

Before the Independent Hearing Panel

Under the Resource Management Act 1991

In the matter of Plan Change 5 to the Regional Coastal Plan for Southland

Statement of Evidence of Katherine Fiona Black on behalf of Real Journeys Limited (trading as Realnz)

9 June 2023

Submitter's solicitors:

Maree Baker-Galloway | Laura McLaughlan
Anderson Lloyd
Level 2, 13 Camp Street, Queenstown 9300
PO Box 201, Queenstown 9348

p + 64 3 450 0700
maree.baker-galloway@al.nz | laura.mclaughlan@al.nz

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lloyd.**

Introduction

- 1 My full name is Katherine Fiona Black. I work for Realnz Limited and its group, predominately maintaining the companies' Fiordland and Rakiura Department of Conservation Concessions; Resource Consents and other regulatory authorisations. I am authorised by these companies to give this evidence on their behalf.
- 2 I have worked in the New Zealand Tourism industry for 36 years; the last 19 years, for Realnz; in the first instance as the Milford Sound Branch Manager and for the last sixteen years in my current role. In my current role I have been an active member of the Fiordland Marine Mammal Liaison Group coordinated by the DOC Te Anau District Office. Consequently, I have gained a considerable knowledge of the tourism industry, including the evolving challenges faced by this industry.
- 3 I have Bachelor of Home Science Degree from University of Otago and a Postgraduate Diploma in Business and Administration from Massey University. I am also a qualified skipper holding Commercial Launch Master Certificate of Competency; although I have not worked in this capacity since 2001. Between 2011 and 2021, I was a member of the Southland Conservation Board.
- 4 I prepared the company's submission and further submission on Regional Coastal Plan Change Five (PC5) and in the last three years I have prepared twelve coastal permit applications on behalf of Realnz; nine of which were for commercial surface water activities in the internal waters of Fiordland. Prior to this I have applied for approximately further 24 coastal permits (plus at least six variations) hence although I am not a qualified planner, I have considerable experience preparing for coastal permit applications. As a consequence I am preparing my evidence based on PC5's practicality with respect to preparing coastal permit applications for Commercial Surface Water Activities on the Internal Waters of Fiordland from Yates Point to Puysegur Point.

Evidence

- 5 We are pleased that some of our submission points have been adopted and PC5 drafting has been adjusted to reflect some of our submission points. However Realnz remains concerned with the proposed changes to the RCP especially given it is unknown how long PC5 will remain operative.
- 6 Realnz, like many of the other submitters that have operated in Fiordland for a long time, consider the basis of PC5 is not correct – i.e. the fundamental underlying contention that that there is an intensification of SWA in Fiordland over and above what has occurred previously is flawed.

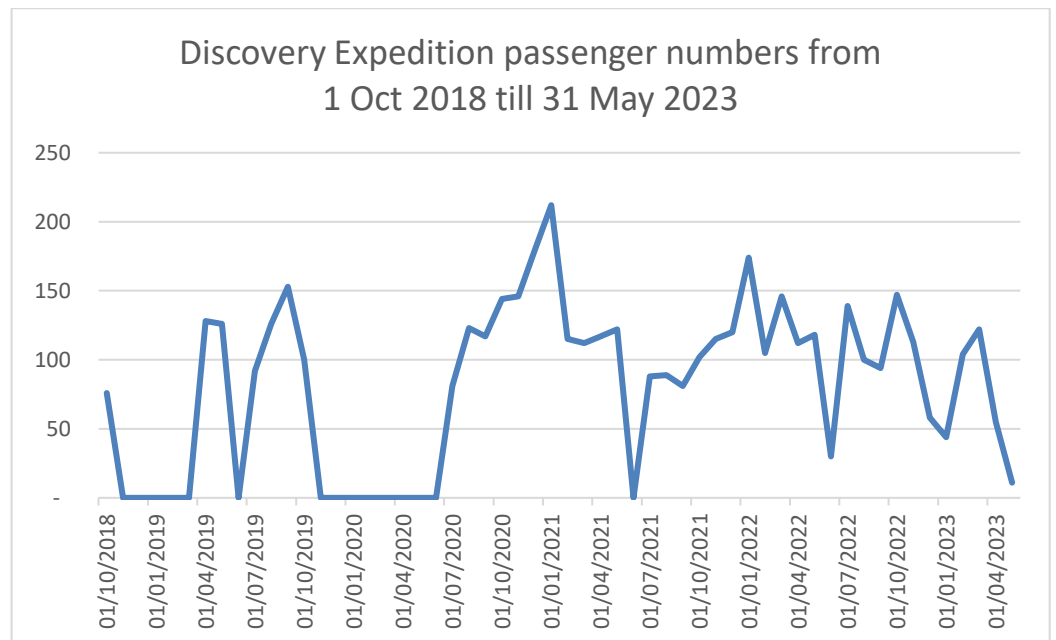
This is simply not so, there were many more vessels operating in Fiordland in the 1970's and 1980's during the so-called Cray Fish Boom, and despite a peak in activity between the end of lockdown and the New Zealand borders fully re-opening use of these waterways (with the exception of Piopiotahi) CSWA have not been rapidly escalating. We concede that there has been increase in activity with the likes of the "Flightless" commencing operation in Fiordland in the last decade and there has been an increase in recreational vessel activity as many of the trailerable recreational boats have got larger. Consequently these recreational vessels are able to undertake trips to the more remote areas of Fiordland. Yet these activities are outside the scope of PC5.

- 7 We seek more explicit acknowledgement that the proposed provisions are a temporary mechanism to 'hold the line'. In particular, Realnz agrees that the research done to date is not sufficient to justify PC5 being anything more than a very temporary position, and should not be referenced as some sort of baseline going forwards regarding the long-term carrying capacity of the Internal Waters of Fiordland.
- 8 Unless the temporary nature of PC5 is made explicit, there is a real risk it will endure for longer than is intended or appropriate. It took ten years for the last RCP to become partially operative and a further six years to become fully operative. Additionally, with the RMA reforms looming, the timeframes to developing a new RCP are likely to become longer. Accordingly Realnz contends the hearing panel should be hesitant to adopt PC5 as currently drafted given it is based on very tenuous research.
- 9 There are many aspects of it that Realnz propose be amended, in order to ensure the provisions are clearer, and accurate. At a basic level PC5 seeks to alter the terminology of the whole plan by changing the description of 'Internal Waters of Fiordland' to 'Coastal Environment' across the revised Chapter 16 despite the chapter title; which will make Chapter 16 inconsistent with the rest of the plan; with its numerous references to the 'Internal Waters of Fiordland', and despite it being effects on the 'internal waters' that PC5 is intended to address, not the wider coastal environment of Fiordland. Such terminology is confusing. It also demonstrates little understanding of Fiordland commercial surface water activities (CSWA); as other than commercial fishing vessels none of the vessels subject to the provisions of Chapter 16 linger on the coast outside the internal waters of Fiordland due to the exposed and unforgiving nature of the CMA outside 'Internal Waters of Fiordland'.
- 10 The Wilderness and Remoteness Values of Fiordland Waters Report (Report), which "provides the supporting technical basis for the proposed changes", focuses heavily on the impact of the COVID-19 pandemic, and

makes predictions about use patterns post-COVID which have not eventuated, including assuming "the days of mass tourism (large coaches/lunch cruises) are over"¹.

- 11 However this report is based only on a snapshot of a period of use that is not representative. It was also disappointing that the report's 'intention was to interview one consent holder for every cell' in table 5: selection matrix - type of user by fiord complex and that the report relied on only 27 key informants.
- 12 The Lindis Consulting report contains no meaningful objective data and makes conclusions unsupported by data. It does not represent the actual environment in Fiordland post-COVID-19, and cannot be relied on to justify the changes proposed. As stated in our submission, in this regard PC5 is very much a knee-jerk reaction to the initial use patterns in Fiordland post COVID-19 lockdown and those use patterns are no longer present, and the more remote areas' of Fiordland are no longer experiencing those tensions and are unlikely to in the future as international tourism returns.

Figure 1. Graph of our Discovery passenger numbers over the last 4.5 years



- 13 This is particularly the case for the Southern Fiords (all those fiords south of Patea) which experienced a peak in use post-COVID-19, that has now reverted back to the previous low intensity of visitors - refer figure 2. Since the peak of January 2021 our passenger numbers for Discovery Expedition multiday backcountry trips mainly operating between Doubtful Sound/Patea and Rakituma/Preservation Inlet have declined. Our bookings for trips from

¹ Report at p41

late August 2023 onwards when we recommence Discovery Expeditions in Fiordland are also soft. Many of the trips scheduled in October and into December have no bookings whereas two years ago all these trips would have been sold out by now.

- 14 It is also problematic that the report is contaminated by trade-competitor bias; in that interviewees were "primarily commercial tourism and charter boat operators" and "most [held] permits for commercial surface water activity", meaning they have a vested interest in preventing coastal permits being granted to new operators.
- 15 Regarding para 3.8 of the s42A Report, when we viewed the spreadsheet² which lists the current CSWA resource consents that could be accessed through the PC5 consultation webpage³ we found the following:
 - a) there are only three coastal permits assigned to Southern Discoveries, but we believe they have four power driven vessels that can operate in Piopiotahi plus kayaking activities in Harrison Cove.
 - b) there is no coastal permit listed for Milford Sound Tourism Limited for the operation "Te Namu" (previously the "Anita Bay"); this may have been because their permit expired on 5 July 2022 and a new permit was subsequently granted.
 - c) There is no record of CSWA consent for "The Alpine Group" and the recent Environment Court case indicated they operated a power driven vessel ex their barge in Cascade Cove.
 - d) There are three resource consents held by Island Escape Cruises (NZ) Limited however only one coastal permit can be exercised at any one time.
 - e) Plus there are two resource consents held by Cruise Milford Sound New Zealand Limited for the same vessel the "Milford Adventurer".
- 16 Hence we are unsure about the conclusions drawn by the report's authors given the council's spreadsheet does not seem to be 100% accurate, plus there appear to be some nuances regarding how coastal permits are exercised that mean that at least three less vessels can operate in the internal waters of Fiordland than what first appears if the details of all

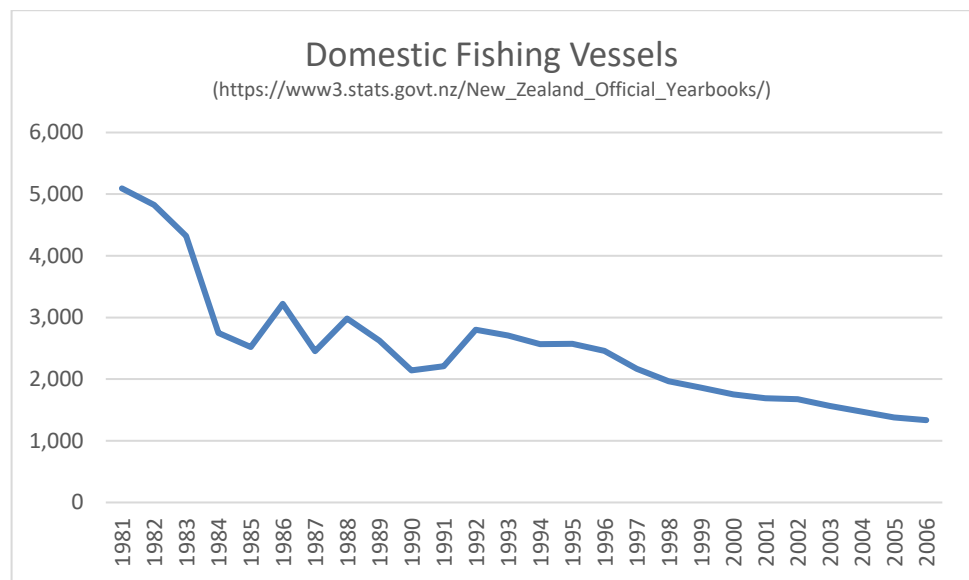
²<https://www.es.govt.nz/repository/libraries/id:26gi9ayo517q9stt81sd/hierarchy/environment/water/Plan%20change%205/Request%20for%20further>

³<https://www.es.govt.nz/about-us/plans-and-strategies/regional-plans/coastal-plan/proposed-plan-change-2022>

resource consents are not appropriately reviewed. For instance most of our Doubtful Sound/Patea vessel coastal permits are interrelated to ensure the five day trip cap is not exceeded and our backcountry trip limits are not surpassed; therefore at first glance it appears we can operate many more trips than we can in fact undertake.

- 17 I was unable to find figures for the number of domestic fishing vessels that operated around the coast in the 1970's however I did find NZ Official year book data from 1981 through to 2006 (refer figure 2) that shows that Domestic Fishing vessel numbers have been steadily falling, which is likely to be reflective of the drop in fishing vessel activity on the Fiordland coast. Nevertheless we do not want to see a return to the 1970s to 80s 'bad old days' on the Fiordland coast, when rock lobsters and Paua were striped from the coast with helicopters flying the catch out; onshore freezers and generators being secreted away in the bush; and 44 gallon fuel drums discarded along the shoreline. However we do want some realism to return to the discussion regarding intensification of SWAs.

Figure 2. A graph showing the drop in NZ Domestic Fishing Vessel #s over 15 years.



- 18 The proposed non-complying regime for new or intensified commercial surface water activities is not sufficiently supported by a corresponding clear policy framework, meaning there is no consenting pathway for when activities might be appropriate, and there is a lack of clarity generally about application and effectiveness of the policies.

Policy 16.2.7

- 19 In particular we are concerned that the current policy direction does not provide sufficient scope to appropriately address the second limb of the s104D gateway test (the proposed activity will not be contrary to the objectives and policies of a proposed plan and/or plan). That lumping all of

the internal waters of Fiordland under policy 16.2.7, when each of the following places have very different values, use patterns, carrying capacity and characteristics, does not provide sufficient policy framework to obtain resource consent under the proposed non-complying activity status:

- a) Milford Sound/Piopiotaahi;
- b) Papapounamu/Poison Bay to Hinenui /Nancy Sound (the Northern Fiords except Piopiotaahi);
- c) Doubtful Sound/Patea Complex;
- d) Tamatea/Dusky Sound Complex, including Te Puaitaha/Breaksea Sound, and Te Rā/Dagg Sound; and
- e) Rakituma/Preservation Inlet and Taiari/Chalky Inlet.

20 Some of these very different values, use patterns, carrying capacity and characteristics for each of these places are detailed below, yet because these places are such complex environments the list of characteristics is hardly comprehensive:

- a) Milford Sound/Piopiotaahi;
 - of great significance for Ngāi Tahu including historically;
 - spectacular “U” shaped glaciated landforms of immense scale making this landscape one the most distinctive (Mitre Peak) in the whole of the Southland Region;
 - The only Fiord with direct road access making it the most accessible area of the Fiordland CMA therefore since the Homer Tunnel opened in 1954 it receives the most visitors and has the highest level of SWA predominately day trips. Pre- COVID-19 there were approximately 18 power driven vessels offering CSWA in the Fiord only three of which offered backcountry trips. However because the vast majority of visitors do not stay in Piopiotaahi overnight outside the peak day time visitation hours a sense of remoteness can still be experienced;
 - A formal harbour exists in Freshwater Basin and this along with the Cleddau Village and the Deepwater Basin Base of operation for coastal fishing vessels with Fiordland Rock Lobster Company shore facility means this Fiord has the most human modification;

- Due to the road access it is the only place in Fiordland where recreational boaties can readily trailer their boats into Fiordland and get out to the coast and further south to hunt and fish;
 - because the Fiord has only a couple of bays and inlets there are few places where vessels can be tucked away making SWA more visually conspicuous however because of the huge dramatic landforms that flank the fiord vessels are dwarfed reducing their significance in the landscape;
 - It is an international tourist destination (including being the terminus for the renowned Milford Track) and has been so since the 19th Century accordingly it is subject to the most cruise ships visits (in excess of 100 PA pre-COVID-19);
 - Unique underwater ecology due to the tannin stained freshwater layer due to the high rainfall (dramatic water falls).
- b) Papapounamu/Poison Bay to Hinenui /Nancy Sound (the Northern Fiords except Piopiotahi);
- Mostly classic narrow and enclosed “U” shaped Fiords with few embayments there are few places where vessels can be tucked away making SWA more visually conspicuous however these fiords have the lowest level of SWA compared to the rest of Fiordland;
 - The main SWA are fishing vessels and recreational vessels launched in either Piopiotahi or Patea. We only know of one charter operator that regularly visits the area during hunting, shooting, diving and fishing charters;
 - Much of the area is surrounded by the Glaisnock Gazetted Wilderness Area;
 - Unique underwater ecology due to the tannin stained freshwater layer.
- c) Doubtful Sound/Patea Complex;
- spectacular “U” shaped glaciated landforms which form a complex waterway with multiple arms and inlets, accordingly it is possible for numerous vessels to cruise in around parts of the Fiord out of sight of one another;

- At the head of the Fiord is the outflow of the nationally significant Manapouri Power Scheme hence there is an even deeper freshwater layer in this Fiord;
 - Deep Cove Outdoor Education Trust facilities; the terminus of the Wilmot Pass, Blanket Bay fishing base; and several wharves and moorings (including in the more remote arms) accordingly this is the second most developed Fiord.
 - Due to the indirect road access (Wilmot Pass is cut off, to gain access Lake Manapouri must be crossed) the Patea complex has the second highest level of SWA including recreational boats, fishing vessels; commercial day trips (four CSWA day trip vessels) and backcountry trips (seven CSWA backcountry trip vessels). It is also where many backcountry trips to the southern fiords depart from and return to due to access to fuel and road access providing a source for other supplies.
 - Under the Cruise Ship Deed; cruise ships can cruise in Doubtful Sound around Secretary Island and out Te Awa-o-Tu / Thompson Sound (or vice versa) and this is second most frequently visited fiord by cruise ships.
- d) Tamatea/Dusky Sound Complex, including Te Puaitaha/Breaksea Sound, and Te Rā/Dagg Sound;
- “U” shaped glaciated landforms which form a complex waterway with multiple arms and inlets (providing safe anchorages), accordingly it is possible for numerous vessels to cruise in around parts of the Fiord complex out of sight of one another; hence over the summer months during a five day trip usually at most three other vessels will be sighted.
 - Intricate coastline with numerous islands ranging from Resolution Island /Tau Moana as the largest island in the Fiordland to the smallest rocky prominence with many of these Islands being predator free sanctuaries used for threatened species recovery;
 - Nationally significant historic sites including sites that are significant for Ngāi Tahu and it is these historic sites that attract many visitors to the area with most of these visitors travel to the area via vessel.
 - This waterway is significantly sheltered and is used by smaller vessels undertaking hunting, shooting, diving and fishing

activities; also cruise ships can cruise in Te Puaitaha/Breaksea Sound, down Acheron Passage and out Tamatea/Dusky Sound (or vice versa).

- There approximately four permanently moored barges and these barges are predominately used as heli pads plus numerous moorings and rock lobster pots, hence there is some level of development the in Tamatea/Dusky Sound.

e) Rakituma/Preservation Inlet and Taiari/Chalky Inlet.

- Lower more rolling land forms, intricate coastline with numerous islands; multiple arms and inlets (providing safe anchorage) some of which have sandy beaches; accordingly it is possible for numerous vessels to cruise in around parts of the Fiord complex out of sight of one another; hence over the summer months during a three day trip into the area usually at most one other vessel will be sighted.
- Rakituma/Preservation Inlet and Taiari/Chalky Inlet entrances are wide and open to the often predominant SE wind direction hence these fiords main thoroughfares are far from sheltered (subject to storm surges) and this along with the complex's distance from a port reduces visitation for smaller recreation craft.
- This Fiord cannot be accessed by cruise ships, consequently other than fishing vessels this area has a lower level of CSWA than the Tamatea/Dusky Sound complex.
- Nationally significant historic sites and other iconic sites such as Puysegur Point Light House, it is these sites that attract many visitors to the area with most of these visitors travel to the area via vessel.
- A small section of private land within the National Park where Kisbee Lodge is located hence along with one very small barge, lobster pots, tracks and the light house these is some human modification.
- Due to the lower topography the rainfall is less than more northern fiords accordingly dramatic waterfalls are not a feature.

Lack of integration

21 Chapter 16 of RCP should not have been updated in isolation, as PC5's references maintaining values will need to be assessed on a case by case

basis, given it is acknowledged in the s42A report that Appendix 4 to the Plan (Coastal Landscape Assessment) is out of date⁴. For instance as a result of RCP Change 3 more moorings and structures have been installed in Deep Cove / Taipaririki and when these moorings are occupied the cove is less natural and would more likely be classified as a 4+ in the RCP landscape assessment naturalness rating scale. Also due to the 2011 Cleddau Flood Protection Project more Milford Sound/Piopiotaahi staff accommodation is visible from the water of the Fiord plus because of the 2012 enlargement of the Freshwater Basin this harbour is more conspicuous hence it is likely that Piopiotaahi's naturalness rating would also lower.

- 22 Specifically having an up to date coastal landscape assessment will be particularly important when addressing the effects any proposed non-complying activities will have on the values of the aforementioned places.
- 23 At para 4.13 of the s42A report it is acknowledged that cruise ships can also impact on the significant values of the Fiordland CMA yet as detailed in Mr. Norris's evidence Fiordland international cruise ship visits are also surging back post-COVID-19. However because these activities are covered by an RCP chapter that is not under review this intensification of cruise ship activity will be unfettered, further impacting significant values of the Fiordland CMA. In the context of PC5 this represents a double standard and further speaks to the requirement to review more than Chapter 16 in isolation.

Figure 3. Photo of rock lobster pot buoys in Tamatea/Dusky Sound



⁴ P76 s42A report

- 24 Also the Lindis Consulting report only focuses on the CSWA's effects on remoteness and wilderness values and there are other activities which occur across the Internal Waters of Fiordland which also markedly affect these values of some of the most remotes parts of Fiordland. For instance during some months of the year there are hundreds upon hundreds of rock lobster pots located in bays and enclosed inlets in the Internal Waters of Fiordland. Over the years I have attempted to take photos of the pot buoys, but it is impossible to truly show the scale and visual effects of this activity in a photograph; however refer figure 3 above. Again section 11.7.9 of the RCP Storage of Rock Lobster/Cod Pots is out of step with what is occurring 'on the ground' in Fiordland.
- 25 That is there are also other chapters of the RCP that require revision and are interrelated with CSWAs. For instance Chapter 11 requires urgent review because of the proliferation of moorings that have been installed in Fiordland's recognised anchorages and such moorings have been installed to support SWAs.
- 26 Appendices 1 should also be updated to include definitions for the new concepts/changes proposed to be included by PC5 and to provide more certainty and clarity as to the intended effect of PC5. Nevertheless we assert that the proposed wilderness definition is overly complex and that a wilderness definition similar to Kormos et al. (2017) definition: "*Landscapes and seascapes that are biologically and ecologically largely intact, with a low human population density and that are mostly free of industrial infrastructure*"⁵ is more apposite.
- 27 Or the European Commission definition "*A wilderness is an area governed by natural processes. It is composed of native habitats and species, and large enough for the effective ecological functioning of natural processes. It is unmodified or only slightly modified and without intrusive or extractive human activity, settlements, infrastructure or visual disturbance*". (European Commission, 2013)⁶
- 28 Especially given that wilderness can just 'exist' and does not need to be experienced. It may be appropriate to argue that expansive landform scale exists in the majority of the Fiords but the further the south you go the lower the landforms become and in the confines of some of the inlets in Rakituma/Preservation Inlet we are not sure the landscapes can be

⁵https://www.researchgate.net/publication/318041668_World_Heritage_Wilderness_and_Large_Landscapes_and_Seascapes/link/595682baaca27200108479fd/download

⁶ <https://wilderness-society.org/european-wilderness-definition/>

characterised as ‘expansive landforms’ especially when the cloud cover is low.

- 29 “Natural Quiet” is also a misleading concept given that Fiordland’s forest should be alive with native bird song (and was known for its loud dawn chorus prior to the spread of introduced mammalian pest species) and even without the predominance of bird song now Fiordland’s coastal environment is rarely quiet, with the slap or crash of waves; rush of water down waterfalls, streams and rivers, the rustle of leaves and often the roar of the wind.
- 30 Aesthetic appreciation is far too subjective being in the eye of the beholder and ‘conservation-related activity’ implies some sort of requirement to undertake pursuits that will preserve the area which will require human interaction with the area which is contrary to ‘minimal human presence’.

Policy 16.2.3 and marine mammals

- 31 The conservation, protection and management of marine mammals is better provided for by the Department of Conservation under the Marine Mammal Protection Act 1978 and Marine Mammal Protection Regulations 1992. The proposed addition of policy 16.2.3 will create duplication and confusion.
- 32 The Council has not demonstrated any actual need for this policy, and has not provided the necessary data or evidence to justify its inclusion. In particular the technical comment on the public submissions on Policy 16.2.3 has been provided by Mr. Ash Rabel the Council’s Team Leader – Aquatic Ecosystems but it appears unclear whether he has relevant expertise and personal experience researching marine mammals in Fiordland.
- 33 The Appendix C to the 42A report does not cite that in 2014 TE Brough, M Guerra and SM Dawson⁷ identified that there is a population of Bottlenose Dolphins that regularly visits Rakiura hence Fiordland Bottlenose Dolphins are not the southernmost population also coastal waters of Fiordland are outside the Fiordland National Park.
- 34 The Appendix C literature review has failed to reference some key relevant research such as The Dawson, Boisseau, Rayment and Lusseau 2005 Quantitative Acoustic study of the Fiordland Underwater Environment⁸

⁷<https://www.farout.org.nz/images/farout/documents/members-other-publications/Photo-identification-of-bottlenose-dolphins-in-the-far-south-of-New-Zealand-indicates-a-new-previously-unstudied-population.pdf>

⁸https://www.researchgate.net/publication/230788938_A_quantitative_acoustic_study_of_the_Fiordland_underwater_environment

which came to the following conclusions yet, did not conclude that underwater vessel noise was adversely affecting marine mammals:

- (i) “The acoustic environment of Doubtful Sound is unusually quiet compared to other parts of the NZ coast (e.g. Kaikoura, Banks Peninsula; pers. obs.), and is quiet by international standards (Wenz, 1962).
- (ii) Tour boats in Fiordland produce sound levels that are audible to dolphins over ranges of many kilometres. In calm weather, noise from any of the larger tour boats is likely to be audible to dolphins near the surface along much of the main span of Doubtful Sound.
- (iii) The convoluted form of Doubtful Sound greatly reduces the propagation of sounds from one arm into another, so creates natural “quiet zones”. For example, a boat travelling up the main span of Doubtful Sound will be audible only briefly in Crooked Arm.”

35 It is not clear whether the Council or Mr. Rabel consulted the Department of Conservation’s Te Anau District Office who have been coordinating Fiordland Marine Mammal Research since at least 2005 through the Fiordland Marine Mammal Liaison Group. The Fiordland Marine Mammal Liaison Group is made up of the Department and all the Fiordland vessel operators who hold a Permit to Carry On a Commercial Operation under the Marine Mammal Protection Regulations 1992 and until COVID-19 the group would meet biannually to (among other things) discuss and consult on Fiordland marine mammal research.

36 This research is funded by a per passenger fee levied under operators Permits to Carry On a Commercial Operation to view Marine Mammals; consequently DOC’s Senior Ranger, Marine and Freshwater – Kaitiaki Matua, Mr. Richard Kinsey would have been able to provide valuable insights into advice the council sought from their Team Leader – Aquatic Ecosystems.

37 We also consider Policy 16.2.3 requires amending, because of the DOC Te Anau District Office Marine Mammal management framework that exists through the Fiordland Marine Mammal Liaison Group which includes:

- (i) at least annual Bottlenose Dolphin population counts in Doubtful Sound/Patea and Tamatea Dusky Sound (as a control);

- (ii) the 2007 Marine Mammal (and other Wildlife) Code of Practice Milford Sound/Piopiotaahi;
- (iii) the 2008 Marine Mammal (and other Wildlife) Code of Management Doubtful Sound/Patea;
- (iv) Doubtful Sound/Patea vessel operators in particular logging all marine mammal sightings except NZ Fur Seals (logs are also completed for sightings in the other Fiords) and supplying these logs to DOC to inform the Department of the species seen and where;
- (v) staff training with respect to the Marine Mammal Protection Regulations along with the relevant COP and COM including through DOC SMART (Sustainable Marine Mammal Actions in Recreation and Tourism) Operator Program;
- (vi) annual DOC “mystery shopper” compliance trips and other compliance monitoring.

38 Because this aspect of PC5 seems only to be supported by a literature review of Doubtful Sound/Patea Bottlenose Dolphin Research which predates the COM when vessels operators pursued encounters with bottlenose dolphins. Under the COM vessel encounters with bottlenose dolphins are to be left to chance and on the dolphin’s terms and only encounters initiated by dolphins are permitted. Yet Appendix C to the 42A report cites that *“no single piece of research has directly linked the stresses derived from vessels/surface water activities to declining populations in the country, however, given the volume of research in this space, there is certainly a strong correlation between declining populations and increased surface water activities”*.⁹

39 However Doubtful Sound/Patea is the only fiord that has CSWA limits under Rule 16.2.1 in the operative RCP with the number of day trips capped at five per day and backcountry trips into the fiords arms capped at between two and four per day measured over the period of each calendar month, hence CSWA in Patea is not increasing. Although we do acknowledge that when the RCP Rule 16.2.1 limits were set they were supposed to be based on actual use in 1997 but the CSWA of two operators were overlooked when the limits were set so Doubtful Sound/Patea has become overallocated, but since this overallocation was granted CSWA have not increased in Patea. Also Mr Rabel notes that DOC's ‘semi-annual’ monitoring of bottlenose populations within Tamatea Dusky Sound and

⁹ s42A Report p222

Doubtful Sound /Patea suggest that the populations are somewhat steady in both Fiords as of 2021 (Crowe, 2022). Therefore it is a stretch to suggest there is a correlation.

- 40 Appendix C to the 42A report does note that *“Regardless of either interpretation, it is evident that the CoM and DPZs are having a positive effect on the dolphin populations and, that further refinement of the controls is would result in greater net gains (Guerra & Dawson, 2016).”*⁶ Yet the authors of the s 42A report chose to only note that *“Research into marine mammals from A Rabel (Appendix C), in particular the endangered bottlenose dolphin population, has identified vessels can increase stress on marine mammals and other indigenous biodiversity. As such, it is my opinion it is likely that objectives and policies of the Southland Regional Policy Statement are not currently being given effect to by the Regional Coastal Plan for Southland (2013)”*¹⁰ Not recognising the improvements brought by the implementation and maintenance of compliance with the COM.
- 41 Based on my experience there is a risk ES is out of touch with the measures required for marine mammal interactions, and it would be more appropriate and effective for marine mammal interactions to be regulated by DOC. For example, the ES consenting team's drafts of some of our new coastal permits recently issued, wrongly included the Doubtful Sound / Patea Dolphin Avoidance Protocol that was in place prior to the adoption of the Marine Mammal (and other Wildlife) Code of Management Doubtful Sound/Patea in 2008 (CoM), rather than the CoM¹¹. I had to correct several draft consents over a period from August 2021 until May 2023 to ensure they referred to the appropriate protocol.
- 42 Because of the lack of evidence that Fiordland CSWA are adversely impacting marine mammals and the aforementioned DOC Te Anau District Office Marine Mammal management framework we suggest Policy 16.2.3 should simply include a requirement that any new surface water consent holder be required to obtain a Permit to Carry On a Commercial Operation under the Marine Mammal Protection Regulations 1992 from DOC. Because this will advocate “for the use and understanding of current measures to avoid or mitigate potential adverse effects on marine mammals as appropriate.”

¹⁰ s42A Report p23

¹¹<https://www.doc.govt.nz/about-us/science-publications/conservation-publications/native-animals/marine-mammals/doubtful-sound-marine-mammal-and-other-wildlife-code-of-management/>

- 43 The vast majority of our structure coastal permits include the following inspection conditions or variations there of:
- (a) *Within the first 12 months after the mooring has been installed, a suitably qualified person shall inspect the mooring and report on the integrity of the structure and whether it is fit for purpose. The findings of this report shall be forwarded to the Consent Authority within one month of the inspection being completed.*
 - (b) *While the mooring occupies the Coastal Marine Area, the Consent Holder shall: inspect the whole structure, including the mooring line, up to a depth of 10 metres, for pest(s) and unwanted organism(s), including but not limited to Undaria pinnatifida, Styela clava and Sabella spallanzanii on a regular basis, and at least twice each year.*
- 44 Also nearly all of our CSWA coastal permits include the following inspection conditions or variations there of:
- (a) *at the last port of call prior to re-entering the Fiordland marine area, the hull of the vessel operating under this Consent:*
 - (i) *be inspected for pests and fouling organisms, in particular Undaria pinnatifida;*
 - (ii) *clean and dry mooring lines, buoys and any other equipment that has come into contact with coastal waters in a manner that kills marine pests and unwanted organisms; and*
 - (b) *six weeks after the inspection required in Condition (a) the Consent Holder shall inspect the vessel, mooring lines, buoys and any other equipment that has come into contact with coastal water to check for marine pests and unwanted organisms.*
- 45 These inspections need to be undertaken by 'experts' and often we utilise our own vessel tender crafts to undertake such inspections however for structure inspections especially in remote locations we need to contract out this inspection work and the contractor undertakes the inspections using their own vessel. Most of these contractors are not Fiordland based and do not have coastal permits; especially due to the intermittent nature of structural integrity inspections (and therefore effectively safety inspections') which makes obtaining resource consent not viable. That is we may only require a structure to be inspected every three to five years and from our experience the contractor used has changed several times over the decades.
- 46 Consequently we want to ensure that the provisions of chapter 16 of the RCP do not create barrier for these essential inspections and given ES

Fiordland Marine Regional Pathway Management Plan¹² we would hope the council would also want to enable such inspections.

- 47 Overall Realnz wants to ensure a 'workable' Chapter 16 is achieved, to provide a consenting pathway if required. However as acknowledged by the council this PC5 is a stop gap measure, to hold the line, until the whole RCP is reviewed, yet we are very concerned about how long this will take. Accordingly we urge Environment Southland to immediately pick up the coastal plan review to ensure this stop gap measure does not remain in place for years.
- 48 The pending review of the RCP also represents an opportunity for the Fiordland National Park Management Plan to be reviewed in concert with the RCP which would do much more than this proposal to achieve the integrated management of Fiordland and would make any new plan more reflective of the higher planning documents. As stated in Mr. Norris's evidence Realnz look forward to working with the council and parties to progress the RCP review.

9 June 2023



Fiona Black

¹² <https://www.es.govt.nz/about-us/plans-and-strategies/regional-plans/fiordland-marine-pathway-plan>