters of Fiordland and ships performing statutory monitoring for a central or local government agency or statutory body should be provided for. This policy does not provide for the expansion of commercial surface water activities in any way.

Research conducted by universities, private research institutions and crown research institutions from research vessels has been valuable not only for growing knowledge and understanding of the FMA, but also for informing management, and it is expected that such research will continue to provide value in the future.⁴⁶

Policy 16.2.13 - Activities that are ancillary to a principal commercial surface water activity

Rule 16.2.1

Consider the cumulative effect of commercial surface water activities by ensuring the adverse effects of activities that are “spawned” by or ancillary to the principal surface water activity are considered and if necessary restricted when assessing resource consent applications.

Many commercial surface water activities include ancillary activities which support the main commercial surface water activity. For example, charter boat or scenic cruise operators may also offer kayaks, tender craft, dinghies, paddle boards or helicopter transfers to their clients. These activities generally allow visitors to get off the main vessel and become more immersed in the Fiordland coastal environment. However, these activities individually and cumulatively can adversely affect the significant international, national, and regional values of the Fiordland coastal environment due to, for example, more activity or ‘busyness’ occurring in remote and wilderness areas. This policy seeks to ensure the cumulative adverse effects of commercial surface water activities and their ancillary activities are considered. This policy should be read in conjunction with Policy 16.2.2, Policy 16.2.7 and Policy 16.2.8.

Policy 16.2.14 - Statutory function and environmental cleanup activities

Rules 16.2.1, 16.2.2

Provide for the use of ships in the internal waters of Fiordland that are:

- a performing the statutory function of a central or local government agency or statutory body in those waters or on adjacent land practically accessible from the coastal marine area only; or**
- b undertaking salvage, recovery or environmental cleanup work in accordance**

⁴⁶ *Fiordland Marine Guardians 8.17, University of Otago 19.1*

with any statutory, regulatory or contractual obligation, or as part of an organised cleanup program.

Explanation - The management of the coastal marine area in Fiordland necessitates enforcement activities, eradication work, management programmes, monitoring the state of the environment (including research for that purpose), environmental cleanup and undertaking installation of navigational aids. Given the remoteness of the area and the predominance of the sea, ships will be required to either undertake these activities, or to accommodate people employed in these roles. It is unlikely that ships utilised for these activities will represent a significant proportion of overall use.

Policy 16.2.15 – Consent term

Rules 16.2.1, 16.2.2

To protect the intrinsic values of the Fiordland coastal marine area when considering the term of consent for commercial surface water activities consideration will be given (but not limited) to:

- a the duration sought by the applicant and reasons for the duration sought;**
- b for proposals that did not lawfully exist as at [insert date of notification]⁴⁷ whether uncertainty regarding effects / capacity could be addressed through shorter duration;**
- c relevant Ngāi Tahu, mana whenua and mana moana values;**
- d the value, permanence, and economic life of any capital investment and any related infrastructure, of relevance to their application⁴⁸;**
- e the desirability of applying a common expiry date;**
- f the applicant’s compliance with conditions of any previous resource consent and requirements to hold a Fiordland Clean Vessel Pass; or**
- g the applicant’s adoption, particularly voluntary, of practices which avoid or if avoidance is not possible adequately mitigate adverse effects.**

Explanation – This policy provides guidance for Council staff, decision makers, applicants, and other key stakeholders to ensure the consent term for resource consents for commercial surface water activities are appropriate. The focus of this policy is to achieve consent terms that reflect the specific nature of the proposed commercial surface water activity and understanding of the activity’s adverse effects, and the national and regional significance of the Fiordland coastal marine area. The Regional Coastal Plan is in the process of being reviewed. It is anticipated through this review allocation limits, or other management methodologies will be developed to sustainably manage the Fiordland coastal marine area.

With respect to Ngāi Tahu, mana whenua and mana moana values it is recommended resource consent applicants engage with Te Ao Marama Incorporated and/or papatipu rūnanga⁴⁹ to understand values within the Fiordland coastal environment marine area⁵⁰. Te Tangi a Tauira – the Cry of the People (Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008) and other future Iwi Management Plans ~~also~~ provides⁵¹ direction on resource management issues for Ngāi Tahu, mana whenua and mana moana.

⁴⁷ *Real Journeys LTD 12.18*

⁴⁸ *Real Journeys LTD 12.18*

⁴⁹ *Te Rūnanga o Ngāi Tahu 15.9, Te Ao Marama Inc 14.13*

⁵⁰ *Te Rūnanga o Ngāi Tahu 15.9, Te Ao Marama Inc 14.13*

⁵¹ *Te Rūnanga o Ngāi Tahu 15.9, Te Ao Marama Inc 14.13*

RULES

Rule 16.2.1⁴ - Commercial surface water activity

- 1 Except as provided for by (6) below, it is a prohibited activity to undertake commercial day trips on Crooked Arm west of Turn Point, Kaikiekie / Bradshaw Sound or First Arm.
- 2 Except as provided for by (4) or (6) below, it is a non-complying activity to undertake commercial day trips:
 - a on Hall Arm;
 - b on P a t e a / Doubtful Sound, Te Awa-o-Tū / Thompson Sound or Crooked Arm east of Turn Point.
- 3 Except as provided for by (5) or (6) below, it is a non-complying activity to undertake commercial backcountry activities:
 - a on Crooked Arm west of Turn Point;
 - b on Hall Arm;
 - c on First Arm;
 - d on Kaikiekie / Bradshaw Sound.
- 4 Except as provided for by (6) below, it is a discretionary activity to undertake commercial trips:
 - a on Hall Arm, provided that within this area the total number of commercial day trips undertaken by all operators does not exceed five on any day;
 - b on P a t e a / Doubtful Sound, Te Awa-o-Tū / Thompson Sound or Crooked Arm east of Turn Point, provided that within this area the total number of commercial day trips undertaken by all operators does not exceed five on any day.
- 5 Except as provided for by (6) below, it is a discretionary activity to undertake commercial backcountry activities:
 - a on Crooked Arm west of Turn Point, provided that within this area the total number of commercial backcountry trips undertaken by all operators does not exceed an average of three per day, measured over the period of each calendar month;
 - b on Hall Arm, provided that within this area the total number of commercial backcountry trips undertaken by all operators does not exceed an average of three per day, measured over the period of each calendar month;
 - c on First Arm, provided that within this area the total number of commercial backcountry trips undertaken by all operators does not exceed an average of two per day, measured over the period of each calendar month;
 - d on Kaikiekie / Bradshaw Sound, provided that within this area the total number of commercial backcountry trips undertaken by all operators does not exceed an average of four per day, measured over the period of each calendar month;
provided that no overnight⁵² mooring occurs in Hall Arm.

4

- a) Changed by Environment Court Consent Order - Judge Jackson, 20 May 2004.
- b) Ship operators are still required to comply with the Biosecurity Act 1993 and the Council's Regional Pest Management Strategy. This is to ensure the risk of introducing any unwanted organism or pest, as defined in either the Act or the Strategy, to the Fiordland Marine Area is minimised.

⁵² *Real Journeys LTD 12.19*

6 It is a permitted activity to undertake any commercial surface water activities within the internal waters of Fiordland from Yates Point to Puysegur Point for the purposes of:

- a performing a statutory function of a central or local government agency, or statutory body. The statutory function work may occur within the internal waters of Fiordland itself or on adjacent land that is necessary to be accessed from the coastal marine area.**
- b undertaking the cleanup, removal and disposal of any oil/diesel spill, contaminants, unwanted organisms,⁵³ rubbish and unlawful structures in or adjacent to the coastal marine area, including wrecks and sunken ships, in accordance with any statutory or regulatory obligation, contract of insurance or as part of any organised cleanup program.**

Notwithstanding 6a and 6b above, the commercial surface water activity shall operate in accordance with the other provisions specified in this Plan, except (1)-(5) above.

7 Unless provided for by Rules 16.2.1(1)-(6) above or otherwise specified in this Plan, it is a discretionary activity to undertake any commercial surface water activities (including ancillary activities) in the internal waters of Fiordland from Yates Point to Puysegur Point provided the following conditions can be met:

- a the commercial surface water activity (including ancillary activities) lawfully existed as at [date of notification]; and**
- b the frequency, location, scale and/or duration of the lawfully established commercial surface water activity (including ancillary activities) is not increasing.**

8 Unless provided for by Rules 16.2.1(1)-(7) above or otherwise specified in this Plan, it is a non-complying activity to undertake any commercial surface water activity (including ancillary activities) in the internal waters of Fiordland from Yates Point to Puysegur Point.

For the purpose of this rule:

- Patea / Doubtful Sound means all that part of the coastal marine area bounded to the west by an imaginary line drawn from Febrero Point to the western extremity of the Hares Ears thence to the western extremity of Secretary Island, and bounded to the south and east by an imaginary line from Brig Point to the southern extremity of Elizabeth Island and the extension thereto excluding Te Awa-o-Tū / Thompson Sound, Kaikiekie / Bradshaw Sound, First Arm and Crooked Arm.**

Explanation - Surface water activities adversely affect the values of the Fiordland coastal environment. Recent information suggests surface water activity use has been increasing. The above rule along with the preceding policies provides strong direction whilst retaining sufficient flexibility to provide for unusual or unanticipated activities or any other activity with minor effects.

The effects of these activities are on both the physical environment and the people interacting with it, including other commercial users. These effects result from activities such as the discharge of contaminants, the creation of noise, the occupation and use of space, and the creation of wakes. The specific effects include diminished water quality, disturbance of the seabed or foreshore, loss of public opportunity, habitat depletion and loss of natural

⁵³ *Real Journeys LTD 12.19*

character, landscape and amenity values. Loss of natural character, landscape and amenity includes, but is not limited to, the adverse effects of noise and rubbish and the loss of remoteness values.

Commercial surface water activities include commercial day trips and commercial backcountry activities. These activities are defined more particularly in the glossary. Generally, however, commercial day trips involve the use of motorised boats that commence and complete a trip on the same day and commercial backcountry activities involve the use of motorised boats which commence a trip on one day and complete that trip on another day. Not all commercial activities will fit neatly into the definitions of backcountry or day trip activities. This rule enables all commercial surface water activity to be managed within the wider policy framework.

The effect of the rule is to make any commercial surface water activity (including ancillary activities) in the internal waters of Fiordland which did not exist at the [insert date of notification] a non-complying activity.

In parts of Patea / Doubtful and Te Awa-o-Tū / Thompson Sounds and the arms thereof, commercial backcountry activities are discretionary activities up to a certain level of use after which they become non-complying activities. Similarly, commercial day trip activities in Hall Arm, Patea / Doubtful Sound and Crooked Arm east of Turn Point are discretionary activities up to a certain level of use after which they become non-complying activities. Commercial day trip activities in Crooked Arm west of Turn Point, First Arm and Kaikiekie / Bradshaw Sound are prohibited activities. The rule status of each activity is dependent upon the ability of the environment to absorb those activities while protecting the natural character and amenity and providing for administrative flexibility and a range of different experiences within Fiordland.

The Fiordland coastal environment is internationally, nationally and regionally significant for a range of reasons, including its landscapes, natural character, remoteness and wilderness experiences, cultural associations and values and marine biodiversity. In recognition of the Fiordland coastal environment's international value, Fiordland National which adjoins the Fiordland coastal marine area, is a UNESCO World Heritage site. Commercial surface water activity operators facilitate access to the Fiordland coastal environment for those who may not otherwise be able to experience this special place. However, the ability of the Fiordland coastal marine area to absorb the effects of surface water activities on its values is limited. Rule 16.2.1 manages the expansion of commercial surface water activities to protect the significant values of the Fiordland coastal environment. In addition, by controlling commercial surface water activity intensification there will remain a balance of users within the Fiordland coastal environment (for example protection of values enjoyed by recreational boaties). As a result of increasing use, it is appropriate to carefully consider applications for further increases in use and adopt a precautionary approach to ensure that commercial surface water activity use does not erode the significant values of Fiordland. As such, any increase in activity is a non-complying activity.

Despite the controls imposed on commercial surface water activity within the internal waters of Fiordland from Yates Point to Puysegur Point it is appropriate to permit the utilisation of ships by central or local government agencies, statutory bodies or their contractors, undertaking a statutory function of the agency or body, such as enforcement activities, eradication work, management programme, monitoring the state of the environment, environmental cleanup, undertaking installation of navigational aids, or any other function. Central or local government agencies include Environment Southland, Department of Conservation, Ministry for Primary Industries, New Zealand Customs, Land Information New Zealand, Ministry for the Environment, Ministry of Health, Maritime New Zealand, Ministry of Commerce, New Zealand Police, New Zealand Defence Force, Fiordland Marine Guardians, and Ngāi Tahu recipients pursuant to the Ngāi Tahu Claims Settlement Act 1998, or their contractors. This includes where the ship utilised has been offered to, or used for hire or reward by, an agency, statutory body or its contractor. It is also appropriate to permit the utilisation of ships for environmental cleanup by entities/people/insurers or their contractors.

Enforcement activities range from surveillance, inspections, collecting evidence on an unlawful activity, to taking action to stop an unlawful activity. Environmental cleanup involves cleaning up contaminants, rubbish and unlawful structures, and is required in instances such as an oil/diesel spill, when a ship sinks or when a beach is littered with rubbish. Monitoring the state of the environment covers monitoring and research activities for the primary purpose of ensuring the management documents (i.e. plans, regulations, acts, bylaws etc) the respective agencies have statutory responsibility for are effective in sustainably managing the coastal environment. This includes monitoring to ensure all the activities within

a particular area are compatible with the area's carrying capacity or overall sustainable limit. It does not cover research activities where the primary purpose is for other purposes, such as individual research or university theses, whereby Rule 16.2.2(3) applies.

Rule 16.2.2⁵ - Research ships

1 It is a permitted activity to use a ship for the purposes of assessing the effects of activities within the internal waters of Fiordland, where such assessment is required as a condition of a resource consent or a rule in this Plan.

2 It is a permitted activity to use a ship within the internal waters of Fiordland from Yates Point to Puysegur Point for the purposes of performing statutory function monitoring of the state of the environment for a central or local government agency, or statutory body. The statutory function work may occur within the internal waters of Fiordland itself or on adjacent land that is necessary to be accessed from the coastal marine area.

Notwithstanding this provision, the research ship shall operate in accordance with the other provisions specified in this Plan, except Rule 16.2.1(1)-(5) and (7)-(8).

3 Except as provided for in (1) or (2) above, it is a discretionary activity to use a ship for research purposes within the internal waters of Fiordland.

In considering any application for consent lodged in terms of Rule 16.2.2(3), Council shall have regard to the effects of:

- 1 the ship to be used;**
- 2 the times of the day and year for which consent is sought;**
- 3 the duration or period during which research will be undertaken;**
- 4 any effects on the vegetation, fauna and physical environment from the research activity.**

Explanation - Generally, research undertaken by universities, private research institutions and crown research institutions from research vessels is valuable for increasing knowledge and understanding of the Fiordland coastal environment. This research can also be used to inform management of statutory bodies within the Fiordland coastal environment.⁵⁴ Genuine research is generally supported and should be provided for provided the research activities do not adversely affect other users or natural and physical resources. The effects of any research activity required as a condition of consent will be considered as part of the resource consent and, as such, no other consent should be required for that research. Other research could be very similar in nature to commercial surface water activities and, as such, should be considered in a like manner.

Despite the controls imposed on research ships within the internal waters of Fiordland from Yates Point to Puysegur Point it is appropriate to permit the utilisation of ships for monitoring the state of the environment by central or local government agencies and statutory bodies, such as Environment Southland, Department of Conservation, Ministry for Primary Industries, New Zealand Customs, Land Information New Zealand, Ministry for the Environment, Ministry of Health, Maritime New Zealand, Ministry of Commerce, New Zealand Police, New Zealand Defence Force, Fiordland Marine Guardians, and Ngai Tahu recipients pursuant to the Ngai Tahu Claims Settlement Act 1998, or their contractors.

⁵ Ship operators are still required to comply with the Biosecurity Act 1993 and the Council's Regional Pest Management Strategy. This is to ensure the risk of introducing any unwanted organism or pest, as defined in either the Act or the Strategy, to the Fiordland Marine Area is minimised.

⁵⁴ *Fiordland Marine Guardians 8.22*

Monitoring the state of the environment covers monitoring and research activities for the primary purpose of ensuring the management documents (i.e. plans, regulations, acts, bylaws etc) the respective agencies have statutory responsibility for are effective in sustainably managing the coastal environment. This includes monitoring to ensure all the activities within a particular area are compatible with the area's carrying capacity or overall sustainable limit. It does not cover research activities where the primary purpose is for other purposes, such as individual research or university theses, whereby Rule 16.2.2(3) applies.

Additional Explanation to Rules 16.2.1 and 16.2.2⁵⁵ - Commercial surface water activities can adversely affect the international, national, and regionally significant values of the Fiordland coastal environment. Such uses are also recognised as having the greatest potential to expand and in most instances it is appropriate to assess the effects of such activities by way of resource consent.

The effects of these activities are on both the physical environment and the people interacting with it, including other commercial users. Specifically, these effects result from activities such as the discharge of contaminants, the creation of noise, the occupation of space, and the creation of wakes. The specific effects also include diminished water quality, disturbance of the seabed or foreshore, loss of public opportunity, habitat depletion and loss of landscape and amenity values. Loss of landscape and amenity includes, but is not limited to, the adverse effects of noise and rubbish and the loss of remoteness values.

Commercial day trips involve the use of motorised ships that commence and complete a trip on the same day. Commercial backcountry activities involve the use of motorised ships which commence a trip on one day and complete that trip on another day. The type of rule managing such activities is related to the ability of the environment to absorb those activities while protecting the natural character and amenity of those areas, and providing for a range of different experiences within Fiordland. Surface water activities within the Fiordland coastal marine area have been increasing, therefore any further increases in commercial surface water activity (excluding for research purposes)⁵⁶ including new consents are is⁵⁷ to be considered a non-complying activity until a sustainable carrying capacity is developed through the review of the Regional Coastal Plan. A resource consent for a non-complying activity needs to be carefully considered and can only be granted if the adverse effects on the environment will be minor or the application is not contrary to the relevant objectives and policies. As such, an application for any increase in activity which did not exist at [insert date of notification] will face a rigorous test to ensure these significant values are protected for future generations.

The references to a non-complying activity are to an activity that is provided for as a non-complying activity in Rule 16.2.1 – Commercial surface water activity. Rule 16.2.1 does not apply to the utilisation of ships by universities, private research institutions and crown research institutions undertaking research. Rule 16.2.1(8) states that unless provided for by Rules 16.2.1(1)-(7) or otherwise specified in the RCP it is a non-complying activity to undertake any commercial surface water activity (including ancillary activities) in the internal waters of Fiordland from Yates Point to Puysegur Point, and under Rule 16.2.2 – Research ships the utilisation of ships by research organisations such as universities and CRIs undertaking research is provided for as a discretionary activity. With reference to Rule 16.2.1(8), research ships are, therefore, “otherwise specified”. Similarly, under Rule 13.2(2)(b), it is a discretionary activity for any ship over 1,000 gross registered tons, which is not a cruise ship, to be within the internal waters of Fiordland to undertake research activity (i.e., with reference to Rule 16.2.1(8) they are also “otherwise specified”).⁵⁸

Not all commercial activities will fit neatly into the definitions of backcountry or day trip activities. Rule 16.2.1(6) enables all commercial surface water activity to be managed within the wider policy framework. No threshold has been placed in any of the above rules on the number of ‘standalone’ commercial non-motorised boats, such as kayaks, that are able to operate in the Fiordland area because, by themselves, their effects are considered to be no more than minor. As with any commercial surface water activity, however, resource consent is required so that cumulative effects can be managed.⁵⁹

⁵⁵ University of Otago 19.1

⁵⁶ University of Otago 19.1

⁵⁷ Real Journeys LTD 12.19

⁵⁸ University of Otago 19.1

⁵⁹ Real Journeys LTD 12.19

Ancillary activities (to a commercial surface water activity): Means activities which are part of the overall commercial surface water activity but is not the main ship. For example, the use of kayaks, tender craft, or aircraft and paddleboards, which are secondary to the main surface water activity.

Wilderness: Is an environment that is predominantly absent of people and human modification but recognises mana whenua presence through sustainable customary use. The following conditions are generally experienced in Fiordland’s wilderness environments:

- an extremely high probability of experiencing remoteness;
- an extremely high probability of experiencing naturalness;
- minimal human presence;
- expansive landform scale;
- ~~natural quiet;~~
- ~~aesthetic appreciation;~~
- an extremely low probability of experiencing anthropogenic noise;
- outstanding natural features and landscapes; and
- extremely high conservation values.
- ~~conservation-related activity.⁶⁰~~

Piopiotaahi / Milford Sound: Means the geographic feature Milford Sound / Piopiotaahi, as in the New Zealand Gazetteer (Piopiotaahi / Milford Sound is not the official geographic name of the geographic features to which it applies).⁶¹

Patea / Doubtful Sound: Means the geographic feature Doubtful Sound / Patea, as in the New Zealand Gazetteer (Patea / Doubtful Sound is not the official geographic name of the geographic features to which it applies).⁶²

⁶⁰ *Forest and Bird* 16.11, *Real Journeys LTD* 12.20

⁶¹ *Real Journeys Ltd* 12.11

⁶² *Real Journeys Ltd* 12.11