

An assessment of the Effectiveness and Efficiency of the Regional Coastal Plan for Southland

Prepared for Environment Southland

Andrew Maclennan
Felicity Durand

June 2019



Executive summary

Environment Southland is required by section 35(2A) of the Resource Management Act 1991 (RMA) to report on the effectiveness and efficiency of policies, rules and other methods in its plans. Such assessment is not only required by legislation but is good planning practice as part of the ongoing implementation and review of plans.

Evaluating the effectiveness of the Regional Coastal Plan (the Plan) was undertaken by first examining the outputs of the plan (consents issued, consent monitoring, unauthorised incidents and non-regulatory methods undertaken). This found that 1056 coastal permits have been granted in Southland's coastal marine area since the Plan became partly operative in 2007, which is relatively high compared to other regional councils across New Zealand. On average, 88 consents were granted per year with a peak of 304 in 2016. This peak was due to a spike in replacement consents for whitebait structures, which saw 274 consents (90% of the year's total) granted in 2016.

Coastal related incidents make up only a small proportion of the total number that the Council responds to. Since 2007 the Council has responded to 552 coastal incidents, an average of 46 per year. The types of incidents reported vary considerably, however, from the information provided the most common incidents reported tend to be pollution events (such as spills) and issues with structures (including whitebait stands). Abatement notices, enforcement orders, and prosecution actions were also used to enforce the provisions of the Plan. Use of these tools has varied throughout the life of the Plan.

There are two statutory acknowledgement areas relevant to the coastal marine area: Te Mimi O Tū Te Rakiwhānoa (Fiordland Coastal Marine Area) and Te Ara A Kiwa (Rakiura/Foveaux Strait Coastal Marine Area). Collectively these cover the entirety of Southland's coastal marine area. The review has concluded that the Plan contains clear direction about the level of involvement of tangata whenua, particularly in decision-making on resource consents. The information available shows that there is a well-established procedure for involving Te Rūnanga o Ngāi Tahu and/or Te Ao Mārama in consent processes that is consistently applied by consent officers. There is little involvement of tangata whenua in compliance monitoring, and only minimal involvement in environmental monitoring. Broadly, the methods relating to consultation have been implemented.

The evaluation of the effectiveness of the Plan in achieving anticipated environmental outcomes has concluded that:

- For a large number of outcomes listed in the Plan, the generic nature of the drafting means that it is difficult to assess the performance of the Plan methods.
- Other outcomes listed within the Plan are highly prescriptive, (particularly for recreational activities, structures and signs) and set out in detail which activities can occur in specific areas and under what circumstances, without a monitoring program to assess the performance of the Plan methods.
- There has been no consistent state of the environment reporting for most of the matters addressed by the Plan, meaning that in many cases there is insufficient information available to determine whether outcomes have been met.

- The information available on estuarine and coastal lake/lagoon health indicates that the majority of the water bodies located outside the conservation estate are under stress due to intensification of land uses in their catchments.
- Monitoring of coastal water quality at bathing and shellfish monitoring sites shows that the majority of bathing sites are suitable for swimming. However, five of the eight shellfish monitoring sites breached the national guidelines. These sites drained well-developed land catchments which included several industrial discharges, which highlights the impact freshwater quality has on coastal water quality.
- The provisions that seek to avoid, remedy or mitigate the adverse effects of sea level rise on coastal processes have not been achieved. Monitoring has shown that Southland has experienced damage from a number of coastal hazards events including coastal erosion, storm surges, and tsunamis.
- Large numbers of tourists visit Southland each year, with total guest nights in 2018 exceeding 1.2 million. Guest nights in Fiordland totalled over 732,000, accounting for over 60% of Southland's total guest nights. This increase in tourist numbers to Fiordland is putting increased pressure on provisions that seek to protect the wilderness and natural values of Fiordland.
- The provisions managing marine farms appear to have been effective at ensuring that resource consent process allows for consideration of issues such as location, navigation safety, and protecting the significant values of the coastal marine area. They have also prevented marine farms from establishing in areas with high values.
- The Council consenting process which requires applicants to complete a navigation safety assessment which is reviewed by the Harbourmasters has proved effective, as there have been no navigation and safety incidents as a result of consented activities.
- It is difficult to assess whether outcomes seeking the protection of amenity values, the intrinsic values of ecosystems and outstanding natural features and landscapes have been achieved as the identification of these values is often vague and protection of these values throughout the Plan is inconsistent.
- A specific project implemented to learn more about Southland's coastal heritage has demonstrated that Southland's coastal marine area contains a large number of heritage sites but that many are under threat (or have already been lost) due to a combination of coastal processes (including sea level rise and storm surges) and human activity.
- It appears that the outcomes seeking the protection of natural character values have largely been achieved, however, the Plan does not provide direction on acceptable 'thresholds' for activities which can adversely affect natural character, meaning there is a risk that the outcome sought is not achieved in future due to cumulative effects.

When considering the appropriateness and design of objectives, policies and rules within the Plan, it is noted that the Plan contains a large number of provisions that span hundreds of pages. This increases the risk of inconsistency as users of the Plan will have different approaches to identifying and applying relevant provisions. There is also a risk that relevant provisions are overlooked because they are not specifically cross-referenced. The review of the Plan will provide an opportunity to consider the Plan's current approach to structuring and drafting provisions.

The review has also looked at the structure of the Plan and has provided specific commentary on objectives, policies, rules, explanations, and environmental results. It suggests that through the review of the Plan, the drafting of these provisions could be more consistent, specific, and directive. A more directive drafting style would likely add clarity to the Plan, remove the need for long winded explanations, and provide more measurable environmental monitoring indicators.

The efficiency of the Plan was examined by looking at the administration costs incurred by the Council (largely state of environment monitoring, some incident response work, and policy development), costs incurred by consent applicants and consent holders (costs of applying for and monitoring consents) and broader economic costs. The report notes that the 80% the applications processed under the Plan were processed on a fixed fee basis, with the majority of these processed for less than \$100.00 and were for whitebait stands. The remaining 20% of consents were processed on an actual cost basis with the majority of applications being processed for less than \$4000. A brief questionnaire was sent out to a sample of plan users to get an idea of the cost to applicants of consenting under the Plan. Limited responses were received. The results of the questionnaire found that the cost of preparing a resource consent generally ranges from \$1,300 to \$5,400 for activities that are likely to have a minor effect on the environment. For larger applications with greater potential for effects on the environment the cost of consent preparation, mitigation, and monitoring was considerably greater.

This report concludes by identifying a number of matters that the review of the Plan will need to address. These include updating the structure of the Plan to align with the national planning standards, suggesting the development of a simple drafting guideline which can be used throughout the plan drafting process, updating the plan to align with changes to the RMA, national policy direction, and regional policy direction, providing direction on the location of future marine farming areas, ensuring that the values of the coastal marine area are not compromised by the increase in tourism numbers, and updating information on the values of the coastal marine area.

Contents

1. Introduction	9
1.1. Purpose	9
1.2. The Regional Coastal Plan for Southland	9
1.3. Methods	9
1.3.1. Measuring efficiency and effectiveness	9
1.3.2. Data sources and methodology	10
1.4. Structure	11
1.5. Scope	11
2. Background	12
2.1. Southland coast	12
2.2. Regional Coastal Plan for Southland	14
2.3. Overview of the Plan	15
2.3.1. Part A: Sections 1–2	15
2.3.2. Part B: Section 3	15
2.3.3. Part C: Sections 4–20	15
2.3.4. Appendices	16
3. Effectiveness of the Plan: Outputs	17
3.1. Application of regional rules	17
3.1.1. Background	17
3.1.2. National comparisons	18
3.1.3. Number of coastal permits granted	19
3.1.4. Type of coastal permits processed	20
3.1.5. Decisions	21
3.1.6. Notification	21
3.1.7. Fees and charges	22
3.2. Compliance monitoring	24
3.2.1. Whitebait stands	24
3.2.2. South Port and New Zealand Aluminium Smelter agreements	24
3.2.3. Fiordland surface water activities	25
3.2.4. Industry-specific compliance monitoring	25
3.2.5. Incidents	26
3.3. Enforcement	27
3.3.1. Letters and warnings	27

3.3.2.	Infringement notices	27
3.3.3.	Abatement notices	27
3.3.4.	Enforcement orders.....	28
3.3.5.	Prosecutions	29
3.4.	Non-regulatory methods.....	30
3.4.1.	Advocacy.....	30
3.4.2.	Guidelines, information, education and public awareness	30
3.4.3.	Formal agreements.....	31
3.5.	Tangata whenua involvement.....	33
3.5.1.	Consent processing.....	33
3.5.2.	Compliance and monitoring	35
3.6.	Have we done what we said we would do?	36
4.	Effectiveness of the Plan: Outcomes	37
4.1.	Natural character.....	37
4.1.1.	Outcomes.....	37
4.1.2.	Methods.....	38
4.1.3.	Performance	38
4.2.	Natural features and landscapes.....	40
4.2.1.	Outcomes.....	40
4.2.2.	Methods.....	40
4.2.3.	Performance	40
4.3.	Amenity values	42
4.3.1.	Outcomes.....	42
4.3.2.	Methods.....	43
4.3.3.	Performance	43
4.4.	Vegetation and fauna	49
4.4.1.	Ecosystems	49
4.4.2.	Planting and introduction of exotic vegetation	52
4.4.3.	Exotic fauna introduction	55
4.5.	Public access.....	57
4.5.1.	Public access – general	57
4.5.2.	Aircraft	59
4.6.	Tangata whenua o Murihiku	63
4.6.1.	Outcomes.....	63
4.6.2.	Methods.....	63

4.6.3.	Performance	63
4.7.	Heritage	65
4.7.1.	Outcomes.....	65
4.7.2.	Methods.....	65
4.7.3.	Performance	66
4.8.	Efficient use of natural and physical resources.....	69
4.8.1.	Outcomes.....	70
4.8.2.	Methods.....	70
4.8.3.	Performance	70
4.9.	Trout and salmon	70
4.10.	Social, economic and cultural issues.....	71
4.10.1.	Outcomes.....	71
4.10.2.	Methods.....	71
4.10.3.	Performance	71
4.11.	Use of the coastal marine area for defence purposes.....	73
4.11.1.	Outcomes.....	73
4.11.2.	Methods.....	73
4.11.3.	Performance	73
4.12.	Emergency situations.....	74
4.13.	Have we achieved what we said we would achieve?	74
5.	Effectiveness: Usability and suitability	77
5.1.	Structure.....	77
5.1.1.	Tables of contents and page numbering	77
5.1.2.	Cross-referencing.....	77
5.1.3.	Hierarchy	78
5.1.4.	Types of provisions	78
5.2.	Use of supporting information	79
5.2.1.	Values	79
5.2.2.	Landscape assessments	80
5.2.3.	Geological sites and landforms.....	81
5.2.4.	Heritage and archaeological sites.....	81
5.2.5.	Anchorage	82
5.3.	Appropriateness and design of objectives, policies and rules	83
5.3.1.	General	83
5.3.2.	Objectives	83

5.3.3.	Policies	84
5.3.4.	Rules	85
5.4.	Explanations	87
5.5.	Environmental results	88
5.6.	Plan effectiveness and suitability monitoring	89
6.	Efficiency	91
6.1.	Costs of the Plan	91
6.1.1.	Administration costs (by the Council).....	91
6.1.2.	Compliance costs (by applicants and consent holders).....	94
6.1.3.	Broader economic costs	98
6.2.	Benefits of the Plan	99
6.3.	Have we achieved the outcomes at reasonable cost?	99
7.	Change factors.....	101
7.1.	Regulatory and policy changes.....	101
7.2.	Other matters	101
7.2.1.	Plan structure and drafting.....	101
7.2.2.	Emerging issues.....	101
8.	Looking forward – matters to address through the review process	108
8.1.	Plan structure	108
8.2.	Drafting guidelines	108
8.3.	Implementing statutory obligations.....	109
8.4.	Specific matters	109
Appendix 1 – Outcomes assessment		111

1. Introduction

1.1. Purpose

The purpose of this report is to evaluate the efficiency and effectiveness of the Regional Coastal Plan for Southland 2013 (the Plan). Section 35 of the Resource Management Act 1991 (RMA) requires councils to monitor the efficiency and effectiveness of policies, rules, or other methods in policy statements and plans and to make the results of such monitoring available to the public at intervals of not more than 5 years. This report fulfils those requirements.

Evaluation is a critical part of the policy cycle, providing a feedback mechanism to enable policy to be better refined in light of previous experience. It is also a way to demonstrate effectiveness of policy intervention or management approaches, thus maintaining political and public support for the management approach adopted.¹

Effectiveness and efficiency reviews help determine how well policies and methods (including rules) meet a plan's objectives. The reviews also identify the outcomes a plan has achieved, how usable a plan is, and costs incurred by users and Council. They can be valuable when plans are being changed or full reviews of plans are being undertaken because they identify gaps, problems, and implementation issues in plans. Effectiveness and efficiency reviews are also important to demonstrate transparency and accountability in the planning process.

1.2. The Regional Coastal Plan for Southland

The Plan sets out how Environment Southland (the Council) will achieve the purpose of the RMA and undertake its functions in Southland's coastal marine area. It was made partly operative (all but one chapter) in 2007 and became fully operative in 2013 when the last chapter (Chapter 15 – Marine Farming) was approved by the Minister of Conservation. More detailed information on the Plan is provided in section 2.2.

1.3. Methods

1.3.1. Measuring efficiency and effectiveness

Measuring efficiency involves evaluating whether the costs of the policies, rules and other methods are reasonable for the benefit gained. Costs and benefits are evaluated in monetary and non-monetary terms. Measuring effectiveness involves evaluating whether the objectives and anticipated environmental results sought by a plan's policies have been achieved. A conceptual framework of

¹ Willis, G. July 2008. *Evaluating Regional Policy Statements and Plans: A guide for regional councils and unitary authorities*. New Zealand Regional Councils Ministry for the Environment, Local Government New Zealand. Wellington, New Zealand.

integrated monitoring and measuring policy intervention is used by Environment Southland as the basis for efficiency and effectiveness evaluations.

Five simple questions are used to apply the framework, carry out data analyses, and to report on evaluation findings. These questions are:

- Effectiveness (Outputs): Have we done what we said we would do? That is, have we implemented all the policies and rules in the Plan?
- Effectiveness (Outcomes): Have we achieved what we said we would achieve? That is, have the policies and rules implemented resulted in the Plan's objectives being met?
- Effectiveness (Structure): How do we know if our actions led to the outcomes observed? That is, can we demonstrate that any achievement of the Plan's objectives are attributable to the rules in the Plan?
- Efficiency: Have we achieved the outcomes at reasonable cost? That is, what is the benefit of implementing the Plan's provisions relative to their costs?
- Change factors: Are we focused on the right issues? That is, are the Plan's policies still appropriate and has anything changed in relation to the Plan's stated resource management issues?

These questions are designed to 'prove' a plan's policy intervention logic: To assess observed cause and effect relationships between a plan's outputs (policies) and actions (in this case, the application of the rules), compared to observed outcomes 'on the ground' measured through Council monitoring programmes. Progress towards the Plan's objectives and anticipated environmental results can then be assessed.

1.3.2. Data sources and methodology

This report provides a desktop evaluation of the effectiveness and efficiency of the Plan. It draws on data and information from various sources. This includes:

- Information about consent applications and processing, including a sample of consent decision reports
- Compliance and complaints information
- Coastal research relating to the Southland Coastal Marine Area (CMA)
- Environmental monitoring reporting
- Information on non-regulatory methods (including education, provision of information, guidelines)
- Costs of implementing the plan (including Council, user, ratepayer, coastal occupation fees)
- Cruise ship review information
- Case law and legal opinions

As part of this review, a sample of resource consent decisions was selected to help assess the implementation of the Plan's provisions. A brief questionnaire was also sent out to a sample of resource consent applicants and consultants to get an understanding of the cost to an applicant of obtaining a resource consent. When selecting which resource consent decisions to review and which

consent applicants and consultants to send the questionnaire to, a purposive sampling method was used.

Purposive sampling, also known as judgmental, selective or subjective sampling, is a type of non-probability sampling technique, where the units are selected based on the judgement of the researcher. It was considered that a purposive sampling method would be the most cost-effective and time-effective sampling method. The Council staff relied on their judgment and understanding of the previous consents granted in the region to provide a variety of resource consent decisions processed over the life of the Plan. The Council staff relied on their judgment and understanding of consent applicants and consultants in the region to provide a variety of perspectives on the cost of obtaining resource consent.

1.4. Structure

This report has eight sections, as follows:

- Section 1 introduces the purpose of the report and outlines its scope, methods used and structure.
- Section 2 provides background information on Southland's coastal marine environment, the development of the Plan and the overall structure of the Plan.
- Section 3 assesses effectiveness by examining the outputs of the Plan, including regulatory and non-regulatory methods.
- Section 4 assesses effectiveness by examining monitoring information about the state of the environment in relation to the anticipated environmental outcomes sought by the Plan
- Section 5 assesses effectiveness by examining the usability and suitability of the plan, including its structure and the appropriateness and design of the policies and methods.
- Section 6 assesses efficiency by examining the costs incurred by the Council and users of the Plan and the benefits the Plan has delivered.
- Section 7 highlights key areas to address through the review of the Plan.
- Section 8 provides overall conclusions and recommendations.

1.5. Scope

Not all matters relevant to the Plan are addressed in this report. In particular, the following matters are considered to be out of scope of this report:

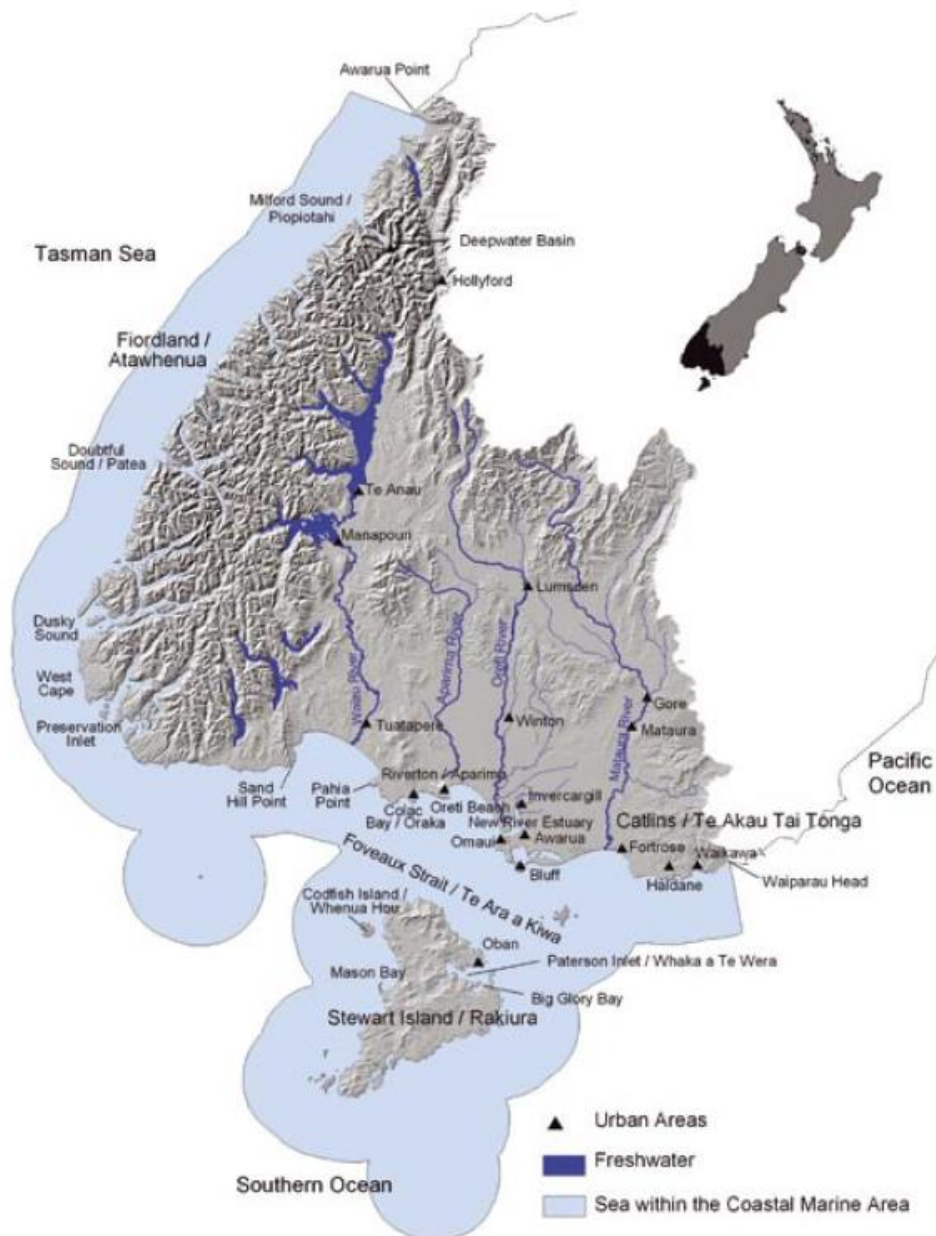
- Methods or management options to address the gaps found during the effectiveness and efficiency review.
- Matters landward of mean high water springs.
- Fish stocks, fishing, and the establishment of marine reserves.
- Aspects of biosecurity covered by the Biosecurity Act 1993.
- Aspects of exploring and mining Crown minerals covered by other legislation.
- Aspects of oil spill management covered by other legislation.
- Issues more than 12 nautical miles seaward of mean high water springs.

2. Background

2.1. Southland coast

The Southland region contains over 3,000 kilometres of coastline from Awarua Point on the west coast to Waiparau Head on the south-east coast. Approximately 63% of that (1,891 km) is located within Fiordland and a further 26% (781 km) is the coastline of Stewart Island/Rakiura. Many of these areas are only accessible by sea.

Figure 1: Southland's coastal marine area



Te Wahipounamu (South-West New Zealand), or Fiordland, is a World Heritage Area with a marine habitat that is unique to New Zealand and substantially unmodified. Given the natural state of the

majority of the adjoining land, the natural character of Fiordland is valued very highly when measured by any parameter. Fiordland has also been identified as an outstanding landscape due to its international significance and outstanding natural beauty. The inner fiords have a tannin-stained freshwater layer, on average three metres deep, that sits on top of the sea water. This creates conditions that support plant and animal life that usually inhabit darker sea depths (for example, Fiordland is the only place in the world where a species of black coral is found in depths as shallow as four metres). Fiordland has ten marine reserves, from Milford Sound in the north to Preservation Inlet in the south, which range in size from 93 to 3,672 hectares. Collectively they provide over 10,000 hectares of protected inner fiord marine habitat.

The coastal waters of Rakiura/Stewart Island and surrounding islands represent one of the largest areas of unmodified marine habitats in New Zealand. It is also considered an outstanding landscape under the Plan with extraordinary landform and coastal diversity. The land/water interface is of particular importance due to the indented coastline and numerous islands, islets and rock stacks. The mixing of warm subtropical and cool sub-Antarctic waters in the currents around Rakiura/Stewart Island has created a unique environment supporting a wide range of wildlife from marine mammals and seaweeds to brachiopods and fish. The island's dune systems are some of the most important remaining in New Zealand, and the dunes at Mason Bay are particularly significant as they contain nationally and internationally endangered ecosystems. Rakiura/Stewart Island's coastline supports many bird species, including Southern New Zealand dotterel, little blue, Fiordland crested and yellow-eyed penguins. There is a 1075 hectare marine reserve at Paterson Inlet, adjoining Ulva Island/Te Wharawhara Open Sanctuary that was established in 2004. The sanctuary is an important habitat and nursery for more than 50 species of fish and supports more varieties of seaweed than anywhere else in New Zealand.

Outside of Fiordland and Rakiura/Stewart Island, the remaining coastal environment of Southland has undergone varying degrees of change, although for much of its length it retains its natural character. The coast is primarily comprised of beaches and dunes, rocky shores and estuaries. Various parts of the coastline are important habitat for shellfish such as toheroa and flatfish such as flounder. Its estuaries comprise a wide range of habitats from sub-tidal reefs, inter-tidal mud flats and sea grass beds to landward margin vegetation, including herb fields, saltmarsh, rush-land and sedge-land. Southland's sub-tidal habitats, including kelp forests and reefs, are of high ecological and economic importance.

The coastal environment contains natural and physical resources important to social, economic and cultural wellbeing and much of Southland's population is situated near the coast. The coast provides numerous recreation opportunities for Southlanders. Fishing is an important contributor to the region's economy and Bluff Harbour is a strategic transport link for the region's agriculture and manufacturing industries. The coastal environment is also home to one of Southland's most high-profile industries, the NZAS Tiwai Aluminium smelter. For many reasons the coastal environment is critical to the prosperity of Southland.

Southland's coast has a high concentration of sites of significance with strong ancestral connections for Ngāi Tahu as tangata whenua. The coast is therefore of immense spiritual, historical, cultural and traditional importance to tangata whenua, with characteristics that hold special value.

The coastal marine area contains two areas subject to a statutory acknowledgement in accordance with the Ngāi Tahu Claims Settlement Act 1998: Fiordland/Te Mimi o Tū Te Rakiwhānoa, and Foveaux Strait/Rakiura/Te Ara A Kiwa. There are also statutory acknowledgements for rivers and lagoons, parts of which are in the coastal environment. Coastal lagoons and estuaries are particularly important to Ngāi Tahu, for mahinga kai and other cultural reasons. In addition, under the Fisheries (South Island Customary Fishing) Regulations 1999, a range of methods are available to recognise and make provision for customary management practices and food gathering such as mātaītai and taiāpure.

2.2. Regional Coastal Plan for Southland

The Plan is the Council’s first regional coastal plan and was notified in 1997. The Plan was made partly operative on 12 April 2007. The provisions in Chapter 15 (Marine Farming) were subsequently approved by Council on 10 September 2008, and by the Minister of Conservation on 14 February 2013. The Plan therefore became fully operative on 16 March 2013.

Since becoming operative, four plan changes have been approved:

Plan Change	Topic	Operative date
1	Ōreti Beach speed limit	14 December 2013
2	Vessel use in Fiordland and Stewart Island for agency, research and environmental clean-up purposes	14 December 2013
3	Deep Cove mooring areas and berthage space	14 December 2013
4	Lower Ōreti River recreational activities	8 July 2016

Section 1.5 of the Plan describes the extent of the Plan as being the coastal marine area of the Southland region. The coastal marine area is defined in section 2 of the RMA as:

coastal marine area means the foreshore, seabed, and coastal water, and the air space above the water—

- (a) of which the seaward boundary is the outer limits of the territorial sea:
- (b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—
 - (i) 1 kilometre upstream from the mouth of the river; or
 - (ii) the point upstream that is calculated by multiplying the width of the river mouth by 5

Appendix 2 of the Plan contains an agreement regarding the position of river mouths and subsequent definition of the landward boundary of the coastal marine area in order to clarify the boundaries of the coastal marine area in Southland (and therefore the jurisdiction of the Plan).

2.3. Overview of the Plan

The Plan is divided into three parts plus a series of appendices. These parts can generally be described as:

- Part A: Introduction and background
- Part B: Coastal values
- Part C: Provisions
- Appendices

2.3.1. Part A: Sections 1–2

Section 1 contains an introduction to the Plan and outlines the purpose, principal reasons, structure, terminology, extent and methods of implementation. Section 2 outlines the legislative framework relevant for resource management in the coastal marine area.

2.3.2. Part B: Section 3

Part B sets out the values in the coastal marine area. Section 3 describes the purpose of this part of the Plan as providing a description of the physical characteristics and values of particular areas of Southland's coastal region and also describes the principal issues that pertain to those areas. This section gives Plan users a description of the environment to which the objectives, policies and methods of implementation relate. It also enables prospective resource consent applicants to gauge the potential impacts of their activity on aspects of the environment about which they are otherwise unaware.

2.3.3. Part C: Sections 4–20

Section 4 outlines the overarching issues, objectives, and policies of the Plan which are derived from the RMA and the New Zealand Coastal Policy Statement (NZCPS) 1994 and provide a framework for the rest of the Plan. The principles contain issues, objectives and policies that apply to all activities in the coastal marine area as well as the more specific objectives, policies and methods contained in other sections.

Section 5 contains issues, objectives, policies and rules on a range of general matters, including:

- Natural character
- Natural features and landscapes
- Amenity values (amenity, signs, livestock, safety, noise)
- Vegetation and fauna
- Public access
- Tangata whenua o Murihiku

Sections 6-16 contain issues, objectives, policies and rules for a comprehensive range of activities occurring in the coastal marine area.

Section 17 sets out the Council's policy on financial contributions and bonds. Sections 18-20 are related to procedural and resource consent matters and outline information to be included in resource consent applications (section 18), general terms and conditions of consents (section 19) and the Council's approach to integrated management and managing cross-boundary issues (section 20).

2.3.4. Appendices

The appendices contain supporting information which assists the implementation of the Plan. In particular, the appendices contain:

- Glossary (Appendix 1)
- Agreement for position of river mouths and subsequent definition of the landward boundary of the coastal marine area (Appendix 2)
- Maps (Appendices 3 and 3A)
- Coastal landscape assessment (Appendix 4)
- Areas containing significant values (Appendix 5)
- Anchorages (Appendix 6)
- Inventory of important geological sites and landforms (Appendix 7)
- Heritage and archaeological sites (Appendix 8)
- Areas where existing air quality is to be protected (Appendix 9)
- Assessment of contaminants in sediments (Appendix 10)

3. Effectiveness of the Plan: Outputs

Section 1.6 of the Plan lists 24 methods used to achieve the objectives of the Plan. The methods are a mixture of regulatory and non-regulatory actions. This section of the report summarises the available information on the following key implementation methods:

- Application of regional rules (Methods 19 and 21)
- Compliance monitoring (Method 13)
- Enforcement (Method 1)
- Non-regulatory methods (Methods 2, 6, 9, 14 and 18)
- Te Ao Mārama involvement (Methods 4 and 5)

3.1. Application of regional rules

3.1.1. Background

Method 21 (Regional rules) outlines the Council's intent to use regional rules to manage the effects of activities on the environment. Regional councils are required to have a regional coastal plan in place at all times.² All types of regional plans are required to state the objectives for the region, the policies to implement the objectives and the rules (if any) to implement the policies.³ Rules in regional plans have two purposes:⁴

- Assisting the council to carry out its functions under the RMA, and
- Achieving the objectives and policies of the plan

The functions of regional councils in the coastal marine area are broad and cover all uses of land and water, occupation of space, discharges and management of surface water activities.⁵ In addition to the Council's functions, the RMA states that many uses of the coastal marine area are not allowed unless expressly allowed by a national environmental standard, a rule in a regional plan, or a resource consent.⁶ Rules are therefore important in coastal plans both for allowing activities to occur as permitted activities and to set out when resource consent is required.

The Plan contains approximately 220 regional rules which are a key method of achieving the objectives of the Plan. The rules cover the full range of activity classifications from permitted activities through to prohibited activities. The majority of the rules either outline activities which are permitted (often with conditions) or which require resource consent. As permitted activities do not require resource consent they are not specifically monitored by the Council, therefore section 3 focuses on those rules that require resource consent.

² Section 64(1), RMA

³ Section 67(1), RMA

⁴ Section 68(1), RMA

⁵ The full list of functions is contained in section 30(1)(d), RMA.

⁶ Restrictions listed in section 12(1) and (2), RMA

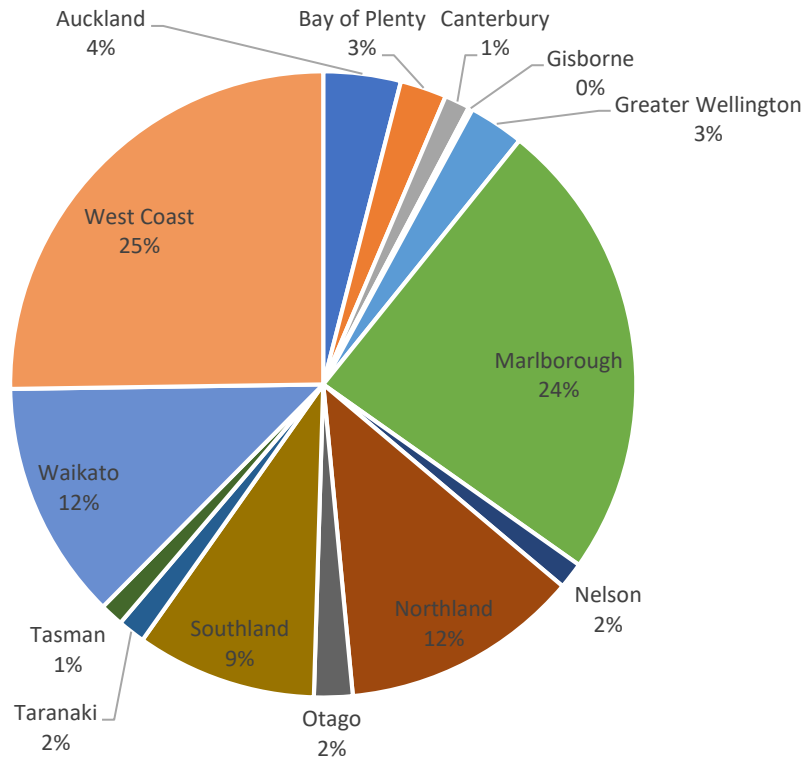
Method 19 (Resource consents) outlines how resource consents can assist with the management of effects on the environment from resource use. Information about resource consents can provide both quantitative and qualitative information about the effectiveness of the Plan. At a high level, the number and type of consents processed, and whether they are processed with or without notification, can provide insight into the level of use and development occurring within the coastal marine area. On a more detailed level, individual resource consent decisions can demonstrate how the provisions of the plans are being interpreted and applied in decision-making. This section provides an overview of applications for coastal permits processed by the Council since the Plan became partly operative in 2007.

3.1.2. National comparisons

To set the scene, this section provides an overview of all coastal permits processed around the country. This section uses national data publicly available through the Ministry for the Environment's National Monitoring System for financial years 2014/15, 2015/16 and 2016/17 which did not include information on total coastal permit numbers for Hawke's Bay Regional Council or Horizons Regional Council. From the available data, seventy percent of the coastal permit applications for which there was data available were processed by four councils: West Coast Regional Council (25%), Marlborough District Council (24%), Northland Regional Council (12%) and Environment Southland (9%).⁷ Southland's contribution varied over the three-year period from 6.7% in 2014/15 to 18.4% in 2015/16 to 5.2% in 2016/17. Whitebait stands were a major reason for higher than normal applications numbers for both Southland in 2015/16 and West Coast in 2016/17.

Figure 2: Applications for coastal permits processed 2014/15 to 2016/17

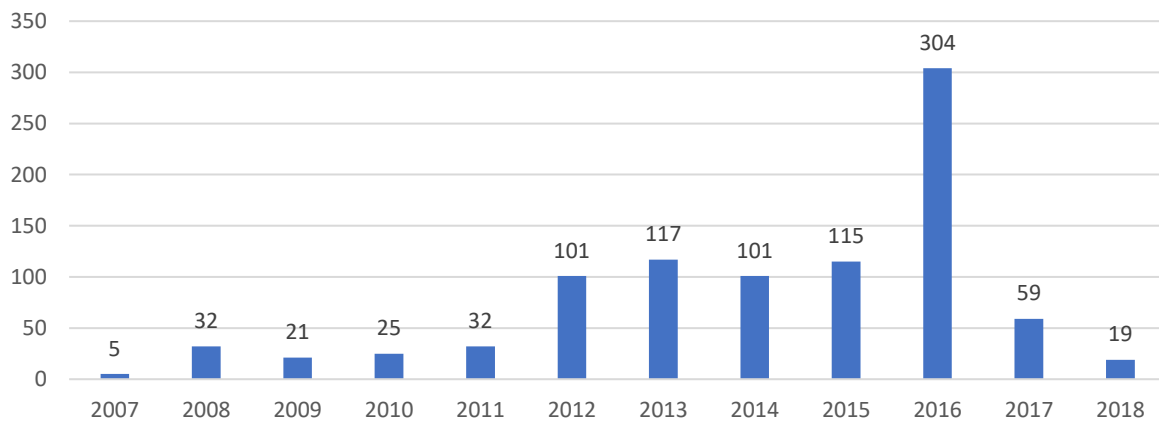
⁷ Information in this section has been sourced from the Ministry for the Environment's National Monitoring System for the financial years 2014/15, 2015/16 and 2016/17. Information on coastal permits processed by Hawke's Bay Regional Council and Horizons Regional Council was not available.



3.1.3. Number of coastal permits granted

In total, 1056 coastal permits have been granted in Southland since the Plan became partly operative in 2007. Of these, 932 are current, 87 have expired, and 35 have been superseded. Figure 3 below shows the total number of consents that were granted between April 2007 and November 2018.

Figure 3: Total number of coastal permits granted 2007 – 2018



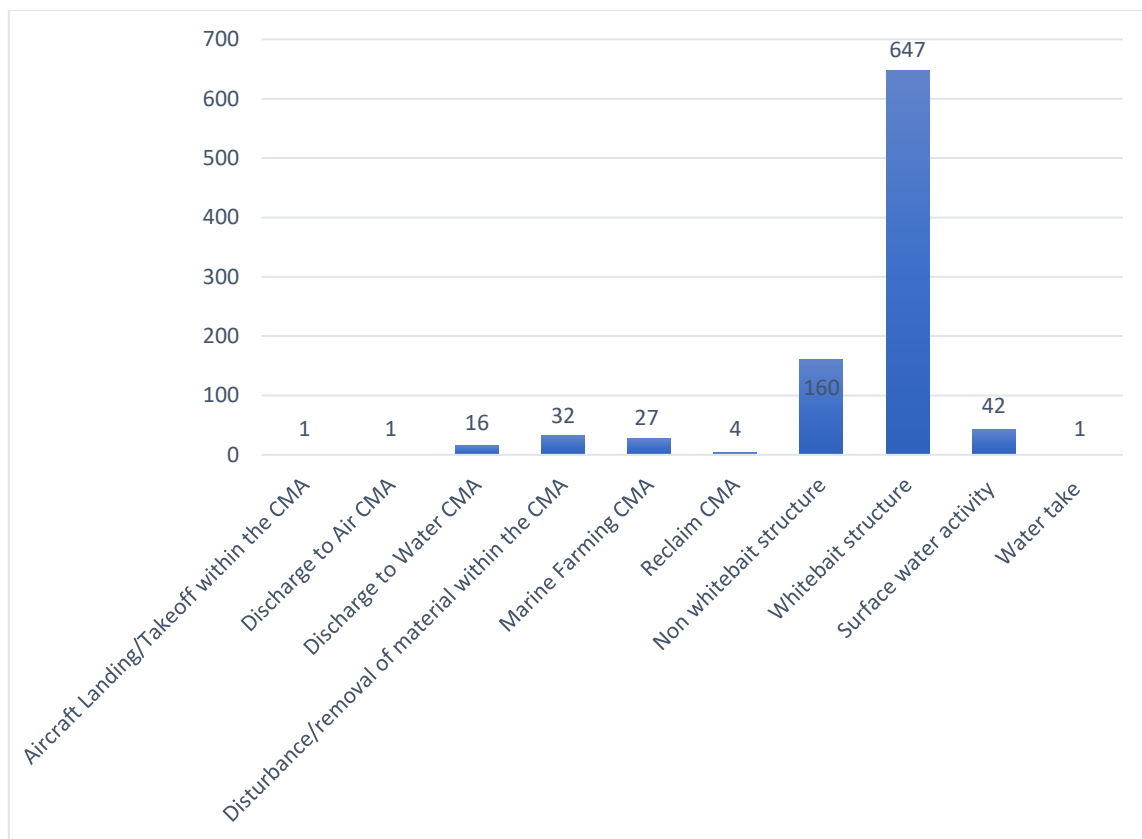
On average, 88 consents were granted per year with a peak of 304 in 2016. This peak was due to whitebait structures, for which 274 consents (90% of the year's total) were granted in 2016. This is likely to be a result of action initiated by the Council in 2014/15 to remove illegal whitebait stands identified from previous years' inspections.

Greater Wellington and Taranaki Regional Councils have prepared effectiveness and efficiency reports which state the total number of coastal permits issued under their plans. Greater Wellington Regional Council issued 287 permits between 1999 and 2005, approximately 40 per year.⁸ Taranaki Regional Council issued 252 permits between 1997 and 2008, approximately 20 per year.⁹

3.1.4. Type of coastal permits processed

Coastal permits granted in Southland cover a range of different types of activities. Figure 4 below shows the types of activities that have required a coastal permit between 2007 and 2018 based on the categories used in the Council’s database. This data has been extracted from the Council’s consent database, which holds basic consent information such as the number and type of consents granted. Prior to 2011, more detailed consent information can only be manually extracted and was therefore not provided. Coastal permits for whitebait structures account for 69% of all coastal permits issued. Non-whitebait structures are the next largest category, comprising 15%. Collectively, structures (both whitebait and non-whitebait structures) account for 84% of coastal permits.

Figure 4: Types of coastal permits 2007-2018



⁸ Greater Wellington Regional Council. (2008). *Plan effectiveness report: Regional Coastal Plan*, p. 24. Retrieved from <http://www.gw.govt.nz/assets/Plans--Publications/Regional-Coastal-Plan/Plan-Effectiveness-Report.pdf>

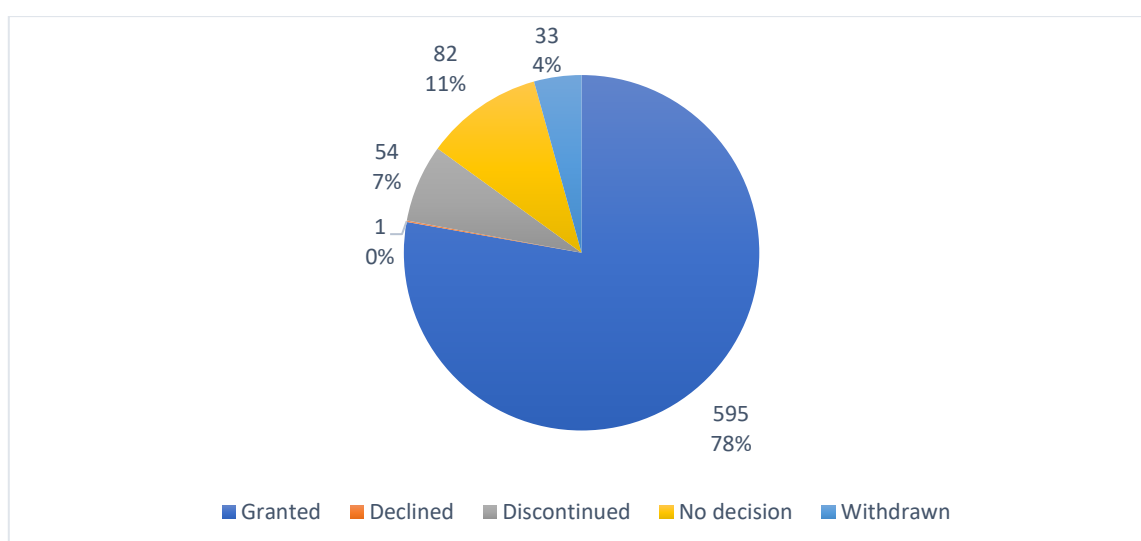
⁹ Taranaki Regional Council. (2009). *Effectiveness and efficiency of the Regional Coastal Plan for Taranaki*, p.11. Retrieved from <https://www.trc.govt.nz/assets/Documents/Plans-policies/CoastalPlanReview/eercp09.pdf>

3.1.5. Decisions

Figure 5 below shows the decisions made on applications for coastal permits lodged between 2011 and 2018. This information was extracted from the Council's current database which was implemented in 2011. Information from the previous database system, in use prior to 2011, can only be manually extracted and was therefore not provided. Only one application was declined during this period and 595 were granted. Of the consents granted, 496 were for whitebait stands which are a controlled activity, section 104A(a) of the RMA states that resource consents for controlled activities must be granted.

The 'no decision' category includes applications that are live but have not yet been processed to a final decision, applications returned as incomplete¹⁰, and applications currently on hold.¹¹

Figure 5: Decisions on coastal permit applications 2011 to 2018



3.1.6. Notification

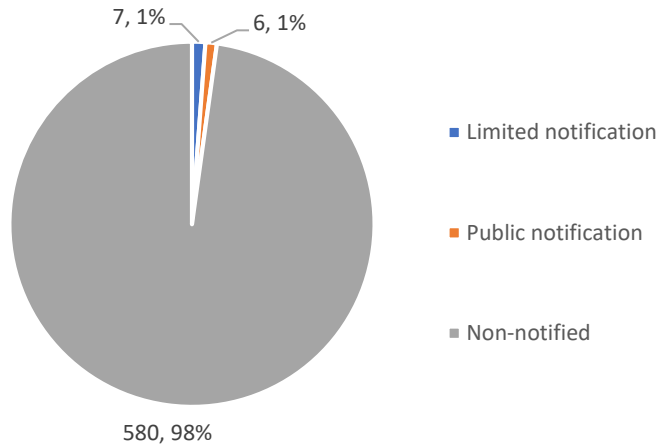
Figure 6 below shows the notification decisions made on coastal permits granted between 2011 and 2018. Information prior to 2011 was recorded in the Council's previous database software and is not readily available for analysis. Over the period, 98% of applications were processed non-notified with 1% limited notified and 1% publicly notified. This is relatively consistent with national trends – in 2016/17, 96.6% of all resource consents were processed without notification.¹²

Figure 6: Notification decisions on applications between 2011 and 2018

¹⁰ As per section 88, RMA.

¹¹ As per section 91A, RMA.

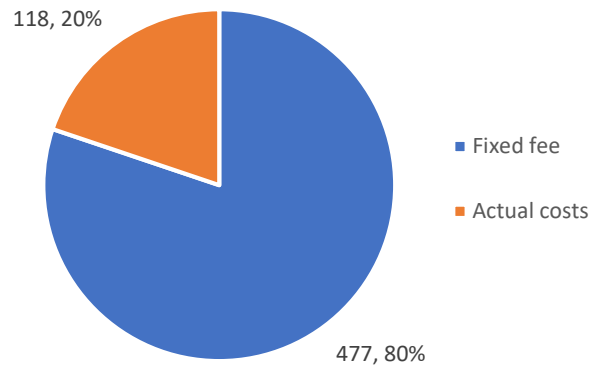
¹² Ministry for the Environment. (2018). *Resource consents processed*. Retrieved from <http://www.mfe.govt.nz/rma/national-monitoring-system/reporting-data/resource-consents/resource-consents-processed>



3.1.7. Fees and charges

Figure 7 below shows the proportion of consents granted that were processed either under a fixed fee regime or by charging actual costs. The majority, 80%, were processed on a fixed fee basis. Fees and charges are discussed in more detail in section 6 of this report.

Figure 7: Fees and charges for consents granted between 2011 and 2018



3.1.7.1. Fixed fees

The Council has set fixed fees for a number of different types of applications. Table 1 below shows the different fixed fees charged between 2011 and 2018. As with the rest of the data, whitebait stands contribute the largest proportion – these were processed using a \$65 fixed fee between 2014/15 and 2014/15 and a \$100 fixed fee between 2015/16 and 2017/18 (in accordance with the relevant Environment Southland fees and charges schedule). Fixed fees are discussed in more detail in section 6 of this report in relation to efficiency.

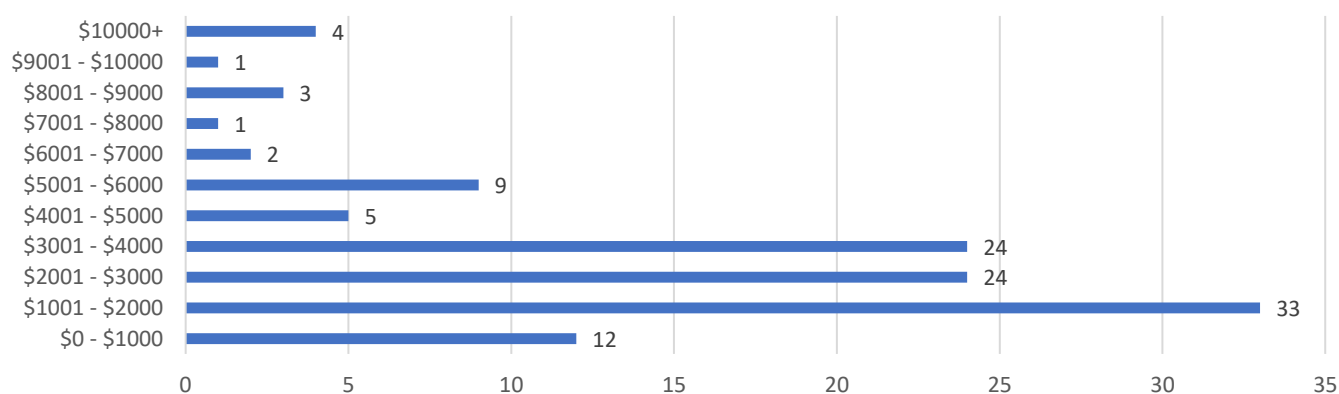
Table 1: Numbers of fixed fee consents granted between 2011 and 2018

Fee	Number
\$0	15
\$65	176
\$100	281
\$220	1
\$500	1
\$1000	1
\$1350	2

3.1.7.2. Actual costs

Figure 8 below shows the actual costs charged for consents granted between 2011 and 2018 that were not subject to a fixed fee. This shows that the majority of applications are processed for less than \$4000.

Figure 8: Actual costs charged for consents granted between 2011 and 2018



The four instances where fees exceeded \$10,000 were:

- An application lodged in 2015 and granted in 2016 to disturb the foreshore and extract up to 2,000 m³ of gravel per year by beach skimming from Frasers Beach, Fortrose (\$10,270.86 – processed without notification)
- An application lodged in 2014 and granted in 2016 to place structures in, on and over the seabed; to occupy the coastal marine area; and to discharge contaminants for the purpose of undertaking farming activities for green lipped mussels and blue mussels (\$27,797.37 – processed without notification)
- An application lodged and granted in 2016 to undertake commercial surface water activities in the coastal marine area adjacent to Fiordland National Park from Febrero Point to Puysegur Point with one vessel of up to 49m registered length with up to 34 passengers (\$34,538.80 – publicly notified)

- An application lodged in 2013 and granted in 2014 to establish and operate a marine farm for the cultivation of oysters at three sites situated in the area between Horseshoe Bay and Bobs Point, Stewart Island (\$35,825.13 – publicly notified)

3.2. Compliance monitoring

Method 13 (Monitoring) and Method 1 (Enforcement) outline the Council's intent to use consent compliance and complaint monitoring, and subsequently enforcement, as ways of achieving the objectives of the Plan. The Council publishes a Compliance Monitoring Report every year which summarises the activities of Council's compliance monitoring and enforcement and technical teams in the preceding financial year. The report highlights key trends in environmental monitoring during the past year and benchmarks them against the patterns observed during the previous years.

Since 2011/12, the amount of publicly available information about compliance in the coastal marine area has decreased. For the years 2007/08 to 2010/11, information is available in the reports about the number of incidents, infringement notices, abatement notices, enforcement orders and prosecutions in the coastal marine area. From 2011/12, this information is provided at a high level only (for example, the total number of abatement notices issued by the Council) except for reporting on prosecutions. Where available, additional information from the Council's database has been used to provide a fuller picture of compliance information.

3.2.1. Whitebait stands

Objective 11.7.1.1 and Policy 11.7.1.1 restrict the number of whitebait stands to those existing as at 15 February 1997. Rule 11.7.1.1 implements this direction by making new whitebait stands a prohibited activity. Every year, Compliance officers inspect consented whitebait stands and the surrounding areas, primarily to check that stands are compliant with their consent conditions (which require stands to display their identification number and be maintained to a good standard) and also to investigate any unconsented structures.

Since 2014/15 when the Council began removing illegal stands, non-compliance rates have fallen. Compliance rates with consent conditions are generally high, with most non-compliance issues relating to lack of correct identification on stands and the physical state of stands. Stand owners are generally provided informal notice to remedy the issues with further action taken if the issues are not addressed within the timeframes specified by Compliance officers.

3.2.2. South Port and New Zealand Aluminium Smelter agreements

Bluff Harbour is a strategic transport link for the region's industries. The majority of its infrastructure is operated by South Port. The Tiwai Aluminium smelter is located on the opposite side of the harbour at Tiwai Point, Awarua Bay. The smelter is run by New Zealand Aluminium Smelters (NZAS). When the Plan was developed, it allowed the two port occupiers to function under individual agreements similar in nature to a consent. These agreements were established between the Council and NZAS in 2004 and South Port in 2006. Both agreements were reviewed in 2010/11 and re-signed in 2011/12. More information on these agreements is provided in section 3.4.3.1 of this report.

The agreements set out the operating and discharge limits each party is to abide by and ensures that port activities are compliant with the RMA. Annual meetings are held with each company which address:

- On-site incidents and remedial action taken
- Maintenance programmes for the coming 12 months
- Monitoring conducted over the previous 12 months
- Procedural issues that may have arisen out of the agreement over the previous 12 months

Annual meetings are held with each company to discuss compliance within the terms of the agreements. Issues are generally raised and resolved during these meetings. Each year there are between one and eight incidents reported in relation to the South Port and NZAS facilities, mostly relating to discharges to air (dust) and water (potential spills). Incidents are investigated and addressed (if necessary) by staff at the companies in the first instance. Any ongoing issues are addressed by Compliance officers who work with staff from the companies to rectify issues.

3.2.3. Fiordland surface water activities

Section 16 of the Plan manages surface water activities on the internal waters of Fiordland from Yates Point to Puysegur Point. Commercial activities such as day trips and backcountry trips¹³ are prohibited in some areas and require resource consent in other areas. In Hall Arm, Doubtful Sound, Thompson Sound, Crooked Arm, First Arm and Bradshaw Sound there are limits on the total number of trips undertaken by operators.¹⁴ Consents for surface water activities generally place limits on the types of vessels used and the number of trips, as well as the management of any discharges. To monitor compliance with consent conditions, consent holders undertaking surface water activities in Fiordland are required to submit activity logs to the Council each year detailing the timing, location and purpose of activities, location of any discharges and inspections for hull fouling organisms.

Generally there is a high level of compliance with this requirement. Each year Compliance officers undertake at least one patrol in Fiordland to monitor compliance with these consents. This usually occurs in conjunction with other agencies such as the Ministry for Primary Industries and the Department of Conservation, as well as biosecurity staff from the Council. As well as monitoring compliance, Council staff take the opportunity to talk to users of the area and provide education on a range of matters, primarily the Plan provisions and biosecurity.

3.2.4. Industry-specific compliance monitoring

Each year, the Council monitors the major industries in Southland. Table 2 below outlines the major industries with coastal permits and summarises their compliance history since 2007.

¹³ Both types of trips are defined in the Glossary of the Plan.

¹⁴ Rule 16.2.1

Table 2: Summary of compliance history of major industries operating in the coastal marine area

Activity	Compliance
Meridian Energy Limited Discharges of water and contaminants to the coastal marine area and occupation of the coastal marine area with wharves - both at Deep Cove	Compliant
NZAS Discharges of contaminants to land where they may enter coastal water and treated effluent and water containing contaminants to the coastal marine area - both at Tiwai Point	Compliant Minor incidents addressed by NZAS staff
Department of Conservation Operation of huts throughout Fiordland	Historically compliant Abatement notices issued 2017/18 for expired permits
Invercargill City Council Discharges of treated wastewater to the coastal marine area	Mostly compliant One significant non-compliance at Omaui in 2010/11
Southland District Council Discharges of treated wastewater to the coastal marine area	Unknown – reports do not specify which consents relate to the coastal marine area

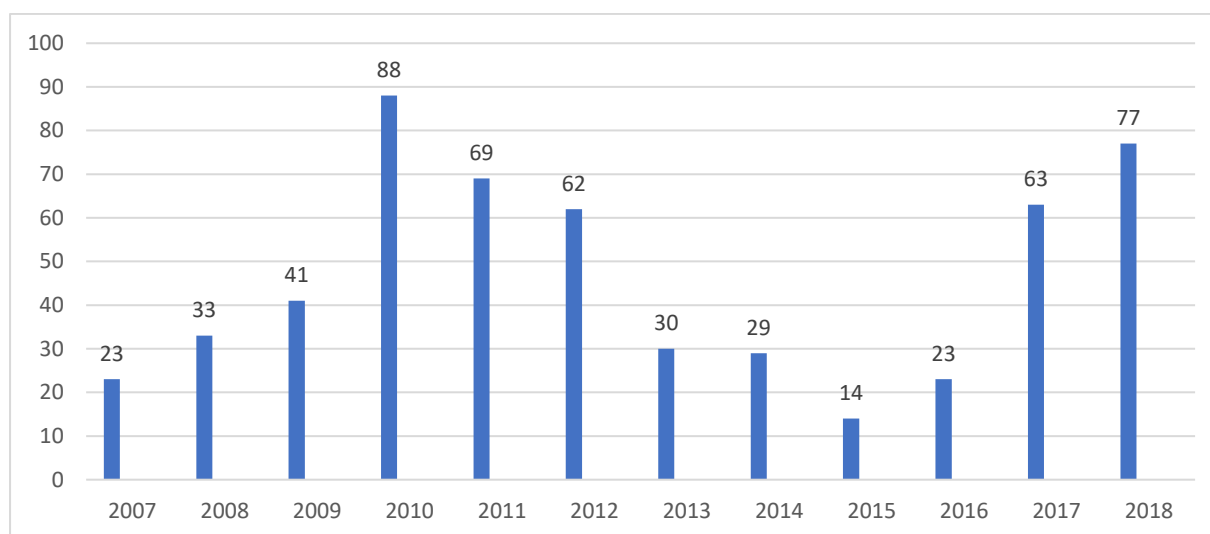
3.2.5. Incidents

The Council provides a 24-hour environmental incident response for the Southland region. Incidents are identified in three ways:

- Issues found by Environment Southland staff during inspection activities;
- Incidents reported by any third party; and
- Self-reported issues by the responsible party.

Figure 9 below shows the number of coastal incidents reported between 2007 and 2018. There is considerable variation, ranging from 14 in 2015 through to 88 in 2010. Overall there does not appear to be a discernible trend in the number of incidents reported, other than that each year tends to differ.

Figure 9: Coastal incidents recorded between 2007 and 2018



The types of incidents reported vary considerably as well, however, from the information provided the most common incidents reported tend to be pollution events (such as spills) and issues with structures (including whitebait stands).

3.3. Enforcement

The Council uses a range of enforcement actions to address non-compliance, starting with letters and warnings at the low end of the scale, moving up to infringement notices, abatement notices, enforcement orders and finally prosecutions in the most serious cases.

3.3.1. Letters and warnings

The Council uses letters and warnings in addition to the formal enforcement procedures set out in the RMA. The annual Compliance Monitoring Reports do not provide figures on the numbers of letters and warnings issued, however, data provided by the Council shows that since 2015 there have been three formal warnings issued and two letters sent relating to activities in the coastal marine area. The formal warnings were for a pond not built to the required specifications, a discharge of sewage from a wharf holding tank, and expired consents for a boat ramp and slipway. The letters related to a discharge of paint and an unconsented whitebait stand.

3.3.2. Infringement notices

Infringement notices are punitive measures that are considered a cost effective and fair form of punishment for those who have committed an offence, but one that trends towards the lower end of the scale and is not considered serious enough to warrant prosecution. Infringement notices can be issued by Compliance officers to an individual or company that has committed an offence under the RMA. Contravention of section 12 (restrictions on use of coastal marine area) is an offence.¹⁵

Between 2008/09 and 2010/11, infringement notices were recorded in the Compliance Monitoring Reports by resource type. None were recorded in the 'coast' category. Additional information from the Council shows that since then, two infringement notices have been issued, both in 2015 for the same incident: a fuel spill into Bluff harbour during refuelling of a vessel.

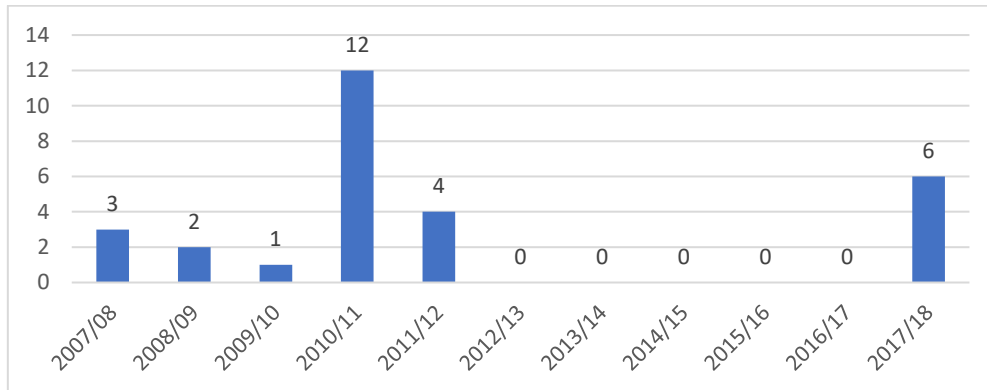
3.3.3. Abatement notices

An abatement notice requires an offender to comply with the notice within a specified timeframe. Abatement notices can require someone to stop doing something or start doing something if they are not complying with regional rules or conditions of resource consents. Non-compliance with an abatement notice is an offence under the RMA and can receive infringement fines or prosecution.

¹⁵ Schedule 1, Resource Management (Infringement Offices) Regulations 1999.

Figure 10 below shows the number of abatement notices served for activities in the coastal marine area between 2007/08 and 2017/18. The data shows 22 notices served in the five-year period from 2007/08 to 2011/12, followed by no notices served in the next five-year period from 2012/13 to 2016/17. It is not clear why this change occurred. Information provided by the Council shows that the six abatement notices served in 2017/18 all related to expired consents.

Figure 10: Abatement notices in the CMA 2007/08 to 2017/18



3.3.4. Enforcement orders

There have been four enforcement orders granted during the life of the Plan. These are discussed below.

D B Edmonds

In 2001 the Council applied for, and was granted by the Court, an enforcement order against David Barton Edmonds requiring him to remove the registered vessel *Koutunui* from Deep Water Basin, Milford Sound, where it had been moored for approximately 28 years without consent to occupy the coastal marine area. Mr Edmonds was required to pay the Council \$4,000 in costs.

The Georgina Company Ltd

In May 2003 the Council applied for, and was granted by the Court, an enforcement order against The Georgina Company Ltd requiring it to remove the barge *Georgina* from Cooper Island, Dusky Sound as the vessel was being used as an accommodation base without the required resource consent. In January 2005, the Council issued an abatement notice seeking to prevent the *Georgina* from operating, mooring or anchoring within any part of the Fiordland coastal marine area. That abatement notice was granted by the Environment Court but was subsequently dismissed by the High Court on appeal. This was on the basis that the Environment Court had erred in law in applying the relevant permitted activity rule (Rule 9.2.1) and by finding that, when not cruising, the vessel would become a base/accommodation facility.

A I Jenkins

In 2004, the Court granted an enforcement order against Alexander Isaac Jenkins requiring him to take down and remove an unconsented whitebait stand on the Aparima River. This decision sought to enforce the moratorium in the Plan on new whitebait stands.

G Huggins

In 2009, the Court granted an enforcement order against Gary Huggins requiring him to remove the boat *Port Oxley* from the foreshore at Thule Bay, Stewart Island. In a subsequent costs award, Mr Huggins was ordered to pay the Council \$2,549.50.

Current investigations

Information provided by the Council shows there are currently two investigations into enforcement orders relating to expired coastal permits.

3.3.5. Prosecutions

There have been five prosecutions during the life of the Plan:

- Southland Regional Council v Waituna Farms Ltd (1994): Waituna Farms Ltd was charged under section 15(1)(a) of the RMA for discharging dairy effluent to an unnamed tributary to Waituna Lagoon. The defendant pleaded guilty and was convicted. The defendant was fined \$10,000 and order to pay court cost and agreed solicitors' fees.
- Southland Regional Council v Pantas Corporation (2007): Pantas Corporation was charged under section 15(1)(a) and section 338 of the RMA for discharging a harmful substance, namely fuel oil, from the ship 'Pantas 1' into the water of the coastal marine area at Island Harbour, Bluff. The defendant pleaded guilty and was convicted. The defendant was fined \$15,000 and order to pay court cost and agreed solicitors' fees.
- Southland Regional Council v Invercargill City Council (2009): Invercargill City Council entered a plea of guilty to two charges laid under sections 338 and 15(1)(c) of the RMA for discharging a contaminant, namely gases and odorous compounds, from a wastewater treatment and disposal unit situated adjacent to the eastern shore of the New River Estuary at Clifton. Such discharges were not expressly allowed by rule in a plan, resource consent or regulations. The defendant was fined \$35,000 and order to pay court cost and agreed solicitors' fees.
- Southland Regional Council v Neil James Jefcoate (2009): Mr Jefcoate was charged under section 338(l)(c) of the RMA for contravening an abatement notice requiring him to remove concrete rubble and related materials which had been dumped on top of an existing rock protection wall from the coastal marine area of Ōreti River, Southland. The defendant pleaded guilty and was convicted. The defendant was fined \$5,500 and order to pay court cost and agreed solicitors' fees.
- Southland Regional Council v Cando Fishing (2013): Cando Fishing was found guilty of 17 breaches of discharging a contaminant onto or into land where it may enter water. The offences

were over a period between 7 January and 24 December 2011, where Cando Fishing knowingly discharged large amounts of the kina processing waste into Foveaux Strait. The defendant was fined \$9,000 and order to pay court cost and agreed solicitors' fees.

3.4. Non-regulatory methods

The Plan outlines a number of non-regulatory methods which are intended to support the achievement of the objectives. This section summarises some of the key non-regulatory methods used to implement the Plan.

3.4.1. Advocacy

Method 2 (Advocating) outlines the Council's intent to advocate for change to policy or legislation where appropriate. Since 2007, the Council has made a range of submissions on coast-related matters at the national and district level. Nationally, the Council has made submissions on:

- New Zealand Coastal Policy Statement 2010
- South-East Marine Protection Forum 2016
- A New Marine Protected Areas Act: Consultation Document

The Council has also made submissions and been involved in a range of planning processes within the region where parts of the coastal environment are proposed for management, including:

- Proposed Southland District Plan
- Proposed Invercargill City District Plan

As much of the coastal marine area in Southland is conservation land, the Council has also made submissions on the Fiordland and Rakiura National Park Management Plans.

The Council is regularly identified as an affected party in relation to resource consent applications where sites are subject to natural hazards, including coastal hazards. As part of this process, Council staff provide advice to applicants and to the relevant territorial authority about appropriate use and risk mitigation as outlined in the Plan and the Southland Regional Policy Statement 2017 (RPS 2017). The number of enquiries and referrals received by the Council varies from month to month but generally there are between 10 and 20 each month for all hazard types. From time-to-time the Council has submitted on applications of this nature and subsequently been involved in hearings.

3.4.2. Guidelines, information, education and public awareness

Methods 6 (Developing guidelines for resource users) and 9 (Information, education and public awareness) outline a range of non-regulatory action which can support the implementation of the Plan and assist with achieving its objectives. To date, the Council has prepared the following:

- [General information for coastal permit applications](#)

- [Application form for coastal permits](#)
- [Application form for whitebait stand permits](#)
- [Application form for transferring ownership of a coastal permit](#)
- [Form for harbourmaster's technical comment \(to accompany coastal permits which may affect navigational safety\)](#)
- [Factsheet on the management of cruise ships in Southland's coastal marine area](#)
- [Information about oil spill response planning](#)
- [Information about navigation safety](#) (which, following Plan Change 4 becoming operative in 2016, is now entirely managed under the Southland Navigation Safety Bylaw 2009 [revised 2015]).

As part of its annual monitoring of surface water activities in Fiordland, field staff from the Council regularly meet and discuss resource management related issues in the coastal environment with members of the public, and specifically those people undertaking surface water activities.

3.4.3. Formal agreements

Methods 14 (Negotiation, facilitation, mediation and arbitration) and 18 (Protocols, accords, memoranda of understanding and codes of practice) anticipate the use of formal agreements between the Council and resource users to develop and implement specific management regimes for particular issues. There are three such agreements in place with the following industries: NZAS and South Port (as discussed earlier), and cruise ships (via Cruise New Zealand). These agreements are not strictly non-regulatory as they affect the way activities occur which would otherwise be regulated by the Plan, however, they are documents which sit outside the Plan itself.

3.4.3.1. NZAS and South Port

As outlined in section 3.2.2, the two port occupiers currently function under individual agreements similar in nature to a consent. These agreements were established between the Council and NZAS in 2004 and South Port in 2006. Both agreements were reviewed in 2010/11 and re-signed in 2011/12.

3.4.3.2. Cruise ships

A key tool for managing cruise ships in Southland is the Environmental Partnership Deed of Agreement between the Cruise Ship Industry and Environment Southland (the Deed). The Deed manages access to the internal waters of Fiordland and Stewart Island/Rakiura and was developed over an 18 month period in 1999/2000 following extensive liaison and collaboration with the cruise ship industry via Cruise New Zealand. It was formally implemented through Rule 13.1 of the Plan.

The purpose of the Deed is to:

- Enable managed access to unique parts of New Zealand's coastal marine area and World Heritage Area

- Foster and promote the sustainable management of the Internal Waters [of Fiordland and Stewart Island/Rakiura] in a manner consistent with the principles and provisions of the Plan and the RMA
- Meet Environment Southland's coastal management and control obligations in the coastal marine area
- Provide a collaborative management framework between Environment Southland and cruise ship owners and/or operators allowing, as far as possible, the management and growth of cruise ship operations in the Internal Waters

In accordance with Rule 13.1, signatories to the Deed are allowed to operate in the Internal Waters as a permitted activity. As part of the Deed each cruise ship must pay the Council a Marine Fee if it passes through the internal waters of Fiordland or Rakiura/Stewart Island. More information on the Marine Fee is provided in section 6.1.2.3 of this report.

A review of the Deed has commenced and must be completed by 1 October 2020. There are close linkages between the Deed and the Plan which will need to be considered carefully in the review of both documents.

3.4.3.3. Fiordland Marine Guardians

The Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 introduced a statutory advisory body called the Fiordland Marine Guardians who are responsible for facilitating and promoting the integrated management of the Fiordland (Te Moana o Atawhenua) Marine Area and advise the relevant government agencies on the effectiveness of management measures in Fiordland. In 2005 a protocol between the Fiordland Marine Guardian and the chief executives of the following organisations was signed:

- Ministry for the Environment
- Ministry of Fisheries (now part of the Ministry for Primary Industries)
- Ministry of Agriculture and Forestry (now part of the Ministry for Primary Industries)
- Department of Conservation
- Southland Regional Council

The protocol is not legally binding but sets out an agreed approach to these organisations working together to achieve integrated management of the Fiordland (Te Moana o Atawhenua) Marine Area, including roles and responsibilities, principles of cooperation, conflict resolution, meetings and information sharing. Its connection with the Plan is through clarification of the multi-agency involvement in the management of Fiordland.

3.4.3.4. Ōreti Beach Memorandum of Understanding

In 1996 a memorandum of understanding (MOU) was signed to recognise the importance of Ōreti Beach to all Southlanders following the reorganisation of local government which affected the management of Ōreti Beach. A steering group was formed in 2014 which led to the development of a new and expanded MOU that was signed in 2016 by the Council, Invercargill City Council, Southland

District Council, DOC, the Ministry for Primary Industries, New Zealand Police, and Waihopai Runaka. The purpose of this MOU is to:

- Outline the roles and responsibilities each part has in relation to the management of Ōreti Beach
- Clarify the management roles of the parties that have a statutory or regulatory interest in Ōreti Beach
- Develop a cooperative approach to enhancing the amenity and natural environment of Ōreti Beach and the surrounding area by developing pragmatic solutions for the day-to-day management of activities on Ōreti Beach and the surrounding areas

The MOU applies to all of Ōreti Beach and the waters out to the 12 nautical mile limit, seaward of the eastern/landward edge of the sand dunes (and including the sand dunes) from Sandy Point in the New River Estuary west and north past the Dunns Road and Ferry Road entrances to Taunamau Stream. As with the Fiordland Marine Guardians protocol, the MOU's connection to the Plan is to clarify the multi-agency involvement in the management of Ōreti Beach.

3.5. Tangata whenua involvement

The Council is a signatory to the *Charter of Understanding – He Huaraki mō Ngā Uri Whakatapu* (the Charter). The Charter is an agreement between signatory councils¹⁶ and the four papatipu rūnanga in Murihiku.¹⁷ It sets out the basis and conduct of the councils and rūnanga in the context of the Local Government Act 2002 and the RMA and provides the basis for Māori to contribute to the decisionmaking process via Te Rōpū Taiao. Te Rōpū Taiao is a joint management committee established in the 1990s to develop relationships between the local councils and tangata whenua of Murihiku and primarily deals with higher level decisionmaking concerning resource management.

Method 4 of the Plan outlines the RMA's requirements for consultation (reflecting the version of the RMA in force at the time). This method notes that there is a "specific requirement to consult with tangata whenua" and that "[c]onsent applicants will need to ensure that their proposals do not affect wahi tapu, wahi taoka or other sites of significance to tangata whenua ... [which] will require consultation with both tangata whenua, Te Ao Mārama Inc and the New Zealand Archaeological Association Southland File Keeper at the Southland Museum."

This section outlines the involvement of tangata whenua through consultation on resource consent applications as directed by Method 4. It also summarises the involvement of tangata whenua in compliance and monitoring.

3.5.1. Consent processing

¹⁶ Environment Southland, Southland District Council, Invercargill City Council, Gore District Council, Queenstown Lakes District Council and Otago Regional Council.

¹⁷ Te Rūnaka o Awarua, Hokonui Rūnanga, Ōraka/Aparima Rūnaka and Waihōpai Rūnaka.

The Charter outlines the commitments by the Council to involve tangata whenua in resource consent processing. These are that the Council will:

- Ensure that sufficient information is provided by a resource consent applicant on any potential impacts on tangata whenua
- Encourage applicants to consult with tangata whenua as part of the assessment of effects, by directing them to Te Ao Mārama Inc
- Develop a procedure for referral of all resource consent applications to Te Ao Mārama so that they may assess which are of concern to them¹⁸

Specifically for hearings, the Charter requires the Council to provide for:

- Recognition and provision for tikanga Māori and te reo Māori, where appropriate
- Appointment of Māori as Hearing Commissioners (where certification under the Making Good Decisions Programme has been achieved), where appropriate
- Protection of information relating to hearings proceedings that is considered sensitive and confidential by tangata whenua. The information to be protected may go beyond that presented at the hearing.
- Provision of interpreters where necessary (with five working days advance notice)

In practice, there are three ways that tangata whenua are involved in resource consent processes:

- The applicant proactively engages with iwi or hapu while developing their proposal.
- The application affects a statutory acknowledgement area.
- Consent officers identify Te Ao Mārama Inc as an affected party.

This section explains these three avenues for consultation and examines a sample of resource consents to see how consultation has occurred in practice.

3.5.1.1. Involvement in developing proposals

The Council has prepared guidance on information requirements for coastal permit applications which is available on its website.¹⁹ This document states that the Council requires with any application for a coastal permit “the results of consultation with takata whenua including whether or not there are any issues, including wahi tapu, wahi taoka, mahika kai, tauraka waka and customary use of water by kai tahu.” The guide also states that the names of those people consulted are required. Separately, the application form for coastal permits asks for “evidence of any consultation undertaken” and for comments on any cultural effects or physical effects on resources of cultural value. In line with Method 4 of the Plan, this demonstrates that the Council expects some form of consultation with tangata whenua as part of the preparation of coastal permit applications.

¹⁸ Charter of Understanding, para 3.3.5

¹⁹ Environment Southland. (2005). [General information required in all applications \(where applicable\) for coastal permits.](#)

These requirements suggest that consultation is mandatory, however, under the RMA there is no duty for applicants to consult anyone and local authorities cannot compel prospective applicants to carry out consultation in advance of lodging their applications, but may recommend that they do so.

3.5.1.2. Statutory Acknowledgement areas

There are two statutory acknowledgement areas relevant to the coastal marine area: Te Mimi O Tū Te Rakiwhānoa (Fiordland Coastal Marine Area) and Te Ara A Kiwa (Rakiura/Foveaux Strait Coastal Marine Area). Collectively these cover the entirety of Southland's coastal marine area. The Council's internal procedures are that:

- Consent officers send a copy of the application to Te Rūnanga o Ngāi Tahu with a request for any comments to be provided back to the Council within ten working days.
- Any comment from Te Rūnanga o Ngāi Tahu is taken into account when determining whether or not the application will be publicly notified or if iwi groups are served notice via limited notification.

The sample of resource consents provided by the Council show that this procedure is followed by consent officers and that, generally, Te Rūnanga o Ngāi Tahu do not have substantial concerns with proposals.

3.5.1.3. Affected party

As part of its decision making on notification, the Council is required to identify whether there are any affected parties.²⁰ Where Te Ao Mārama is identified as an affected party, applicants will be advised to approach Te Ao Mārama seeking their written approval to the proposal.

The sample of resource consents provided by the Council shows that in the majority of cases, applicants provide written approval from Te Ao Mārama (either proactively or after being informed that Te Ao Mārama was considered to be an affected party). There were few applications where neither Te Rūnanga o Ngāi Tahu or Te Ao Mārama were considered to be affected. Where applications were notified, in about half of the consents examined Te Rūnanga o Ngāi Tahu and/or Te Ao Mārama made submissions.

3.5.2. Compliance and monitoring

From the information available, it does not appear that the Council has a formal procedure for involving tangata whenua in compliance or monitoring activities. The exception to this has been the Southland Coastal Heritage Inventory Project (SCHIP), where volunteers from Te Rūnanga o Ngāi Tahu have been identifying and recording archaeological sites along the coast. This project is discussed in more detail in section 4.7 of this report. From our discussions with Te Ao Mārama, it appears that in recent years there has been a shift towards notifying papatipu rūnanga when incidents occur in their

²⁰ Section 95E(1), RMA

area. In some cases, this has led to discussions with rūnanga about the Council's response and the next steps for addressing any ongoing issues. There have also been discussions within the Council about better recognising the effects of incidents on cultural values by including cultural impacts in the criteria used by Council staff to assess whether to take enforcement action. While these initiatives are in their early stages, and there can be limitations to the involvement of tangata whenua in enforcement action due to the potential for legal action.

3.6. Have we done what we said we would do?

The Plan uses activity classifications ranging from permitted to prohibited to manage activities. Many rules require resource consent and a comparison with other regions suggests the Plan requires resource consent for more activities than in other areas. Consents for whitebait stands make up the majority of consents issued under the Plan. At a basic level, the methods relating to the use of regional rules and resource consents have been implemented as set out in the Plan.

A range of activities have been the subject of ongoing compliance monitoring and enforcement action over the life of the Plan. The most common consent compliance monitoring is of whitebait stands, Fiordland surface water activities, and industry-related consents. Other consents and activities are monitored infrequently. Incidents in the coast have varied in number each year and most relate to either illegal structures or pollution events (such as spills). Broadly, the compliance monitoring and enforcement intents of the Plan have been implemented.

The Council has regularly advocated for Southland's coast through a range of formal means, including making submissions on legislation and planning documents within the region, as well as on resource consent applications received by territorial authorities that affect the coastal environment.

Some guidance has been prepared for users of the coastal marine area, mostly to support the administration of the resource consent process. The Council has used agreements in a number of circumstances to assist resource users to manage their environmental effects, including through the Cruise Ship Deed and the agreements with NZAS and South Port. Overall, a range of non-regulatory methods have been implemented.

The Plan contains clear direction about the level of involvement of tangata whenua, particularly in decision-making on resource consents. The information available shows that there is a well-established procedure for involving Te Rūnanga o Ngāi Tahu and/or Te Ao Mārama in consent processes that is consistently applied by consent officers. There is little involvement in compliance monitoring (although there have been recent initiatives to increase contact with papatipu rūnanga and better consider cultural impacts in enforcement considerations), and only minimal involvement in environmental monitoring. Broadly, the methods relating to consultation have been implemented.

4. Effectiveness of the Plan: Outcomes

Section 1.2 of the Plan states that the principal reasons for adopting the objectives, policies and methods of implementation of the Plan are:

- To promote the sustainable management of the coastal marine area
- To minimise conflicts between the users of the coastal marine area
- To provide for the community's social, economic and cultural wellbeing
- To maintain or enhance the opportunity for future generations to enjoy and utilise the coast

Sections 4-16 contain issues, objectives, policies and rules. The number of provisions in these sections is significant – collectively, they span more than 300 pages. Broadly, the provisions operate at three 'levels':

- Section 4 (fundamental principles) outlines management approaches which underpin the remainder of the provisions
- Section 5 (general matters) addresses key matters for the coastal marine area
- Sections 6–17 (activity-specific) set out provisions for managing specific activities

Section 4 matters have informed the development of the provisions below them, so they are not assessed separately. This section of the report assesses the achievement of the outcomes contained in section 5. It does so by assessing:

- The policy framework outlined in the Plan
- Any monitoring information
- The contribution of any relevant outcomes and ratings from Appendix 1 (which contains assessments of the outcomes in Sections 6–18 of the Plan)
- Where possible and relevant, the assessments undertaken in a sample of decision reports for coastal permits

For consistency with Appendix 1, the following traffic light system has been used to provide an overall rating for each outcome:

	Not enough information to determine whether outcomes have been achieved
	Outcomes have not been achieved
	Outcomes may have been achieved or outcomes may have been partially achieved
	Outcomes have been achieved

4.1. Natural character

4.1.1. Outcomes

The outcome sought from section 5.1 is that the natural character of the coastal environment is preserved from inappropriate subdivision, use and development.

4.1.2. Methods

This outcome is intended to be achieved through the following provisions:

- Objective 5.1.1
- Policies 5.1.1, 5.1.2

4.1.3. Performance

Objective 5.1.1 is to preserve the natural character of the coastal marine area. Two policies seek to implement this direction by adopting the relevant policies in the NZCPS 1994 (Policy 5.1.1) and by protecting areas from noise intrusion where the absence of unnatural noise is a significant component of the natural character of the area (Policy 5.1.2). These provisions, and particularly Policy 5.1.1, are supported by the Values in Part B of the Plan which, for each part of the Southland coast, include information on the natural character and landscape values of that area.

Three landscape studies have been prepared over the life of the Plan in 1997,²¹ 2006²² and 2017²³ which discuss, in varying levels of detail, natural character as it relates to landscape values. These reports are not directly comparable as they use different methodologies, however, all indicate that the majority of the Southland coast contains high natural character values, and particularly those areas which are remote from human settlement (such as Fiordland and Rakiura/Stewart Island). In recent years, there have been concerns raised about the level of activity occurring in Milford Sound, particularly the significant increase in cruise ship activity.²⁴ Over the past ten years there has been a 135% increase in cruise ship passenger numbers in Milford Sound which may be having adverse effects on the natural character of the area.²⁵

The sample of consents provided for structures and commercial surface water activities suggests that effects on natural character are identified and considered by officers in their assessment of all applications for activities in the coastal marine area. However, there is inconsistency in the provisions that are identified and applied, with some officers identifying and assessing against the provisions in section 5.1 as well as the activity-specific provisions in Sections 6 – 16 and others focusing only on the activity-specific provisions. This suggests that the relationship between these provisions is unclear. It appears from the decision reports that consent officers generally do not find the provisions in section 5.1 particularly helpful for making decisions – even when these provisions are identified, they are generally not assessed against in detail. From the consents provided that had conditions attached, it appears that officers do recommend conditions relating to preserving natural character where these

²¹ Boffa Miskell. (1997). *Southland regional landscape assessment*. Prepared for the Southland Regional Council.

²² Boffa Miskell. (2006). *Southland coastal landscape study: discussion document*. Prepared for Environment Southland and Southland District Council.

²³ Boffa Miskell. (2017). *Stewart Island: Landscape and Coastal Natural Character Study*. Prepared for Environment Southland.

²⁴ See feedback from DOC, Southland Conservation Board, Milford Sound Tourism and Real Journeys on the Council's *Use and development in the Southland coastal marine area: discussion document*.

²⁵ Environment Southland. (2018). *Use and development in the Southland coastal marine area: discussion document*. Environment Southland, Invercargill.

are appropriate, for example conditions regarding the form and finishing of structures and the level of noise from activities.

It does not appear that cumulative effects on the natural character are regularly considered as part of the assessment of consent applications. Generally, assessments are restricted to the effects of a structure or an activity on the surrounding environment, but not the overall contribution of structures or activities on the surrounding environment. This may be because the Plan does not provide any clear direction on what the 'capacity' is of the environment to absorb these types of effects. There is a risk that overlooking cumulative effects may eventually lead to degradation of natural character values in some areas – for example, if more structures are approved in part because there are already structures in place. Cumulative effects of all kinds are notoriously difficult to manage.

It is noted that the Consents Team actively update a commercial surface water activity table which provides information on the number of commercial surface water activity consents that have been granted and the number of trips per year that have been approved in each of the specific Sounds within Fiordland. This table is an example of a non-statutory method of measuring the potential cumulative effects of surface water activities.

Table 3 below outlines the relevant outcomes and their ratings from the assessment contained in Appendix 1. The focus of these outcomes ranges from specific (for example, 10.5.3) to broad and including other matters in addition to natural character (for example, 11.2.5) meaning they do not directly or comprehensively establish the achievement of the outcome sought in section 5.1, however, they do contribute. Apart from one case where there was not enough information available, the relevant outcomes were considered to be either partly or fully achieved.

Table 3: Natural character – relevant outcomes and ratings from Appendix 1

Outcome	Rating
10.5.3: Preserve the distinctive natural character of the Waikawa River Mouth to Toetoes Estuary coastline.	
11.2.3: Structures do not adversely affect the natural character and amenity values of Fiordland and Stewart Island.	
11.2.4: Permanent structures/buildings in the coastal marine area are of a form and are finished so they do not degrade the natural character of an area.	
11.2.5: Adverse effects on the natural character, amenity, navigation safety of the coastal marine area from lighting and glare are avoided, remedied or mitigated.	
11.7.4.1: Natural character and amenity values are enhanced by maintenance of boatsheds and removal of boatsheds that are in a state of disrepair.	
16.4.2: The landscape, amenity and natural character values, that attract people to Deep Cove, will be maintained.	

Overall, it appears that this outcome has generally been achieved. However, there are growing demands on particular parts of the coastal marine area which risk degrading natural character values, mostly from increased tourism activities in areas known for their remoteness. There is a lack of

direction in the Plan about acceptable ‘thresholds’ for activities which can adversely affect natural character, meaning there is a risk that the outcome sought is not achieved in future due to cumulative effects.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.2. Natural features and landscapes

4.2.1. Outcomes

The outcomes sought from section 5.2 are:

- **5.2.1:** The outstanding natural features and landscapes in the region's coastal marine area are protected.
- **5.2.2:** Tangata whenua values placed on landscape and natural features are recognised and provided for.

4.2.2. Methods

Unlike other parts of section 5, there are no specific objectives for each of these outcomes. As it appears the provisions are intended to work together to achieve both outcomes, the following provisions are considered to be relevant for achieving both outcomes:

- Objective 5.2.1
- Policies 5.2.1, 5.2.2, 5.2.3
- Appendix 7

4.2.3. Performance

Objective 5.2.1 is to protect outstanding natural features and landscapes in the region’s coastal marine area from the adverse effects of use, development and subdivision. This is similar, but not identical, wording to the direction in section 6(b) of the RMA which requires that outstanding natural features and landscapes are protected from inappropriate subdivision, use and development. There are three policies to implement this objective: Policy 5.2.1 (Outstanding natural features and landscapes), 5.2.2 (Geological sites and landforms) and 5.2.3 (Importance of landscape and natural features to tangata whenua). Additionally, Appendix 7 contains an inventory of important geological sites and landforms, sourced from a 1993 Geological Society of New Zealand publication.

Policy 5.2.1 is to identify and protect outstanding natural features and landscapes within the coastal marine area. The explanation appears to then implement the identification aspect of this direction by identifying Te Wahipounamu (South-West New Zealand) World Heritage Area (Fiordland) and Rakiura/Stewart Island as outstanding landscapes. The explanation also states that the entire

Southland coast may be considered outstanding. Explanations do not have legal effect²⁶ so it is risky to include such a critical component of the policy framework in this manner. It is also unhelpful to include areas that “may” be considered outstanding as it is not clear how decision-makers should use this information. The explanation cross-refers to Appendix 4 (Coastal landscape assessment) but does not provide any direction on how Appendix 4 is to be used in relation to this topic.

Policy 5.2.2 takes a more traditional approach by listing the geological sites and landforms for which coherence and integrity is to be protected. As noted in section 5.2.3 of this report, 40 of the sites listed are also listed in Appendix 7 but there is one site listed in Appendix 7 that is not included in Policy 5.2.2. The reason for this is unclear. Rather than including two separate lists of the same matters, it is standard practice to include the list once and cross-refer as needed. The explanation to the policy notes that these sites have been identified as nationally or regionally important. This terminology can be helpful to include in the policy wording itself, rather than only in the explanation. The information underpinning this list is from a 1993 publication and it is not clear whether there has been an updated report produced.

Policy 5.2.3 is to consult with tangata whenua and take into account tangata whenua cultural, traditional and spiritual values in relation to issues affecting landscapes and natural features. General consultation with tangata whenua is discussed later in this report in section 4.6 and is not repeated here other than to acknowledge that consultation has generally occurred regularly with tangata whenua on a range of matters managed in the Plan.

Although not identified in section 5.2, Rules 5.3.1 (Information signs), 10.4.5 (Reclamations in Fiordland waters and at sites of cultural and heritage value) and 10.5.9 (Disturbance of the foreshore or seabed at sites of cultural, heritage, archaeological or geological value) specifically refer to either the sites in Policy 5.2.2 or Appendix 7 and make some of these types of activities either discretionary (5.3.2) or non-complying (10.4.5, 10.5.9). It is not clear why only these provisions have referred directly to the list of sites given that other types of activities (for example, structures) are also likely to have the potential to adversely affect natural features and/or landscapes.

Table 4 lists two outcomes from Appendix 1 that contribute to the achievement of Outcome 5.2.1. They relate specifically to management of marine farming and Deep Cove so are narrow in focus. Marine farming is prohibited in areas with significant landscape values, hence the rating below. There was not enough information about the state of the values referenced at the time the outcome was written or currently to assess the performance of Outcome 16.4.2.

Table 4: Natural features and landscapes - relevant outcomes and ratings from Appendix 1

Outcome	Rating
15.1.3: Marine farms are not located where they could adversely affect areas containing significant values, including: <ul style="list-style-type: none"> • significant indigenous vegetation; 	

²⁶ Quality Planning. (2013). *Writing provisions for plans*, p.22.

<ul style="list-style-type: none"> • habitats of indigenous fauna; • significant landscape values; • high natural value; or where they could increase deposition in Natural State waters.	
16.4.2: The landscape, amenity and natural character values, that attract people to Deep Cove, will be maintained.	

4.2.3.1. Outcome 5.2.1: The outstanding natural features and landscapes in the region's coastal marine area are protected.

Overall, it is difficult to assess whether this outcome has been achieved. The Plan does identify features and landscapes that are either nationally or regionally important. However, it does so in a reasonably loose manner, particularly for landscapes. The review of the Plan will provide an opportunity to 'tighten' this aspect of the policy framework. There does not appear to have been a consistent approach taken to protecting these features and landscapes – some rules refer specifically to them and apply a restrictive activity status (such as non-complying) while other rules that manage activities which may affect these matters do not. It does not appear that there has been monitoring of natural features or landscapes so it is difficult to know whether they have been protected.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.2.3.2. Outcome 5.2.2: Tangata whenua values placed on landscape and natural features are recognised and provided for.

It is not clear whether the natural features and landscapes identified in the provisions reflect tangata whenua values. In relation to the policy framework identified in the Plan, and as discussed elsewhere in this report, Ngāi Tahu and Te Ao Mārama are consulted regularly on coastal permits and their views taken into account, suggesting that Policy 5.2.3 has been implemented. Overall it appears this outcome has been at least partly achieved.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.3. Amenity values

4.3.1. Outcomes

There are a range of outcomes sought from section 5.3. The first three outcomes relate to amenity values generally while the remaining three relate to specific topics, as shown below:

- General amenity values

- **5.3.1:** There are no significant adverse effects on amenity values, nor public safety, or public enjoyment of the coast from the use and development of the coastal marine area’s resources.
- **5.3.2:** Amenity values will be enhanced in areas where they have been degraded.
- **5.3.3:** The contribution that open space makes to the amenity values in the coastal environment will be recognised, maintained and enhanced.
- Signs
 - **5.3.4:** The visual impact of signs in the coastal marine area is minimised.
- Safety
 - **5.3.5:** A safe environment is maintained for all users of the coastal marine area.
- Noise
 - **5.3.6:** People's health and well-being are not adversely affected by noise in the coastal marine area.

4.3.2. Methods

The outcomes above are intended to be achieved through the following provisions:

- Outcome 5.3.1
 - Objective 5.3.1
 - Policies 5.3.1, 5.3.3, 5.3.5, 5.3.6, 5.3.11, 5.3.12, 5.3.15, 5.3.16
 - Rules 5.3.1, 5.3.2, 5.3.3, 5.3.5, 5.3.6, 5.3.8, 10.2.1, 12.2.4
- Outcome 5.3.2
 - Objective 5.3.2
 - Policy 5.3.7
- Outcome 5.3.3
 - Objective 5.3.3
 - Policies 5.3.2, 5.3.6
 - Rules 5.3.1, 5.3.2
- Outcome 5.3.4
 - Objectives 5.3.4, 5.3.5
 - Policies 5.3.4, 5.3.8, 5.3.9, 5.3.10, 5.3.21
 - Rule 5.3.1, 5.3.2
- Outcome 5.3.5
 - Objective 5.3.6
- Outcome 5.3.6
 - Objective 5.3.7
 - Policies 5.3.1, 5.3.6, 5.3.13, 5.3.14, 5.3.15, 5.3.16, 5.3.17, 5.3.18, 5.3.19, 5.3.20, 16.3.1, 16.3.2, 16.3.3, 16.3.4, 16.3.5
 - Rules 5.3.4, 5.3.5, 5.3.6, 5.3.7, 5.3.8, 5.5.1, 16.3.1, 16.3.2, 16.3.3, 16.3.4

4.3.3. Performance

4.3.3.1. Outcome 5.3.1: There are no significant adverse effects on amenity values, nor public safety, nor public enjoyment of the coast from the use and development of the coastal marine area’s resources.

Objective 5.3.1 is to ensure that the use and development of the resources of the coastal marine area will not have significant adverse effects on amenity values, nor on the safety of the public, nor on the enjoyment of the coast by the public. This is a broad and multi-faceted objective. Eight policies are identified as implementing this direction: 5.3.1 (amenity values), 5.3.3 (deposition of solid waste), 5.3.5 (use of natural finishing materials), 5.3.6 (activities and structures), 5.3.11 (grazing, supplementary feeding and keeping of livestock), 5.3.12 (safety of the public), 5.3.15 (amenity values – artificial noise) and 5.3.16 (health and well-being of people). These policies vary in the scope of their focus from broad (for example, Policy 5.3.1) to specific (for example, Policy 5.3.11). Similar to the objective, the policies are multi-faceted.

The Plan identifies eight rules relevant for implementing this direction: 5.3.1 and 5.3.2 (signs), 5.3.3 (livestock on Crown Land in the coastal marine area), 5.3.5 (Bluff Port noise limits), 5.3.6 (Noise limits for ships in motion), 5.3.8 (Other noise limits), 10.2.1 (Disposal of solid waste into the coastal marine area) and 12.2.4 (Use of waste metal as part of coastal protection works).

The policy framework in this section is unclear. Both the outcome and objective are very broad in nature, which translates through to the policies which cover a wide range of matters from broad to specific. Arguably there are many other policies in other parts of the Plan that would also contribute to achieving this outcome. The basis for referring specifically to the identified rules is also unclear as it would appear many other rules in the Plan are also relevant to achieving this outcome. There are many outcomes assessed in Appendix 1 which are relevant to achieving outcome 5.3.1, this assessment outcomes are that are not included here. The outcome is so broad it is unlikely that attempting to determine which of the outcomes in Appendix 1 are relevant to outcome 5.3.1 would assist in understanding whether it has been achieved.

On a more minor note, the policy direction on livestock grazing and feeding does not appear to have been translated through to the rules. While Policy 5.3.11 is to avoid these activities, Rule 5.3.3 only makes the activities prohibited where they occur on Crown land.

It is not possible to determine whether the outcome has been achieved in practice due to a lack of information. If it has been achieved, it is unclear how much can be attributed to the policy framework given the general nature of the provisions and the potentially very broad scope of their application.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.3.3.2. Outcome 5.3.2: Amenity values will be enhanced in areas where they have been degraded.

Objective 5.3.2 is to, where practicable, enhance the amenity values of areas where those values have been degraded by past activities. The explanation does not specify where these areas may be or the level of degradation they have experienced. Policy 5.3.7 is, where practicable, to enhance the amenity of the coastal marine area as opportunities arise. There are no relevant rules identified.

It is not clear how the Plan intended this outcome to be achieved as the direction in the objective and policy is broad and there are no methods identified to implement the direction. The explanation to the policy seems to suggest that the opportunities referred to are likely to arise through resource consent applications, and that is the process which is intended to be used to identify areas where values are degraded and to enhance amenity in response. Without information about the areas where values are considered to be degraded, or the level of degradation (and subsequently the level of enhancement required), it is unclear how consent officers can implement this direction.

Overall, this outcome is unlikely to have been achieved as the direction provided is not specific or clear enough to have been implemented by consent officers.

Rating	Outcomes have not been achieved
---------------	---------------------------------

4.3.3.3. Outcome 5.3.3: The contribution that open space makes to the amenity values in the coastal environment will be recognised, maintained and enhanced.

Objective 5.3.3 is to recognise, maintain and enhance the contribution that open space makes to the amenity values in the coastal environment. This is largely a repeat of Policy 3.1.3 in the NZCPS 1994. Two policies implement this objective: Policy 5.3.2 (maintain and enhance open space values) and Policy 5.3.6 (limiting activities and structures to those with a functional need to locate in the coastal marine area, contribute to the amenities of the area or are a necessary and functional part of activities also undertaken on adjoining land). The rules identified as relevant relate to signs. These are discussed in section 4.3.3.4 and that discussion is not repeated here.

The policy framework in this section is unclear. The outcome and objective are broad in scope, as well as Policy 5.3.2, making it difficult to understand which methods are intended to achieve the outcome. Policy 5.3.6 suggests that the primary method for achieving the outcome is by limiting activities and structures in the coastal marine area. However, the only rules identified relate to signs. It may be that the objective and policies outline a management preference which informs the construction of the activity-specific provisions in Sections 6–16, rather than managing activities themselves. If this is the case, the direction in these provisions would be more appropriately located within section 4 which operates at a similar level.

Overall, there is not enough information to assess the achievement of this outcome.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.3.3.4. Outcome 5.3.4: The visual impact of signs in the coastal marine area is minimised.

Objective 5.3.4 is to provide for the erection of signs in the coastal marine area that have a functional need to locate there and Objective 5.3.5 is to minimise the visual impact of signs in the coastal marine area. The relevant policies provide direction on lighting (Policy 5.3.4), necessary signs (Policy 5.3.8), visual effects from signs (5.3.9) and the location of signs (Policy 5.3.10). Although the Plan does not identify Policy 5.3.21 (Advertising) as relevant to this outcome, it is not referenced in relation to any

other objective and appears to be relevant to this outcome as it provides direction on the use of commercial advertising in the coastal marine area.

Rule 5.3.1 provides for some signs as permitted activities where they meet the standards outlined in the rule, which include their purpose, size, and effects on natural landscape features and areas of historical or spiritual significance. Rule 5.3.2 requires any signs not complying with Rule 5.3.1 to seek resource consent as a discretionary activity. Broadly, the policy framework seeks to achieve the outcome by restricting signs in the coastal marine area to only those which need to be located there (as determined by Rule 5.3.1) and, for those signs, to restrict their size and location.

The permitted activity rule is designed to achieve the outcome by placing restrictions on signs which can be erected without resource consent. As the restrictions are narrow, it is likely that they are contributing to the achievement of this outcome, although as there is no information on the number of type of signs erected as permitted activities it is difficult to be certain.

From the information provided, there have been at least two resource consent applications relating to signs – one in 2012 for a sign on the South Port wharf at Foreshore Road, Bluff and one in 2017 as part of a larger package of activities relating to Real Journeys Limited’s replacement pontoon at Deep Cove. The 2012 application was to re-consent an existing sign. The provisions in section 5.3 were identified as relevant and the assessment concluded that the proposal was consistent with these as the sign had existed for some time and was part of the landscape. Conditions were imposed restricting the size, form and finish of the sign and requiring it to be maintained in good repair. The consent officer’s assessment of the 2017 application did not include any specific assessment of the sign-related component of the proposal and the provisions in section 5.3 were not identified as relevant. It is assumed that the signage proposed therefore met the permitted activity requirements in Rule 5.3.1.

Overall, it is likely that the outcome has been at least partially achieved.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.3.3.5. Outcome 5.3.5: A safe environment is maintained for all users of the coastal marine area.

Objective 5.3.6 is to maintain a safe environment for all people using the coastal marine area. The Plan does not identify any vertical cross-references, meaning there are no specific provisions intended to achieve this outcome. The explanation to the objective does cross-reference Sections 10.2 (Deposition) and 12.2 (Coastal protection works), however, none of the outcomes in these sections relate to safety. Policy 5.3.12 is to ensure that activities that take place in the coastal marine area do not endanger public safety and is considered relevant to achieving this outcome, although it has not been identified as relevant by the Plan. The only rule intended to implement this policy is Rule 5.3.3 which makes grazing, supplementary feeding or keeping of livestock on Crown land in the coastal marine area a prohibited activity. However, a review of the consent information provided showed that Policy 5.3.12 is regularly considered when assessing resource consent applications for non-whitebait structures such as applications for wharfs, boat sheds and swing moorings.

The policy framework in this section is unclear. On face value, the only provision identified to achieve the outcome is Objective 5.3.6. It is unlikely that an objective without any supporting policies or

methods can achieve the outcome sought. Policy 5.3.12 does provide slightly more direction as to how the outcome is to be achieved. From an implementation perspective Policy 5.3.12 is used to ensure that this outcome is being considered when considering applications for non-whitebait structures. However, the only relevant rule identified relates to livestock management on Crown land. It would be difficult to monitor this outcome and as such there is no supporting information available.

It is not possible to determine whether the outcome has been achieved in practice due to a lack of information. If it has, it is unclear how much can be attributed to the policy framework given the lack of implementation methods identified.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.3.3.6. Outcome 5.3.6: People's health and well-being are not adversely affected by noise in the coastal marine area.

Objective 5.3.7 is to ensure that the effects of noise in the coastal marine area do not adversely affect people's health and well-being, natural character and amenity values. Two of the policies identified relate more generally to amenity values and are therefore discussed in relation to Outcome 5.3.1 which they are also identified as relevant for. The remainder of the policies identified in section 5.3 (5.3.13 – 5.3.20) provide specific direction on managing noise. The policies range in their focus and include statements about potential future management options (Policies 5.3.13 – noise performance standards and 5.3.14 – Transfer the enforcement of noise limits) and identification of matters for protection (Policies 5.3.15 – Amenity values and 5.3.16 – Health and well-being of people) as well as direction on managing noise from particular activities or locations (Policies 5.3.17 – 5.3.20).

There are four rules setting noise limits for permitted activities:

- Rule 5.3.4: General noise limits
- Rule 5.3.5: Bluff Port Zone noise limits
- Rule 5.3.6: Noise limits for ships in motion
- Rule 5.3.7: Noise limits for ships using Areas A, B, C and D on the lower Ōreti River

Rule 5.3.8 is a 'catch-all' provision, providing for activities that do not comply with Rules 5.3.4–5.3.7 as discretionary activities. Although not identified as relevant by the Plan, Policies 16.3.1–16.3.5 provide additional direction on managing noise in the internal waters of Fiordland and Rules 16.3.1–16.3.4 manage activities with the purpose of controlling noise emission. These provisions are therefore considered relevant to achieving this outcome.

The noise limits in Rule 5.3.4 are 5 decibels (dbA) lower than the generally acceptable noise limits outlined in NZS 6802:2008 which are intended to be guidelines for the reasonable protection of health and amenity associated with the use of land for residential purposes.²⁷ This may indicate that they are fairly stringent limits as residential activities are considered noise sensitive, although some of the parts of the coastal marine area which these limits apply to will be highly remote and therefore are likely to

²⁷ NZS 6802:2008, p. 28

have low ambient noise levels. There have not been any noise complaints to the Council in the coastal marine area outside Bluff Port, which may suggest that these limits are generally acceptable to the community.

The noise limits in Rule 5.3.5 are based on those recommended in NZS 6809:1999 which is a standard used to manage Port noise in many parts of New Zealand.²⁸ As this standard remains the most up-to-date version, it is likely that the limits in this rule are appropriate for managing noise from ports.

Rule 5.3.6 contains a ‘single event’ noise limit of 90 dBA for noise from ships in motion, which is equivalent to the noise emitted from a lawnmower.²⁹ There is no limit on the ongoing noise emitted from ships. The explanation to this rule states that this limit is set to protect the amenity of the coastal marine area but that it does not manage the cumulative effects of a number of ships. There have not been any noise complaints to the Council in the coastal marine area outside South Port, which may suggest that these limits are generally acceptable to the community. However, given the rule explicitly does not account for cumulative effects, there is increasing ship traffic in some parts of the coastal marine area and many parts of the coastal marine area are noise sensitive due to their remoteness, the review of the Plan provides an opportunity to consider whether the current noise levels have been appropriately set.

The noise limits in Rule 5.3.7 recognise that the lower Ōreti River is a popular location for users of power boats and personal water craft. The limits, although relatively high compared to the limits in Rule 5.3.7, are designed to allow for a level of recreational use sought by the community. As for other rules, there have not been any complaints regarding noise at this location which may suggest the limits are acceptable by the community.

From the information available, there have been at least four applications received for activities which have generated noise effects – one for filming (including pyrotechnic effects) in Milford Sound and three for commercial surface water activities in Fiordland. From the documents available, it appears that consent officers tend to identify and assess the effects of noise on aspects of the physical environment (for example, amenity and natural character) rather than the health and well-being of people. There is a close relationship between the physical environment and people’s experience of it (including as it contributes to their health and well-being) so it may be that protecting one adequately contributes to protecting the other.

Section 16.3 contains policies and rules for managing noise in the internal waters of Fiordland which are considered relevant to achieving this outcome. Table 5 below outlines the relevant outcomes and ratings for that section contained in Appendix 1. These ratings are largely based on the fact that there is no available information on noise levels in Fiordland.

Table 5: Noise – relevant outcomes and ratings from Appendix 1

Outcome	Rating
---------	--------

²⁸ Including, for example, Wellington, Christchurch, New Plymouth, Timaru and Napier.

²⁹ Ministry of Health. (2018). *Noise around the home*. Retrieved from https://www.health.govt.nz/system/files/resource-files/HE1122_Noise%20around%20the%20home_0.pdf

16.3.1: The low levels of ambient noise will be maintained.	
16.3.2: Activities in Fiordland will occur in a manner that minimises noise impacts on ambient noise levels.	

The National Planning Standards released in April 2019 contain a standard for Noise and Vibration Metrics which is relevant for these provisions. The current provisions refer to three New Zealand Standards:

- NZS 6801:1991 – Measurement of sound (superseded by NZS 6801:2008)
- NZS 6802:1991 – Assessment of environmental sound (superseded by NZS 6802:1999 and again by 6802:2008)
- NZS 6809:1999 – Acoustics – Port Noise Management and Land Use Planning (still current)

The Standards include reference to five other New Zealand Standards which may be relevant for the review of the Plan. One of the mandatory directions in the Noise and Vibration Metrics Standard is that any rules managing noise must be consistent with the assessment methods in Sections 6 and 7 of NZS 6802:2008. It is not clear whether the previous version of NZS 6802 is comparable to the current version. The review of the Plan will need to ensure that any rules managing noise give effect to the Standards.

Assuming that the noise limits in the Plan have been set with regard to the health and well-being of people, it is likely that the outcome has been achieved. As the rule managing noise from ships in motion does not account for cumulative effects, there is a risk that this outcome is not achieved or may not be achieved in the future where there is increased ship traffic compared to the level occurring when the Plan was developed.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.4. Vegetation and fauna

Section 5.4 contains three sub-sections which focus on different aspects of this topic: ecosystems, planting and introduction of exotic vegetation in the coastal marine area, and exotic fauna introduction.

4.4.1. Ecosystems

4.4.1.1. Outcomes

The outcomes sought from section 5.4.1 are:

- **5.4.1.1:** Areas of significant indigenous vegetation and habitats of significant indigenous fauna within the coastal marine area are protected.
- **5.4.1.2:** The intrinsic values of ecosystems in the coastal marine area are protected.
- **5.4.1.3:** The life-supporting capacity of ecosystems is safeguarded.

4.4.1.2. Methods

The outcomes above are intended to be achieved through the following provisions:

- Outcome 5.4.1.1
 - Objective 5.4.1.1
 - Policies 5.4.1.1, 5.4.1.2, 5.4.1.3, 5.4.1.4, 11.2.1
 - Rule 11.2.6
- Outcome 5.4.1.2
 - Objective 5.4.1.2
 - Policies 5.4.1.1, 5.4.1.2, 5.4.1.4
- Outcome 5.4.1.3
 - Objectives 5.4.1.1, 5.4.1.2
 - Policies 5.4.1.1, 5.4.1.2, 5.4.1.3, 5.4.1.4, 11.2.1
 - Rule 11.2.6

4.4.1.3. Performance

Outcome 5.4.1.1: Areas of significant indigenous vegetation and habitats of significant indigenous fauna within the coastal marine area are protected

Objective 5.4.2.1 is to protect areas of significant indigenous vegetation and habitats of significant indigenous fauna within the coastal marine area. The explanation lists a number of matters that significance “could be related to”, including uniqueness, quality, and diversity. There are five policies which implement this direction: 5.4.1.1 (Avoid disturbance of areas of significant indigenous vegetation and significant habitats of indigenous fauna), 5.4.1.2 (Protect habitats of species that are commercially, recreationally, traditionally or culturally important), 5.4.1.3 (Preserve habitats of distinctive communities), 5.4.1.4 (Promote understanding of ecosystem interactions) and 11.2.1 (New structures and extensions to existing structures). The first three policies use fairly directive language such as “avoid” (5.4.1.1), “protect” (5.4.1.2) and “preserve” (5.4.1.3) but are not specific about how those directions are to be implemented.

There is one rule identified to implement these provisions: Rule 11.2.6 which is a ‘catch all’ rule for structures which are not the subject of a specific rule, making these activities non-complying in particular parts of the Fiordland and Rakiura/Stewart Island coastal marine areas and discretionary elsewhere.

Objective 5.4.2.1 and Policies 5.4.1.1 to 5.4.1.4 address matters that are directly related to Outcome 5.4.1.1. The rationale for specifically identifying Policy 11.2.1 and Rule 11.2.6 is unclear. It may be that structures were considered to be a particular threat to indigenous vegetation and habitats of indigenous fauna, however, this is not explained in section 5.4.1. It is also not clear why only one of the structure rules was considered to be relevant, if structures generally were considered an issue.

The introduction to section 5.4.1 states that:

“At the time of preparing this Plan, information is lacking as to the precise location of the areas of significant indigenous vegetation and significant habitats of indigenous fauna, although particular sites are known and areas generally identified (refer to Appendix 5). During the life of this Plan, the Council proposes to carry out investigations to identify such areas and to have further regard to their protection.”³⁰

Appendix 5 outlines the Areas Containing Significant Values. Some parts of the table in Appendix 5 provide an indication of significance (for example, by referring to international or national value) but other parts simply describe the vegetation and fauna (for example, wading and waterfowl species). None of the relevant provisions specifically refer to Appendix 5, so unless a Plan user had also read the introduction to section 5.4.1 this link could be overlooked. This is a fairly ‘loose’ policy framework and allows for arguments to be made about levels of significance and locations of relevant areas.

Appendix 5 indicates that some of Southland’s estuaries (particularly New River and Toetoes) are important habitats for bird and fish species, although it is not clear whether this constitutes “significance” for the purpose of these provisions. As discussed in Appendix 1 of this report, those estuaries are showing signs of eutrophication and expansive degraded areas which demonstrates that their habitats are not being protected.

It does not appear that the further investigations by the Council referred to above have occurred, which makes it difficult to assess the achievement of this outcome. The RPS 2017 contains a schedule of threatened, at risk, and rare habitat types in Southland and significant assessment criteria for determining areas of significant indigenous vegetation and significant habitats of indigenous fauna. However, the schedule is terrestrial-focused and does not include marine habitats. The schedule notes that this information is intended to be added in conjunction with the review of the Plan.

There is only one outcome in Appendix 1 of this report which is specifically relevant to this outcome, although arguably many others may be. This outcome and its rating are identified below in Table 6. The main reason for the rating is that marine farming is prohibited in areas which are considered to have significant values. This is only partly relevant to outcome 5.4.1.1 as its focus is wider than the effects of marine farming.

Table 6: Significant vegetation and habitats - relevant outcomes and ratings from Appendix 1

Outcome	Rating
15.1.3: Marine farms are not located where they could adversely affect areas containing significant values, including: <ul style="list-style-type: none"> • significant indigenous vegetation; • habitats of indigenous fauna; • significant landscape values; • high natural value; or where they could increase deposition in Natural State waters.	

³⁰ Regional Coastal Plan for Southland, section 5.4.1, Chapter 5, p. 27

Overall, there is not enough information to determine whether this outcome has been achieved. The policy framework contains some direction but lacks clarity about how that direction is intended to be implemented, making it unlikely that the provisions are sufficient to achieve the outcome.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

Outcome 5.4.1.2: The intrinsic values of ecosystems in the coastal marine area are protected

Objective 5.4.1.2 is to protect the intrinsic values of ecosystems in the coastal marine area. There are three policies identified which implement this direction: 5.4.1.1 (Avoid disturbance of areas of significant indigenous vegetation and significant habitats of indigenous fauna), 5.4.1.2 (Protect habitats of species that are commercially, recreationally, traditionally or culturally important), 5.4.1.4 (Promote understanding of ecosystem interactions). These policies are discussed above in relation to Outcome 5.4.1.1 and that discussion is not repeated here other than to note that policies do not state (in either the policies or their explanations) how their content is to be implemented. The introduction to section 5.4.1 does not contain any further information, other than to note the requirement in section 7(d) of the RMA to have particular regard to the intrinsic values of ecosystems.

Overall, there is not enough information to determine whether this outcome has been achieved. The policy framework contains some direction but lacks clarity about how that direction is intended to be implemented, making it unlikely that the provisions are sufficient to achieve the outcome. It may be that this outcome is intended to be delivered through a range of other provisions in the Plan, however, these are not identified.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

Outcome 5.4.1.3: The life-supporting capacity of ecosystems is safeguarded

Unlike the other outcomes in section 5.4.1, there is no specific objective related to this outcome, nor are any policies or rules identified as relevant. It is assumed, therefore, that this outcome is intended to be achieved through all of the provisions in section 5.4.1. Those provisions have all been discussed above in relation to Outcomes 5.4.1.1 and 5.4.1.2 and that discussion is not repeated here. For this reason, the rating below reflects the ratings given to the previous two outcomes.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.4.2. Planting and introduction of exotic vegetation

4.4.2.1. Outcomes

The outcomes sought from section 5.4.2 are:

- **5.4.2.1:** Exotic species of plant are not introduced into the coastal marine area where it is likely their introduction could have adverse effects.
- **5.4.2.2:** Pest plants are either eradicated, confined or their spread is reduced, in the coastal marine area.

4.4.2.2. Methods

The outcomes above are intended to be achieved through the following provisions:

- Outcome 5.4.2.1
 - Objective 5.4.2.1
 - Policies 5.4.2.1, 5.4.2.3, 5.4.2.4
 - Rules 5.4.2.1, 5.4.2.5, 5.4.2.6
- Outcome 5.4.2.2
 - Objective 5.4.2.2
 - Policies 5.1.1, 5.2.1, 5.2.3, 5.4.2.5, 7.3.5.4, 7.3.5.5
 - Rules 5.4.2.6, 5.4.2.7, 7.3.5.1, 7.3.5.2

4.4.2.3. Performance

Outcome 5.4.2.1: Exotic species of plant are not introduced into the coastal marine area where it is likely their introduction could have adverse effects

Objective 5.4.2.1 is to avoid the introduction of plant species, including phytoplankton, into the coastal marine area in circumstances that could result in adverse environmental effects. This is implemented through three policies: 5.4.2.1 (Introduction of new plant species), 5.4.2.2 (Protect significant species) and 5.4.2.3 (Preference for indigenous species when planting). Policy 5.4.2.1 carries through the direction in Objective 5.4.2.1 by aiming to prevent the introduction of any new plant species where information suggests it may adversely affect indigenous vegetation or indigenous fauna, alter coastal processes or natural character. Policy 5.4.2.3 supports the objective by stating a preference for indigenous species of local genetic stock where planting is needed in the coastal marine area. Policy 5.4.2.4 is to only allow the planting of exotic species where the plant is established in the area, is compatible with the coastal marine area and its wider environment and will not have adverse effects.

These provisions are implemented through three rules which make the introduction of new exotic vegetation a discretionary activity (Rule 5.4.2.1), introduction of exotic vegetation into Fiordland and Rakiura/Stewart Island a prohibited activity (Rule 5.4.2.5) and introduction of unwanted organisms and/or pests as defined by the Biosecurity Act 1993 into the coastal marine area a prohibited activity (Rule 5.4.2.6). Although not identified as relevant to this outcome, it appears Rule 5.4.2.2 is also relevant as it manages the introduction of exotic species already present, making the increase in numbers a discretionary activity. This is reasonably strong policy framework – the combination of requiring resource consent and prohibiting particular activities is well-designed to implement the direction in Objective 5.4.2.1 and Policy 5.4.2.1 particularly. From the information available it does not appear that any consents have been granted for these activities.

There is one outcome in Appendix 1 that is relevant to the achievement of Outcome 5.4.2.1, outlined in Table 7 below. The reason for this rating is largely based on the ongoing programmes to eradicate *Undaria pinnatifida* (Asian seaweed) from Fiordland since it was discovered in 2010 and recent action by the Council to introduce the Fiordland Marine Pathway Management Plan under the Biosecurity Act 1993 to provide an additional level of regulation to assist with preventing marine pest incursions in Fiordland. These events suggest that the Plan has not been effective in achieving the outcome sought in section 5.4.2, although arguably this outcome relates to deliberate introduction rather than accidental which is likely to be how most species are introduced.

Table 7: Exotic vegetation - relevant outcomes and ratings from Appendix 1

Outcome	Rating
7.3.8.2.2: Minimising the risk of introducing unwanted or pest organisms to the coastal marine area of Southland as a consequence of cleaning the hulls of ships and structures.	

The Biosecurity Act 1993 sets the framework for the management of plant and animal pests and provides for the development of regional pest management strategies. Regional plans, including regional coastal plans, are required to have regard to management plans prepared under other Acts.³¹ Given the time that has elapsed since the Plan was drafted, the changes to the types of pests posing threats to Southland’s coastal marine area and the development of a new regional pest management plan, the review of the Plan will provide an opportunity to align the management of exotic vegetation with the relevant approaches taken under the Biosecurity Act.

Overall, the policy framework is well-designed to achieve this outcome. However, there are many factors outside the Plan provisions which contribute to the introduction of exotic plant species, as evidenced by the introduction of *Undaria pinnatifida*.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

Outcome 5.4.2.2: Pest plants are either eradicated, confined or their spread is reduced, in the coastal marine area

Objective 5.4.2.2 is to eradicate, confine, or reduce the spread of pest plants in the coastal marine area. Six policies from throughout the Plan are identified as implementing this direction: 5.1.1 (Adopt NZCPS policies), 5.2.1 (Outstanding natural features and landscapes) 5.2.3 (Importance of landscape and natural features to tangata whenua), 5.4.2.5 (Removal of pest plants), 7.3.5.4 (Chemical applicators) and 7.3.5.5 (Applying pesticides to unwanted and pest organisms). Policies 5.1.1 and 5.2.1 have been discussed earlier in this report and it is not clear how they are intended to achieve the outcome sought in this section. Policy 5.4.2.5 is to encourage the removal of pest plants, which

³¹ Section 66(2)(c)(i)

supports the objective. The policies in section 7.3 relate to the use of pesticides which support the objective.

There are four rules identified as implementing the direction in the objective and policies. As outlined previously, Rule 5.4.2.6 makes introducing unwanted organisms and pests a prohibited activity and Rule 5.4.2.7 makes non-mechanical removal of unwanted organisms or pests a permitted activity. Both rules provide clear methods for eradicating, confining or reducing the spread of pest plants. Rule 7.3.5.1 makes use of pesticides a discretionary activity and Rule 7.3.5.2 makes discharge of pesticides for controlling unwanted organisms and pests a controlled activity subject to conditions. These rules carry through the direction in the policies from section 7.3 and support the achievement of outcome 5.4.2.2.

In 2011 consent was granted for the discharge of control agents for *Undaria pinnatifida* and other marine pests in Fiordland. The consent officer did not identify the provisions in section 5.4.2 as relevant, other than to note the part of the activity that was permitted under Rule 5.4.2.7. This focus on the activity-specific provisions in Sections 6–16 rather than the general matters in section 5 has been seen in other consents examined elsewhere in this report and reflects the differing approaches taken by consent officers to identifying relevant provisions.

The outcome from Appendix 1 contained above in Table 7 is also relevant, in part, for this outcome and suggests that there are programmes of work undertaken to eradicate, confine or reduce the spread of pest plants, although largely outside the Plan.

There can be confusion about which activities relating to pest plants are managed under the RMA and which are managed under the Biosecurity Act 1993. It will be important for the review of the Plan to consider the jurisdictions of these Acts and ensure there is alignment and clarity, as much as possible.

Overall, the policy framework is designed to achieve this outcome and there is evidence of ongoing programmes to address marine pests, although largely these have been developed and implemented outside the Plan.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.4.3. Exotic fauna introduction

4.4.3.1. Outcomes

The outcomes sought from section 5.4.3 are:

- **5.4.3.1:** The introduction of fauna not found in Southland into the Southland coastal marine area is avoided.
- **5.4.3.2:** The introduction of any species of exotic fauna already found in Southland to the coastal marine area that may have adverse effects is avoided.

4.4.3.2. Methods

Both outcomes above are intended to be achieved through the following provisions:

- Objective 5.4.3.1
- Policies 5.4.3.1, 5.4.3.2
- Rules 5.4.3.1, 5.4.3.2

4.4.3.3. Performance

Objective 5.4.3.1 is to avoid the introduction of fauna into the coastal marine area in circumstances that could result in adverse environmental effects. Two policies implement this direction: Policy 5.4.3.1 (Prevent the introduction of exotic fauna where information indicates its introduction is likely to adversely affect a range of matters) and Policy 5.4.3.2 (Preference for indigenous fauna species). Rule 5.4.3.1 makes the deliberate introduction of exotic fauna, and indigenous fauna not sourced from Southland, a discretionary activity. Rule 5.4.3.2 makes the introduction of exotic fauna and non-local indigenous fauna into Fiordland, Rakiura/Stewart Island and their offshore islands a non-complying activity, except as provided for by Rules 15.1.1 to 15.1.4 which relate to marine farming.

The policy framework appears to be fairly strong as it uses directive language in both the objective and policies as well as more restrictive activity statuses, but it is difficult to see how this direction could be implemented on the ground without a considerable compliance monitoring programme. There are many ways exotic fauna could be introduced to the region, such as on the hulls of ships, which are not directly managed by the Plan. In recent years, the introduction of *Bonamia ostreae* to oyster farms at Big Glory Bay, Rakiura/Stewart Island has demonstrated the ease by which exotic fauna can be transported into the region.

Outside the Plan, the Southland Regional Council and partnership with a range of stake holders³² developed the *Fiordland Marine Pathway Plan*³³ in 2017 under the Biosecurity Act 1993. This Plan sets out a number of rules and standards that must be met by all vessels entering within one nautical mile of the landward boundary of the Fiordland Marine Area and requires vessel operators to obtain a Fiordland Clean Vessel Pass. The Fiordland Marine Pathway Plan is not referred to in the Coastal Plan given the age of the Plan.

Practically, it is unlikely either of these outcomes have been met through the provisions of the Plan. It may be that the policy framework intended to address deliberate introduction rather than accidental, however this is not clear. As outlined in the section above, it will be important for the review of the Plan to consider the jurisdictions of the Biosecurity Act 1993 and the RMA to ensure there is alignment and clarity in the provisions of the Plan, as much as possible.

³² Department of Conservation, Fiordland Marine Guardians, Ministry for Primary Industries and Te Runanga o Ngai Tahu

³³ Environment Southland. (2017) *Fiordland Marine Pathway Plan*. <https://www.es.govt.nz/environment/pest-animals-and-plants/Pages/Fiordland-Marine-Pathway-Plan.aspx>

Outcome 5.4.3.1: The introduction of fauna not found in Southland into the Southland coastal marine area is avoided

Rating	Outcomes have not been achieved
---------------	---------------------------------

Outcome 5.4.3.2: The introduction of any species of exotic fauna already found in Southland to the coastal marine area that may have adverse effects is avoided.

Rating	Outcomes have not been achieved
---------------	---------------------------------

4.5. Public access

Section 5.5 contains two ‘levels’ of provisions: those addressing public access more generally and those specifically managing aircraft.

4.5.1. Public access – general

4.5.1.1. Outcomes

The outcome sought from the general public access provisions in section 5.5 is that public access to the coastal marine area is maintained and enhanced.

4.5.1.2. Methods

The outcome above is intended to be achieved through the following provisions:

- Objective 5.5.1
- Policies 5.5.1, 5.5.2, 5.5.3, 5.5.4, 5.5.5, 5.5.6, 5.5.8, 5.5.9
- Rules 5.5.1, 5.5.2, 5.5.3, 5.5.4

4.5.1.3. Performance

The Plan identifies Policies 5.5.6 to 5.5.9 and Rules 5.5.1 to 5.5.4 as relevant to achieving this outcome, however as those provisions relate specifically to aircraft management they are discussed below in section 4.5.2 (Aircraft).

Objective 5.5.1 is, where appropriate, to maintain and enhance public access by suitable means to and along the coastal marine area. This direction is implemented through five policies: 5.5.1 (Identification of public access), 5.5.2 (Access to sites of value to tangata whenua), 5.5.3 (maintenance and enhancement of public access), 5.5.4 (Mode of access) and 5.5.5 (Provision of esplanade reserves, esplanade strips or access strips). Setting aside the rules relating to aircraft, there are no specific rules identified to give effect to the objective and policies. However, many of the activity-specific provisions in Sections 6 – 16 are likely to be relevant to achieving this outcome, although none of the outcomes in Appendix 1 relate to public access specifically.

Policy 5.5.1 provides a foundation for the remainder of the policies by requiring identification of the location and extent of places with public access, places where access should be enhanced, and places where access for people with disabilities should be improved. The explanation notes that this policy is derived from Policy 3.5.2 of the NZCPS 1994 and does not provide any further information on how this is intended to occur in Southland. Similarly, Policy 5.5.2 is to identify access by Māori to sites of cultural value and is also derived from the NZCPS 1994. It appears both policies have simply been pasted in without being actively applied to the Southland context or any clearly articulated method of implementation.

Policy 5.5.3 outlines circumstances where restrictions on access may be necessary, including the protection of areas of significant indigenous vegetation, significant habitats of indigenous fauna, Māori cultural values, public health or safety, national security, heritage, natural or cultural values, to ensure a level of security consistent with the purpose of a consent, and in other exceptional circumstances sufficient to justify such restriction. Again, this policy has been derived from the NZCPS 1994. There are no additional provisions identified to give effect to this direction, although there are various provisions throughout the activity-specific sections of the Plan which address these matters in various ways.

Policy 5.5.4 states that the mode of access to the coast is to be appropriate to the functional needs of people using it, ecosystems, physical characteristics and the well-being of people. The explanation clarifies that in response to public safety in particular, the rules in section 14 place limitations on access to parts of Ōreti Beach, Porpoise Bay, Halfmoon Bay, Paterson Inlet, Taramea Bay, Awarua Bay and New River Estuary, and that the provisions later in section 5.5 manage access by aircraft. Otherwise, mode of access is considered to be naturally restricted by the physical environment and therefore additional provisions are not necessary. It is generally not recommended to include provisions in Plans that are not relevant.

Policy 5.5.5 discusses the provision of esplanade reserves, esplanade strips and access strips. These tools are restricted to territorial authorities so are largely outside the functions of the Council, except in limited cases (such as reclamations or where the coastal marine area is in private ownership). As with the previous policy, given there is little the Council can do to implement this policy, it is not particularly helpful in achieving the outcome.

A number of the fundamental principles in section 4 relate to public access, for example functional need, timing, frequency, duration and regularity, and multiple use. These principles are used to underpin the direction in the provisions in the remainder of the Plan, and it is likely that the provisions for public access in section 5.5 are used similarly given they are not supported by any particular methods or rules.

The sample of consents provided illustrates that effects on public access are regularly identified and assessed as part of consent officers' assessments of applications, particularly for structures which can restrict public access to the coastal marine area and themselves be used exclusively by the consent holder. At the same time, 160 consents have been granted for structures, many of which are likely to have affected public access to some extent. It is not clear what the cumulative effect of those consents has been on public access.

Overall, it is noted that there is no baseline information on public access to the coastal marine area. However, the review of the sample of consents has shown that where activities have been undertaken which could lead to a reduction of public access (such as applications for new structures), these effects were considered within the consent process.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.5.2. Aircraft

4.5.2.1. Outcomes

The outcomes sought from the aircraft provisions in section 5.5 are:

- **5.5.2:** Aircraft are used in a manner that minimises noise impacts.
- **5.5.3:** Better information on the contribution of aircraft to access to Rakiura/Stewart Island.
- **5.5.4:** Reduced conflict between aircraft operators and other coastal users.
- **5.5.5:** Areas in Fiordland CMA valued for remoteness and wilderness are managed to ensure that aerial access does not have an undue adverse impact.
- **5.5.6:** Significant habitats of indigenous fauna that are susceptible to adverse effects from frequent aircraft landings and takeoffs in the coastal marine area are protected.

4.5.2.2. Methods

The structure of these provisions is slightly different to the rest of section 5 in that there are no corresponding objectives (and associated policies and rules) for each outcome. As such, it is assumed that all the outcomes are intended to be achieved together by the implementation of the following provisions:

- Objective 5.5.2
- Policies 5.5.1, 5.5.3, 5.5.4, 5.5.6, 5.5.7, 5.5.8, 5.5.9, 5.5.10, 5.5.11
- Rules 5.5.1, 5.5.2, 5.5.3, 5.5.4

4.5.2.3. Performance

The specific focus of these provisions is inconsistent with the general tone of section 5. It is not clear why the provisions relating to aircraft were included as a general matter in section 5 rather than as an activity-specific section in the later parts of the Plan. Although related to the issue of public access, the very specific nature of these provisions sits uncomfortably alongside the broader public access provisions in section 5.5. It also suggests that aircraft management is the primary issue to manage in relation to public access. It is not clear whether this was deliberate and, if so, on what basis.

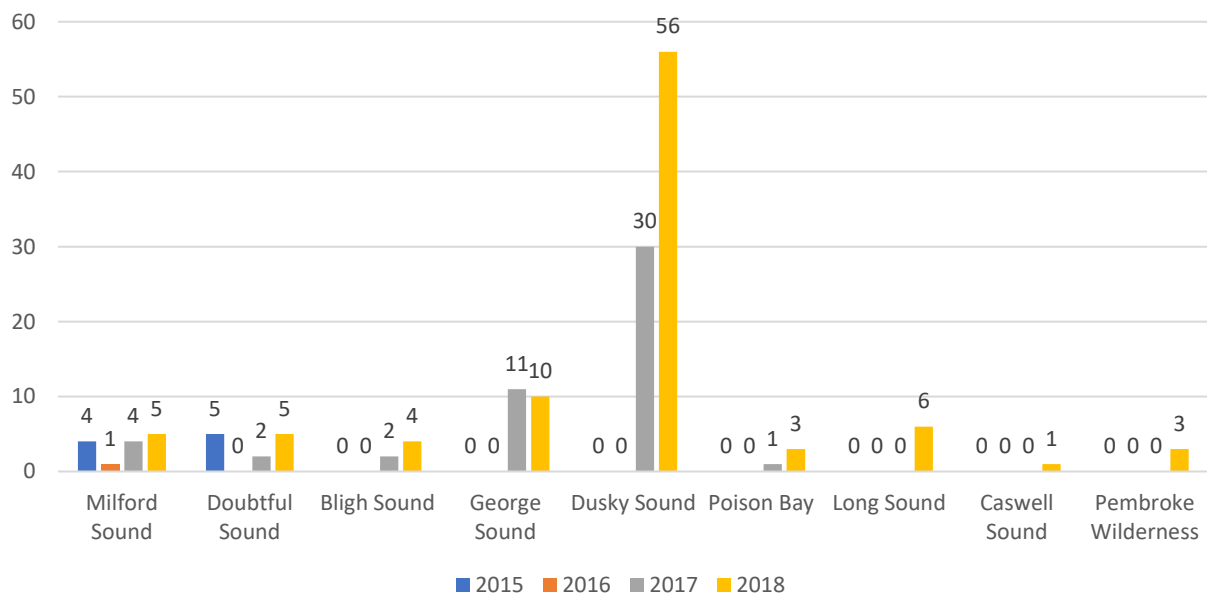
Objective 5.5.2 is to provide for aircraft to be used in the coastal marine areas where this does not have an adverse impact on areas valued for remoteness and wilderness and on significant habits of indigenous fauna. Policies 5.5.1, 5.5.3 and 5.5.4 are discussed above and therefore are not included in this section. There are six policies specific to aircraft that implement the direction in Objective 5.5.2:

Policies 5.5.6 (Aircraft use), 5.5.7 (Suitable facilities on adjoining land), 5.5.8 (Helicopter landings and takeoffs), 5.5.9 (Fixed-wing landings and takeoffs), 5.5.10 (User conflicts in Fiordland) and 5.5.11 (Aircraft operating from or used to service structures or certain ships in Fiordland coastal marine area). These policies provide specific direction about managing these particular aspects of aircraft use in the coastal marine area.

The policies are implemented through four rules which, collectively, provide for aircraft landing and takeoff as either permitted subject to conditions relating to areas, timing and flight recording requirements (Rules 5.5.3 and 5.5.4), discretionary (Rule 5.5.2) or prohibited (Rule 5.5.1) depending on the location of the activity. There are six maps which support the application of these rules. The maps use three different styles to display landing and takeoff areas and are low quality, making some of the text illegible.

The requirement for permitted activities to submit flight records to the Council means there is some information available about the level of activity occurring under these provisions. Information provided for 2015 to 2018 is shown below in Figure 11 and suggests that compliance with this condition is variable. Figure 11: Permitted activity flight records. Only three companies have regularly submitted data in this time period. There has been a significant increase in reported activity in Dusky Sound since 2016 but whether this reflects an actual increase or an increase in reporting is unknown.

Figure 11: Permitted activity flight records



To test the validity of this data, the Council sought comment from DOC. DOC considered the records to be incomplete as they did not contain information from a number of operators DOC considers may be landing in the coastal marine area. Permitted activity conditions that require information to be supplied to the Council are not uncommon in first generation plans but are difficult to enforce as Councils generally undertake very limited permitted activity monitoring, partly due to the lack of ability to recover costs. This is compounded in the case of the aircraft rules as all of the reported activity is occurring in Fiordland, a vast and remote area which is not easily accessed. Without a

physical presence it will be difficult for the Council to know who is operating within the area and therefore who is not submitting flight records.

From the information available, it appears only one resource consent has been granted for aircraft use. The application was for helicopter landing and takeoff at Musket Point, near Yates Point, to assist a DOC trapping programme for which was required under Rule 5.5.2(a)(vii). The aircraft-specific provisions in section 5.5 were identified and assessed against and conditions were imposed which restricted the landing and takeoff areas, and number of landings per month (within and outside penguin nesting and moulting seasons).

Outcome 5.5.2: Aircraft are used in a manner that minimises noise impacts

The only reference to noise in the identified provisions is in Policy 5.5.8 which requires that helicopter landings and takeoffs comply with NZS 6708:1994 – Noise management and land use planning for helicopter landing areas (which is still current). None of the rules require compliance with this standard. The general noise limits in Rule 5.3.4 would appear to apply to aircraft. As these limits are based on acceptable standards for residential areas, compliance by aircraft is unlikely but it does not appear there have been any consents granted for breaches of the limits. The policy framework does not set any particular requirements for management of aircraft use in relation to noise so it appears this outcome has not been achieved.

Rating	Outcomes have not been achieved
---------------	---------------------------------

Outcome 5.5.3: Better information on the contribution of aircraft to access to Stewart Island

In regard to Outcome 5.5.3, an aircraft activity managed as a permitted activity under Rule 5.5.3 is required to provide flight records to the Council. Little information on flight records is available and none of the recorded information relates to aircraft activities on Rakiura/Stewart Island. It does not appear there is any further information about aircraft access to Rakiura/Stewart Island, meaning this outcome has not been achieved.

Rating	Outcomes have not been achieved
---------------	---------------------------------

Outcome 5.5.4: Reduced conflict between aircraft operators and other coastal users

In regard to Outcome 5.5.4, Rule 5.5.2 makes aircraft landing and takeoff a discretionary activity in listed parts of the coastal marine area. The explanation states that this is largely because these areas are close to centres of permanent population and therefore the risk for conflict with other users is greater. As there has only been one consent granted for this activity which was located in a remote part of Fiordland, it is not clear whether this rule has been effective in reducing conflicts. Aircraft landing and takeoff is permitted in specified areas under Rules 5.5.3 and 5.5.4 and there is no information available about whether this has reduced conflicts. Given the increase in tourism in Fiordland and Rakiura/Stewart Island, and the contribution aircraft make to tourism operations in providing access to more remote parts in these areas, there may be increased conflicts between users

in the future. Without baseline information about the level of conflict prior to the Plan, it is not possible to determine whether this outcome has been achieved.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

Outcome 5.5.5: Areas in Fiordland CMA valued for remoteness and wilderness are managed to ensure that aerial access does not have an undue adverse impact

Rule 5.5.1 prohibits aircraft landing and takeoff in three parts of the Fiordland coastal marine area: Hall Arm, Sand Hill Point, and parts of Deep Cove. Rule 5.5.2 makes landing and takeoff a discretionary activity in other parts of the Fiordland coastal marine area: Breaksea Group and Breaksea Sound, Nee and Shelter Islands in Doubtful Sound, Chalky Island in Chalky Inlet, Yates Point, in the internal waters on ships less than 1000 gross registered tonnes, and parts of Edwardson, Cunaris and Long Sounds. There is no ‘catch all’ rule for aircraft landing and takeoff meaning these activities, where they occur in areas not specifically managed under the rules, are treated as discretionary activities.³⁴ This means that while aircraft landing and takeoff is prohibited and permitted in small areas of Fiordland, the majority of the area is subject to discretionary activity status which allows the Council to manage adverse effects through assessment of applications and imposing conditions on the operation of activities.

The lack of clarity around which areas are the target of this outcome and what is considered an “undue” adverse impact makes it difficult to determine the achievement of this outcome, however, the Plan does contain methods for managing aerial access in these areas so the outcome may have been achieved.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

Outcome 5.5.6: Significant habitats of indigenous fauna that are susceptible to adverse effects from frequent aircraft landings and takeoffs in the coastal marine area are protected.

Rule 5.5.1 prohibits aircraft landing and takeoff in Hall Arm, Sand Hill Point and parts of Deep Cove. The explanation to this rule states that, in the case of Hall Arm and Deep Cove, this is in part due to the potential for adverse effects on habitats of indigenous species of fauna. The explanation to Rule 5.5.2, which makes landing and takeoff a discretionary activity in specified areas, notes that frequent aircraft landing and takeoff near significant habitats of indigenous fauna in Fiordland can have adverse effects. The requirement to obtain resource consent is intended to help to protect these areas. The one consent application received for these activities specifically identified and assessed effects on habitats of indigenous fauna and imposed conditions relating to the frequency of aircraft landings and takeoffs near significant habitats of indigenous fauna in the Fiordland coastal marine area. It was noted that aircraft landings and takeoffs can reduce the breeding success of the Fiordland Crested Penguins and also marine mammals such as seals.

³⁴ Section 87B(1)(a)

There is no information on whether there have been adverse effects on significant habitats of indigenous fauna from frequent aircraft landings, however, the policy framework appears to provide an appropriate method for managing these activities so it is possible the outcome has been achieved.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.6. Tangata whenua o Murihiku

4.6.1. Outcomes

The outcomes sought from section 5.6 are:

- **5.6.1:** Tangata whenua are consulted.
- **5.6.2:** Ngāi Tahu cultural, traditional and spiritual values and uses are recognised and provided for.

4.6.2. Methods

The outcomes above are intended to be achieved through the following provisions:

- Outcome 5.6.1
 - Objectives 4.9.2, 5.6.2
 - Policies 5.6.1, 5.6.2, 5.6.3, 5.6.4, 5.6.5
- Outcome 5.6.2
 - Objective 5.6.1
 - Policy 5.6.1

4.6.3. Performance

The provisions above are the provisions identified in the Plan as relevant for each outcome. There appears to be some confusion in the identification of provisions. Outcome 5.6.1 focuses on consultation, but the relevant policies cover a broad range of matters including having regard to kaitiakitaka and the values of tangata whenua. In contrast, Outcome 5.6.2 is more broadly focused on Ngāi Tahu values and uses but the only policy identified as relevant relates to kaitiakitaka. As a result, this section discusses the policies in section 5.6 as they relate to the outcomes rather than as they are strictly identified in the Plan.

4.6.3.1. Outcome 5.6.1: Tangata whenua are consulted

Objective 4.9.2 is to ensure that consultation takes place with affected adjacent landowners and the community in general. Objective 5.6.2 is more specific, seeking to ensure that consultation takes place with tangata whenua in appropriate circumstances. Policy 5.6.2 clarifies that appropriate circumstances are where activities occur within the vicinity of sites of cultural significance identified on the maps in Appendix 3 and/or the tables in Appendix 8 (Heritage and archaeological sites). Policy

5.6.3 also directs consultation where an activity could physically disturb a site identified in the Plan as being of significance to tangata whenua, or an activity could have adverse effects on values of tangata whenua. While the direction in Policies 5.6.1, 5.6.4 and 5.6.5 does not appear to be directly relevant to this outcome, the explanations to these policies suggest that consultation is an important component of implementing them.

The maps in Appendix 3 do not contain specific reference to sites of cultural significance. They do identify areas where there is a silent file. Silent files are areas identified by Papatipu Rūnanga as requiring special protection due to the presence of significant wahi tapu (sacred places) or wahi taonga (treasured possessions). When they are used in a mapping context, they do not indicate the exact location of these sites but rather the general area within which the sites are located. Consultation with tangata whenua is required to understand the effects of activities in these areas. The maps in Appendix 3 also identify geological and archaeological sites. Given the reference to Appendix 8 (Heritage and archaeological sites) in Policy 5.6.2, these may also be sites of cultural significance. It is unclear whether the archaeological sites in Appendix 8 are the same as those mapped in Appendix 3.

A similar issue arises in respect of the reference to “sites identified in the Plan as being of significance to tangata whenua” in Policy 5.6.3. It is not clear where in the Plan these sites are identified. It is also not clear whether these sites are the same or different to the sites of cultural significance referenced in Policy 5.6.2. The lack of clarity about what and where these sites are may cause confusion for plan users, and particularly consent officers, when applying Policies 5.6.2 and 5.6.3. Given the established relationship between the Council and Te Ao Mārama Inc, it is unlikely that the uncertainty in the policy framework is resulting in adverse outcomes, but the review of the Plan provides an opportunity to improve the policy framework.

Section 3.5 earlier in this report discusses tangata whenua involvement in the implementation of the Plan, and particularly consultation. That discussion is not repeated here other than to summarise that there is a well-established procedure for involving Te Rūnanga o Ngāi Tahu and/or Te Ao Mārama in consent processes that is consistently applied by consent officers, and that applicants are regularly advised to consult with Te Rūnanga o Ngāi Tahu and/or Te Ao Mārama where the Council considers a proposal may affect cultural values. This suggests that the outcome regarding consultation with tangata whenua has been achieved.

Rating	Outcomes have been achieved
---------------	-----------------------------

4.6.3.2. Outcome 5.6.2: Ngāi Tahu cultural, traditional and spiritual values and uses are recognised and provided for.

Objective 5.6.1 is to recognise and provide for cultural, spiritual and traditional values and uses of Ngāi Tahu in the coastal marine area. Policy 5.6.1 is to have particular regard to the concept of kaitiakitaka in relation to managing the use, development and protection of natural and physical resources in the coastal marine area. There are no methods identified for implementing this direction, however, the explanation to the policy states that “There is a need to develop a process which assists in understanding the meaning of kaitiakitaka and the involvement of kaitiaki in decision making [which is] a matter that will require consultation with Ngāi Tahu.” This has been achieved, at least in part,

through the development of the *Charter of Understanding* which provides for Te Ao Mārama’s involvement at both the policy development and implementation stages as papatipu rūnanga.

Figure 5.6.1 follows Policy 5.6.1 and provides the English and Māori text of part of the Treaty of Waitangi, as well as the principles of the Treaty as stated by the Waitangi Tribunal and the Court of Appeal. Although this may be useful supporting information, it is not necessary for it to be included in the Plan itself. Interpretation and application of the principles of the Treaty evolve over time which is difficult to reflect in a plan that can only be changed through a formal Schedule 1 process.

Policies 5.6.4 and 5.6.5 are to identify and protect the characteristics of the coastal marine area that are of special value to tangata whenua as a national priority. Policy 5.6.5 specifically refers to “significant places or areas of historic or cultural significance” as well as “characteristics of traditional spiritual, historical or cultural significance to Māori identified in accordance with tikaka Māori.” As there are no further provisions identified, it is unclear whether this identification has occurred, and if it has, where the results have been recorded. It may be that the maps in Appendix 3 and the table in Appendix 8 fulfil these requirements, although as outlined above it is not clear whether the combination of silent files, geological sites and archaeological sites is equivalent to all sites of cultural significance and/or sites of significance to tangata whenua.

It is difficult to assess whether this outcome has been achieved due to the lack of clarity in the policy framework about the intended methods of achieving this outcome.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.7. Heritage

4.7.1. Outcomes

The outcomes sought from section 5.7 are:

- **5.7.1:** The heritage values of sites, buildings, places or areas within the coastal environment are protected.
- **5.7.2:** The heritage value of landscape features will be retained in the coastal marine area.

4.7.2. Methods

The outcomes above are intended to be achieved through the following provisions:

- Outcome 5.7.1
 - Objective 5.7.1
 - Policies 5.7.1, 5.7.2
- Outcome 5.7.2
 - Objective 5.7.2
 - Policy 5.7.3

There are four rules in section 5.7 which are not specifically identified as part of the policy framework to achieve the outcomes, however, it is assumed in this assessment that they are relevant to achieving both outcomes.

4.7.3. Performance

4.7.3.1. Outcome 5.7.1: The heritage values of sites, buildings, places or areas within the coastal environment are protected.

Objective 5.7.1 is to recognise and have regard for the need to protect heritage values of sites, buildings, places or areas within the coastal environment. It is unclear how the Plan could implement this objective. As noted in section 2.2 of this report, the Plan has effect over the coastal marine area (as defined by section 2 of the RMA) of the Southland region which includes: the foreshore, seabed and coastal water, and the air space above the water. It does not have effect landward of MHWS.

Policy 5.7.1 is to protect the following specific sites: Port of Invercargill Jetty, “Waikare” 1910 wreck, “Endeavour” 1795 wreck – ballast stones, sites in the Department of Conservation Historic Resources Register which are identified in the introduction to section 5.7, and sites in the New Zealand Archaeological Association Register which are identified in Appendix 8. Rule 5.7.1 allows proprietors to remove archaeological material from privately owned shipwrecks or relics as a permitted activity. Rule 5.7.4 provides for modification of the listed sites a controlled activity where that modification is for preservation or protection purposes. Rule 5.7.3 makes any other modification of listed sites a non-complying activity. In terms of structure, it is unhelpful to have a ‘catch all’ rule listed before the specific rule. The activity classifications in these rules are appropriate for implementing the direction in the policies. A controlled activity status provides certainty that protection and preservation can occur but allows the Council to impose conditions where necessary to manage how activities occur. A non-complying status applies the additional test of having to be consistent with objectives and policies in addition to considering the effects of an activity.

Policy 5.7.2 is to protect other sites not listed that are recognised as having some heritage value. Rule 5.7.2 makes removing archaeological material a discretionary activity, which is one aspect of heritage value, but there are no other rules which appear to implement this direction. It is also not clear how much heritage value a site needs to have in order to be protected under this policy – “some” is an unhelpful threshold.

From the information available there appears to have only been one consent granted under Rule 5.7.2, although it is not possible to determine whether that rule has been triggered as part of a package of activities applying for other consents as well. The consent was granted in 2018 to remove and then return archaeological material from Colyers Island in Bluff Harbour, a site listed in Appendix 8. Tangata whenua and iwi were consulted on the application and gave written approval. The consent was granted and imposed conditions relating to mitigation measures and the methodology used. With only one example it is difficult to draw any conclusions, however, this consent suggests that consent officers do use the provisions in section 5.7 when they are relevant for applications and that conditions are imposed which are designed, in part, to protect heritage values.

There is one outcome in Appendix 1 which also contributes to achieving this outcome, outlined in Table 8 below. This outcome relates to the provisions managing the removal of sand, shingle, shell and other natural material from the coastal marine area. As the outcome relates to appropriateness, the assessment focused on the policy framework and considered that the overall package of provisions is appropriate to protect the listed matters.

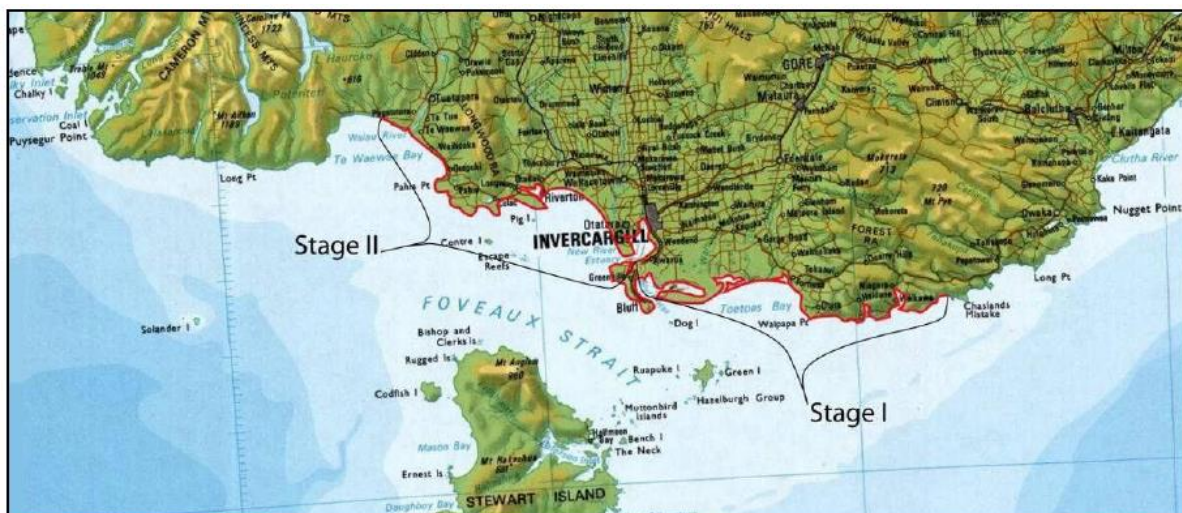
Table 8: Heritage values - relevant outcomes and ratings from Appendix 1

Outcome	Rating
10.5.2: Appropriate protection of sites of cultural, heritage, archaeological or geological value.	

The 2005 *State of Southland's coastal marine environment* report noted that there was no comprehensive record of heritage sites covering the whole coast, despite the historic importance of the coast – the report highlighted that there were 638 archaeological sites (associated with pre-1900 activity) recorded within one kilometre of the Southland coast.³⁵ To address this, the Southland Coastal Heritage Inventory Project (SCHIP) was initiated between the Council, Te Ao Mārama Inc, DOC, New Zealand Historic Places Trust (now Heritage NZ), New Zealand Archaeological Association, Southland District Council and Invercargill City Council.

The SCHIP began with teams of archaeologists walking the coastline from Waiparau Head to the Rowallan Burn (see Figure 12 for a map) revisiting recorded archaeological sites and updating existing records and recording new archaeological sites. This culminated in an archaeological report in 2008.

Figure 12: Area covered by Southland Coastal Heritage Inventory Project³⁶



³⁵ Environment Southland. (2005). *State of Southland's coastal marine environment*.

³⁶ Robertson, R., Egerton, R., Whaanga, D., Roy, M., Schmidt, M. & Christie, J. (n.d.). *Southland Coastal Heritage Inventory Project*. Retrieved from https://www.planning.org.nz/Attachment?Action=Download&Attachment_id=3118

During the investigations, fewer than half of the sites searched for (118 of 274) were found, however, an additional 109 sites not previously recorded were found. A summary of the sites is outlined below in Table 9.

Table 9: Summary of site information from Southland Coastal Heritage Inventory Project³⁷

Sites	Number
Previous recorded sites	322
Recorded sites eliminated from the project	48
Sites searched for	274
Sites searched for and found	118
Sites searched for but not found	155
New sites found	109
Total number of sites assessed including new sites	227

Only 23% of sites were assessed as being in good condition and only 14.5% were assessed as largely complete with no loss or modification. Of the 229 sites visited, 61 were recorded as being affected by coastal erosion. Vegetation, animals (especially pugging by cattle), land use and visitors were recorded as affecting a large number of sites.³⁸ Overall the results indicated there is a net loss of sites occurring.

The research highlighted the need for ongoing monitoring of sites. From 2009, Te Rūnanga o Ngāi Tahu began funding a kaitiaki monitoring programme involving the Kaitiaki Runaka of Murihiku visiting known archaeological sites along the Southland coast or surveying areas for new sites. These people are volunteers but are provided with training so that they can recognise, photograph and record sites. Information collected is reported back to the SCHIP partners and entered into the SCHIP database.³⁹

From 2011, staff from Environment Southland, Southland District Council, Invercargill City Council and Te Ao Mārama Inc have had access to ArchSite, the New Zealand Archaeological Association's site recording scheme. This has improved access to information about archaeological sites in particular.

Overall, given the SCHIP findings and despite the policy framework in the Plan, it appears that heritage values are not being protected in many parts of Southland's coastal marine area.

Rating	Outcomes have not been achieved
---------------	---------------------------------

4.7.3.2. Outcome 5.7.2: The heritage value of landscape features will be retained in the coastal marine area.

Objective 5.7.2 is to avoid, remedy or mitigate adverse effects on landscape features of high heritage value in the coastal marine area. The explanation does not provide any further information on

³⁷ Egerton, R. & Jacomb, C. (2009). Southland Coastal Heritage Inventory Project. *Archaeology in New Zealand*, 52(4): 250-258.

³⁸ Egerton, R. & Jacomb, C. (2009). Southland Coastal Heritage Inventory Project. *Archaeology in New Zealand*, 52(4): 250-258.

³⁹ Egerton, R. & Jacomb, C. (2009). Southland Coastal Heritage Inventory Project. *Archaeology in New Zealand*, 52(4): 250-258.

whether these features have been identified or, if not, what constitutes “high” heritage value. Policy 5.7.3 is to ascertain heritage values wherever practicable when considering the use, development and subdivision of the coastal marine area. The explanation suggests that determining heritage value is intended to occur on a case-by-case basis as consent applications are received. There are no further provisions identified to achieve this outcome.

The policy framework to achieve this outcome is weak. It is unlikely that simply avoiding, remedying or mitigating effects will be sufficient to retain heritage values without clearer direction on what those values are, their significance, and the areas they are likely to be found. The case-by-case approach suggested in Policy 5.7.3 allows for ad hoc management of heritage values and is unlikely to adequately manage cumulative effects.

As discussed above in relation to outcome 5.7.1, the SCHIP has identified that vegetation, animals, land use and visitors are affecting a large number of heritage sites. It is likely these issues are also affecting the heritage values of landscape features.

There are two outcomes in Appendix 1 that are relevant for this outcome, outlined in Table 10 below. Neither of these outcomes relate specifically to heritage values, and both are focused on either the effects of a particular activity (in the case of outcome 15.1.3) or a particular area (in the case of outcome 16.4.2) so their findings are a relatively minor contribution to the achievement of outcome 5.7.2.

Table 10: Heritage values (landscape) - relevant outcomes and ratings from Appendix 1

Outcome	Rating
15.1.3: Marine farms are not located where they could adversely affect areas containing significant values, including: <ul style="list-style-type: none"> • significant indigenous vegetation; • habitats of indigenous fauna; • significant landscape values; • high natural value; or where they could increase deposition in Natural State waters.	
16.4.2: The landscape, amenity and natural character values, that attract people to Deep Cove, will be maintained.	

Overall, there is not enough information about the heritage values of landscape features to determine whether this outcome is being achieved, however, the weakness of the policy framework and lack of identified methods to implement the policy direction, alongside the findings of the SCHIP, suggest that it is unlikely that the provisions in this part of the Plan are contributing to achieving the outcome.

Rating	Outcomes may have been achieved or outcomes may have been partially achieved
---------------	--

4.8. Efficient use of natural and physical resources

4.8.1. Outcomes

The outcome sought from section 5.8 is that natural and physical resources in the coastal marine area are used and developed efficiently, while adverse effects are avoided, remedied or mitigated.

4.8.2. Methods

The outcome above is intended to be achieved through the following provisions:

- Objective 5.8.1
- Policy 5.8.1

4.8.3. Performance

Objective 5.8.1 is to provide for efficient use and development of natural and physical resources in the coastal marine area where adverse effects are avoided, remedied or mitigated. The explanation states that efficiency includes limiting the use of resources and considering the capacity of the coastal marine area to support activities without adversely affecting the characteristics that first attracted existing activities. Policy 5.8.1 is to recognise and have regard for the efficient use and development of natural and physical resources in the coastal marine area, while having regard to the finite character of some natural and physical resources. There is a long explanation to this policy which outlines the matters which are to be considered when deciding which activities will allow the most efficient use of an area. It is not clear whether this assessment was undertaken as part of the Plan's development, and therefore the provisions in the Plan reflect the outcome of that assessment, or whether it was intended to occur on a case-by-case basis, presumably through consent applications.

Given the general nature of this outcome, and the lack of clarity in the provisions, it is not clear whether any of the outcomes in Appendix 1 are relevant. However, this report has identified that there is increasing demand on natural and physical resources in the coastal marine area, especially from tourism. While the Plan sets clear limits on some matters (for example, space for marine farming) in other regards it explicitly chose not to set limits on others (for example, commercial surface water activities in Milford Sound). Those original decisions about where limits might be necessary, and if they are, the type of limit implemented, will need to be revisited as part of the review of the Plan.

Overall, there is not enough information to determine whether this outcome has been achieved and the policy framework does not provide clarity about how the outcome was intended to be achieved. There is evidence of increasing pressure on resources which calls into question whether the current 'limits' in the Plan are still appropriate for achieving efficient use.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.9. Trout and salmon

There are no outcomes specified in section 5.9. The relevant text explains that the protection of the habitat of trout and salmon is mainly an issue for inland water quality and habitat rather the coastal

marine area, with the exception of the estuaries of the four main rivers which are a source of sea run trout. Section 5.9 notes that fishery values, fish passages and habitat and estuaries are managed through Sections 3, 6 and 7.4.3 and that therefore it was not considered necessary to have additional provisions for trout and salmon. Section 3 contains the values of the coastal marine and is not directly relevant for this section of the report. Table 11 below shows the outcomes and ratings for Sections 6 and 7.4.3. Southland's main estuaries are in poor health which has meant that the outcomes sought to be achieved by the Plan have not been met. In the case of fish passage, the relevant provisions are permitted activity rules for which there is no monitoring information.

Table 11: Trout and salmon - relevant outcomes and ratings from Appendix 1

Outcome	Rating
6.1.1: The natural values of estuarine areas are maintained and enhanced.	
6.2.1: The natural values of the New River Estuary are maintained and enhanced.	
7.4.3.1: Fish are able to move freely up and down waterbodies within the coastal marine area.	

4.10. Social, economic and cultural issues

4.10.1. Outcomes

The outcomes sought from section 5.10 are:

- **5.10.1:** The coastal marine area is utilised in a manner that enables people and communities to provide for their social, cultural and economic well-being and for their health and safety.
- **5.10.2:** Any scattering of ashes or burial at sea will not cause offence.

4.10.2. Methods

The outcomes above are intended to be achieved through the following provisions:

- Outcome 5.10.1
 - Objective 5.10.1
 - Policies 5.10.1, 7.3.2.11
- Outcome 5.10.2
 - Objective 5.10.2
 - Policy 5.10.2

4.10.3. Performance

4.10.3.1. Outcome 5.10.1: The coastal marine area is utilised in a manner that enables people and communities to provide for their social, cultural and economic well-being and for their health and safety.

Objective 5.10.1 is to recognise the need for social and economic utilisation of the coastal marine area in a manner that enables people and communities to provide for their social, cultural and economic well-being and for their health and safety. This is supported by Policy 5.10.1 which is to recognise the importance of the coastal marine area for social, cultural and economic activities. Policy 7.3.2.11 is also identified as relevant which is to recognise the national importance of the Manapōuri Power Scheme and the need to undertake activities to ensure it continued efficient use and operation whilst avoiding, wherever practicable, remedying or mitigating any adverse effect of these activities on the environment.

While Policy 7.3.2.11 provides some clarity on how Objective 5.10.1 is to be implemented, Policy 5.10.1 is broadly worded, providing little additional guidance to decision-makers. As there are no further provisions identified as relevant, it is assumed that these provisions are intended to provide more high-level guidance rather than specific direction. Outcomes and objectives that attempt to cover a range of topics in a general way can be unhelpful due to their lack of applicability within decision-making processes and the inability to measure progress towards their achievement.

Given the broad nature of this outcome, there are likely to be many relevant outcomes from the activity-specific section of the Plan. Table 12 lists those that, through their focus and wording, appear to be directly linked to Outcome 5.10.1.

Table 12: Social, economic and cultural issues - relevant outcomes and ratings from Appendix 1

Outcome	Rating
8.3: Human health and areas of cultural and amenity value are not adversely affected by odour discharges.	
11.2.2: The social, economic and safety benefits of structures in the coastal marine area are recognised.	
11.7.3.1: Wharves which fulfil the social and economic well-being of communities are provided in appropriate locations.	

Overall, this outcome is too broad to assess in detail. It covers a number of topics for which there is little to no information available. With few provisions identified to achieve the outcome, the policy framework does not appear to be well-designed to achieve the outcome sought.

Rating	Not enough information to determine whether outcomes have been achieved
---------------	---

4.10.3.2. Outcome 5.10.2: Any scattering of ashes or burial at sea will not cause offence.

Objective 5.10.2 is to avoid, remedy or mitigate adverse effects on cultural values from scattering of ashes in coastal waters and burial at sea. Policy 5.10.2 is to avoid, where practical, the adverse effects of scattering ashes and burial at sea. There are no specific rules to implement this direction. Section 7

contains rules for specific discharges, none of which are relevant for scattering of ashes or burial at sea. This presumably makes these activities innominate and therefore discretionary.⁴⁰

There is a disconnect between the objective and policy in that they focus on different matters and provide different levels of direction. Objective 5.10.2 relates to adverse effects on cultural values while Policy 5.10.1 applies more generally to adverse effects. In terms of direction, Objective 5.10.1 is to avoid, remedy or mitigate while Policy 5.10.1 is to avoid where practical. The explanation to the policy states that the Council will seek to educate the public about scattering ashes and burial at sea, however, from the information available it does not appear that this has occurred.

The Exclusive Economic Zone and Continental Shelf (Environmental Effects – Burial at Sea) Regulations 2015 manage burial at sea beyond the 12 nautical mile limit. The review of the Plan may wish to consider consistency with this management regime, if it is considered necessary to provide specific direction on this activity.

The explanation to Policy 5.10.2 notes that scattering of ashes and burial at sea is, in some circumstances, contrary to the cultural beliefs of Māori. For this reason, it is highly unlikely that the outcome (which is to “not cause offence”) can be achieved, regardless of the policy framework.

Rating	Outcomes have not been achieved
---------------	---------------------------------

4.11. Use of the coastal marine area for defence purposes

4.11.1. Outcomes

The outcome sought from section 5.11 is that the coastal marine area is used for defence purposes without restriction.

4.11.2. Methods

The outcome above is intended to be achieved through the following provisions:

- Objective 5.11.1
- Policy 5.11.1
- Rules 5.11.1, 5.11.2

4.11.3. Performance

Objective 5.11.1 is that the use of the coastal marine area for defence purposes is recognised as nationally important. This is implemented through Policy 5.11.1 which is to provide for the use of the coastal marine area for defence purposes. Rule 5.11.1 provides for a range of defence activities as

⁴⁰ Section 87B(1)(a)

permitted subject to conditions, and Rule 5.11.2 requires any activities not complying with Rule 5.11.1 to seek resource consent as discretionary.

It is not clear what the outcome means when it uses the term “without restriction.” On its plain reading, a restriction is any kind of condition or limitation. In order to occur as permitted activities under Rule 5.11.1, uses for defence purposes need to meet a number of conditions relating to noise, earthworks, excavation, duration and public access. These conditions have the effect of restricting activities that can occur without resource consent. For activities that do not meet those conditions, resource consent is required as a discretionary activity. Applications for discretionary activities may be granted or declined by the Council and may have conditions imposed. This is another form of restriction. From the information available, there do not appear to have been any consents granted for defence purposes, which may suggest that the permitted activity standards sufficiently provide for the types of activities occurring for defence purposes.

Overall, this outcome is not achieved as the permissive nature of the outcome is not subsequently reflected in the methods which seek to achieve the outcome.

Rating	Outcomes have not been achieved
---------------	---------------------------------

4.12. Emergency situations

There are no outcomes specified in section 5.12. The relevant text acknowledges that there are times when it is necessary to undertake activities, actions or works that are contrary to rules in the Plan and that such situations are provided for by Sections 18 and 330 of the RMA.

4.13. Have we achieved what we said we would achieve?

Table 13 below summarises the ratings given to each outcome assessed in this section. In over a third of cases, it was not possible to determine whether the outcomes had been achieved due to a lack of information.

Table 13: Summary of outcome achievement in section 5

Rating	Outcomes
Not enough information to determine whether outcomes have been achieved	11
Outcomes have not been achieved	8
Outcomes may have been achieved or outcomes may have been partially achieved	9
Outcomes have been achieved	1

One of the most significant contributors to these ratings was the lack of information available. In 2005, a comprehensive state of the environment monitoring report was published by the Council which outlined the best available information on a range of topics, most of them closely linked to the topics in section 5 of the Plan. However, no further reports of this nature have been produced since. Instead,

the Council's monitoring programmes have focused on particular locations and/or types of monitoring, for example broadscale habitat mapping. This has made it difficult to assess the achievement of the outcomes in the Plan because there is no baseline information regarding the state of the environment when the Plan became operative, nor any additional information about state and trends since then. This highlights the importance of designing monitoring programmes which monitor policy effectiveness. The monitoring information currently available has not been specifically designed to assess policy effectiveness which makes it difficult to understand the effectiveness of the Plan provisions.

The other major factor affecting the assessments was the drafting of the outcomes themselves. Quality Planning states that anticipated environmental results, or outcomes, should be measurable, should not repeat the objectives of the plan and should not be vague or express generalised expectations.⁴¹ Most of the outcomes in section 5 of the Plan are not measurable which means that, even if there was environmental monitoring information available, it would still be difficult in most cases to assess whether outcomes had been achieved. Most of the outcomes are slightly reworded versions of their associated objectives and are general or broad in nature. If outcomes are not distinct from objectives, their inclusion in a plan can be unhelpful. Outcomes that are very general in their wording are similarly unhelpful as they do not describe an environmental situation that can be assessed.

Although section 5 is intended to provide direction on general matters, the provisions in this section cover a wide range from the general to highly specific (for example, the provisions relating to signs and aircraft). It is not clear why the specific provisions were not included in Sections 6–16. From the sample of consents examined, generally consent officers only refer to the provisions in section 5 for two reasons: if a rule in that section is relevant to an application, or to provide context to the activity-specific provisions in Sections 6–16. This suggests that it is unclear to consent officers how section 5 of the Plan is intended to be applied alongside Sections 6–16. Having three different 'levels' of provisions in the Plan contributes to this lack of clarity as it is not particularly clear how they are intended to relate to one another in practice. Although the Plan makes a concerted effort to use both vertical and horizontal cross-referencing, when it comes to the general matters in section 5 this is not always particularly helpful, especially for matters that are likely to be relevant to most (if not all) applications (such as natural character). It also introduces uncertainty when only some provisions are specifically cross-referenced but the reason for doing so (and not including others) is unclear.

The quality of the policy framework in the sub-parts of section 5 varies. In some instances, there is clear direction which is consistently applied at the objective, policy and rule level (for example, management of the visual impacts of signs in section 5.3) which creates a coherent framework that is designed to achieve the stated outcome. In other places, this is not the case (for example, the provisions relating to tangata whenua in section 5.6) and either the direction in the higher provisions is not fully implemented in the lower provisions (for example, strong direction at the objective or

⁴¹ Quality Planning. (2013). *Writing provisions for plans*, p. 26.

policy level that is not supported by a restrictive activity status in the relevant rule) or there is confusion about which provisions contribute to the policy framework.

In some cases, it seems anecdotally that the environmental outcomes sought may have been achieved. For example, the natural character and natural features and landscapes of Southland's coast are still highly valued and do not appear to have been significantly degraded overall. It is difficult to draw these conclusions with certainty without supporting evidence. The ratings given are therefore conservative and may not reflect the actual state of the environment currently.

5. Effectiveness: Usability and suitability

As well as delivering outputs and outcomes, plans need to be effective in the way they are used. Key contributors to the usability and suitability of the Plan are:

- Structure
- Use of supporting information
- Appropriateness and design of objectives, policies and rules
- Explanations
- Environmental results
- Plan effectiveness and suitability monitoring

This section discusses each of these matters and is based on the authors' experience using and navigating the Plan.

5.1. Structure

5.1.1. Tables of contents and page numbering

The Plan contains three parts which each contain a number of sections. There is a main table of contents for the Plan on pages 13–15 and then a more detailed table of contents for each of the three parts at the beginning of the relevant part. This can be confusing for users and is compounded by the page numbering restarting in each section. This is mitigated to some extent by the use of sequential section numbering, the inclusion of the chapter as well as page number in the footer of each page and the use of 'clickable' contents pages which allow users to go directly to the provision they're looking for. There will be opportunities to consider simplifying the contents pages and page numbering through the review of the Plan.

5.1.2. Cross-referencing

Section 1.3.1 of the Plan explains that the Plan includes both effects-based provisions (sections 4 and 5) and activity-specific provisions (sections 6-16). The reason stated for doing so is to provide greater certainty for users. Cross-referencing is used in the Plan to link provisions vertically: where a policy relates to an objective in another section, a reference to that objective is listed in the margin. Cross-referencing is also used to link provisions horizontally: where a section relates to other relevant sections, a note in brackets under the explanation is included (beginning "see also..."). The Plan notes that the cross-referencing is not exhaustive. The number of provisions in this plan, and the combination of both effects-based and activity-specific provisions, means there is a considerable amount of cross-referencing required to determine how an activity is managed in most cases. Although the cross-references are helpful as a guide, the number of provisions means users will still need to be careful to ensure that they are considering the full range of relevant provisions. The review of the Plan may wish to consider the Plan's current approach to cross-referencing, noting that any approach will need to be considered in light of the overall structure of and number of provisions in the Plan.

5.1.3. Hierarchy

In the absence of explanation, it can be assumed that the three ‘levels’ of provisions in sections 4- 16 are intended to be read together rather than as a hierarchy. The fundamental principles in section 4 are said to provide the framework for the rest of the Plan, however, it is not clear whether this means their content is translated through the more effects-based or activity-specific provisions in sections 5 to 16 or whether they were intended to be referred to separately. The sample of resource consents provided shows that generally consent officers do not refer to these provisions when assessing applications. Given there is a lack of clarity around their purpose and they are not generally used in decision-making on consent applications, the principles in section 4 do not appear to assist the application of the Plan.

The general matters included in section 5 are more regularly referred to by consent officers, although this varies. Mostly they are used to set the context for the activity-specific provisions in sections 6-16. Some of the matters addressed in section 5 are activity-specific and contain rules as well as objectives and policies (for example, section 5.5 Public Access contains specific provisions, including rules, for managing aircraft activities). It is not clear why the focus of section 5 varies from high level to detailed provisions such as rules or how the provisions are intended to be applied alongside or in addition to the activity-specific provisions in sections 6-16.

Generalia specialibus non derogant is a common principle in statutory interpretation and establishes that general provisions do not override specific ones.⁴² Although a judicial principle, this is often the approach taken in planning assessments – specific provisions are identified in the first instance, with more general provisions referred to more commonly to provide context or to determine how the specific provision should be applied. The Plan contains over 300 pages of activity-specific provisions, so it is unsurprising that consent officers have tended to focus their assessment on those provisions rather than the more general provisions in sections 4 and 5. This approach is supported by the 2014 *King Salmon* decision⁴³ and subsequent decisions in lower courts that have determined that resource consent applications should examine the provisions of the relevant planning documents at the first instance, only turning to higher order documents in limited circumstances (rather than as a matter of course). There will be opportunities through the review of the Plan to consider whether the Plan’s current approach to grouping provisions is the most appropriate.

5.1.4. Types of provisions

When the Plan was notified, section 67 of the RMA required regional plans to contain:

- The issues to be addressed
- The objectives sought to be achieved
- The policies in regard to the issues and objectives, and an explanation of those policies
- The methods being or to be used to implement the policies, including any rules

⁴² Glazebrook, S. (2015). *Statutory interpretation in the Supreme Court*. Retrieved from http://www.courtsofnz.govt.nz/speechpapers/HJG3.pdf/at_download/file

⁴³ *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38.

- The principal reasons for adopting the objectives, policies and methods of implementation
- Information to be submitted with a resource consent application
- Environmental results anticipated from the implementation of the policies and methods
- Processes to be used to deal with issues which cross local authority boundaries, and issues between territorial authorities and between regions
- Procedure for monitoring and reviewing the effectiveness of the plan as a means of achieving its objectives and policies
- Any other information considered appropriate
- Additional matters appropriate for fulfilling the Council’s functions, powers and duties

Since 2005, section 67 has only required regional plans to contain:

- Objectives for the region
- Policies to implement the objectives
- Rules (if any) to implement the policies

As is identified and discussed in the rest of this section, the Plan contains a large volume of content, both in terms of supporting information and number of provisions. This may in part reflect the requirements of the RMA at the time the Plan was drafted. The review of the Plan will be an opportunity to reflect on the changes to the RMA and consider what content should remain within the Plan and in what form.

5.2. Use of supporting information

The Plan includes a wealth of supporting information about Southland’s coastal marine environment, including:

- Detailed descriptions of the values of the coastal marine area (Part B, Appendix 5)
- Landscape assessments (Appendix 4)
- An inventory of important geological sites and landforms (Appendix 7)
- A record of heritage and archaeological sites (Introduction to section 5.7, Appendix 8)
- Anchorages (maps in Appendix 3, Appendix 6)

This information is generally very helpful for understanding the resources of the coastal marine area but there is variability in how strong the connection is between the supporting information and the relevant provisions. Given the increased direction contained in the RPS 2017 and the NZCPS 2010 on some matters, there are opportunities to improve the connections between supporting information and provisions through the review of the Plan. The sections below outline the approaches taken to the matters above.

5.2.1. Values

Part B of the Plan divides the region’s coastal marine area into 13 separate areas and outlines the important values in each area. The introduction of this section states that it is “primarily a description of the physical characteristics and values of particular areas of Southland’s coastal region”. The

purpose is to “give Plan users an appreciation of the environment to which the objectives, policies and methods of implementation relate” and to enable “prospective resource consent applicants to gauge the potential impacts of their activity on aspects of the environment about which they are otherwise unaware.”⁴⁴

Coastal values are referred to generally throughout the provisions of the Plan, but there is no specific reference to the values in Part B. From the sample of resource consents, it appears consent officers generally do not refer to Part B. If the content of Part B is purely for descriptive purposes, it could instead form an appendix or be collated into a supporting document outside the Plan. Alternatively, the Council may wish to consider whether it is desirable to strengthen the link between the values expressed and the provisions of the Plan.

Appendix 5 outlines the Areas Containing Significant Values (ACSVs). At the time the Plan was written, section 58(1)(e) of the RMA set up a management regime whereby areas could be identified as ACSVs in regional coastal plans and the Minister of Conservation (through the NZCPS 1994) could specify activities within these areas for which the Minister would be the consent authority rather than the relevant council. Although the draft NZCPS 1994 contained provisions which would have initiated this management regime, they were not included in the version gazetted in 1994. As a result, the ACSVs in the Plan are used as a more general source of information on values in the coastal marine area and are not used directly in provisions to manage specific activities or locations of activities. Given that ACSVs were originally drafted for a different purpose for which they are currently being used, it will be necessary to consider through the review how or whether they will be included in the Plan in the future.

5.2.2. Landscape assessments

Appendix 4 contains landscape assessments for 31 areas in the Southland coastal environment. Each assessment outlines the key landscape elements, distinctive features, cultural elements and a naturalness rating (explained in the introduction to the appendix). For each unit, there is also a list of activities that could adversely affect the natural character of that area. Section 5.1 clarifies that these assessments were undertaken before the NZCPS 1994 was finalised and therefore may not cover all of the requirements of that NZCPS (which has now itself been superseded by the NZCPS 2010). These assessments are used in two ways: to support the descriptions of natural character and landscape values around Southland contained in the coastal values in Part B and to support the interpretation of objectives and policies which relate to landscapes. The sample of resource consents indicates that consent officers use these when assessing the impacts of activities on the landscape values of affected areas.

Objective 5.2.1 is to “protect outstanding natural features and landscapes in the region’s coastal marine area from the adverse effects of use, development and subdivision.” Policy 5.2.1 implements this objective by requiring the “identification and protection of outstanding natural features and landscapes within the coastal marine area.” The explanation to this policy refers to a 1997 report by Boffa Miskell, *Southland’s regional landscape assessment*. This report identified two coastal

⁴⁴ Section 3.1, Chapter 3, page 1.

landscapes as outstanding – Fiordland and Rakiura/Stewart Island – and suggested that the entire Southland coast may also be considered outstanding. Both of these provisions (as well as Policy 5.2.2 – Geological sites and landforms and Policy 5.3.1 – Amenity values) are accompanied by notes at the end of the explanation referring readers to Appendix 4.

Broadly, it appears that Fiordland and Rakiura/Stewart Island are considered outstanding landscapes and that the landscape assessments in Appendix 4 are used to provide information about the environment in particular areas, especially for informing assessments of effects in resource consent applications. The combination of using reference material and advice notes on provisions is a fairly ‘loose’ approach to managing landscapes. It would assist users if the Plan had a clearer approach to identifying and managing landscapes. Additionally, more recent landscape studies have been undertaken in 2006⁴⁵ and 2017⁴⁶ which will need to be considered in the review of the Plan.

5.2.3. Geological sites and landforms

Policy 5.2.2 is to “protect the coherence and integrity of the geological sites and landforms listed below” and includes a list of 40 sites derived from a report prepared for the Geological Society of New Zealand in 1993.⁴⁷ The explanation of the policy refers to Appendix 7 which includes the same list of sites with one extra described as G121 – Waitutu uplifted marine terraces. Appendix 7 contains contextual information about these sites including an assessment of their importance. One site listed in Policy 5.2.2 is considered to have international importance, while the others have either national or regional importance. Site G121 is classified as having national importance so it is not clear why this site was not included in Policy 5.2.2.

This approach is clearer and more certain than the approach to landscapes as the sites to be protected are specifically identified. The additional information in Appendix 7 provides context for the identification of these sites and more specific information on their locations and significance. In the future, it may be helpful to indicate the locations of these areas on a map given that the names of the sites are unlikely to be immediately recognisable to users.

5.2.4. Heritage and archaeological sites

Policy 5.7.1 (Specific sites with important heritage values) is to “protect the heritage values of the following sites and areas”:

- Port of Invercargill Jetty (identified through consultation)
- “Waikare” 1910 wreck (identified through consultation)
- “Endeavour” 1975 wreck – ballast stones (identified through consultation)

⁴⁵ Boffa Miskell. (2006). *Southland Coastal Landscape Study: discussion document*. Prepared for Environment Southland and Southland District Council.

⁴⁶ Boffa Miskell. (2017). *Stewart Island: Landscape and Coastal Natural Character Study*. Prepared for Environment Southland.

⁴⁷ Kenny, J. A. & Hayward, B. W. (1991). *Geological Society of New Zealand*

- Sites in the Department of Conservation Historic Resources Register (introduction to section 5.7)
- Sites in the New Zealand Archaeological Association register (Appendix 8)

Additional information on these sites is provided in the introduction to section 5.7 and Appendix 8. In addition to Policy 5.7.1, the following rules specifically seek to protect the identified sites by restricting particular activities from occurring there:

- Rule 5.7.3 – Modification or destruction of sites listed in Policy 5.7.1
- Rule 11.5.1 – Removal or demolition of any structure (permitted activity)

Sites listed in Appendix 8 are also referred to in some of the activity-specific provisions where there are restrictions on undertaking those activities in or near the sites:

- Policy 5.6.2 – Consultation where an activity may impact on a site of cultural significance
- Rule 5.3.1 – Information signs (restricting the placement of signs within heritage and archaeological sites)
- Rule 9.1.3 – Temporary exclusive occupation of part of the coastal marine area
- Rule 9.1.7 – Occupation by submarine lines or submarine cables
- Rule 10.4.5 – Reclamation in Fiordland waters and at sites of cultural and heritage value
- Rule 10.5.9 – Disturbance of the foreshore or seabed at sites of cultural, heritage, archaeological or geological value
- Rule 11.2.10 – Placement of submarine lines or cables

The definition of wahi tapu in the glossary sets out that these areas are listed in Appendix 8.

There is a significant amount of information in the Plan on Southland’s coastal heritage and archaeological sites. Since the Plan became operative, the Southland Coastal Heritage Inventory Project has monitored some of these sites and identified new sites. Given that the sources of the information in the Plan are more than 20 years old, it is timely for them to be reviewed as part of the review of the Plan.

The Plan has treated sites differently depending on the way they were identified. As such, there is variation through the policies and rules about the level of protection afforded to different sites. There is also cross-over between the different lists of sites (as outlined in the introduction to section 5.7). There are opportunities to simplify this approach through the review of the Plan. As planning practice has evolved, it has become usual to include information like that contained in Appendix 8 as a schedule to the Plan rather than an appendix. Generally, appendices contain supplementary material while schedules contain referenced material. Amendments to either schedules or appendices included within a plan will require a Schedule 1 process. Consideration should be given in the review to the best way to present and reference the material contained in the Plan.

5.2.5. Anchorages

Objective 11.7.7.2 is “to ensure that adequate anchorages remain available for all mariners.” This is implemented by Policy 11.7.7.1 which is to “maintain the anchorage values of coves and embayments

that are recognised anchorages.” The explanation to this policy states that an “indicative list of known anchorages is shown in Appendix 6 and each anchorage is shown on the maps (Appendix 3)”. Rule 11.7.7.1 then makes it a permitted activity to establish mooring facilities in the anchorages listed in Appendix 6 provided they are available for the use of all mariners. There are restrictions on anchoring and mooring in certain anchorages, which are outlined in Rules 11.7.7.2 to 11.7.7.7 and 11.7.7.11 to 11.7.7.13. There is no specific rule for vessels anchoring outside the areas listed in Appendix 6 and the locations specified in Rules 11.7.7.2, 11.7.7.7, 11.7.7.12, and 11.7.7.13. There is, however, a ‘catch-all’ rule for establishing moorings outside specified areas.

The combination of the list in Appendix 6 and the maps in Appendix 3 provides detailed information on existing anchorages. It does not appear that this information has been updated throughout the life of the Plan. The review of the Plan will need to consider the best way to present this information to ensure its relevance throughout the life of the Plan. There is a direct link between the material in the appendices and the relevant provisions, although there could be a clearer rule cascade outlined in the provisions (i.e. for activities that do not comply with the permitted activity standards in Rule 11.7.7.1).

5.3. Appropriateness and design of objectives, policies and rules

5.3.1. General

Overall, the Plan contains a large number of provisions that span hundreds of pages. This increases the risk of inconsistency as consent officers will tend to have different approaches to identifying and applying relevant provisions. There is also a risk that relevant provisions are overlooked because they are not specifically cross-referenced. The sample of resource consents provided shows that in many cases consent officers list all of the provisions they consider relevant to the application and then provide an ‘overall’ assessment of how consistent the proposal is with those provisions. While this is an acceptable approach, there is a risk that the directive nature of particular policies is not implemented because it is ‘bundled’ together with others. The review of the Plan will provide an opportunity to consider the Plan’s current approach to provisions.

5.3.2. Objectives

Quality Planning describes an objective as “a statement of what is to be achieved through the resolution of a particular issue.”⁴⁸ Good practice in drafting objectives is to ensure that they are specific, state what is to be achieved where and when, and are assessable so that it is clear when they have been met.⁴⁹ They should be worded so that they state a desired endpoint rather than an action to be undertaken (as this is the realm of policies). The Plan includes a range of objectives from general to specific. For example:

- Objective 4.7.1 is to avoid, remedy or mitigate cumulative adverse effects.

⁴⁸ Quality Planning. (2015). *Plan steps: writing provisions for regional and district plans*, p.5.

⁴⁹ Quality Planning. (2015). *Plan steps: writing provisions for regional and district plans*, p.5.

- Objective 11.2.3 is to ensure, where appropriate, that any permanent structure/building is of a form and is finished in materials and of colours which blend into the natural character of the area.

Objectives in the Plan rely heavily on avoiding, remedying or mitigating adverse effects. This is generally unhelpful as it does not clearly articulate the desired outcome to be achieved. Similarly, the objectives often refer to ‘appropriate’ uses rather than specifying what is considered to be appropriate or inappropriate, or what environmental outcome might be achieved by having appropriate use.

In many cases, the wording of objectives has strayed into matters which are more appropriately provided for through policies. Using the example above, Objective 11.2.3 would ordinarily be a matter for a policy rather than an objective in its own right. If it needed to be an objective, it would be more appropriately worded along the lines of: “The form, finishing and colour of structures blend into the natural character of the area.”

There is a significant amount of work involved in assessing the usefulness of each objective and, where necessary, refocusing them so that they are expressed as objectives. This will need to be part of a wider assessment of the policy framework, as the objectives are closely connected to issues and policies.

5.3.3. Policies

Quality Planning describes policies as “the course of action to achieve or implement the objective (i.e. the path to be followed to achieve a certain, specified, environmental outcome).”⁵⁰ Policies can have varying degrees of flexibility and scope so as to provide for different degrees of discretion in decision-making. Policies are particularly important for rules which make activities non-complying due to the additional tests these activities must pass through as part of the resource consent process.⁵¹ The Plan includes a large number of policies and, like objectives, these range from general to specific. For example:

- Policy 5.10.1 is to recognise the importance of the coastal marine area for social, cultural and economic activities. The only rule cross-reference for this policy is to Rule 5.3.5 which manages noise at Bluff Port.
- Policy 15.2.1 is to provide for the use of a refuge area for salmon farms that have obtained a consent for their operation. This is achieved through Rule 15.2.2 which identifies a refuge area and provides for its use as a permitted activity subject to conditions.

In many cases, the policies of the Plan appear to be designed more to inform the construction of the rule framework rather than to assist with decision-making (for example, policies which direct that particular activities are to be provided for). Similarly to objectives, many policies rely on avoiding, remedying or mitigating adverse effects. This provides little guidance to decision-makers on the types

⁵⁰ Quality Planning. (2015). *Plan steps: writing provisions for regional and district plans*, p.5.

⁵¹ See section 104D(1), RMA.

of decisions they should be making in order to achieve the objectives. As discussed in section 5.3.4.1 of this report, in some cases there is a disconnect between policies and rules where specific direction in policies is not adequately reflected in the construction of the rule framework. The Plan does contain many directive policies which can be helpful for assessing resource consent applications, if they are supported by objectives and rules. These issues are common for first generation plans and can be addressed through the review of the Plan.

5.3.4. Rules

The Plan contains many rules which vary in their scope and direction from broad to very detailed. A desktop assessment has identified four general issues with the rules in the Plan:

- Policy direction
- Rule cascades
- Splitting of rules
- Restricted discretionary activities

There are likely to be many other issues with the rules that have been identified through their use in resource consent processes. It will be helpful to include consent officers in the review of the Plan so that these issues are identified and addressed in any new rule drafting.

5.3.4.1. Policy direction

Some of the policies in the Plan are highly directive, however in some cases this direction is not carried through to the resulting rule framework. Some examples include:

- Policy 5.3.3 is to “avoid the deposition of solid waste in the coastal marine area” but Rules 7.3.2.5 to 7.3.2.8 provide for the discharge of dead farmed marine organisms and waste from land-based marine species processing factories as either permitted or discretionary activities.
- Policy 8.8 is to “protect ambient air quality in National Parks ..., lands on Stewart Island that are reserves ... and stewardship lands, Waituna Wetlands Scientific Reserve and parts Rowallan Forest Conservation Areas” but none of the resulting rules apply any additional restrictions on activities in these areas (meaning they are managed in the same way as areas where air quality is to be “maintained” under Objective 8.1).
- Objective 10.4.1 is to “avoid the adverse effects of reclamation and impoundment within the coastal marine area” but Rules 10.4.1 to 10.4.5 allow for reclamation and impoundment as either discretionary or non-complying activities.

Since the *King Salmon* decision in 2014, there has been increased scrutiny of the terms used in plans, particularly where they direct particular actions or outcomes. The disconnection between some of the Plan’s policies and rules is likely to be due to the fact that the document is a first generation plan prepared before the current body of case law was established. Put simply, the Plan has an ‘old’ drafting style which has been superseded by more modern planning practice and approaches to drafting. It will be important for the review of the Plan to carefully consider how direction is expressed through policies and the most appropriate ways of implementing this direction through the rules.

5.3.4.2. Rule cascades

The term 'rule cascades' refers to the structure of rules for activities where there is a progression of management approaches. For example, an activity may be permitted up to a certain level, then discretionary above that level. Depending on the effects of the activity, rule cascades may include a number of different activity statuses. The Plan has been drafted so that generally each rule deals with one single activity status, therefore the 'rule cascade' tends to fall over multiple rules. For example:

- Rule 5.11.1 provides for activities associated with defence purposes as a permitted activity where they meet specified standards and Rule 5.11.2 provides for activities that do not comply with the standards in Rule 5.11.1 as discretionary activities.

Because the Plan contains many rules, individual rule cascades tend to be spread throughout each section. In some cases, it is difficult to understand how an activity is managed if it does not comply with a permitted activity rule. For example:

- Rule 9.1.5 provides for occupation of the coastal marine area by scientific instruments and supporting equipment as a permitted activity provided certain conditions are met. There are no other rules in section 9 (Occupation) relating to scientific instruments and supporting equipment.

The exception to this is Rules 11.4.1 to 11.4.4, which each contain two parts: a permitted activity followed by a discretionary activity where the permitted activity standards are not met. Rule 11.2.6 also provides a 'catch-all' for structures not otherwise managed.

Where the RMA requires resource consent for an activity (for example, coastal occupation) but there is no relevant rule in a plan, the RMA provides for those activities to be considered as discretionary activities – this is described as an 'innominate activity'. Given the large number of rules in the Plan, and that it is a first generation plan, it is not surprising that there are some 'gaps' in the rule framework. These issues can be tidied up through the review of the Plan.

5.3.4.3. Splitting of rules

The Plan's approach to drafting rules has tended to be to have one activity status per rule. This has the benefit of providing clarity to users about how specific activities are managed but results in a large number of rules. In some cases in the Plan, it is not clear why rules have been split. For example:

- Rule 10.1.1 provides for capital dredging as a discretionary activity up to particular limits on volume and area. Rule 10.1.2 then provides for capital dredging exceeding those limits also as a discretionary activity.
- Rule 10.2.2 provides for deposition of up to 50,000 cubic metres of material on the foreshore as a discretionary activity. Rule 10.2.5 then provides for deposition of over 50,000 cubic metres of material on the foreshore or seabed as a discretionary activity.

- Rule 10.2.6 provides for deposition of up to 50,000 cubic metres of material on the foreshore as a discretionary activity. Rule 10.2.5 then provides for deposition of over 50,000 cubic metres of material on the foreshore or seabed as a discretionary activity.

Where rules contain limits, there is likely to be little value in providing the same activity status for activities below and above the limits unless there is clear policy guidance for decision-makers. This issue is related to the discussion above regarding rule cascades. The review of the Plan will need to consider whether it is appropriate for activities both above and below limits to be managed under the same activity status (and if so, whether the rules should therefore be merged) or whether a rule cascade is appropriate (and if so, whether different activity statuses or policy direction is needed).

5.3.4.4. Restricted discretionary activities

Restricted activity status allows the Council to either grant or decline resource consent, but it may only consider specific matters listed in the Plan during decision-making (compared to discretionary where any relevant matter can be considered). Only ten rules in the Plan provide for restricted discretionary activity status. When drafting restricted activity rules, Quality Planning recommends avoiding “making the matters over which discretion is restricted so wide as to make the restriction meaningless.”⁵² Some of the Plan’s rules include restricted discretionary matters that are very broad. For example:

- Rule 7.2.2.2 (discharges to Natural State waters): the adverse effects of the discharge on coastal waters and seabed, the environmental effects and the practicality of alternative means of discharge, including discharge to land
- Rule 9.1.7 (occupation by submarine lines or cables): any effect on public access, recreational opportunities, recognised navigation routes and anchorages, benthic ecology, stability of the foreshore and seabed, amenity values, cultural, heritage or archaeological values
- Rule 11.7.1.7 (whitebait stands on the Awarua and Hollyford rivers): erosion, the relationship of tangata whenua and their cultural and traditions with ancestral lands, waters, sites, wahi tapu and other taonga, any amenity and natural character effects

This is a fairly minor issue which can be tidied up through the review of the Plan.

5.4. Explanations

The Plan uses a large amount of explanatory text to support the provisions. There are explanations for every objective, policy and rule. While explanations can be useful for providing factual information to support provisions, they cannot enlarge the scope of (or contradict) the content of the provision they relate to. There is a risk when using explanations that the distinction between the provision and the supporting information is blurred. The explanations in the Plan vary considerably in terms of their scope and focus. For example:

⁵² Quality Planning. (2015). *Plan steps: writing provisions for regional and district plans*, p. 12.

- The explanation to Policy 6.1.1 (Uniqueness of estuarine ecosystems) explains why estuarine ecosystems are unique, providing contextual information to the provision.
- The explanation to Rule 5.3.7 (noise limits for ships using Areas A, B, C and D on the lower Ōreti River) sets out why the rule has been designed the way it has.
- Policy 4.5.1 is to “use the provisions of section 108 of the Act to obtain financial contributions” and the accompanying explanation sets out that these are intended to be used as a secondary mechanism (after avoiding, remedying or mitigating) and should only be used to offset unavoidable adverse effects.

Modern planning practice has moved away from the use of explanations as mandatory content, mostly on the basis that provisions should be able to ‘stand on their own.’ This is a sensible goal for plan provisions and has an added benefit of reducing the overall size of plans. However, explanations should not simply be deleted in a wholesale manner. One of the benefits of the Plan is the wealth of information it contains on Southland’s coastal marine area and the activities which occur within it. Where that information is contained within explanations, there will need to be careful consideration of whether there is value in ‘capturing’ it elsewhere in the Plan or in supporting documents. Similarly, many explanations provide additional direction not contained in the provisions to which they relate. Decisions will need to be made about whether that direction should be included in the provisions instead.

5.5. Environmental results

Regional plans may state the environmental results expected from the policies and methods.⁵³ A full assessment of the outcomes of the Plan is included as Appendix 1 to this report. This section summarises some of the key themes from that assessment.

Section 1.4 of the Plan clarifies that the Plan uses the term “outcomes” to refer to environmental results, stating that an outcome “is the anticipated environmental result of policies, methods and rules being implemented.”⁵⁴ Quality Planning provides guidance on writing environmental results, including that they should:⁵⁵

- be linked to the provisions of the plan, and particularly the objectives
- be measurable – there should be an ability to establish whether or not the result has been achieved or the expected change has occurred.
- focus on what is expected or observed over the life of the plan provisions to which the result relates
- also relate those outcomes that are incidental to the primary objective or that may occur as a side effect of implementing the policies and methods

⁵³ Section 67(2)(d), RMA.

⁵⁴ Section 1.4, Chapter 1, page 3.

⁵⁵ Quality Planning. (2013). *Plan steps: writing provisions for regional and district plans*. Retrieved from <http://www.qualityplanning.org.nz/sites/default/files/2018-11/Writing%20Provisions%20for%20Plans.pdf>

The guidance also states that expected environmental results should not repeat the objectives of the plan, focus on administrative or process outcomes, or be vague or express generalised expectations.

The outcomes stated in the Plan range from specific to general. This is true of both the high level effects-based provisions in sections 4 and 5 and the detailed activity-specific provisions in sections 6-16. Broadly speaking, where the Plan provides strong direction on the management of an activity, there is a correspondingly strong outcome stated. The reverse is also true – where management is more general, outcomes are also more general.

There are three main issues with the outcomes in the Plan:

- a. They generally mirror the relevant objective(s) which blurs the distinction between the aim of the provisions (i.e. the objective) and the demonstrated environmental result (i.e. what will happen if the objective is achieved).
- b. Mostly they are not measurable and do not link to monitoring indicators.
- c. They tend to express generalised expectations.

As demonstrated by Section 4 and Appendix 1 of this report, the matters above have made assessing the implementation of the Plan challenging. When the Plan was drafted in the 1990s, it was mandatory for regional plans to include the environmental results anticipated from the implementation of the policies and methods. Since 2005, it has been optional to include environmental results. The decision to include environmental results in the future will be a matter for the review of the Plan to consider.

5.6. Plan effectiveness and suitability monitoring

Section 2.6 of the Plan outlines the approach to monitoring the effectiveness and suitability of the Plan. Sections 2.6.1 and 2.6.2 describe how monitoring of outcomes and methods should occur (respectively) and section 2.6.3 discusses usability. Section 2.6.4 sets out an implementation process for establishing this monitoring, requiring a strategy for implementing a monitoring regime for the matters in Sections 2.6.1–2.6.3 within two years of the Plan becoming operative. The section goes on to state that each year a monitoring project will be prepared stating what types of monitoring will be undertaken during the next financial year and the public will have the opportunity to comment.

Although not particularly specific, the Plan refers to:

- Reviewing state of the environment monitoring in relation to environmental outcomes
- Establishing the frequency of monitoring and reporting and the methodologies to be used in the implementation strategy
- Establishing feedback systems for internal and external users of the Plan

The Council's Annual Report for 2008/09 stated that work was progressing on developing an implementation strategy for the Plan.⁵⁶ Subsequent Annual Reports discuss the development of plan changes to address issues in the coastal marine area. It is not clear whether the implementation

⁵⁶ Environment Southland. (2009). *Annual report 2008/09*. p.43.

strategy was finalised and whether the issues identified arose through the strategy being implemented.

At the time of writing, there was no published strategy or monitoring regime for monitoring the effectiveness and suitability of the Plan. Similarly, there does not appear to have been a strategic approach to designing state of the environment monitoring to support the monitoring of the Plan's outcomes. There have not been any reports published on the effectiveness or efficiency of the Plan as required by the RMA.⁵⁷ In the absence of this information, this report seeks to examine the effectiveness and efficiency of the Plan since it became operative in 2007 using the information available.

⁵⁷ Section 35, RMA.

6. Efficiency

Efficiency is a measure of the benefit of a policy relative to its cost. The most efficient policy is the policy that achieves a given level of benefit for the least cost, or conversely, the most benefit for a given amount of cost.⁵⁸ Evaluating efficiency involves assessing the extent to which benefits of a policy exceed the costs associated with that policy. The higher the ratio of benefit to cost, the more efficient the intervention can be said to be. The efficiency of a policy can be interpreted as the value for money that it represents in terms of costs (for both the Council and the community, including users), the ease of administration and the ability to achieve an environmental outcome.

There are three types of costs:

- Administration costs: borne by the Council and include considering and issuing consents, monitoring and enforcement.
- Compliance costs: borne by applicants and include costs associated with applying for and complying with consents.
- Broad economic costs: which may arise from regulation and involve, for example, costs associated with constrained production through limits and other constraints on development imposed by either plan provisions or consent conditions.

This section evaluates the components of efficiency using data provided by the Council.

6.1. Costs of the Plan

6.1.1. Administration costs (by the Council)

It will never be possible to fully account for all the costs borne by the Council in administering a plan. The primary costs to the Council arise from resource consent and compliance activity which implements and enforces the Plan's provisions. This section reviews the information available about the costs of those activities.

6.1.1.1. Resource consents

Fixed fees

As illustrated earlier in Figure 7, the majority of coastal permits processed by the Council have been on a fixed fee basis rather than actual cost recovery. Table 1 indicates that the majority of applications processed under fixed fees were for whitebait stands. Between 2007 and 2018, 69% (647) of the resource consents granted were for whitebait stands meaning that the majority of charges for consent processing under the Plan are fixed fees. These applications have been processed on a fixed fee basis since at least 2009/10. *Table 14* below shows the fixed fees set out in the Council's Fees and Charges

⁵⁸ Willis, G. (2008). *Evaluating regional policy statements and plans: a guide for regional councils and unitary authorities*.

Schedules for the financial years from 2009/10 to 2020/21, compiled from the Long Term Plans from 2009-19, 2012-22, 2015-25 and 2018-28.

Table 14: Fixed fees for resource consent applications for whitebait stands

Years	Fee
2009/10	\$60
2010/11	\$60
2011/12	\$60
2012/13	\$65
2013/14	\$65
2014/15	\$65
2015/16	\$100
2016/17	\$100
2017/18	\$100
2018/19	\$220
2019/20	\$225
2020/21	\$230

The Statement of Proposal for the 2018-28 Fees and Charges Schedule states that the fixed charges proposed for the years 2018/19, 2019/20 and 2020/21 have been determined to be the actual processing costs for the listed consent types.⁵⁹ The considerable increase from the previous Long Term Plan fees (120% increase between 2017/18 and 2018/19) suggests that historically the fixed fees have not covered the actual costs of processing these applications. With consents for whitebait stands making up 69% of all consents granted under the Plan, and with actual costs potentially twice the fixed fee charged to applicants, there has been considerable subsidisation of these applications by the Council. Costs incurred for carrying out activities for which charges are not cost recoverable are funded by general rates.

The outcomes sought in relation to whitebait stands are that the total amount of space for the erection of whitebait stands does not increase (outcome 11.7.1.1) and that the replacement of whitebait stands in formerly allocated sites will avoid adverse effects (outcome 11.7.1.2). It is not clear exactly what environmental result this is intended to achieve, however, requiring resource consents for whitebait stands is an effective way to allocate space as it makes clear which stands are lawful and which are not. It also allows minimum standards to be set through consent conditions and for monitoring to be undertaken. Whitebait stands are owned and operated privately and, accordingly, their benefits are also private rather than public. The level of subsidisation which appears to have occurred historically in relation to processing these consents is unlikely to be the most efficient

⁵⁹ Environment Southland. (2018). *Summary of information and statement of proposal: Fees and Charges 2018 – 2021*, p. 6. Retrieved from <https://www.es.govt.nz/council/consultations/Documents/2018/Fees%20and%20Charges%20for%202018-2021/Statement%20of%20Proposal%20-%20Fees%20and%20Charges%202018-2021.pdf>

method. However, a change to the charging regime from 2018/19 should address this imbalance and result in greater efficiency.

Actual costs

Excluding whitebait stands, the majority of applications have been processed on a normal cost recovery basis, meaning that the applicant is charged for the actual costs of processing the application. In these situations, the Council administers the process required but the costs are borne by those receiving the benefit (i.e. the applicant who receives the resource consent).

6.1.1.2. Consent compliance monitoring

Like resource consents, consent compliance monitoring charges are a mixture of fixed fees and actual costs. It is not possible to determine what proportion of the actual costs the fixed fees recover from consent holders from the information available.

Fixed fees

Table 15 below shows the annual fixed fees which have been set in the past and currently for compliance monitoring. This information shows there was a considerable increase in these charges through the 2012/22 Long Term Plan. This may suggest that the charges set prior to 2012 were not adequate to cover the Council's costs, however, it is not possible to determine with certainty.

Table 15: Fixed fees for annual compliance monitoring 2009 – 2018

Activity	2009-19	2012-22	2015-25	2018-28
Whitebait stands (Awarua and Hollyford Rivers)	\$120	\$200	\$200	\$215 (2018/19) \$220 (2019/20) \$225 (2020/21)
Whitebait stands (all other areas)	\$30	\$95	\$95	\$105 (2018/19) \$107 (2019/20) \$110 (2020/21)
Commercial surface water activity logs	Actual costs – see below	\$55	\$60	\$65 (2018/19) \$66 (2019/20) \$68 (2020/21)
Stewart Island boatsheds and jetties	Actual costs – see below			\$65 (2018/19) \$66 (2019/20) \$68 (2020/21)
Fiordland barges, fishing industry facilities, jetties				\$160 (2018/19) \$164 (2019/20) \$167 (2020/21)
South Coast (remainder of coastline)				\$90 (2018/19) \$92 (2019/20) \$94 (2020/21)

Actual costs

Some activities have historically been monitored using a formula based on the actual monitoring costs incurred. Table 16 below shows the formulas used to determine the annual charges for these types of

activities. All activities except marine farm monitoring moved from actual costs to fixed fees in the 2018/28 Long Term Plan. Marine farm monitoring charges are grouped due to the efficiencies gained by combining compliance monitoring of these consents.

Table 16: Actual cost formulas for annual compliance monitoring charges

Activity	2009-19	2012-22	2015-25	2018-28
Marine farms – Stewart Island	(Total actual cost/total ha) x number of ha of marine farming licence held by consent holder			
Marine farms – Bluff	(Total actual cost/total ha) x number of ha of marine farming licence held by consent holder			
Commercial surface water activity logs	Total actual cost/number of consents providing logs	Fixed fee – see above		Fixed fee – see above
Stewart Island boatsheds and jetties	Annual cost = (total actual cost/number of consented structures)/3*			
Fiordland barges, fishing industry facilities, jetties	Annual cost = (total actual cost/number of consented structures)/3*			
South Coast (remainder of coastline)	Annual cost = (total actual cost/number of consented structures)/3*			

* Structures are inspected three yearly, with costs spread over three years.

For all other monitoring, the Council charges actual costs for disbursements, a fee per kilometre for vehicle usage, and staff time.

6.1.1.3. Other costs

The Council incurs other costs relating to administering the Plan, such as implementing the non-regulatory methods outlined in section 1.6 of the Plan. These costs are not identified or quantified in the Council's financial reporting.

6.1.2. Compliance costs (by applicants and consent holders)

6.1.2.1. Resource consents

Cost of obtaining resource consent and complying with conditions

A brief questionnaire was sent out to a sample of resource consent applicants and consultants to get an idea of the cost to applicant of: preparing resource consent applications, implementing any mitigation measures, and ongoing monitoring, modelling or reporting. 21 consent holders were contacted and asked the following three questions:

1. How much did it cost to prepare the consent application (including any design, monitoring and modelling costs)?
2. How much did or does it cost to implement any mitigations associated with the consent that have been imposed through consent conditions?
3. Are you required to undertake any ongoing monitoring, modelling or reporting activities? If so, how frequently and what are the associated costs?

Of the 21 consent holders that were contacted, 6 responses were received. Given the low response rate, these results are not considered representative of the costs to applicants. The low number of responses has meant that little weight has been given to the results of this questionnaire when determining the efficiency of the Plan provisions. However, the responses to the questionnaire do indicate that the cost of preparing a resource consent generally ranges from \$1,300 to \$5,400 for activities that are likely to have a minor effect on the environment. The mitigation measures imposed through conditions of consent ranged from \$0 to \$2,500 per annum, and the costs of monitoring and on reporting ranged from \$70 to \$4,000 per annum. For larger applications with greater potential for effects on the environment the cost of consent preparation, mitigation, and monitoring was considerably greater. While these results represent a very small sample size, the general trend shown is that the cost of obtaining a resource consent and complying with its conditions corresponds to the scale of the activity being applied for.

Annual charges

Once granted, consents incur annual administrative charges. These are based on the complexity of the consent and we have not been provided information showing the charges incurred by each consent. Whitebait stands incur fixed annual administrative charges which have increased slightly from \$20 in the 2009/19 Long Term Plan to \$23 in the 2018/28 Long Term Plan.

The 2018/28 Fees and Charges Schedule introduces new annual research and management charges for coastal permits of \$339 in 2018/19, \$347 in 2019/20 and \$355 in 2020/21. Historically these types of charges have only been applied to water and discharge permits. This is to fund the Council's research on these resources.

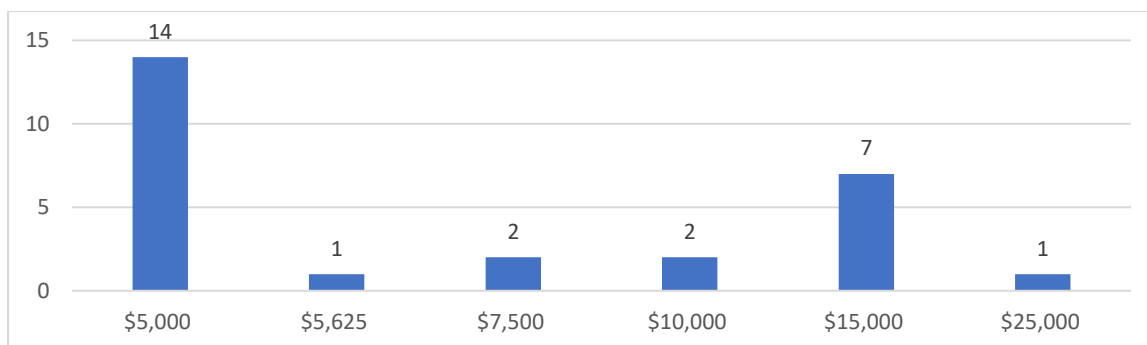
Financial contributions and bonds

Section 17 of the Plan includes two objectives and eight policies relating to the Council's intended use of financial contributions and bonds on resource consents to offset or remedy adverse effects of activities in the coastal marine area. Despite this, there have been no financial contributions required since 2007.

The Council's bonds database shows that bonds have been imposed on at least 34⁶⁰ resource consents since 2005. Some of these have not been paid. Of the 34 with bonds, 27 of the resource consents were coastal permits. This indicates that bonds have been considered appropriate and imposed on coastal permits considerably more often than any other type of resource consent issued by the Council. Figure 13 below shows the amounts imposed as bonds, ranging from \$5,000 to \$25,000. The most common amount imposed was \$5,000, followed by \$15,000.

Figure 13: Bond amounts

⁶⁰ The database includes records for 33 individual resource consents and one record which records a consent holder as having "several" consents with bonds.



Many of the permits with bonds have expired since they were issued. Of these permits, two expired and were not replaced, three were replaced and did not have a bond imposed on the new permit, and seven were replaced and continued to have a bond imposed.

6.1.2.2. Coastal occupation charges

Policy 9.1.9 of the Plan sets out the regime for establishing a coastal occupation charging regime to persons who occupy Crown land in the coastal marine area to the full or partial exclusion of others. Rule 9.1.4 sets out the circumstances when the charge will be imposed, including any exemptions and an indication of how the money received will be used. The regime applies to coastal permits issued under the RMA and to licences issued prior to the RMA which are now deemed to be coastal permits.

The charging rate is linked to the Consumer Price Index (CPI) so that the charging rates are altered each year. Table 17 below contrasts the charges included in the notified version of the Plan (1998) against the charges for 2018.

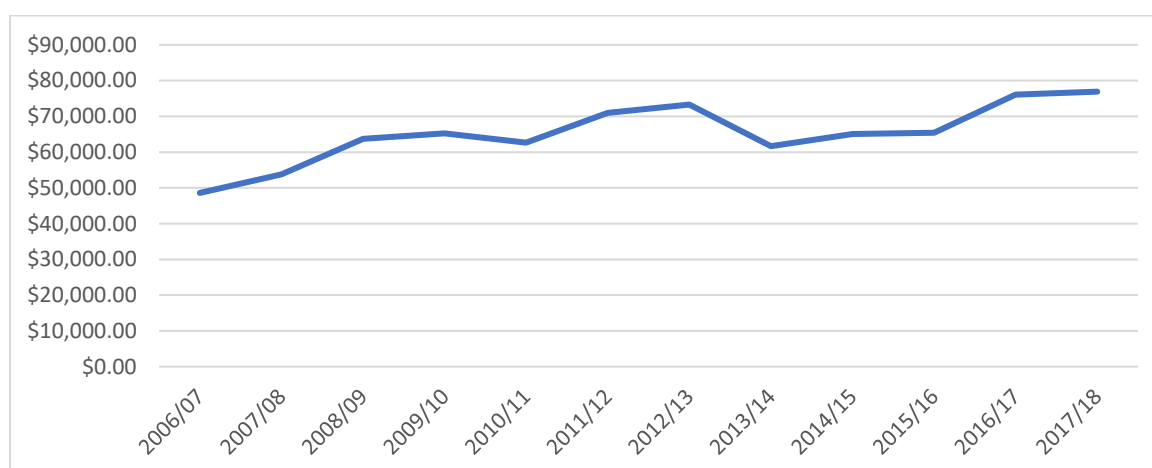
Table 17: Coastal occupation charges in 1998 and 2018

Activity	Charge 1998 (per annum)	Charge 2018 (per annum)
Commercial activities (excluding Riverton Harbour wharves)		
Any structure, marine farm, boat building/repair structure, boatshed or other commercial activity	\$425.00	\$717.70
Boat storage facility on water (for more than ten boats), including marinas, moorings, boat parks or canal housing	\$425.00	\$717.70
• Per metre of berth per annum	\$12.00	\$20.20
• Additional sum for every swing mooring	\$84.00	\$141.90
Non-commercial activities (excluding Riverton Harbour wharves)		
Structures up to and including 14m ²	\$60.00	\$101.30
Structures between 14m ² and 28m ²	\$115.00	\$194.20
Structures between 28m ² and 56m ²	\$230.00	\$388.50
Structures between 56m ² and 84m ²	\$290.00	\$489.80
Structures exceeding 84m ²	\$425.00	\$717.70
Any boatshed	\$115.00	\$194.20
Other activities (whether commercial or non-commercial) including Riverton Harbour wharves		
Any pipeline used solely for individual domestic purposes (including stormwater and water supply purposes)	\$60.00	\$101.30
Any pipeline (other than any pipeline used solely for individual domestic purposes) or submarine or buried cable	\$85.00	\$143.50
• Plus additional sum if longer than 30m (per 30m length per annum)	\$15.00	\$25.30
• Up to a maximum sum per annum	\$425.00	\$717.70
Any pile moorings (other than any pile moorings in a boat-storage facility)	\$60.00	\$101.30
• Or per metre per annum whichever is the higher sum	\$12.00	\$20.20

Any swing mooring for which preferential or exclusive use is required (i.e. moorings that require a coastal permit under Rule 13.2.8).	\$84.00	\$141.90
Any wharf in Riverton Harbour (per metre of length per annum)	\$8.27	\$13.90

Figure 14 below shows the occupational charges collected in each of the financial years between 2006/07 and 2017/18. The totals ranged from \$48,586.50 in 2006/07 to \$76,907.39 in 2017/18. As the graph demonstrates, there has been an overall increase in the total amount collected over the time period. This is likely to be due to two factors: changes in the CPI and additional consents granted for activities subject to the charge.

Figure 14: Coastal occupation charges collected 2006/07 to 2017/18



In total, the Council has collected \$783,419.35 in coastal occupation charges between 2006/07 and 2017/18. The Plan specifies how money collected from the charges is to be spent. For some years, the money from these charges was not spent, however, in recent years it has been or will be used to fund specific coastal projects, as follows:

- Biosecurity division Marine Pests project in 2015/16, 2016/17 and 2017/18
- Compliance division's Coastal Marine Monitoring project in 2018/19, 2019/20 and 2020/21

6.1.2.3. Marine fee

As outlined previously in section 3.4.3.2 of this report, a Marine Fee is payable by signatories to the Cruise Ship Deed. The Marine Fee is calculated on the following basis:

Total Gross Registered Tonnage (GRT) of cruise ship x \$0.35, plus GST if applicable

The purpose of the Fee is to assist the Council to manage the coastal marine area of Southland, including any costs the Council incurs with harbour management and navigation and safety issues but excluding port dues or port charges. In 2015, the Council adopted the Marine Fee Reserve Allocation Policy to clarify how funds collected from the Marine Fee are to be applied or allocated. In particular, this policy sets out criteria for funding requests and priorities for allocating funds.

Since 2015, the Council has set out Marine Fee Reserve allocations in its Long Term Plans.⁶¹ The activities that have been allocated funding include:

- Coastal and bathing sites monitoring
- Ecosystem response (estuaries, human health for coast)
- Science strategy (coast)
- Science biodiversity monitoring
- Hydrology (marine)
- State of Environment data handling, reporting and management (coast)
- State of Environment data collection, monitoring and evaluation (coast)
- Biodiversity (marine)
- Shellfish monitoring
- Coastal heritage inventory
- Marine pests
- Iwi coastal mahinga kai monitoring
- Harbourmaster and navigation safety
- Coastal Management Plan Review
- Adapting to sea level rise
- Invercargill to Bluff cycle trail
- People, Water and Land (estuaries)
- Bluff Maritime Museum

6.1.3. Broader economic costs

The Plan constrains activities and development in particular parts of Southland, particularly Fiordland. With the growth of tourism throughout the life of the Plan to date, there have been increasing demands for more commercial surface water activities and more vessel-related infrastructure such as moorings. The Plan places limits on the number of day and backcountry trips able to be undertaken by vessels in specified parts of Fiordland but it is not clear whether this has particularly constrained this activity. Although the Plan is clear that there is to be no limit on the amount of surface water activities undertaken in Milford Sound, other provisions in the Plan provide direction on protecting parts of the environment that may be adversely affected by these types of activities, such as natural character, outstanding natural features and landscapes, and amenity values. Opportunities for additional infrastructure in Fiordland are limited, especially in Deep Cove and the more isolated fiords. This is partly due to the physical space available but also in relation to the potential for adverse effects on the values of these areas. It is likely that the provisions of the Plan are constraining these activities currently.

The *Southland Regional Development Strategy* was published in 2015 and identified aquaculture as having potential to become a major industry in Southland in the future.⁶² The subsequent *Action Plan 2015 – 2025* states that “aquaculture is the single greatest opportunity to create a new comparative advantage for Southland on an international scale.”⁶³ One of the major obstacles for the aquaculture industry in Southland is the Plan, which prohibits marine farming in most of the coastal marine area, including all of Fiordland and most of Rakiura/Stewart Island (except Big Glory Bay where marine farms have been operating for some time). To this end, the *Action Plan 2015-2025* notes that “navigating

⁶¹ Long Term Plan 2015-25 and Long Term Plan 2018-28

⁶² Southland Mayoral Forum. (2015). *Southland Regional Development Strategy*, p.26.

⁶³ Southland Mayoral Forum. (2015). *Southland Regional Development Strategy: Action Plan 2015 – 2025*, p.35.

the regulatory environment will require substantial effort” and that “a change to the Regional Coastal Plan may be required.”⁶⁴

6.2. Benefits of the Plan

The main benefits of the Plan are the intended outcomes listed throughout the Plan. These are listed and discussed in detail in Appendix 1. Overall, the environmental health of the Southland coastal marine area is mixed. While Fiordland and Rakiura/Stewart Island appear to have continued to be in excellent health, both are facing pressure from increased tourism and interest in aquaculture which could adversely affect their health in the future. Water quality information shows that many of Southland’s estuaries and coastal lakes and lagoons are under stress from land uses outside the coastal marine area. This has led to restrictions on people’s ability to swim and gather shellfish in various locations. Little of this can be attributed to the Plan’s provisions directly as the Plan is limited in its jurisdiction to the coastal marine area. The Plan’s regime for managing whitebait stands has achieved the outcomes sought by bringing all stands within a consenting and monitoring framework.

Adoption of the Cruise Ship Deed through Rule 13.1 of the Plan has allowed for the collection of the Marine Fee which has funded a large component of the Council’s activities in the coastal marine area, including science, biosecurity, planning and navigation safety. This has significantly reduced the costs to ratepayers who would otherwise fund these activities through general rates.

6.3. Have we achieved the outcomes at reasonable cost?

There is not enough information available to determine with certainty which outcomes have been achieved or the costs involved in achieving them. A significant component of the administration of the Plan has been managing whitebait stands. The discussion in section 6.1.1.1 of this report suggests that although the benefits of whitebait stands are largely private, their administration has been subsidised by the public through general rates until recently. In recent years there has been a move away from actual cost recovery for compliance monitoring, towards fixed fees. There is not enough information available to determine whether these fixed fees reflect the actual costs of undertaking these activities. The Plan outlined clear expectations that financial contributions would be collected to offset the adverse effects of activities in the coastal marine area, but this has not occurred in practice. Bonds have been imposed on coastal permits significantly more often than any other type of resource consent issued by the Council but are still comparatively rare. Bond amounts are predominantly around \$5,000, although they range up to \$25,000.

The Plan has utilised formal agreements and coastal occupation charges to fund its coast-related activities. The Marine Fee in particular is a significant contributor to the Council’s income and has the potential to grow further in the future. Since 2015, the Council’s Long Term Plans have set out in detail the allocation of funding from the Marine Fee Reserve which has improved transparency regarding how the money collected via the Fee is spent. The Long Term Plans 2015-25 and 2018-28 indicate that the Marine Fee has funded a range of activities relating to the coast, including policy and planning,

⁶⁴ Southland Mayoral Forum. (2015). *Southland Regional Development Strategy: Action Plan 2015 – 2025*, p.37.

monitoring, biosecurity and navigation safety. There is limited information on how money collected through coastal occupation charges has been spent, however, the information provided indicates that after a number of years being unallocated, in recently years funding has been provided for biosecurity and compliance monitoring projects.

There are growing demands on the use of Fiordland and Rakiura/Stewart Island to support growth in tourism and the expansion of the aquaculture industry. Although the potential benefits of these activities can be quantified (for example, in GDP contribution or number of jobs), it is difficult to quantify the costs of allowing adverse effects on these environments. This has been a challenge for the Plan since it was developed and will continue to be in the future.

7. Change factors

Throughout the life of the Plan, many changes have occurred which impact on its usefulness and effectiveness. As well as outlining the relevant change factors, this section outlines some additional matters which have arisen through the preparation of this report and which could be addressed through the review of the Plan.

7.1. Regulatory and policy changes

Since the Plan was made operative, there have been many changes to the regulatory and policy environment within which it operates. The following changes are particularly significant:

- Amendments to the RMA
- Introduction of the NZCPS 2010
- Introduction of the RPS 2017
- Introduction of four national policy statements: Electricity Transmission (2008), Renewable Electricity Generation (2011), Freshwater Management (2011, revised in 2014 and 2017), and Urban Development Capacity (2016)
- Introduction of four national environmental standards: Sources of Human Drinking Water (2008), Telecommunications Facilities (2008), Electricity Transmission Activities (2010) and Assessing and Managing Contaminants in Soil to Protect Human Health (2012)

The detail of these changes is outlined in the *Scoping report for review of the Regional Coastal Plan for Southland* prepared by Focus Resource Management Group for the Council in 2017. That content is not repeated here, other than to highlight the scale of regulatory change that has occurred since the Plan became operative.

7.2. Other matters

In preparing this report, a number of more specific issues were identified with the Plan's provisions. These are outlined below and are intended to inform the review of the Plan in the future.

7.2.1. Plan structure and drafting

Section 5 of this report has discussed the usability and suitability of the Plan in detail and in summary it highlights that the following matters should be considered as part of the review of the Plan:

- Formatting, including tables of contents, page numbering and cross-referencing
- Structure, including grouping provisions and the coherence of the policy framework
- Content, including general refinements to the wording of provisions and the use of different types of provisions

7.2.2. Emerging issues

7.2.2.1. Natural character, features, and landscapes

An important issue for the Coastal Plan review will be ensuring that the review gives effect the requirements of the NZCPS, particularly Policies 13 and 15. These policies require avoiding the adverse effects of activities in areas of outstanding natural character and outstanding natural features and landscapes in the coastal environment. These policies were tested in the 2014 Supreme Court decision *Environmental Defence Society Inc v New Zealand King Salmon Company Limited*. In this case King Salmon was seeking a private plan change and concurrent resource consents to establish salmon farms in parts of the Marlborough Sounds. Of relevance to the Plan review, the Supreme Court found that, to give effect to Policies 13 and 15 a Council must:

- assess the natural character and natural features and landscapes of the region
- identify areas where natural character and natural features and landscapes require preservation or protection
- ensure plans include objectives, policies and rules which require the preservation of natural character and the protection of natural features and landscapes

It was found that the directive language within Policies 13 and 15 of the NZCPS are essentially environmental bottom lines which should not be balanced or weighed up against the potential benefits of an activity as part of an overall judgment approach to decision-making. The Supreme Court also considered the meaning of the word 'avoid' as it is used in Policies 13 and 15 of the NZCPS. The Court held that 'avoid' has its ordinary meaning of 'not allow' or 'prevent the occurrence of'. The Court also noted that 'avoid' in this context must be considered against the background of the particular goals that the avoidance is the means to achieve, in this case the goals stated in Policies 13 and 15 relate to avoiding adverse effects of activities in outstanding natural character areas, outstanding natural landscapes and outstanding natural features in the coastal environment.

In a related case, *Man O' War Station Limited v Auckland Council [2017]*, a plan change was proposed by Auckland Council, which identified significant portions of outstanding natural landscapes on Waiheke and Ponui Islands. Man O' War Station, an owner of coastal land on Waiheke Island, was seeking that the mapping of outstanding natural landscapes needed to be reconsidered post-King Salmon to ensure the areas subject to outstanding natural landscapes warranted the level of protection that the outstanding natural landscapes afforded. Both the High Court and the Court of Appeal ruled that the test for outstanding natural landscapes should remain the same, and Man O' War Station's arguments were rejected.

A comprehensive review of the characteristics and landscape values of the coastal marine area, and mapping the areas identified as outstanding, is required. Further, giving effect to the 'avoid' directive in Policies 13 and 15 will be assisted where the provisions of the plan are formulated so that the specific characteristics or values of each area can be protected from inappropriate subdivision, use, and development. In practical terms the decision sets a very high threshold for any activities that are seeking to be located in areas with outstanding value.

It is understood that Environment Southland has commissioned two studies that have identified and mapped natural features and landscapes and natural character in the coastal environment, which indicate the extent of Southland's outstanding and other coastal landscapes. Through the review of

the Plan, the provisions which manage activities within the coastal marine area will need to ensure these identified areas are protected from the adverse effect of inappropriate subdivision use and development.

7.2.2.2. Tourism and aquaculture

It is clear from the information provided that there are growing demands for surface water activities and infrastructure, particularly in Fiordland, as a result of significant growth in the tourism industry. Similarly, there is support in the region to investigate the potential to expand the aquaculture industry. The review of the Plan will need to carefully consider the policy direction provided through the provisions of the Plan (in the context of the higher order documents such as the RMA itself, the NZCPS 2010 and the RPS 2017 which provide mandatory considerations for a range of relevant matters).

Policies 13 and 15 of the NZCPS are particularly relevant to the growth of tourism and aquaculture industries in Southland. As noted above, these policies require avoidance of the adverse effects of activities in areas of outstanding natural character and outstanding natural features and landscapes in the coastal environment.

When considering how tourism activities are to be managed in the coastal marine area, Policy 6(2)(c) of the NZPS requires that recognition is given to activities that have a functional need to be located in the coastal marine area. It states that these activities shall be provided for in appropriate places.

Similarly, Policy 8 of the NZCPS requires that coastal plans recognise the benefits of aquaculture, and provide for aquaculture activities, in appropriate places in the coastal environment. Relevant considerations in providing for aquaculture include the need for high water quality, and the need for land-based facilities associated with marine farming. Providing for aquaculture development within the Plan is an issue that will need to be managed through the review of the Plan.

While the direction within NZCPS may seem to give rise to a potential conflict, in the context of the King Salmon case the Court held that there is no insurmountable conflict between Policy 8 and Policies 13 and 15. The latter policies provide protection against adverse effects of development in particularly highly valued areas of the coastal region. The former policy recognises the need for sufficient provision of aquaculture in areas that are suitable for aquaculture – against a background that aquaculture cannot occur in the outstanding areas if it will have an adverse effect on the outstanding qualities of the area. In short, it found that the policies do not conflict.⁶⁵

7.2.2.3. Water quality

Many of Southland's estuaries and coastal lakes and lagoons are under stress from land uses higher in the catchments. Although this is largely not a result of the activities managed by the Coastal Plan, the review will need to consider the appropriateness of the current approach to managing point source discharges in the coastal marine area, given the change in some of the receiving environments since

⁶⁵ Atkins, H., & Dawson, S. (2014). The King Salmon Decision – a think piece for planners. Auckland, New Zealand : New Zealand Planning Institute.

the Plan became operative. The NPSFM contains specific direction on improving the integrated management of freshwater, including the connections between freshwater bodies and coastal water, which will be relevant for the review of the Plan.

Policy 21 of the NZCPS provides clear, prescriptive, direction, that in areas of the CMA where water quality has deteriorated, priority must be given to improve that quality. This includes identifying areas of the CMA with deteriorated water quality, including provisions in plans to address water quality, requiring that stock are excluded from the coastal marine area, and requiring engagement with tangata whenua to identify areas of coastal waters where they have particular interest.

Policy 23 of the NZCPS also provides, clear, prescriptive, direction on the management of discharges into the CMA. It requires that discharges of human sewage, discharges of stormwater, discharges from ports and other marine facilities, are managed within the Plan. As such, the review of the Plan will need to give effect to this NZCPS direction.

7.2.2.4. Natural hazards

The Plan contains a number of policies which are relevant to managing natural hazards in the coastal marine area but there are no specific rules. Since the Plan became operative, considerably more information about the scale and significance of natural hazards has become available and there is growing awareness of the issues faced by many parts of coastal Southland, particularly in relation to erosion, storm surges and the effects of rising sea levels.

It is noted that a recent and continuing focus on natural hazard management by central government has resulted in a number of amendments to the RMA that elevate the importance of natural hazards in the management of natural and physical resources, natural hazards are now a matter of national importance. The NZCPS also sets out national policy on management of the coastal environment (Objective 5 and Policies 24-27), which the review of the Plan will need to give effect to.

As part of implementing the direction in higher order documents regarding natural hazard management the review of the Plan will need to consider the options available to manage hazards more directly.

7.2.2.5. Cruise Ship Deed

Cruise ships have been visiting the Southland coast for many years, mostly into the Fiords and Paterson Inlet at Rakiura/Stewart Island. The number of visits and the size of vessels have both increased. The carrying capacity of those vessels has meant that the number of cruise passengers visiting Southland's coast has increased from around 6,300 in 2001/2002 to approximately 171,700 passengers in 2016/2017, and this number is projected to increase to 261,200 passengers in 2018/2019.⁶⁶ The 2016/2017 passenger numbers were the second highest in the country, however, the economic

⁶⁶ Market Economics Ltd (2017). *Cruise Tourism's contribution to the New Zealand Economy*. Prepared for New Zealand Cruise Association.

expenditure of cruise ships in Southland is among the lowest in the country at \$11 million. The likely cause of this low economic expenditure in Southland is that there are high numbers of trips to Southland, Fiordland in particular, but passengers do not disembark and spend money.

The Deed of Agreement for cruise ships wishing to enter the Fiords was introduced through the Plan in 2001. The Deed is closely linked to the provisions of the Plan (which make the activities of signatories permitted) and will need to inform the development of any similar rules proposed through the review of the Plan. The Deed of Agreement is currently under review.

The content of and application of the Deed is closely linked to the management of surface water activities and related infrastructure in Fiordland. These trends will need to be considered in the review of the Plan in order to ensure any future planning framework remains relevant over the next ten years.

7.2.2.6. Coastal occupation charges

Historically, Environment Southland has been the only local authority to implement a coastal occupation charging regime. In October 2018 Marlborough District Council notified the Proposed Marlborough Environment Plan which included a charging regime. Method 5.M.11 of that Plan states that charges will be set out in Marlborough District Council's Annual Plan, however, no charges have been specified in their current Annual Plan or Long Term Plan. The Marlborough Environment Plan is currently being heard, with Council decisions expected in late 2019.

Use of coastal occupation charges will be a matter for consideration for the Coastal Plan review. As outlined in section 6.3, there is a lack of transparency about how money collected via the charges is spent. Although not directly a matter for the review of the Plan, the Council may wish to consider improving the way it reports on the use of money collected through these charges.

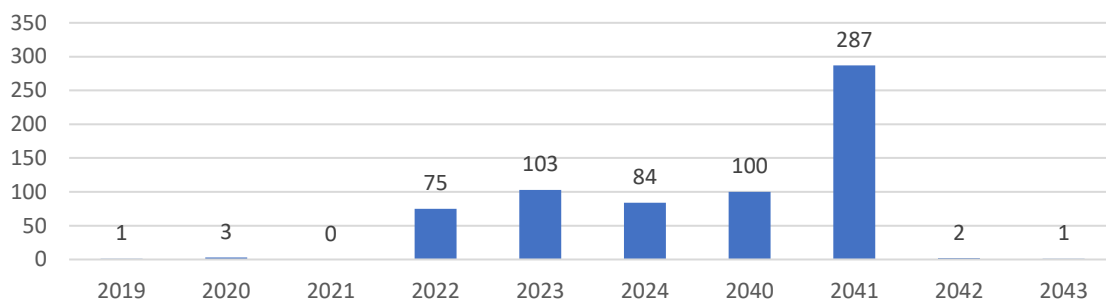
The Plan states that the coastal occupation charges are to be adjusted in line with the Consumer Price Index (CPI). The CPI measures the changing price of the goods and services New Zealand households buy and provides a measure of inflation. For some time, local authorities felt it was an inappropriate measure for local government spending because it focused on matters not relevant for councils, such as food, health, and clothing. In 2010, Local Government New Zealand (LGNZ) commissioned a project to develop a Local Government Cost Index (LGCI) based on the cost structures of New Zealand's local governments. The LGCI was based on more relevant matters such as capital expenditure on infrastructure and operating expenditure such as salary and wage rates. The project found that LGCI rose significantly faster than CPI between 1999 and 2009 – 43.9% and 30.6% respectively.⁶⁷ Since then, councils (including Environment Southland) have tended to use LGCI instead of CPI in their financial planning. The review of the Plan may wish consider whether CPI is still the most appropriate tool to use when updating coastal occupation charges.

7.2.2.7. Whitebait stands

⁶⁷ BERL. (2010). *Report on the Local Government Cost Index*. Prepared for Local Government New Zealand.

The Plan has introduced and implemented a fairly rigorous management regime for whitebait stands. Although the Plan’s approach to managing whitebait stands has achieved the outcomes intended, the efficiency of its administration needs to be considered. To some extent the changes to fees outlined in the 2018/28 Fees and Charges Schedule will improve efficiency, however, with over 600 stands consented, the ongoing consent renewal and monitoring of stands will be a relevant matter for the review of the Plan to consider. Figure below outlines the expiry dates of the current consents for whitebait stands, showing that around a third of the consents will expire shortly after a new Plan is due to be notified (2021). These applications will therefore have to be assessed under both the existing and new plans.

Figure 15: Expiry dates for current whitebait stand consents



7.2.2.8. Natural character, features, and landscapes

In order to ensure that the review of the Plan gives effect to the requirements of the NZCPS, particularly Polices 13 and 15, a comprehensive review of the characteristics and landscape values of the coastal marine area, and mapping the areas identified as outstanding is required. It is understood that Environment Southland has commissioned two studies that have identified and mapped natural features and landscapes and natural character in the coastal environment, which indicate the extent of Southland’s outstanding and other coastal landscapes. Through the review of the Plan, the provisions which manage activities within the coastal marine area will need to ensure these identified areas are protected from the adverse effect of inappropriate subdivision use and development.

7.2.2.9. Surf break protection

Surf breaks are unique coastal features with natural characteristics that are diverse and connected across a broad range of spatial scales. A significant issue for any surf break is that the quality of the ‘surfable’ wave can be compromised by increased development and modification of the CMA, such as development on nearby coastal headlands, up nearby rivers, on the sea bed and in the swell corridor seaward of the break. The integrity of the natural features and processes that create the wave are critical to maintaining the quality of a surf break. Swell corridors are also dynamic environments and decisions about activities affecting their management can include quite complex considerations. There are various threats to the existence and values of surf break environments including restricted public access, poor water quality, and the impacts of activities that alter the natural character of the coastal environment.

The NZCPS provides clear direction that surf breaks of national significance shall be protected. The NZCPS contains 'Schedule 1 - Surf breaks of national significance', there are no surf breaks of national significance within Southland. The protection of regionally significant surf breaks within planning legislation is growing within the New Zealand planning context, following the inclusion of surf break protection in the NZCPS. This is not considered a 'burning' environmental issue for Environment Southland. However, a number of other coastal planning processes across New Zealand (Northland Regional Council, Auckland Council, Bay of Plenty Regional Council, Taranaki Regional Council, Greater Wellington Regional Council) have undertaken this study, in order to protect these environments.

8. Looking forward – matters to address through the review process

Section 35(2) of the RMA states that local authorities must ‘...take appropriate action ... where this is shown to be necessary’ as a result of monitoring of effectiveness of plans. This section sets out the key matters that have arisen through the review process.

8.1. Plan structure

A key focus of the Plan review should be rationalising the structure of the Plan. This will be assisted to some degree by the National Planning Standards which were released in April 2019 and which contain mandatory directions on the structure of regional plans.

Section 4 of the Plan contains fundamental principles which appear to have been established to provide a foundation for the drafting of subsequent sections of the Plan. Although they provide context for the management approaches woven through the remainder of the Plan, they are rarely used by consent officers and there appears to be confusion about how they should be applied.

Section 5 provides very high-level direction, similar to some second generation plans that include a ‘Strategic Direction’ section. Both the objectives and outcomes within this section are very broad in nature, which translates through to the policies which are often too broad to be useful, and the references to lower order objectives, policies and methods are not always clear. This makes assessing the efficiency and effectiveness of these provisions difficult. There are also a number of rules scattered through this section, which could be easily missed by users of the Plan.

If the review of the Plan recommends retaining a ‘Strategic Direction’ section, it will be important that there is a clear explanation of the relationship between the high-level direction and the subsequent, more specific sections of the Plan. From a plan logic perspective, it would be helpful to have a consistent approach to deciding on the appropriate level of detail for provisions in this section. For example, it is generally not considered appropriate for these types of sections to contain rules as they are designed to provide high level policy guidance (which is usually given through objectives and policies).

8.2. Drafting guidelines

The provisions in the Plan rely heavily on ‘avoiding, remedying or mitigating adverse effects’ and ‘appropriate’ uses. This drafting is generally unhelpful as it does not clearly articulate the desired outcome to be achieved and, in many cases, leaves assessments of what is ‘appropriate’ to occur on a consent-by-consent basis. This does not provide certainty to users about what can be expected to occur under the Plan and leads to fragmented management. In some cases, it does not reflect the shift in interpreting plans that has occurred as a result of the 2014 *King Salmon* decision of the Supreme Court – i.e. plans mean what they say. Good plan drafting provides clear and transparent links between the provisions which need to be clear, easy to interpret and apply, internally consistent, and consistent between plans.

Drafting guidelines are becomingly increasingly common in both district and regional planning as a way of guiding the development of new plans. Setting out agreed approaches to drafting helps to

ensure that drafting of provisions is consistent, specific and directive. This also provides greater alignment or 'line of sight' between the objectives (setting the direction of the Plan) to the methods that achieve these objectives. They are particularly helpful where there are multiple authors drafting provisions, and to assist with providing direction on how to incorporate suggestions by submitters as the planning process progresses.

8.3. Implementing statutory obligations

Since the Plan became operative, amendments have been made to the RMA, and the NZCPS and RPS have been replaced, all of which have generated additional statutory requirements of relevance to the review of the Plan. The range of matters that will need to be considered in relation to the RMA and the higher order documents is very broad. As outlined above, drafting guidelines can assist with ensuring compliance with statutory obligations by identifying relevant provisions in the higher order documents and setting out the Plan's response to them in a collated, consistent way. Particularly when there are many topics to be considered through a review, this approach can provide a 'quick check' when drafting provisions so that individual authors are not having to identify relevant provisions each time.

8.4. Specific matters

The following specific matters will also require particular attention through the review:

- a) **Aquaculture:** This report has shown that methods within the Plan that manage aquaculture have achieved outcomes set out within the Plan. However, the ongoing management of aquaculture, and more specifically a proactive understanding of whether any other areas of the coastal marine area (other than Big Glory Bay) are appropriate for further aquaculture development will need to be considered. This report notes that there is considerable support in the region to investigate the potential to expand the aquaculture industry. The NZCPS contains highly directive provisions on managing outstanding natural features and landscapes, and outstanding natural character, which have restricted the development of aquaculture in other parts of New Zealand and will likely have similar application in Southland.
- b) **Tourism:** It is clear from the information provided that there are growing demands for surface water activities and infrastructure, particularly in Fiordland, as a result of significant growth in the tourism industry. The current Plan has explicitly declined to 'allocate' resources such as these, but there have been requests from stakeholders, in response to the Council's consultation on the *Strategic Direction* for the review of the Plan, to reconsider whether establishing limits would assist with protecting the significant values of Fiordland in particular. Finding the right balance between protecting the environment and providing for its use is likely to be complex and contentious.
- c) **Natural hazards:** As part of implementing the direction in higher order documents regarding natural hazard management, the review of the Plan will need to consider the options available to manage natural hazards i.e. coastal erosion and sea level rise, more directly under the Plan. This report has identified that these issues are already affecting parts of the coastal marine area

to varying degrees and the extent and severity of these issues will increase in future as the climate continues to change.

- d) **Identifying and protecting values:** This report highlights that the Plan contains a range of approaches to identifying particular values and the methods used to protect them. These range from vague to fairly specific and include introductory text, explanations, policies, rules, and appendices. The review of the Plan will provide an opportunity to identify outstanding natural features, landscapes, natural character areas, indigenous biological diversity, and historic heritage within the coastal marine area in a robust and consistent manner.

Conversely, there are a number of sections in the Plan (such as reclamation, destruction and damage, deposition, exotic plants, discharges to air and the taking and damming of coastal water) that have very rarely been implemented. There will be opportunities through the review to rationalise provisions that manage particular activities but are rarely applied in practice.

This report demonstrates that there are a range of outcomes listed in the Plan that have not been monitored, which makes it difficult to assess the effectiveness of methods. Part of the difficulty is that the outcomes have been drafted in a generic manner. Greater specificity within plan provisions provides greater clarity as to what should be monitored, which makes developing a robust monitoring programme much more achievable. Monitoring programmes should be specifically designed to assess the achievement of the outcomes sought by the Plan as part of the plan development process. This will help to align plan implementation and state of the environment monitoring so that future reviews can be more targeted in their assessments and certain in their conclusions.

It is noted that since the introduction of the national monitoring reporting, the quality of the monitoring information collected improved significantly. The use of databases, capable of manipulating and analysing the consent data, assisted with data analysis and reaching the conclusions within this report. If additional environmental monitoring could be undertaken, using a similar process to that of the national monitoring reporting, this will assist the next efficiency and effectiveness review.

Appendix 1 – Outcomes assessment

A 'Rating' column has been added the table which provides a high-level rating as to how well the methods listed in the Regional Coastal Plan (the Plan) have performed to achieve the outcomes listed in the Plan. The following traffic light system has been used:

	Not enough information to determine whether outcomes have been achieved
	Outcomes have not been achieved
	Outcomes may have been achieved or outcomes may have been partially achieved
	Outcomes have been achieved

Section 6: Estuaries			
Outcome	Methods	Performance	Rating
6.1.1 The natural values of estuarine areas are maintained and enhanced.	Objective 6.1.1 Policies 6.1.1, 6.1.2, 6.1.3, 6.1.4, 6.1.5 Rules 5.3.8, 7.4.1.1, 11.7.1.2, 11.7.2.1	The introduction of section 6.1 clarifies that this section applies to estuaries and lagoons. For completeness, this analysis includes coastal water bodies such as lakes and lagoons which may be outside the coastal marine area but part of the coastal environment. <u>Water quality</u> There are many estuaries and coastal lakes and lagoons located along Southland's coast. The catchments for the Waiau Lagoon, Jacobs River Estuary, New River Estuary and Fortrose (Toetoes) Estuary represent the majority of Southland's land area excluding conservation estate. The focus of monitoring of Southland's estuaries and coastal lakes and lagoons has been on areas of obvious value and/or proximity to stress from human activity. Therefore, no estuaries or coastal lakes or lagoons in Fiordland are monitored. Freshwater Estuary on Rakiura/Stewart Island is monitored as a reference condition estuary due to its near pristine state.	

<p>6.2.1</p> <p>The natural values of the New River Estuary are maintained and enhanced.</p>	<p>Objective</p> <p>6.2.1</p> <p>Policies</p> <p>6.1.3, 6.2.1</p> <p>Rules 5.3.8, 7.3.5.2, 7.4.1.1, 11.5.1, 11.7.1.2, 11.7.2.1, 14.2.7, 14.2.8, 14.2.17</p>	<p>The main issues for estuaries, lakes and lagoons in Southland are:⁶⁸</p> <ul style="list-style-type: none"> • For estuaries: <ul style="list-style-type: none"> – New River Estuary, Jacobs River Estuary and Fortrose (Toetoes) Estuary are all receiving sediment and nutrient inputs beyond their assimilative capacity and show signs of eutrophication and expansive degraded areas. – Waikawa Estuary and Haldane Estuary are currently in a moderate to good health state, however, an approximate doubling of nutrient input from land use change and/or intensification is likely to result in a deterioration of conditions, similar to those seen in New River and Jacobs River Estuary. – Freshwater Estuary is a near pristine system • For coastal lakes and Intermittently Open and Closed Lakes and Lagoons (ICOLLs): <ul style="list-style-type: none"> – Lake Vincent, The Reservoir and Lake George are all in a state of moderate to high stress. Nutrient concentrations are elevated for all the lakes, especially Lake Vincent which is below the national bottom lines for Total Nitrogen (TN) in the NPSFM. – Waituna Lagoon (an ICOLL) is a stressed lagoon which is showing clear signs of poor water quality and eutrophication via cyanobacterial and algal blooms. <p>The values in the Plan emphasise the importance of these habitats for a range of species, including marine and freshwater fish species, eels, wading birds and waterfowl. Excessive nutrients as seen in New River, Jacobs River and Fortrose (Toetoes) Estuaries lead to the growth of opportunistic species (such as macroalgae or seaweed) which can displace more desirable and habitat-valued seagrass species and result in algal blooms which eventually die and decay, depleting oxygen in the water and degrading biological communities.</p> <p><u>Habitats</u></p> <p>In 2008, habitat mapping was undertaken across the mainland Southland coast from Te Waewae Bay to Waiparau Head. This study found that the coastline was very ecologically diverse with a broad range of habitat</p>	
--	---	--	--

⁶⁸ Ward, N. (2018). *Statement of evidence – Proposed Southland Water and Land Plan appeals.*

types. Estuaries occupy 43% of the coastline and vary widely in terms of their vulnerabilities. There are three main types of estuaries in Southland: tidal river mouth (the majority of estuaries in Southland), tidal lagoon and coastal lakes.

Broad scale habitat mapping of Lakes Brunton, George, Murihiku and Vincent occurred in 2012/13. Lake Brunton was found to be in an early eutrophic state with low *Ruppia* cover and variable slime algal cover. Fifty five percent of Lake George was covered with natives, there were no invasive species and moderate macrophyte cover. There was a density of dominant species and the species diversity was relatively low. Lake Murihiku was considered to be in a tentative mesotrophic/eutrophic state and submerged macrophyte cover was virtually absent. Lake Vincent was considered mesotrophic with good macrophyte cover and good food availability for fish and birdlife.

Fine scale monitoring of Freshwater Estuary on Rakiura/Stewart Island was undertaken in 2012/13 and found the estuary was in unmodified condition with a high production of seagrass and macroalgae. Similar monitoring at Fortrose (Toetoets) Estuary in 2004, 2005, 2006 and 2009 found that dominant intertidal habitat was in good condition but the presence of nuisance macroalgal blooms, moderate sediment oxygenation and a benthic community indicating slightly polluted conditions suggested the estuary was in a moderately enriched state. Broad scale monitoring at this estuary in 2003, and then again over the three year period 2008/09 to 2011/12 showed an increase in macroalgal biomass, establishment of entrained *Gracilaria* beds and seagrass losses due to macroalgal smothering. The estuary was considered to be in a fair condition.

Broad scale mapping of Jacobs River Estuary in 2012/13 showed significant decline in the estuary since 2003 with gross eutrophic areas displacing high value seagrass beds and stressing saltmarsh habitat. Fine scale monitoring between 2010 /11 and 2012/13 showed eutrophication in the estuary. The Pourakino and Aparima Arms were excessively muddy with elevated nutrients and nuisance algal growths leading to a severely degraded macroinvertebrate community and limited food availability for fish and birdlife. Broad scale mapping in 2012/13 showed significant decline in the estuary since 2003 with gross eutrophic areas displacing high value seagrass beds and stressing saltmarsh habitat.

Broad scale mapping of New River Estuary in 2011/12 found that there had been a significant decline in estuary quality since 2001 and in particular the Waihopai and Daffodil Bay Arms were excessively muddy with high nuisance macroalgal growths and poorly oxygenated sediments with toxic sulphides. There was a

significant loss of seagrass (44%) in the estuary and the macroinvertebrate community is severely degraded, limiting food availability for fish and birdlife. Fine scale monitoring in 2009/10, 2011/12 and 2012/13 showed similar trends.

Overall Performance

The environmental outcomes set out above indicate that the methods used to maintain and enhance the natural values of estuarine areas have not achieved the outcome sought within 6.1.1 and 6.2.1.

The information available on estuarine and coastal lake/lagoon health indicates that the majority of these water bodies located outside the conservation estate are under stress due to intensification of land uses in their catchments. Although no estuaries or coastal lakes/lagoons in Fiordland are monitored, it is likely these water bodies are in a similar state to Freshwater Estuary on Rakiura/Stewart Island due to their location in the conservation estate and distance from human activity.

The location of the degraded water bodies at the bottom of catchments means that the reasons for their stress are due to land uses outside the coastal marine area. In some areas (particularly New River Estuary) there are likely to be adverse effects arising from activities occurring within the coastal marine area (such as stormwater discharges). The monitoring results suggest that adverse effects are not being avoided, remedied or mitigated to the extent necessary to sustain the ecological values identified in the Plan.

Section 7: Coastal water			
Water quality			
Outcome	Methods	Performance	Rating
<p>7.2.2.1</p> <p>Water quality is maintained in coastal waters that are currently suitable for:</p> <ul style="list-style-type: none"> i. contact recreation; ii. the growth of shellfish that is safe for human consumption; iii. the health and vitality of aquatic ecosystems; and iv. a fishery that is safe for human consumption when harvested; 	<p>Objectives</p> <p>7.2.2.1</p> <p>Policies</p> <p>7.2.2.1,</p> <p>7.2.2.2,</p> <p>7.2.2.3,</p> <p>7.2.2.4,</p> <p>7.2.3.1,</p> <p>7.2.3.2,</p> <p>7.3.2.1,</p> <p>7.3.2.2,</p> <p>7.3.2.5,</p> <p>7.3.2.6,</p> <p>7.3.2.7,</p> <p>7.3.2.8,</p> <p>7.3.2.9,</p> <p>7.3.2.10,</p> <p>7.3.2.12,</p> <p>7.3.2.13, 9.2.1</p> <p>Rule 7.2.2.1</p>	<p>Coastal water is defined as all seawater in the coastal marine area. The water quality in lowland coastal water bodies such as estuaries, lakes and lagoons which may be either wholly or partly in the coastal marine area (but likely all within the wider coastal environment) is discussed above under section 6.</p> <p><u>Maintenance of water quality</u></p> <p>There is no monitoring information for water quality in the internal waters of Fiordland or the territorial sea.</p> <p><u>Contact recreation</u></p> <p>The Council regularly monitors water quality at a range of bathing sites including 13 beaches at the following locations:</p> <ul style="list-style-type: none"> • Awarua Bay – Tiwai Pumphouse • Bluff Harbour – Morrison’s Beach • Colac Bay – Colac Bay Road • Halfmoon Bay – Bathing Beach • Halfmoon Bay – Elgin Terrace • Jacobs River Estuary – Railway Bridge East • Kawakaputa Bay – Wakapatu Road • Monkey Island – Frenzt Road • New River Estuary – Omaui • New River Estuary – Water Ski Club • Ōreti Beach – Dunns Road • Porpoise Bay – Camping Ground • Riverton Rocks – Mitchells Bay North <p>In accordance with national microbiological guidelines set by the Ministry for the Environment (2003), the indicator used to assess water quality is the presence of <i>Enterococci</i>. These sites are shown on the map in Figure 15 below.</p> <p style="text-align: center;"><i>Figure 156: Southland's marine recreational monitoring sites</i></p>	
<p>7.2.2.2</p> <p>By the year 2020, the quality of contaminated water is improved so that it can be used for activities i to iv above.</p>			



Source: Environment Southland. (2015). *Recreational bathing survey – summary of results.*

Between December and March these sites are monitored weekly and the results are displayed on the Council’s website as well as on the Land Air Water Aotearoa (LAWA) website. The LAWA website provides an assessment of overall bacterial risk based on three years of data. This is shown in Table 18 below for Southland’s marine recreational monitoring sites.

Table 18: Overall bacterial risk based on three years of data

Site	Overall bacterial risk
Awarua Bay – Tiwai Pumphouse	No data
Bluff Harbour – Morrison’s Beach	Suitable for swimming

Colac Bay – Colac Bay Road	Suitable for swimming
Halfmoon Bay – Bathing Beach	Suitable for swimming
Halfmoon Bay – Elgin Terrace	Suitable for swimming
Jacobs River Estuary – Railway Bridge East	Caution advised
Kawakaputa Bay – Wakapatu Road	Suitable for swimming
Monkey Island – Frenzt Road	Suitable for swimming
New River Estuary – Omaui	Unsuitable for swimming
New River Estuary – Water Ski Club	Caution advised
Ōreti Beach – Dunns Road	Suitable for swimming
Porpoise Bay – Camping Ground	No data
Riverton Rocks – Mitchells Bay North	Suitable for swimming

LAWA's description of these categories are:

- **No data:** There are no recent results available, or there are not enough data points to calculate an overall bacterial risk result.
- **Suitable for swimming:** These sites are generally suitable for swimming.
- **Caution advised:** Usually suitable for swimming but younger children and older people may be at increased risk at times.
- **Unsuitable for swimming:** These sites may be a health risk and are not considered suitable for swimming most of the time.

		<p>Nine⁶⁹ of the 13 areas described in section 3 of the Plan specifically refer to values arising from recreational activities requiring full immersion (such as swimming, snorkelling and scuba diving). The monitoring results shown above suggest that these values are not being adversely affected in most parts of the coast.</p> <p>Results from Jacobs River and New River Estuaries are consistent with the more detailed information available on the health of these estuaries and discussed earlier in this table in relation to section 6. Recreational activities requiring full immersion are specifically identified as values for both of these water bodies in section 3 of the Plan.</p> <p><u>Shellfish</u></p> <p>The Council monitors eight shellfish gathering sites in accordance with the Ministry for the Environment and Ministry of Health’s national recreational shellfish gathering guidelines:</p> <ul style="list-style-type: none"> • Bluff Harbour at Ocean Beach • New River Estuary at Whalers Bay • New River Estuary at Mokomoko Inlet • Riverton Rocks at Mitchells Bay • Toetoes Harbour at Fortrose • Jacobs River Estuary downstream of fish coop • Colac Bay at Bungalow Hill Road • Monkey Island at Frenzt Road <p>Samples are taken monthly and tested for faecal coliforms which can indicate the presence of pathogens that can make shellfish unsuitable for consumption. The guidelines state that the median faecal coliform of samples over a shellfish gathering season shall not exceed 14mpn/100ml, and no more than 10% of samples shall exceed 43mpn/100ml. The results published on the Council’s website are based on the previous year’s monthly water samples in accordance with these national guidelines.</p> <p>Figure and Figure below show the locations of these sites and the monitoring results as at February 2019. Red (seven of eight sites) indicates high risk and green (one site) indicates low risk.</p>	
--	--	---	--

⁶⁹ Te Waewae Bay (Track Burn to Pahia Point), Pahia Point to Jacobs River Estuary, Jacobs River Estuary to Stirling Point, New River Estuary, Bluff Harbour and Awarua Bay, Tiwai Point to Fortrose, Fortrose to The Brothers Point, Waikawa Harbour and Haldane Estuary, Stewart Island and Islands Offshore.

Figure 17: Results from shellfish gathering sites near Riverton

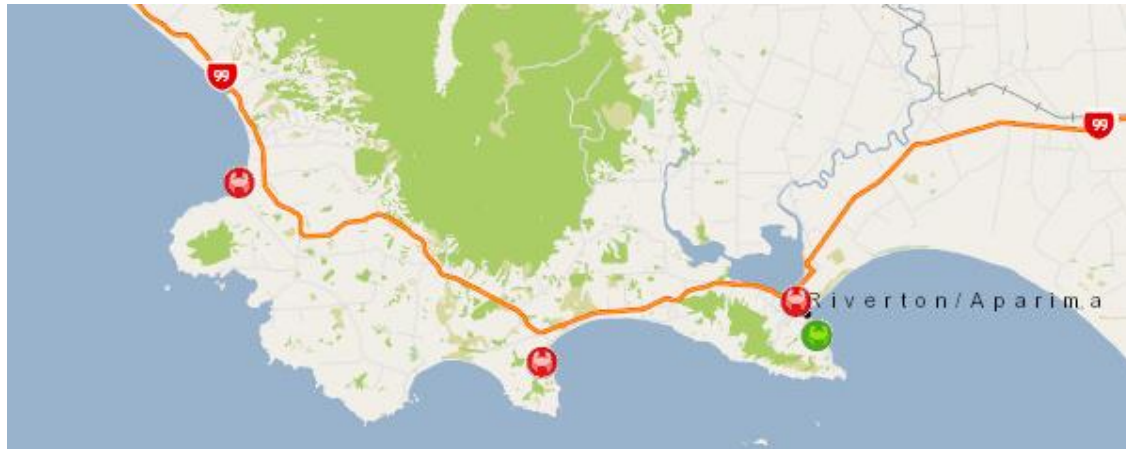
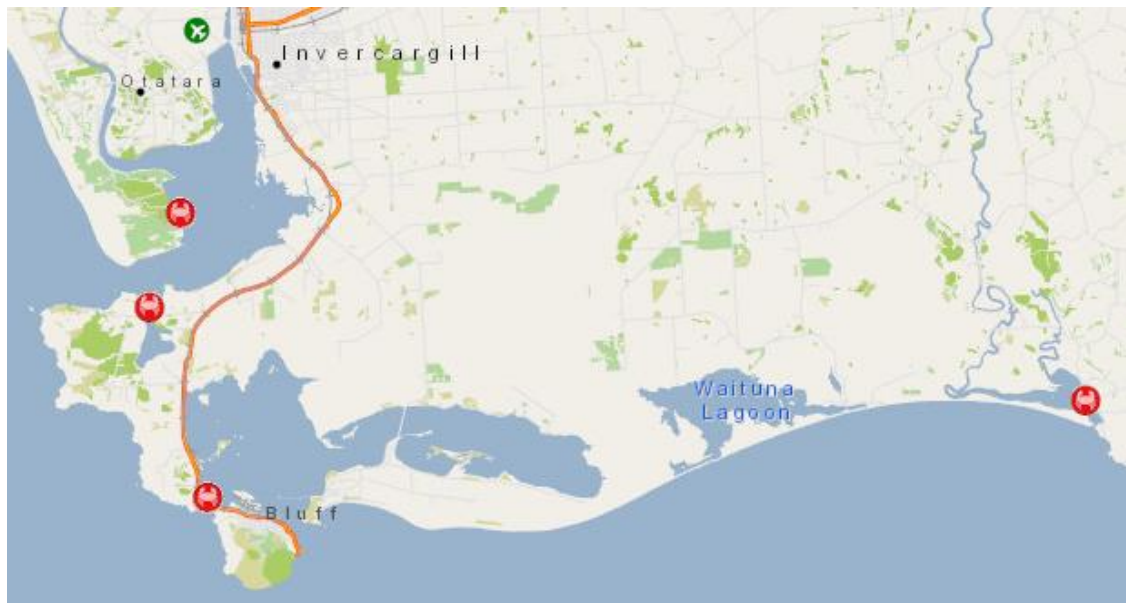


Figure 18: Results from shellfish gathering sites near Invercargill and Bluff



A report in 2013 summarised data from the 2012/13 monitoring programme and found that only three shellfish monitoring sites did not breach the national guidelines: Bluff Harbour, Riverton Rocks and Monkey Island.⁷⁰ The remaining five sites recorded between 36% and 75% of all samples breaching the guidelines. The two sites with the highest levels of bacteria were the cockle beds in Toetoes Harbour and the Jacobs River Estuary – both sites breached the guidelines in 75% of all samples. The report noted that the sites which consistently breached the guidelines (Toetoes Harbour, Jacobs River Estuary and two sites in New River Estuary) were sites with rivers discharging in the immediate vicinity. These sites drained well-developed land catchments and included several industrial discharges, indicating the impact freshwater quality has on coastal water quality and the increased risk to public health.

Aquatic ecosystems

Water quality and habitat monitoring of estuaries, lakes and lagoons is outlined above under Section 6: Estuaries. There is limited monitoring of aquatic ecosystems in open coastal water. One study of the New River Estuary found that the chlorophyll *a* concentration data indicate that the main body of the New River Estuary had phytoplankton levels indicating slight to moderate eutrophication impacts in the water column. It also found that nutrient concentrations in the water column exceed criteria that can cause macroalgal and phytoplankton blooms.⁷¹ These results show that within the New River Estuary, water quality is not being maintained as sought by the outcome.

Fisheries

There are 79 registered fishing boats based in Southland with the majority berthed at Bluff.⁷² Many boats are multi-purpose and there are also many vessels from other regions that fish seasonally in Southland. Commercial fishing is prohibited within the internal waters of Fiordland, however, rock lobster can be caught in the external waters. Approximately 70 rock lobster fishing vessels regularly work in the Fiordland area and

⁷⁰ Environment Southland. (2013). *Recreational waters of Southland*.

⁷¹ Robertson, B.M., Stevens, L.M., and Dudley, B. 2017. New River Estuary - review of water quality data in relation to eutrophication 1991-2015. Report prepared by NIWA and Wriggle Coastal Management for Environment Southland.

⁷² Environment Southland. (2018). *Use and development in Southland's coastal marine area: discussion document*, pp. 15-16.

		<p>most come from Riverton or Bluff, although 16 are berthed at Deepwater Basin in Milford Sound. Although there is no specific monitoring information available, the presence of a commercial fishing industry suggests there are fisheries where fish are safe for human consumption.</p> <p><u>Improving contaminated water</u></p> <p>The Plan does not specify areas where water is considered to be contaminated so it is not possible to assess whether this outcome has been achieved.</p> <p><u>Overall performance</u></p> <p>The environmental outcomes set out above indicate that the methods used to maintain coastal water quality have not achieved the outcome sought within 7.2.2.1. Given there are very limited permitted activities within the CMA that could be impacting water quality, and a low number of resource consents to discharge into the CMA have been approved, it is considered that the provisions within the Plan may be performing well, however, land use activities occurring in inland catchments beyond MHWS are impacting coastal water quality which makes the performance of the Plan methods difficult to assess.</p>	
<p>7.2.2.3</p> <p>By the year 2005, the coastal waters in Halfmoon Bay, Stewart Island are suitable for activities i to iv above.</p>	<p>Objective 7.2.2.3</p> <p>Policies 7.2.2.2, 7.2.2.3, 7.3.2.13</p> <p>Rule 7.2.2.1</p>	<p>The Plan methods have partially achieved this outcome. Halfmoon Bay is only monitored for swimming suitability. These results (outlined above in Section 7: Coastal water) show that the two sites monitored within Halfmoon Bay (Bathing Beach and Elgin Terrace) are suitable for swimming.</p>	
<p>7.2.2.4</p> <p>The quality of water that is in its natural state is maintained.</p>	<p>Objective 7.2.2.2</p> <p>Policies 7.2.2.2, 7.2.3.1, 7.2.3.2, 7.3.2.1,</p>	<p>It is difficult to assess the performance of these Plan methods across the whole of the natural state water as the quality of natural state waters is not monitored. A sample of discharge consents granted shows that there were very few resource consent applications seeking to discharge into natural state waters.</p> <p>A review of the sample consents show there was an application to discharge treated wastewater into Deepwater Basin, Milford Sound. As part of the conditions of consent, the treated wastewater discharge was required to comply with water quality limits set out in the definition of “treated sewage” in the Plan and</p>	

	7.3.2.2, 7.3.2.5, 7.3.2.6, 7.3.2.7, 7.3.2.9, 7.3.2.10, 7.3.2.12, 7.3.2.13, 9.2.1 Rules 7.3.2.1, 7.3.2.2, 7.3.2.4, 7.3.2.7, 9.2.1	monitoring conditions were imposed ensuring monitoring of the conditions of consent. Given this it is considered that in a site specific example the methods with the Plan have achieved the outcome.	
7.2.3.1 Minimal areas of non-compliance with classification as the result of discharges.	Policies 7.2.3.1, 7.3.2.3, 7.2.3.3	The methods within the Plan have achieved these outcomes. The policies which are designed to achieve this outcome focus on the size of the reasonable mixing zone for discharges to water. Our review of a sample of coastal permits granted for discharges to water shows that consent officers regularly apply these policies when assessing the size of reasonable mixing zones. In some cases, conditions are attached to consents requiring sampling of coastal waters in order to evaluate the difference between the receiving environment and the discharge. It is not clear what the Plan meant by 'minimal areas', however, the evidence suggests that for discharges that require consent, consent officers do apply the direction in the Plan to minimise reasonable mixing zones.	
7.2.3.2 Rapid mixing of contaminants to acceptable dilutions.			
Discharges			
Outcome	Method	Performance	

<p>7.3.2.1</p> <p>The adverse effects of discharges are avoided, remedied or mitigated.</p>	<p>Objectives 7.3.2.1, 7.3.2.2</p> <p>Policies 7.3.2.1, 7.3.2.12, 7.3.2.14, 7.3.2.15</p> <p>Rules 7.3.2.1,</p>	<p>Given the generic nature of this outcome, it is difficult to assess the performance of the Plan methods in achieving this outcome. However, it is noted that during the life of the Plan only 16 discharge consents were approved. A review of the discharge consents shows that conditions of consent were imposed which sought to mitigate the adverse effects of the discharges through the requirement treat the discharge to specific limits prior to the discharge. Given this, it is considered that discharges managed through the consent framework are likely to have achieved Outcome 7.3.2.1. There are a number of permitted discharges for which information is not available, therefore it is not possible to establish whether the outcome has been achieved in relation to permitted activities.</p>	
<p>7.3.2.2</p> <p>No waste products of marine species discharged in the coastal marine area washes up onto the shore.</p>	<p>7.3.2.2, 7.3.2.3, 7.3.2.4, 7.3.2.5, 7.3.2.6, 7.2.3.7,</p>	<p>The methods within the Plan have achieved this outcome. The Council’s incident records do not show any reporting of waste products from marine species washing up on beaches. No other monitoring occurs. These methods are commonly referred to when consenting marine farms. A sample of marine farming permits shows that conditions of consent are imposed ensuring the consent holder shall manage the marine farming operation in such a way that deposition of shell, and other material, on the seabed is minimised.</p>	
<p>7.3.2.3</p> <p>No waste products of marine species discharged into the coastal marine area will have significant adverse effects on ecosystems.</p>	<p>7.3.2.8, 7.3.2.9, 7.3.2.10</p>	<p>The methods within the Plan have partly achieved this outcome. The sample of coastal permits granted for discharges to water show that consent officers consider the adverse effects of those consented discharges on ecosystems and regularly recommend consent conditions relating to timing, amount and monitoring of the discharges. Rule 7.3.2.8 provides for the discharge of waste products of marine species as a permitted activity. As there is no information available on the effects of these discharges, it is not possible to establish whether the outcome has been achieved in relation to permitted activities.</p>	
<p>7.3.3.1</p> <p>Discharges into NS waters are managed to maintain the NS classification.</p>	<p>Policy 7.3.3.1</p>	<p>It is difficult to assess the performance of this method. Policy 7.3.3.1 is to “prevent new point source discharges of contaminants, except uncontaminated stormwater, from land-based sources into waters classified as NS.” There are no supporting rules in section 7.3.3. The information available on resource consents shows that no new point source discharge permits have been granted for discharges to NS waters over the life of the Plan. However, there are a range of discharges provided for as permitted activities, including stormwater (Rule 7.3.4.1), seawater from holding tanks for live marine species (Rule 7.3.2.3), dead farmed marine organisms (Rule 7.3.2.5), waste products from marine species processing (Rule 7.3.2.8), non-toxic dyes (Rule 7.3.6.1), cleaning/maintaining/painting structures (Rule 7.3.8.2.1), and hull cleaning (Rule 7.3.8.2.3). Without</p>	

		monitoring it is not possible to know what cumulative effects these permitted discharges may be having on NS waters.	
7.3.4.1 All stormwater outfalls will meet the classification of receiving waters they discharge into.	Objective 7.3.4.1 Policies 7.2.3.3, 7.3.4.1, 7.3.4.2, 7.3.9.1, 7.3.9.2 Rules 7.3.4.1, 7.3.4.2	It is difficult to assess the performance of these methods. Stormwater discharges that meet the standards in Appendix 10 and the ANZECC 1999 sediment quality guidelines are permitted and therefore not monitored. Consented discharges are not specifically reported on through the Compliance Monitoring Reports so it is not possible to know whether this outcome is being achieved.	
7.3.5.1 Adverse effects from the usage, storage and transportation of hazardous substances and hazardous waste within the coastal marine area will be minimised.	Objective 7.3.5.1 Policies 7.3.2.1, 7.3.2.3, 7.3.5.1, 7.3.5.2, 7.3.5.3, 7.3.5.4, 7.3.5.5 Rules 7.3.5.1, 7.3.5.2, 7.3.5.3, 7.3.5.4, 11.2.5	It is difficult to assess the performance of these methods given the generic nature of this outcome. Additionally, there is no information available on the use, storage or transport of hazardous substances within the coastal marine area. The RMA was amended in 2017 to remove the control of hazardous substances from council functions.	
7.3.5.2 Appropriate procedures will be put in place and equipment	Objective 7.3.5.2	The methods within the Plan have achieved this outcome. The Council maintains an oil spill response team comprising Council and Bluff Port Maintenance staff with assistance from other agencies such as DOC and iwi. The team trains regularly and is activated between 12-20 times per year to respond to oil spills around	

<p>available to remedy or mitigate the adverse effects of any accidental release of hazardous substances and hazardous waste to the coastal marine area.</p>	<p>Policies 7.3.2.1, 7.3.2.3, 7.3.2.5, 7.3.5.1, 7.3.5.2, 7.3.5.3, 7.3.5.4, 7.3.5.5 Rules 7.3.2.1, 7.3.2.4, 7.3.2.7, 7.3.5.1, 7.3.5.2, 7.3.5.3, 7.3.5.4, 11.2.5</p>	<p>Southland. Operations are guided by the Regional Marine Oil Spill Contingency Plan. The Council also employs a Pollution Prevention Officer and runs a pollution prevention programme providing advice and training to businesses on improving their environmental performance and preventing pollution events.</p>	
<p>7.3.6.1 Dye can be used for environmental investigations within the coastal marine area without causing undue alarm or adversely affecting vegetation and fauna.</p>	<p>Objective 7.3.6.1 Policy 7.3.6.1 Rules 7.3.6.1, 7.3.6.2</p>	<p>It is difficult to assess the performance of these methods. Use of non-toxic dyes for investigative purposes is a permitted activity. From the information available, it does not seem that any consents have been granted specifically for the use of other types of dyes. There is not enough information available to assess whether this outcome has been achieved.</p>	
<p>7.3.7.1 The use of dispersants on oil spills is efficiently and competently managed to minimise its adverse effects.</p>	<p>Objective 7.3.7.1 Policies 7.3.2.1, 7.3.2.3, 7.3.4.2</p>	<p>It is difficult to assess the performance of these methods. The policy framework intends to restrict the use of dispersants to the Director of Maritime NZ, the Regional On-scene Commander and, in limited circumstances, owners/operators of ships. There is no specific rule providing for the use of dispersants by these people but use of dispersants by others is a non-complying activity. The appointment of Regional On-scene Commanders</p>	

	Rule 7.3.7.1	<p>suggests that there are people able to efficiently and competently manage dispersant use, however, there is no monitoring in relation to the adverse effects of these substances.</p> <p>Given there have not been any resource consent applications that have sought to use dispersants on oil spills, it is considered the use of dispersants on oil spills has been competently managed to minimise its adverse effects.</p>	
<p>7.3.8.1.1</p> <p>The application of feed and fauna health products to marine farm species is done efficiently without affecting ecosystems, indigenous vegetation and fauna.</p>	<p>Policy 7.3.8.1.1</p> <p>Rule 7.3.8.1.1</p>	<p>The methods within the Plan have achieved this outcome. Applying feed and fauna health products is a discretionary activity. Of the sample of consents provided, only two were for species that were not filter feeders and required artificial feed. The first application was to re-consent existing marine farms for oysters, scallops, rock lobster, mussels and salmon and was granted with conditions controlling the total nitrogen input from feed at the sites for salmon and rock lobster and requiring the consent holder to manage operations so that any deposition of material on the seabed, including feed, is minimised. The second application was granted on the basis that although the effects on the focus site would increase, there were changes made to the whole farming operation which reduced the effects of the marine farming overall. The conditions were not provided so it is not clear how application of feed and fauna health products was managed under the consent.</p>	
<p>7.3.8.2.1</p> <p>Contamination from the maintenance of structures and ships in the coastal marine area is reduced.</p>	<p>Objective 7.3.8.2.1</p> <p>Policies 7.3.8.2.1, 7.3.8.2.2</p> <p>Rules 7.3.8.2.1, 7.3.8.2.2, 7.3.8.2.3, 7.3.8.2.4,</p>	<p>It is difficult to assess the performance of these methods without knowing the baseline level of contamination from these activities has been reduced. Rule 7.3.8.2.1 provides for some cleaning, maintaining and painting of structures as a permitted activity and Rule 8.3.8.2.3 for some hull cleaning as a permitted activity. No monitoring of these activities occurs. According to Council records there has been one incident reported in 2013 of hull scraping where the scrapings were “going everywhere”. No information is available on whether this was investigated or what the outcome was.</p>	

	7.3.8.2.5, 7.3.8.2.6		
7.3.8.2.2 Minimising the risk of introducing unwanted or pest organisms to the coastal marine area of Southland as a consequence of cleaning the hulls of ships and structures.	Objective 7.3.8.2.2 Policies 7.3.8.2.3, 7.3.8.2.4 Rules 7.3.8.2.1, 7.3.8.2.2, 7.3.8.2.3, 7.3.8.2.4, 7.3.8.2.5, 7.3.8.2.6	<u>Fiordland</u> Marine pests have been identified as a major risk to the Fiordland marine environment for many years. In 2010, a single <i>Undaria pinnatifida</i> (<i>Undaria</i>) sporophyte was discovered in Sunday Cove, Breaksea Sound. Since then, a joint-agency response between the Council, MPI and DOC was initiated along with monthly diving surveys and control treatments, however, occasional young <i>Undaria</i> are still being found. The isolation of Fiordland means that vessels are almost the only means of entering and residing in the Fiordland marine area. In 2017, the Council approved the Fiordland Marine Pathway Management Plan under the Biosecurity Act 1993 that requires all vessels visiting Fiordland to hold a Clean Vessel Pass. The Pass requires hulls to be cleaned to a particular standard, preferably by out-of-water cleaning. The introduction of the Pathway Plan may suggest that the outcome sought by the Coastal Plan is not being achieved, however, there is a division between the responsibilities contained in the RMA and the Biosecurity Act. <u>Outside Fiordland</u> It is difficult to assess the performance of these methods. Rules 7.3.8.2.1, 7.3.8.2.3 and 7.3.8.2.6 permit various cleaning activities with a condition that no viable unwanted or pest organisms are released into the coastal marine area. With no monitoring programme in place, it is not possible to determine whether this condition is being met.	
7.3.9.1 Adverse effects from non-point source discharges of contaminants into the coastal marine area are avoided, remedied or mitigated.	Objective 6.1.1 Policies 7.3.9.1, 7.3.9.2 Rules 7.3.4.1, 7.3.4.2	It unlikely that the Plan methods have achieved this outcome. Policy 7.3.9.2 requires developing a strategy to avoid, remedy or mitigate the effects of non-point source discharges of contaminants into the coastal marine area. There are no associated rules in this section. It does not appear that any strategy has been developed.	
Taking, using, damming and diversion of water			
Outcome	Method	Performance	Rating

<p>7.4.1.1</p> <p>The adverse effects of taking, using, damming or diversion of seawater within the coastal marine area are reduced.</p>	<p>Objective 7.4.1.1</p> <p>Policies 7.4.1.1, 7.4.1.2</p> <p>Rules 7.4.1.1, 7.4.1.2, 7.4.1.3, 7.4.1.4</p>	<p>Given the outcome seeks to reduce the adverse effects of taking, using, damming or diversion of seawater within the CMA, it is not possible to assess the reduction in these effect without baseline information. A review of the consent data does not show any applications made to take, dam or divert seawater within the CMA, so it is considered this outcome has likely been achieved.</p>	
<p>7.4.2.1</p> <p>The adverse effects from diverting water within the coastal marine area are avoided, remedied or mitigated.</p>	<p>Objective 7.4.2.1</p> <p>Policies 7.4.2.1, 7.4.2.2, 7.4.2.3</p> <p>Rules 7.4.2.1, 7.4.2.2, 7.4.2.3, 7.4.2.4</p>	<p>The methods within the Plan have achieved this outcome. These provisions relate to the opening and diverting of stream and lagoon mouths. Three consents have been granted for these activities in relation to Lake Waituna, the mouth of the Ourawera Stream, and the mouth of the Taunamau Creek. All three applications were for discretionary activities and were granted with conditions to manage the adverse effects of the activities.</p>	
<p>7.4.2.2</p> <p>Priority is given to opening watercourses where there is the opportunity of opening or diverting them and that the adverse effects from opening watercourses are avoided, remedied or mitigated.</p>			
<p>7.4.3.1</p> <p>Fish are able to move freely up and down waterbodies within the coastal marine area.</p>	<p>Objective 7.4.3.1</p> <p>Policy 7.4.3.1</p>	<p>Of the listed rules that contribute to achieving this outcome, Rule 11.4.1, 11.4.2 and 11.4.4 require that “the passage of fish through, or past, the structure is not prevented”. As these are permitted activities, there is no monitoring information available to determine whether the outcome is being achieved.</p>	

	Rules 11.2.3, 11.2.4, 11.4.1, 11.4.2, 11.4.4		
--	--	--	--

Section 8: Air			
Outcome	Method	Performance	Rating
8.1 There is no degradation of the region's ambient air quality.	Objective 8.1 Policies 8.1, 8.2, 8.9, 8.10 Rules 8.1, 8.2, 8.3, 8.6	Air quality in Southland's coastal marine area is not monitored, therefore it is not possible to assess the state or trend in air quality. There have been growing concerns in recent years about emissions from cruise ships in Fiordland, ⁷³ particularly in Milford Sound where there has been a 135% increase in cruise ship passenger numbers over the past ten years. ⁷⁴ Regulations permit all discharges to air from normal ship operations so this is not a matter the Plan can address. ⁷⁵	
8.2 The adverse effects of discharges to air within the coastal marine area will be avoided, remedied or mitigated.	Objective 8.2 Policies 8.1, 8.2, 8.3, 8.4, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.12 Rules 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 10.5.10	Since the Plan became operative, there has only been one coastal permit granted for a discharge to air. Consent was granted to Milford Sound Development Authority in 2011 to discharge contaminants to air from dry abrasive blasting during maintenance work on pontoons and steel piles in Milford Sound. Written approval was provided by Te Ao Mārama Inc, Department of Conservation and the Fiordland Fishermen's Association. The Plan provisions considered relevant were Objectives 8.1 and 8.2, Policy 8.8 and Rule 8.6(7) and the application was for a discretionary activity. The consent was granted on the basis that any adverse effects would be no more than minor as long as the applicant complied with the conditions on the consent.	

⁷³ See, for example, [Concerns raised about air pollution from cruise ships in Milford Sound \(2 February 2019\)](#).

⁷⁴ Environment Southland. (2019). *Draft strategic direction for the review of the Regional Coastal Plan for Southland*. Page 10.

⁷⁵ Resource Management (Marine Pollution) Regulations 1998

<p>8.3</p> <p>Human health and areas of cultural and amenity value are not adversely affected by odour discharges.</p>	<p>Objective 8.3</p> <p>Policies 8.1, 8.2, 8.3, 8.4, 8.6, 8.11, 8.12</p> <p>Rules 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8</p>		
--	--	--	--

Section 9: Occupation			
Outcome	Method	Performance	Rating
<p>9.1.1</p> <p>The availability of the coastal marine area for public recreation is maintained and enhanced.</p>	<p>Objectives 9.1.1, 9.1.2</p> <p>Policies 9.1.1, 9.1.2, 9.1.3, 9.1.4, 9.1.5, 9.1.6, 9.1.7, 9.1.8, 9.1.9</p> <p>Rules 9.1.1, 9.1.2, 9.1.3, 9.1.4, 9.1.5, 9.1.6, 9.1.7, 9.1.8, 9.1.9</p>	<p>It is difficult to assess the performance of these methods given the generic nature of the outcome. There is no information available on the availability of the coastal marine area to the public. Broadly speaking, consent officers regularly consider the appropriateness of private use of the coastal marine area over public availability.</p> <p>The information available on estuarine and coastal lake/lagoon health indicates that the majority of these water bodies located outside the conservation estate are under stress due to intensification of land uses in their catchments. A continued reduction in water quality will also reduce the availability of the coastal marine area for public recreation.</p>	

Ships used as a base/accommodation facility			
Outcome	Method	Performance	Rating
<p>9.2.1</p> <p>Only ships that have a justified need to be used as a base / accommodation facility in the coastal marine area, and which do not give rise to significant adverse effects, are situated there.</p>	<p>Policy 9.2.1</p> <p>Rule 9.2.1</p>	<p>The methods within the Plan have partially achieved this outcome. As noted in the section 3.3.4 Enforcement Orders, an abatement notice that was granted by the Environment Court was subsequently dismissed by the High Court on appeal on the basis that the Environment Court had erred in law in applying the relevant permitted activity rule (Rule 9.2.1) and by finding that, when not cruising, the vessel would become a base/accommodation facility. It appears there is a disconnect between the base/accommodation provisions and the ‘cruising’ provisions. In contrast, a consent was granted in 2017 to use a vessel as a base/accommodation facility in Deepwater Basin, Milford Sound. Although Policy 9.2.1 is to “discourage” this type of activity, the explanation suggests that there may be cases of demonstrable need for these types of facilities and that they should be considered on a case-by-case basis. In this situation, the consent officer relied on additional direction provided in the relevant issues regarding when accommodation may be appropriate and considered that the application was appropriate as land-based accommodation is significantly restricted in Milford Sound and the vessel operator was required to remain in the area for up to 48 hours post-dive. There is a disconnect between the issues and the content of the policy that should be addressed – Issues 9.2.3 and 9.2.4 recognise that there may be circumstances where use of ships as accommodation facilities is necessary, however, the wording of Policy 9.2.1 is more blunt and seeks to discourage all use for this purpose. Although the explanation recognises the same matters as the issues, it is the policy itself which is relevant for decision-making not the explanation.</p>	

Section 10: Seabed and Foreshore			
Outcome	Method	Performance	Rating
<p>10.1.1</p> <p>Adverse effects from the disturbance of the seabed or foreshore</p>	<p>Objective 10.1.1</p> <p>Policies 10.1.1, 10.1.2, 10.1.3, 10.1.4, 10.1.6</p>	<p>It is difficult to assess the performance of these methods in detail given the generic nature of the outcome. The Plan includes a permitted activity status for: the disturbance of the foreshore which is rectified within one month and the maintenance of drains and ditches in the coastal marine area, with no permitted standards (Rules 10.1.7 and 10.1.9). It is likely that this kind of activity would result in adverse effects.</p>	

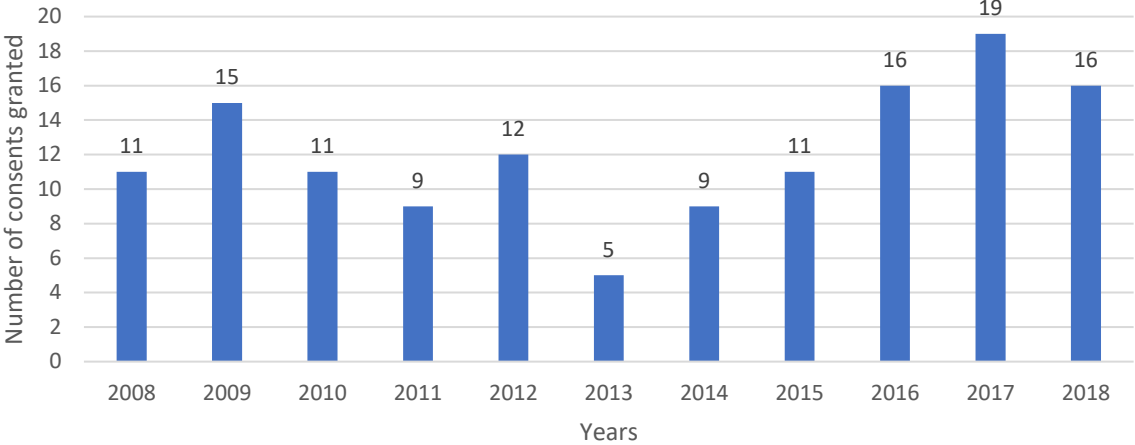
are avoided, remedied, or mitigated.	Rules 10.1.1, 10.1.2, 10.1.3, 10.1.4, 10.1.6, 10.1.8, 10.1.9, 10.1.10	A discretionary activity status is then used to manage activities such as: capital dredging, drilling and tunnelling, disturbance of the seabed or foreshore, and construction of artificial watercourses. The discretionary consent framework will ensure that the adverse effects from the disturbance avoided, remedied, or mitigated.	
10.1.2 Safe and efficient navigation in the coastal marine area is maintained.	Objective 10.1.2 Policies 10.1.1, 10.1.2, 10.5.3, 10.5.9 Rules 10.1.1, 10.1.2, 10.1.3, 10.1.4	The methods within the Plan have achieved this outcome. The Council has prepared a Harbourmaster's Technical Comment form and people applying to undertake activities which may affect navigation safety are asked to provide the completed form with their application. The Council's guidance on information to provide with coastal permit applications also highlight the need for information on how the activity will affect navigation safety and how any issues have been addressed. From the sample of resource consents, consent officers consistently identify and assess effects on navigation safety as part of their assessment of resource consent applications. Although it is not possible to know whether this outcome is being achieved in all circumstances, navigation safety is clearly an important consideration when assessing resource consent applications.	
Deposition			
Outcome	Method	Performance	Rating
10.2.1 Deposition on the seabed and foreshore of the coastal marine area is minimised.	Objective 10.2.1 Policies 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.2.5, 10.2.6, 10.2.8, 10.2.9	It is difficult to assess the performance of these methods given the generic nature of the outcome. Few applications have been received to deposit material in the coastal marine area. One from 2011 included a proposal to deposit 30,000m ³ of dredged spoil on soft sediment habitat in Milford Sound as a result of construction of a breakwater. In this instance, the affected area was considered small, the species it was home to were not unusual and had other populations to the south of the site so the effects were not considered to be more than minor. Conditions were imposed to manage adverse effects such as monitoring discolouration (in reference to the People & Aquatic Life standards outlined in Rule 7.2.2.1), the health of indicator species (black coral, tube anemones and horse mussels) and the movement of deposited material through bathymetric surveys undertaken before and after deposition, and ceasing operations if the standards relating to those matters are breached.	
10.2.2 The effects of deposition will be avoided, remedied or mitigated.	Rules 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.2.5, 10.2.6, 10.2.7		

Ship wrecks			
Outcome	Method	Performance	Rating
10.3.1 Adverse effects from sunken or grounded ships are avoided, remedied or mitigated.	Objective 10.3.1 Policies 10.3.1, 10.3.2 Rule 10.3.1	It is difficult to assess the performance of these methods given the generic nature of the outcome. One enforcement order pursued by the Council to date related to a grounded boat at Thule Bay, Rakiura/Stewart Island suggesting that, in compliance monitoring and enforcement at least, sunken or grounded boats are taken seriously. A discretionary activity status is used to manage ships sunken, grounded or abandoned. The discretionary consent framework will ensure that the adverse effects from sunken or grounded ships is avoided, remedied, or mitigated. From the information available, it does not appear that any consents have been granted for ships that have sunk or been grounded or abandoned.	
Reclamations and impoundments			
Outcome	Method	Performance	Rating
10.4.1 Adverse effects from reclamations and impoundments within the coastal marine area are avoided.	Objective 10.4.1 Policies 5.1.1, 5.4.1.2, 10.4.1, 10.4.2, 10.4.3, 10.4.5, 10.4.6, 11.8.2 Rules 10.4.1, 10.4.2, 10.4.3, 10.4.4, 10.4.5	Objective 10.4.1 seeks to avoid the adverse effects of reclamation and impoundment. A modern planning interpretation of this objective would likely be followed by a stringent activity status – either non-complying or prohibited. However, the associated policies provide some opportunity for these activities to occur and the rules provide for a range of reclamations and impoundments as either discretionary or non-complying activities. One consent has been granted for reclamation of the coastal marine area – this application was to construct a new breakwater in Freshwater Basin, Milford Sound and was granted in 2007. Conditions imposed included a restriction on the length of the breakwater and requirements for the consent holder to use best practice methods during construction works to minimise seafloor disturbance and water discolouration. Although the decision report acknowledged that there would be adverse effects on natural character and wilderness values, visual effects, and adverse effects on water quality from sedimentation, the improved safety outcomes from the new breakwater were considered to outweigh the adverse effects. As the policies themselves do not support the achievement of the outcome, and the only relevant consent decision allowed for adverse effects to occur, this outcome has not been achieved.	

<p>10.4.2</p> <p>A minimum area of foreshore or seabed is reclaimed or impounded.</p>	<p>Objective 10.4.2</p> <p>Policies 10.4.1, 10.4.2, 10.4.5, 10.4.6</p> <p>Rules 10.4.1, 10.4.2, 10.4.3, 10.4.4, 10.4.5</p>	<p>It is difficult to assess the performance of these methods given the generic nature of the outcome. However, as noted in the row above, only one application has been made to reclaim or impound parts of the coastal marine area so the outcome appears to have been achieved.</p>	
The removal of sand, shingle, shell or other natural material			
Outcome	Method	Performance	Rating
<p>10.5.1</p> <p>Sand, shingle, shell, or other natural material is removed at a sustainable rate and significant adverse effects are avoided.</p>	<p>Objective 10.5.1</p> <p>Policies 10.5.1, 10.5.2, 10.5.3, 10.5.4, 10.5.5, 10.5.6, 10.5.7, 10.5.8, 10.5.9, 10.5.12</p> <p>Rules 10.5.1, 10.5.2, 10.5.3, 10.5.4, 10.5.5, 10.5.6, 10.5.7, 10.5.8, 10.5.9, 10.5.10, 10.5.11, 10.5.12</p>	<p>Policy 10.5.5 clarifies that the removal rate should not exceed the rate of natural accumulation. There is no information available on the natural accumulation rates of these resources in the coastal marine area, and as the rules provide for a range of permitted activities it is not possible to know with certainty how much is being removed. Some of the rules require resource consent. In these situations, the Council’s scientists may provide information about accumulation rates to inform decision-making. Three of the rules establish prohibited activities in some locations, and it is assumed that this is, in part, due to the significance of the adverse effects which may arise from undertaking these activities in some locations. Without permitted activity monitoring, it is not possible to determine whether this outcome is being met.</p>	
<p>10.5.2</p> <p>Appropriate protection of sites</p>	<p>Objective 10.5.1</p> <p>Policy 10.5.6, 10.5.7, 10.5.13</p>	<p>The methods within the Plan have achieved this outcome. The rules in this section seek to treat different parts of the coast in different ways in order to protect particular values. For example, disturbance of the foreshore and seabed (including removing material) is a non-complying activity in Fiordland and removal of fossilised Jurassic material from</p>	

of cultural, heritage, archaeological or geological value.	Rule 10.5.1, 10.5.3, 10.5.7, 10.5.13, 10.5.14	between the Waikawa River mouth and Toetoes Estuary is prohibited. Conversely, removing sand from Ōreti Beach is permitted for private use. Although it is not clear what is considered “appropriate”, it appears the rules have been constructed to support the achievement of this outcome.	
10.5.3 Preserve the distinctive natural character of the Waikawa River Mouth to Toetoes Estuary coastline.	Objective 10.5.1 Policies 10.5.4, 10.5.5 Rules 10.5.4, 10.5.6	As outlined in the row above, the rules prohibit removal of fossilised Jurassic material from this part of the coast, assisting to preserve its natural character. As fossilised Jurassic material is only one component of the natural character of this area, it is considered the Plan methods only partly achieve this outcome.	

Section 11: Structures			
Erection or placement of structures			
Outcome	Method	Performance	Rating
11.2.1 Structures are appropriately located so any adverse effects are avoided, remedied or mitigated.	Objective 11.2.1 Policies 11.2.1, 11.2.2, 11.2.3, 11.2.4, 11.2.7, 11.2.8, 11.2.9, 11.2.13, 11.2.14, 11.2.15, 11.2.17 Rules 11.2.3, 11.2.4, 11.2.5, 11.2.6, 11.2.8	This outcome is too generic to assess against in detail as the Plan does not provide clear direction on what is considered “appropriate” through the relevant policies. Consent data shows that non-whitebait structures and their occupation of the coastal marine area are the second most common type of application received by the Council, with 160 consents granted for this activity since 2007. Figure 16 below shows the current consents for this activity broken down by the year they were granted. The past three years have seen the highest number of consents granted for structures since the Plan became operative, comprising 38% of all current consents. This indicates there is increasing demand for structures in the coastal marine area. <i>Figure 169: Consents granted for non-whitebait structures 2008 to 2018</i>	

		 <p>This information suggests that decisions about appropriate locations for structures are likely to become more difficult in the future as demand for space increases. These decisions will need to rely on either direction in the Plan about locations considered appropriate or on assessments of effects. Increasing demand for structures will affect the ability of this outcome to be achieved (and may already be doing so).</p>	
<p>11.2.2 The social, economic and safety benefits of structures in the coastal marine area are recognised.</p>	<p>Policies 11.2.3, 11.2.4, 11.2.8, 11.2.9, 11.2.10, 11.2.11, 11.2.12, 11.2.18</p>	<p>It is difficult to assess the performance of these methods given the generic nature of this outcome. A sample of consents granted for structures in the coastal marine area shows that consent officers regularly consider the social, economic and safety benefits of structures when assessing applications, although not necessarily in relation to these specific provisions.</p>	
<p>11.2.3 Structures do not adversely affect the natural character</p>	<p>Policy 11.2.19</p>	<p>It is not clear how this outcome is intended to be achieved as it is not linked to any rules or other methods. However, when reviewing a sample of consents for structures, those relating to Fiordland and Rakiura/Stewart Island generally did contain assessments of the effects on natural character and amenity values. Given this it is considered that in site specific examples the methods with the Plan have achieved the outcome.</p>	

and amenity values of Fiordland and Stewart Island.			
11.2.4 Permanent structures / buildings in the coastal marine area are of a form and are finished so they do not degrade the natural character of an area.	Policies 11.2.1, 11.2.16, 11.2.17	No record has been kept of the form and finish of permanent structures or buildings in the coastal marine area, however, the sample of consents shows that the form and finishing of permanent structures/buildings are generally assessed by consent officers. A number of the decision reports note that visual impacts should be assessed against the environment in which they are occurring – for example, an additional structure in a working harbour will have less visual impact than a structure in a remote fiord. A standard condition of consent has been often been imposed on non-whitebait structures that requires the exterior of the structure shall be finished in materials, and of colours, that are consistent with the physical landscape where the structure is located. Given this it is considered that the methods within the Plan have achieved the outcome.	
11.2.5 Adverse effects on the natural character, amenity, navigation safety of the coastal marine area from lighting and glare are avoided, remedied or mitigated.	Objective 11.2.4 Policy 5.3.4 Rules 11.2.1, 11.2.2	It is difficult to assess the performance of these methods given the generic nature of this outcome. In the sample of consents granted for structures, lighting and glare was only considered a relevant effect in one application and the effect was considered to be less than minor. Given this, it is considered that the methods within the Plan have the ability to achieve the outcome sought through the resource consent process if applications include activities that may result adverse effects from lighting and glare.	
11.2.6 Temporary structures are used as an alternative to	Policy 11.2.2 Rule 11.2.6	The sample of consents suggests that consents granted for temporary structures are not as alternatives to permanent structures – they are only required for temporary purposes. From the limited information available, it is not clear whether this outcome is being achieved.	

permanent structures where practicable.			
Legality of existing structures			
Outcome	Method	Performance	Rating
11.3.1 The legal status of all structures in the coastal marine area is established.	Objective 11.3.1 Policies 11.3.1, 11.3.2, 11.3.3 Rules 11.3.1, 11.3.2, 11.3.3	The main method for achieving this outcome is the preparation of a register of structures in the coastal marine area, their status and their owner (Policy 11.3.2). A register is kept by the Council which records the consent number authorising the structure, its unique structure number (which must be displayed on the structure) and the name of the owner of the structure. The register is used to help compliance officer identify unlawful structures and owners of structures. There are ongoing issues with unconsented and illegal structures, including moorings, particularly in Fiordland which suggest that this outcome has not been achieved in every case.	
Reconstruction, maintenance, repair, alteration, upgrading and extension of lawful structures			
Outcome	Method	Performance	Rating
11.4.1 All structures in the coastal marine area are maintained so that they are safe.	Objective 11.4.1 Policies 11.4.1, 11.4.2, 11.4.3, 11.4.4 Rules 11.4.1, 11.4.2, 11.4.4	It is unlikely that the methods within the Plan have achieved this outcome for all of the structures in the coastal marine area. Compliance officers inspect whitebait stands every year and there is a high rate of compliance with consent conditions, which require structures to be kept in good repair. Other structures are inspected less frequently, for example as part of monitoring surface water activities in Fiordland. There have been around ten incidents reported to the Council relating to poor state of structures. A standard condition of consent is imposed on both non-whitebait structures and whitebait structures which requires that consent holders maintain the structure in good repair, appearance and condition.	
11.4.2 Lawful structures in the coastal marine area can be altered or maintained	Objective 11.4.2 Policies 11.4.1, 11.4.2 Rules 11.2.1, 11.4.1, 11.4.2,	The methods within the Plan appear to have achieve this outcome. Maintenance, repair, reconstruction, alteration and upgrading of structures can occur as a permitted activity under Rules 11.4.1 to 11.4.4 provided conditions are complied with. It is not clear what is meant by “undue regulation”, however, a permitted activity status would seem to provide the outcome sought.	

without undue regulation.	11.4.3, 11.4.4, 11.4.5		
11.4.3 Environmental effects of lawful structures in the coastal marine area are minimised.	Objective 11.4.1, 11.4.2 Policies 11.4.1, 11.4.2, 11.4.3, 11.4.4 Rules 11.2.1, 11.4.1, 11.4.2, 11.4.3, 11.4.4, 11.4.5	It is difficult to assess the performance of these Plan methods given the genetic nature of this outcome. In the sample of consents granted for structures shows that within the resource consent decision the actual and potential effects on the environment are assessed for both non-whitebait structures and whitebait structures. If environmental effects are identified, conditions of consent are imposed to manage these effects. Given this, it is considered that the methods with the Plan have the ability to achieve the outcome sought through the resource consent process.	
Removal or demolition of structures including unused or dilapidated structures			
Outcome	Method	Performance	Rating
11.5.1 Unused structures or structures in disrepair in the coastal marine area can be removed or demolished without undue regulation.	Objective 11.5.1 Policy 11.5.1 Rules 11.5.1, 11.5.2, 11.5.3	The methods within the Plan appear to have achieved this outcome. Rule 11.5.1 provides for the removal or demolition of any structure as a permitted activity provided all debris from the structure and all materials associated with the removal of the structure are removed from the coastal marine area. It is not clear what is meant by “undue regulation”, however, a permitted activity status would seem to provide the outcome sought.	
11.5.2 Removal or demolition of unused or		The requirement to remove debris and material from the coastal marine area under Rule 11.5.1 goes some way in managing adverse effects from these activities. All other removal or demolition is a discretionary activity under Rules 11.5.2 and 11.5.3 meaning that adverse effects are managed through the resource consent process and any	

dilapidated structures occurs without causing adverse effects.		associated conditions of consent. It is unlikely that no adverse effects are caused, however, there are mechanisms in place to manage the adverse effects.	
11.5.3 Unused or dilapidated structures are removed.		Compliance officers use a range of tools to improve the standard of structures in the coastal marine area, including removal where this is appropriate. It is unlikely that all unused or dilapidated structures are removed as there can be issues with identifying their owner(s). Identification also relies on incident reports by the public in most cases.	
New and changing activities on existing structures including structures on structures			
Outcome	Method	Performance	Rating
11.6.1 Adverse effects from new or changing activities on structures are avoided.	Objective 11.6.1 Policy 11.6.1 Rule 11.4.5	The wording of the outcome and objective suggest that new or changing activities should not give rise to any adverse effects, however, the relevant policy provides more flexibility and directs that these should be assessed on a case-by-case basis. It is difficult to assess whether these Plan methods are achieving this outcome.	
Specific structures			
Outcome	Method	Performance	Rating
11.7.1.1 The total amount of space for the erection of whitebait stands in the coastal marine	Objective 11.7.1 Policy 11.7.1.1 Rules 11.7.1.1, 11.7.1.2, 11.7.1.3, 11.7.1.4, 11.7.1.5, 11.7.1.6,	The methods within the Plan have achieved this outcome. New whitebait stands are a prohibited activity which achieves this outcome. Compliance officers investigate reports of illegal stands and take enforcement action where necessary.	

area does not increase.	11.7.1.7		
11.7.1.2 The replacement of whitebait stands in sites formerly allocated will avoid adverse effects.	Rule 11.7.1.6	Replacement whitebait stands are a restricted discretionary activity under Rule 11.7.1.6. The Council's discretion is restricted to the siting of the new stand and measures taken to avoid, remedy or mitigate adverse effects on amenity values, coastal processes and public access. It is not clear whether these are the adverse effects referred to in the outcome or whether there are others that cannot be accounted for through the existing rule framework.	
11.7.2.1 Maimais are erected, placed and used in a manner that does not cause permanent adverse effects.	Objective 11.7.2.1 Policies 11.7.2.1, 11.7.2.2, 11.7.2.3, 11.7.2.4, 11.7.2.5 Rules 11.7.2.1, 11.7.2.2, 11.7.2.3, 11.7.2.4, 11.7.2.5, 11.7.2.6, 11.7.2.7, 11.7.2.8, 11.7.2.9	The rules for maimais either provide for permitted activities with conditions managing adverse effects or consented activities where adverse effects can be assessed through the consent process and conditions can be imposed where appropriate. On this basis, the outcome should be able to be achieved most of the time.	
11.7.3.1 Wharves which fulfil the social and economic well-	Objective 11.7.3.1 Policies 11.7.3.1, 11.7.3.2, 11.7.3.3	Rule 11.7.3.1 provides for wharves as a permitted activity within the Bluff Port Zone. The port facilities at Bluff Harbour comprise three main structures: Tiwai Wharf and causeway (servicing the NZAS smelter), Town Wharf (primarily servicing the petroleum industry) and Island Harbour, a 40 hectare man-made island providing a range of marine services including berthage, cargo facilities and warehouses. ⁷⁶ In 2017, South Port transported over 3 million tonnes of cargo, an increase from around 2 million in the early 2000s. ⁷⁷ South Port anticipates further increases over	

⁷⁶ Environment Southland. (2018). *Use and development in Southland's coastal marine area: discussion document*, p.10.

⁷⁷ South Port New Zealand. (2017). *Annual report 2017*.

<p>being of communities are provided in appropriate locations.</p>	<p>Rules 11.7.3.1, 11.7.3.2, 11.7.3.3, 11.7.3.4</p>	<p>the next five years and has signalled its intent to invest in its infrastructure at Bluff over the next 10-15 years.⁷⁸ South Port also managed Ferry Wharf and the finger piers which berth fishing, charter and recreational vessels.</p> <p>Rule 11.7.3.2 makes wharves in all other areas (except Fiordland and specified parts of Stewart Island) a discretionary activity. There are a number of wharves on Stewart Island and at Riverton Harbour that service a range of vessels.</p> <p>Milford Sound is one of New Zealand’s busiest harbours with over 130 vessel movements per day in the 2017/18 season.⁷⁹ The facilities were upgraded in 2013 to deal with congestion during peak cruising periods. There are 18 commercial vessels operating out of Freshwater Basin, primarily servicing the tourism industry. Deepwater Basin permanently berths 16 commercial fishing vessels. There are two small wharves at Deep Cove in Doubtful Sound, one servicing the tourism industry and the other Meridian Energy Limited.</p> <p>There is no subsequent rule for wharves in the excluded areas (Fiordland and specified parts of Stewart Island), meaning they are captured by the ‘catch-all’ rule for structures in the coastal marine area (Rule 11.2.6) and are therefore non-complying. Non-complying activity status means there is greater reliance on the direction provided through policies, however, the relevant policies for this outcome do not provide particularly specific direction on how to decide whether a location is appropriate or not.</p> <p>Overall, it is considered that the methods within the Plan have achieved this outcome. However, given the increasing pressure on space for structures such as wharves, achieving this outcome in the future may be difficult.</p>
<p>11.7.4.1 Natural character and amenity values are enhanced by maintenance of boatsheds and removal of</p>	<p>Policies 11.7.4.1, 11.7.4.2 Rules 11.7.4.1, 11.7.4.2</p>	<p>The provisions relating to boatsheds focus on the number of structures and their use rather than effects on natural character and amenity values. For example, the relevant policies are to discourage new boatsheds (Policy 11.7.4.1) and to avoid using boatsheds for purposes other than storing boats (Policy 11.7.4.2). The two rules for boatsheds relate to appropriate locations for them on Rakiura/Stewart Island (Rule 11.7.4.1) and other areas (Rule 11.7.4.2). Resource consents are required for all boatsheds which allows for an assessment of adverse effects and the imposition of conditions where appropriate.</p>

⁷⁸ South Port New Zealand. (2017). *Annual report 2017*.

⁷⁹ Environment Southland. (2018). *Use and development in Southland’s coastal marine area: discussion document*, p.11.

<p>boatsheds that are in a state of disrepair.</p>		<p>In order to achieve this outcome, consent officers rely on the policy direction in section 5 for natural character and amenity values and on the general policies for structures in section 11. In the sample of consents provided, there were two applications for boatsheds – one at Waikawa Harbour and one at Riverton Harbour, which both related to existing structures. In both cases consent officers did identify and apply the direction in section 5. The consent data shows that of the 160 coastal permits for non-whitebait structures, 19 relate to boatsheds and the majority of those are permits authorising existing structures rather than consents granted for new structures.</p> <p>As boatsheds are a consented activity they will be subject to compliance monitoring and enforcement action where appropriate, so it is likely the outcome, in general terms, is being achieved.</p>	
<p>11.7.5.1 Boat launching facilities are provided in the coastal marine area and any adverse effects on the environment are avoided, remedied or mitigated.</p>	<p>Objective 11.7.5.1 Policies 11.7.5.1, 11.7.5.2 Rules 11.7.5.1, 11.7.5.2</p>	<p>The methods within the Plan have achieved this outcome Beach launching and landing is provided for as a permitted activity (with conditions) under Rule 11.7.5.2 while structures for launching boats require consent as a discretionary activity (Rule 11.7.5.1). As structures are likely to result in more adverse effects, the rule framework for boat launching appears to be designed to achieve the outcome sought. Although it is not possible to determine specifically whether this outcome is being achieved, the combination of a permitted activity rule with conditions and a resource consent process provides two avenues through which adverse effects are avoided, remedied or mitigated.</p>	
<p>11.7.6.1 Navigational aids can be constructed in the coastal marine area with a minimum of regulation.</p>	<p>Objective 11.7.6.1 Policy 11.7.6.1 Rules 11.7.6.1, 11.7.6.2, 11.7.6.3, 11.7.6.4</p>	<p>The methods within the Plan have generally achieved this outcome. Navigation aids are provided for through four rules:</p> <ul style="list-style-type: none"> • Aids up to 2m in height are a controlled activity (Rule 11.7.6.1) • Aids greater than 2m in height are a discretionary activity (Rule 11.7.6.2) • Temporary buoys in Awarua Bay and Bluff harbour are a permitted activity (Rule 11.7.6.3) • Permanent buoys in Awarua Bay and Bluff Harbour are a discretionary activity (Rule 11.7.6.4) <p>From the information provided, only one application has been received since 2007 for the construction of navigation aids. The application was made by the Council’s Harbourmaster for four aids in Fiordland. The dimensions of the aids</p>	

		are not clear from the decision report, however, Rule 11.7.6.2 is identified as relevant suggesting that they were greater than 2m in height. The consent was granted for a term of 35 years. The outcome is not clear what it considers a “minimum” of regulation to be, however, one consent over 11 years would seem to achieve the outcome sought. Although Rule 11.7.6.1 provides a ‘low regulation’ pathway for aids through controlled activity status, it does not appear that this rule has been applied since the Plan became operative. The review of the Plan may wish to consider whether the ‘triggers’ in this rule framework are still relevant and practical.	
11.7.7.1 The adverse effects of marinas, anchorages and moorings are avoided, remedied or mitigated.	Objectives 11.7.7.1, 11.7.7.8.1 Policies 11.7.7.2, 11.7.7.4, 11.7.7.5, 11.7.7.6, 11.7.7.7, 11.7.7.8, 11.7.7.9, 11.7.7.11, 11.7.7.19 Rules 11.7.7.1, 11.7.7.3, 11.7.7.4, 11.7.7.5, 11.7.7.6, 11.7.7.8, 11.7.7.9	The methods within the Plan appear to have achieved this outcome, although it is noted that some moorings have been installed without complying with the Plan’s requirements. The adverse effects of this non-compliance are unclear. The relevant rules set out a detailed management regime for moorings and anchorages which provide for the full range of activity classifications depending on the type of structure and its location. The permitted activity rules (11.7.7.1 and 11.7.7.3) contain conditions, while the rest of the rules require resource consent. Both of these avenues provide for the management of adverse effects, although it is not possible to determine their effectiveness. Appendix 6 lists approximately 235 recognised anchorages where mooring facilities are permitted under Rule 11.7.7.1. Despite this, 71 applications have been received for moorings since 2007. As outlined earlier, there is increasing demand for vessel-related infrastructure in the coastal marine area in Southland and particularly in Fiordland which makes decisions about adequacy and appropriateness more challenging. Plan provisions tend to use general language when discussing effects (particularly “avoid, remedy or mitigate”) which provides little guidance to decision-makers on the effects that are most significant or how they should be managed.	
11.7.7.2 Adequate anchorages are available for all mariners.	Objective 11.7.7.2 Policies 11.7.7.1, 11.7.7.2, 11.7.7.17 Rules 11.7.7.1, 11.7.7.2, 11.7.7.4, 11.7.7.7	Given the increasing pressure on anchorages and moorings, it is likely that both of these outcomes will become more difficult to achieve in the future using the current Plan provisions.	

<p>11.7.7.3</p> <p>The use and development of the coastal marine area does not compromise the rat-free status of offshore islands.</p>	<p>Objective 11.7.7.3</p> <p>Policies 11.2.7, 11.7.7.1, 11.7.7.2, 11.7.7.21</p> <p>Rule 11.7.7.2</p>	<p>The Plan contains a number of policies which direct actions to support the rat-free status of some offshore islands, such as avoiding using anchorages at these islands and encouraging operators to have rat-free ships. This is supported in part by Rule 11.7.7.2 which restricts mooring facilities near rat-free islands, making them a discretionary activity.</p> <p>In addition, resource consent applications for commercial surface water activities include a standard condition of consent which requires that consent holders shall not anchor within 400 metres of rat-free islands.</p> <p>It is not clear whether these methods have been sufficient to not compromise the status of these islands.</p>	
<p>11.7.7.4</p> <p>Use and development of the coastal marine area will not unnecessarily put at risk the safe navigation of coastal waters.</p>	<p>Objective 11.7.7.4</p> <p>Policies 11.7.7.1, 11.7.7.2, 11.7.7.17, 11.7.7.18</p> <p>Rule 11.7.7.8</p>	<p>The Plan methods have achieved this outcome. As noted within outcome 10.1.2 above, the Council has prepared a Harbourmaster's Technical Comment form and people applying to undertake activities which may affect navigation safety are asked to provide the completed form with their application. The Council's guidance on information to provide with coastal permit applications also highlight the need for information on how the activity will affect navigation safety and how any issues have been addressed. From the sample of resource consents, consent officers consistently identify and assess effects on navigation safety as part of their assessment of resource consent applications.</p> <p>Although it is not possible to know whether this outcome is being achieved in all circumstances, navigation safety is clearly an important consideration when assessing resource consent applications.</p>	
<p>11.7.9.1</p> <p>The adverse effects from the storage of rock lobster and cod pots in the coastal marine area, are avoided, remedied or mitigated.</p>	<p>Objective 11.7.9.1</p> <p>Policies 11.7.9.1, 11.7.9.2</p>	<p>Although there are specific policies about the management of storing rock lobster and cod pots, there are no specific rules meaning they are managed under the general structure rules in the Plan. In response to the Council's <i>Discussion paper: Use and development in the Southland coastal marine area</i> (2018), DOC, Real Journeys and Southland Conservation Board raised the issue of storage of rock lobster and cod pots in the coastal marine area. Issues identified related to visual effects and hazards for navigation. This suggests that this outcome may not be being achieved in some parts of Southland.</p>	

<p>11.7.10.1</p> <p>The adverse effects from port facilities and activities are avoided, remedied or mitigated.</p>	<p>Objective 11.7.10.1</p> <p>Policies 11.7.10.1, 11.7.10.2, 11.7.10.3, 11.7.10.4</p>	<p>It is not clear whether the methods within the Plan have achieved this outcome due to a lack of information. The majority of port activities are managed through individual agreements with NZAS and South Port which are discussed in more detail in section 3.2.2 of the main report. A number of incidents relating to NZAS and South Port are reported by members of the public each year which are dealt with by the companies internally and discussed with the Council's compliance officers at the annual meeting.</p>	
<p>Navigation safety</p>			
<p>Outcome</p>	<p>Method</p>	<p>Performance</p>	<p>Rating</p>
<p>11.8.1</p> <p>Navigation in the coastal marine area will be safe and efficient.</p>	<p>Objective 11.8.1</p> <p>Policies 10.2.5, 11.2.13, 11.2.14, 11.8.1, 11.8.2, 11.8.3, 11.7.7.14, 11.7.7.15, 11.7.7.16</p> <p>Rules 11.2.1, 11.2.2, 11.2.3, 11.2.4, 11.2.6, 11.7.6.3, 11.7.6.4, 11.7.7.8, 11.7.7.10, 11.8.1</p>	<p>This outcome appears to overlap to some extent with outcome 10.1.2 and 11.7.7.4 which are that "safe and efficient navigation in the coastal marine area is maintained" and "Use and development of the coastal marine area will not unnecessarily put at risk the safe navigation of coastal waters". The assessment against these outcomes are also relevant here.</p>	

Section 12: Coastal processes and protection works			
Coastal processes			
Outcome	Method	Performance	Rating
<p>12.1.1</p> <p>The adverse effects of coastal processes including global sea level rise on coastal use and development is avoided, remedied or mitigated.</p>	<p>Objective</p> <p>12.1.1</p> <p>Policies</p> <p>12.1.1, 12.1.3, 12.1.4, 12.1.5, 12.1.6, 12.2.1</p> <p>Rule 12.2.2</p>	<p>Assessing the achievement of this outcome is difficult due to a lack of understanding of coastal processes and the effects of activities on these natural processes. Southland experiences a number of coastal hazards, including:⁸⁰</p> <ul style="list-style-type: none"> • Coastal erosion (both long-term recession of the coast and short-term cycles of erosion and accretion), such as: <ul style="list-style-type: none"> – Significant accretion and erosion along the shoreline at Colac Bay, resulting in the closure of the Colac Foreshore Road. – Papatotara Coast Road was badly damaged after a combination of severe weather and spring tides washed away large parts of the road in 2008. – In Fortrose, entire sections and the adjoining road reserve have eroded into Toetoes Harbour since 1877. – Omaui Beach at the outlet of the New River Estuary has experienced cyclical erosion and accretion since the 1860s. – Sites at Kahukura, Porpoise Bay, Fortrose, Cosy Nook and the Tokanui River mouth have eroded between 3-7m between 2013 and 2017. • Storm surges, especially when combined with a spring or king tide: <ul style="list-style-type: none"> – Flooding from storm surges has occurred in Invercargill on six occasions since 1935. 	

⁸⁰ Information in the following paragraphs sourced from: Environment Southland. (2017). *Coastal hazards in Southland: discussion paper*.

		<ul style="list-style-type: none"> – Gravel overwash has occurred at Colac Bay 4-5 times per year due to storm surges. – A spring tide event in March 2016 closed Stead Street, Invercargill and caused localised flooding due to stormwater backing up in the reticulated network. • Tsunami, including: <ul style="list-style-type: none"> – At least six events recorded on the Southland Coast since 1820 with water level variations of between 0.5 and 1.5m – Risks from both far-source earthquakes (mostly South American) and near-source events (Puysegur Trench and landslide-generated) <p>These events suggest that this outcome is not being achieved as there are adverse effects occurring on coastal use and development. The relevant policies provide little direction on managing natural hazards.</p> <p>These effects will worsen in coming years as climate change exacerbates the current hazards. In particular, sea level rise will likely result in gradual inundation of low lying land and adjoining land by spring and king tides, increased incursion of saltwater into lowland rivers and groundwater aquifers, increased frequency of damaging coastal inundation events and increased susceptibility of land to liquefaction. Mapping to determine areas at risk from sea level rise has not been completed across Southland. Sea level rise will also result in higher groundwater levels in areas close to the coast. Higher groundwater levels can impede drainage and, combined with more frequent/severe rainfall events, cause flooding to higher levels and for longer periods. This has been seen in Invercargill in 2016 and 2017 during spring tides.</p>	
<p>12.1.2</p> <p>There is no disruption of coastal processes that would cause adverse effects on coastal use and development.</p>	<p>Objective 12.1.2</p> <p>Policies 12.1.3, 12.1.4, 12.1.5, 12.1.6, 12.2.7</p>	<p>It is difficult to assess the performance of these methods given the generic nature of the outcome and a lack of information about the coastal processes occurring across Southland.</p>	

	Rules 11.2.3, 11.2.4, 12.2.2		
Coastal protection works			
Outcome	Method	Performance	Rating
12.2.1 Coastal protection works are constructed of materials appropriate to the site.	Objective 12.2.1 Policies 5.3.6, 11.2.5, 12.2.6, 12.2.7 Rules 12.2.1, 12.2.3, 12.2.4, 12.2.5	The methods within the Plan appear to have achieved this outcome. Objective 12.2.1 clarifies that appropriate materials are those that are similar to, or that can be made to resemble, those materials naturally occurring in the area. Rules 12.2.4 and 12.2.5 prohibit the use of particular materials in coastal protection works. The sample of consents provided included four applications for coastal protection works. Two were for rock riprap, one for a combination of geotextile and rock material placement and one for a rock seawall with a fill embankment. One decision report discussed the use of material (rock riprap) and considered it to be consistent with the site.	
12.2.2 Coastal protection works are reconstructed only where they are the best practicable option for the future.	Policy 12.2.1 Rule 12.2.2	It is difficult to assess the performance of these methods given the generic nature of the outcome. Resource consent information shows there have been 28 consents granted for coastal protection works since 2007. However, it is not clear how many of those consents relate to reconstruction so there is not enough information to assess the achievement of this outcome.	

Section 13: Cruise Ships and Other Ships in Internal Waters			
Outcome	Method	Performance	Rating

<p>13.1 Protection of the waters of Fiordland and Stewart Island from the adverse effects of cruise and other ships.</p>	<p>Objectives 13.1, 13.2, 13.3 Policies 13.1, 13.2, 13.3, 13.4, 13.5, 13.6 Rules 13.1, 13.2</p>	<p>Large numbers of tourists visit Southland each year, with total guest nights in 2018 exceeding 1.2 million.⁸¹ Guest nights in Fiordland totalled over 732,000, accounting for over 60% of Southland’s total guest nights.⁸² Since 2010, cruise tourism passengers visiting New Zealand have more than doubled from approximately 100,000 to nearly 250,000.⁸³ Southland is the second busiest region for cruises, with 102 vessels visiting in 2016/17.⁸⁴</p> <p>In their feedback on the Council’s <i>Discussion paper: Use and development in the Southland coastal marine area</i>, DOC, Southland Conservation Board, Milford Sound Tourism and Real Journeys all raised concerns with the effects arising from increased cruise ship activity, particularly in Milford Sound.</p> <p>The Council is prevented from managing many of the adverse effects of cruise ships by the Resource Management (Marine Pollution) Regulations, including dumping and discharges (to air and water). Currently the Cruise Ship Deed provides an avenue for requiring operators to adhere to a higher environmental standard than the regulations prescribe in return for access to Fiordland as a permitted activity.</p> <p>It is not clear whether this outcome is being achieved. Given the significant increase in cruise ship activity in Southland, and Fiordland particularly, it is likely that this outcome is either not being achieved or will not be achieved in the near future. One of the main tools for managing cruise ships under the Plan is the Cruise Ship Deed, which is currently under review.</p>	
<p>13.2 Establishment of a fund to offset the adverse effects of the use of the internal waters of Fiordland</p>	<p>Policy 13.5 Rules 13.1, 13.2</p>	<p>The Cruise Ship Deed requires payment of the Marine Fee by cruise ship operators. There is a lack of transparency about how the Marine Fee is spent after it has been collected by the Council.⁸⁵ The Marine Fee is discussed in more detail in section 6.1.2.3 of the main report.</p> <p>The Marine Fee only partly achieves this outcome, as the outcome applies equally to other types of ships which are not required to contribute to such a fund.</p>	

⁸¹ Venture Southland. (2018). *Southland tourism key indicators*, p.3.

⁸² Venture Southland. (2018). *Southland tourism key indicators*, p.10.

⁸³ m.e. consulting. (2017). *Cruise tourism’s contribution to the New Zealand economy 2017*. Prepared for New Zealand Cruise Association, p. 1

⁸⁴ m.e. consulting. (2017). *Cruise tourism’s contribution to the New Zealand economy 2017*. Prepared for New Zealand Cruise Association, p. 11

⁸⁵ Morrison Low. (2019). *Valuing the cruise ship industry: Environment Southland*, p.17.

and Stewart Island by cruise and other ships.			
---	--	--	--

Section 14: Recreational Activities

Recreational activities with minor effects

Outcome	Method	Performance	Rating
14.1.1 Recreational activities that occur on the foreshore and water which have minor or negligible adverse effects are provided for without undue regulation.	Objective 14.1.1 Policy 14.1.1 Rule 14.1.1	Rule 14.1.1 provides for low impact recreation activities as permitted activities if conditions are met. None of the information available suggests that there have been issues with this approach, however, it is not possible to determine whether the rule has effectively achieved the outcome.	

Recreational activities (general)

Outcome	Method	Performance	Rating
14.2.1 Any actual or potential conflicts between recreational activities in the coastal marine area are avoided.	Policies 14.2.1, 14.2.4 Rules 14.2.1, 14.2.2, 14.2.3, 14.2.4, 14.2.5, 14.2.6, 14.2.7, 14.2.8, 14.2.12, 14.2.13,	The rules in this section are highly prescriptive, setting out in detail which recreational activities can occur in specific areas and under what circumstances. The Council's Harbourmaster and Deputy Harbourmaster assist with achieving this outcome through their patrols of various parts of Southland's coastal marine area. There is not enough information available to determine whether this outcome is being achieved, although at a practical level it is unlikely that all potential or actual conflicts are avoided.	

	14.2.15, 14.2.16, 14.2.17		
14.2.2 Motorised recreational activities will occur in a manner that minimises adverse effects to the primary values of the area.	Policies 14.2.2, 14.2.3 Rules 14.2.1,14.2.2, 14.2.3, 14.2.4, 14.2.5, 14.2.6, 14.2.7, 14.2.8, 14.2.9, 14.2.12, 14.2.13, 14.2.14, 14.2.15, 14.2.16	The rules in this section are highly prescriptive, setting out in detail where vehicle access to and along the CMA can occur. The rule ranges from permitted to prohibited activities depending on the location and nature of the access. A 2014 report assessed the impact of vehicles on recruitment of toheroa on Ōreti Beach, Southland. It found that around 4% of juvenile (<40 mm) toheroa were damaged (and presumed killed) each time they are driven over by the car or motorbike, whereas utilities and 4WD vehicles killed 2% per pass. ⁸⁶ Given this it is clear the outcome is not being achieved in the context of Ōreti Beach. There is not enough information available to determine whether this outcome is being achieved in other parts of the CMA.	
Diving			
Outcome	Method	Performance	Rating
14.3.1	Objectives 14.3.1, 14.3.2		

⁸⁶ <http://www.ecosystemsconsultants.co.nz/files/ecosystems-consultants-report-2014-02.pdf>

The diving values of Stewart Island's and Fiordland's waters are maintained and enhanced.	Policies 14.3.1, 14.3.2	The policies to achieve these outcomes are not supported by any specific rules or other methods. In the absence of any information on diving, it is not possible to determine whether these outcomes have been achieved or assess the performance of the methods.	
14.3.2 Unique and fragile habitats in the Fiordland (Te Moana o Atawhenua) Marine Area are protected from the adverse effects of diving.	Objective 14.3.1 Policy 14.3.1		

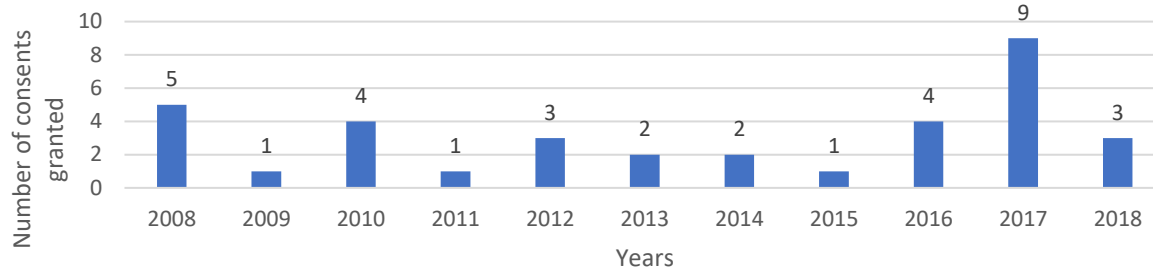
Section 15: Marine Farming			
Marine farming - general			
Outcome	Method	Performance	Rating
15.1.1 Marine farming is conducted without causing public concern.	Objective 15.1.1 Policies 15.1.1, 15.1.2, 15.1.3,	Information from the Council shows that there have been two incidents reported by members of the public relating to marine farming: one regarding potential dumping of marine farming waste and one regarding a potentially unconsented marine farm operating at Horseshoe Bay, Rakiura/Stewart Island. This suggests that the outcome sought is being partially achieved.	
15.1.2 Marine farms are not located where they could compromise navigation safety.	15.1.4 Rule 15.1.1, 15.1.2, 15.1.3, 15.1.4,	Marine farms are prohibited in some areas and require resource consent to establish in others, either as a discretionary or non-complying activity. Scrutiny through a resource consent process allows for consideration of any issues with proposed locations and application of the provisions managing navigation safety contained in section 11.8 of the Plan. Additionally, technical comment from the Harbourmaster is required for any application which may affect navigation safety. Collectively it is likely that this outcome is being achieved.	

<p>15.1.3</p> <p>Marine farms are not located where they could adversely affect areas containing significant values, including:</p> <ul style="list-style-type: none"> • significant indigenous vegetation; • habitats of indigenous fauna; • significant landscape values; • high natural value; <p>or where they could increase deposition in Natural State waters.</p>	<p>15.1.5, 15.1.6, 15.1.7</p>	<p>Marine farming is prohibited in the following areas which are considered to have significant values:</p> <ul style="list-style-type: none"> • The internal waters of Fiordland from Awarua Point to Puysegur Point • Marine reserves • Awarua Bay east of the Tiwai causeway • Port Pegasus, Lords River, Paterson Inlet (except Big Glory Bay and the Salmon Farming Refuge Zone) • Port William from Peters Point to the eastern most extremity of the headland enclosing the northern end of Port William 	
Salmon Farming Refuge Zone			
Outcome	Method	Performance	Rating
<p>15.2.1</p> <p>Appropriate areas are set aside as marine farming refuge zones.</p>	<p>Objective 15.2.1</p> <p>Policies 15.2.1, 15.2.2</p>	<p>For salmon farming, this outcome is achieved through the provisions establishing and providing for the use of the Salmon Farming Refuge Zone in Big Glory Bay, Rakiura/Stewart Island. It is not clear how the outcome was intended to be achieved for non-salmon species.</p>	
<p>15.2.2</p> <p>Adverse effects from relocating to a refuge area and using the refuge area are avoided, remedied or mitigated.</p>	<p>Rules 15.2.1, 15.2.2</p>	<p>This outcome is too generic to assess against in detail. Rules 15.2.1 and 15.2.2 provide for use of the refuge area as a permitted activity subject to conditions. One of the conditions in Rule 15.2.2 requires monitoring of sites to be undertaken by an independent suitably qualified person and the results provided to the Council. This should assist with avoiding, remedying or mitigating adverse effects, although it is not clear how activities are managed should those monitoring results be unsatisfactory.</p>	

Section 16: Surface Water Activities on the Internal Waters of Fiordland from Yates Point to Puysegur Point			
Surface water activities			
Outcome	Method	Performance	Rating
16.2.1 Protection of areas within Fiordland that are vulnerable to the adverse effects of increased use.	Objectives 16.1.1, 16.1.2, 16.1.3 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, 16.3.1, 16.3.2, 16.3.3, 16.3.4, 16.3.5, 16.4.1, 16.4.2, 16.4.3, 16.4.4 Rules 16.2.1, 16.2.2, 16.3.1,	The relevant objectives and policies recognise that the pristine coastal marine areas of Fiordland have significant remoteness and wilderness values that may be affected by commercial surface water activities. Policy 16.2.2 is to limit the extent and number of commercial activities occurring within Fiordland to a level that does not reduce natural character, landscape and amenity values (and specifically remoteness and tranquillity values). However, Policy 16.2.4 is to place no limit on the amount of commercial surface water activity in Milford Sound. This is explained as being because Milford Sound's current level of use has already diminished those values and additional use is not considered to have significant additional adverse effects. Surface water activities are monitored by the Council in relation to compliance with consent conditions, but as there are no limits set in the Plan for these activities the current monitoring cannot provide insight into the overall level of activity and its resulting impacts. There is evidence of increasing pressure in Fiordland as a result of a growth in tourism. The Council's <i>Use and development in the Southland coastal marine area: discussion document</i> states that: <i>The most popular tourist activity in Fiordland is local cruises that primarily explore Milford and Doubtful Sounds. From 1998 to 2018, cruising passenger numbers increased by 135 percent, and on average 6.8 percent each year. Although the longer term numbers vary considerably, over the past three years, passenger numbers have increased by 16-19 percent each year. Milford Sound Tourism is expecting a 3 percent increase in cruising visitors to Milford for the year ending 31 March 2019, compared to the 2018. Currently, there are up to 18 boats offering tourist services in the fiord. The number of</i>	
16.2.2 Commercial and non-commercial use, of any given area of Fiordland, that is compatible with its carrying capacity.			

	16.3.2, 16.3.3, 16.3.4	<p><i>international cruise ship scheduled visits has increased by 250 percent in 12 years, as shown in the following table.⁸⁷</i></p> <p>Feedback on this document confirmed that there are concerns around the number and type of commercial surface water activities occurring in Southland, particularly in Milford and Doubtful Sounds. Comments from the feedback included:</p> <ul style="list-style-type: none"> • Department of Conservation is concerned about the effects of commercial surface water activities and related infrastructure, including biosecurity, effects on marine mammals, conflicts between users, adverse effects on natural character, features and landscapes, infrastructure capacity at Milford and Doubtful Sounds and noise. • Department of Conservation considers there should be limits for commercial activities based on the capacity of infrastructure, existing usage, the values of Milford Sound and the adverse effects of activities. • Southland Conservation Board considers there should be limits on numbers of day trips and overnight trips, number of large ships operating in Milford Sound, and number of small ships berthed in Milford. • Milford Sound Tourism and Real Journeys are concerned with the lack of a limit on commercial surface water activities and the increasing recreational boating activity. <p>These concerns suggest the outcome may not be achieved. Resource consents for surface water activities are the third most common type of application received by the Council with 42 consents granted in total since the Plan became operative. Figure 17 shows when the current 35 consents for surface water activities were granted. The 16 consents granted between 2016 and 2018 represent 46% of the current consents for this activity, indicating there is increasing demand for these types of consents.</p> <p><i>Figure 17: Consents granted for surface water activities 2008 to 2018</i></p>	
--	------------------------	---	--

⁸⁷ Environment Southland. (2018). *Use and development in Southland's coastal marine area: discussion document*, p. 16.



Given the significant increases in demand for commercial surface water activities since the Plan became operative, it is likely that these outcomes are either at risk of or not currently being achieved.

Noise in the Internal Waters of Fiordland			
Outcome	Method	Performance	Rating
16.3.1 The low levels of ambient noise will be maintained.	Policies 16.3.1, 16.3.2, 16.3.3, 16.3.4, 16.3.5	Noise levels are not monitored in the internal waters of Fiordland so it is not possible to determine whether these outcomes are being achieved. The rules set out permitted and prohibited activities in Fiordland which aim to maintain ambient noise levels. Consent officers do identify and assess adverse effects arising from noise of activities occurring in these areas and, where appropriate, impose conditions regarding their management.	
16.3.2 Activities in Fiordland will occur in a manner that minimises noise impacts on ambient noise levels.	Rules 5.3.7, 5.5.1, 16.3.1, 16.3.2, 16.3.3, 16.3.4		
Deep Cove			
Outcome	Method	Performance	Rating
16.4.1 An area that the public can use to launch ships, temporarily	Policies 16.4.1, 16.4.2	Policies 16.4.1 and 16.4.2 aim to identify and preserve a public area for launching ships and a public wharf area which are shown on maps included in section 16.4. It is not clear how these policies are intended to be implemented as there are no associated rules or other methods. Although these areas have been identified,	

berth ships or offload people and cargo will be preserved in Deep Cove.		it does not appear that there is a mechanism in place to preserve their uses. It is not clear whether this outcome is being achieved in practice.	
16.4.2 The landscape, amenity and natural character values, that attract people to Deep Cove, will be maintained.	Policies 16.4.3, 16.4.4, 16.4.9	There is not enough information available to determine whether this outcome is being achieved. The sample of consents included seven applications for structures in Deep Cove. The decision reports on these applications demonstrate that landscape, amenity and natural character values are consistently identified and effects on them assessed as part of resource consent applications.	
16.4.3 Mooring opportunities will be rationalised, to reflect the limited capacity of Doubtful Sound.	Policies 16.4.6, 16.4.7, 16.4.8, 16.4.10, 16.4.11	The Plan methods have partially achieved this outcome. Mooring opportunities were rationalised through Plan Change 3: Deep Cove Mooring Areas and Berthage Space, although subsequent decisions on consent applications have allowed moorings to establish outside the mapped areas due to the language used in the relevant policies (for example, “discourage”).	

Section 17: Financial Contributions and Bonds

Outcome	Method	Performance	Rating
17.8.1 Financial contributions are used to offset any significant unavoidable adverse effects of activities in the coastal marine area that cannot be avoided, remedied or mitigated.	Objective 17.1 Policies 10.4.4, 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.7, 17.8	<p>No financial contributions have been collected under the Plan since it was made operative so this outcome has not been achieved.</p> <p>Section 17 outlines the financial contribution policy in the Plan. Objective 17.1 is to “secure financial contributions, in appropriate circumstances, for the purpose of offsetting the significant unavoidable adverse effects of certain activities on the coastal marine area.” This direction is supported by six policies which, in summary, set out that:</p> <ul style="list-style-type: none"> Financial contributions are not necessarily required (Policy 17.1) Financial contributions are only to be used to offset residual adverse effects of notified applications for controlled, discretionary or non-complying activities (Policy 17.2) 	

- Requirement for financial contributions is to be assessed on a case-by-case basis (Policy 17.3)
- Contributions are prioritised as follows: land, money, a combination of land and money (Policy 17.4)
- The aim of using financial contributions is to offset adverse effects from consents granted (Policy 17.5)
- Financial contributions should be used to replace lost value and applied as close as possible to the site of the adverse effects (Policy 17.6)

Method 17.1 then sets out the detail of the financial contributions policy, including that financial contributions may be imposed for a range of specific purposes.

Table 19 below outlines the information on financial contributions included in the Council’s Annual Reports from 2006/07 to 2017/18.

Table 19: Information on funding from financial contributions from ES Annual Reports 2006/07 to 2017/18

Year	Item	Budget	Actual
2006/07	Coast - levies and contributions	\$0	\$11,000
2007/08	Coast – levies and contributions	\$0	\$11,000
2008/09	Coast – levies and contributions	\$0	\$19,000
2009/10	Coast – levies and contributions	\$36,000	\$24,000
2010/11	Coast – levies and contributions	\$35,000	\$29,000
2011/12	Coast – levies and contributions	\$10,000	\$56,000
2012/13	Development and financial contributions	\$0	\$0
2013/14	Development and financial contributions	\$0	\$0
2014/15	Development and financial contributions	\$0	\$0
2015/16	Development and financial contributions	\$0	\$0
2016/17	Development and financial contributions	\$0	\$0

		2017/18	Development and financial contributions	\$0	\$0		
		<p>For the reports between 2006/07 and 2011/12, it is not clear what is included in the category labelled “levies and contributions.” The Council’s method for reporting financial information changed in 2012/13 from being resource-specific to outcome-specific, but at the same time the information about funding sources was clarified. Since then, it has been possible to understand the funding received from development and financial contributions. Given that the reports from 2012/13 to 2017/18 show no funding from development and financial contributions, it seems likely that the funding received prior to 2012/13 was from some other type of levy or contribution.</p>					
17.8.2	Objective 17.2 Policies 10.4.4, 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.7, 17.8	<p>The Council’s bonds database shows that bonds have been imposed on approximately 30 consents, with at least 13 related to coastal permits. Amounts range from \$5,000 to more than \$1,000,000 but most are between \$5,000 and \$15,000. It is not clear whether any bonds have been used to remedy unlawful effects.</p>					
<p>Bonds are used to remedy the unlawful adverse effects of activities for which resource consent has been granted without financial cost to the public.</p>							

Section 18: Information to be Submitted with an Application for a Resource Consent (Coastal Permit) and Assessment Matters
No outcomes identified

Section 19: Terms and Conditions of Consents
No outcomes identified

Section 20: Integrated Management and Cross Boundary Issues			
Outcome	Method	Performance	Rating
20.1 There is integrated management of the land, coastal marine area and the economic exclusive zone.	Objective 20.1.1 Policy 20.1.1	It is not clear how integrated management is intended to be achieved other than through consultation. As the Plan has become increasingly out-of-step with modern planning, it has been difficult to integrate its management directions with the planning documents of other councils, and the other planning documents of the regional council.	
20.2 Effective processes exist to deal with cross boundary issues.	Objective 20.1.2 Policies 20.1.1, 20.1.2, 20.1.3	Section 20.2 of the Plan outlines the procedures to be followed for integrated management and cross-boundary issues. Many of these procedures have been implemented where appropriate, such as making submissions on planning documents and resource consents and consulting with other organisations on particular matters.	