

**Staff assessment of the proposal for a Fiordland Marine Pathway Management Plan against requirements of the Biosecurity Act 1993 and National Policy Direction for Pest Management 2015**

***Section 90 First step: plan initiated by proposal***

Requirement	How it is met in the proposal
(2) The proposal must set out the following matters:	
(a) the name of the person making the proposal:	See paragraph 4.
(b) the subject of the proposal, which means the pathway or pathways to which the proposal applies:	See paragraph 2 and section 4.
(c) for each subject,—	
(i) a description of the actual or potential risks associated with it:	See section 3.
(ii) the reasons for proposing a plan:	See section 5.1
(iii) the objectives that the plan would have: The National Policy Direction requires the objective(s) to: (a) state the particular adverse effect or effects of the harmful organism(s) listed in section 54(a) of the Act that the plan addresses; (b) state any key known organisms that are to be managed; (c) state the pest management intermediate outcome to which the plan is seeking to contribute being one or more of the following: exclusion, eradication, progressive containment, sustained control, protecting values in places. (d) if none of the outcomes above are applicable, the intermediate outcome: reduce the spread of harmful organisms. (e) for each applicable outcome, specify: a. the geographic area to which the outcome applies; b. the extent to which the outcome will be achieved (if applicable); c. the period within which the outcome is expected to be achieved. (f) if the period within which the pest management intermediate outcome is expected to be achieved is more than 10 years, state what is intended to be achieved during the current term of the plan prior to next review (as applicable).	See section 6.1.
(iv) the principal measures that would be in the plan to achieve the objectives:	See section 6.2.
(v) other measures that it would be reasonable to take to achieve the objectives, if there are any such measures, and the reasons why the proposed measures are preferable as a means of achieving the objectives:	See section 6.5.

Requirement	How it is met in the proposal
(vi) an analysis of the benefits and costs of the plan:	See section 10 and Appendix 3.
(viii) the extent to which any persons, or persons of a class or description, contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan:	See Appendix 4.
(ix) the rationale for the proposed allocation of costs:	See Appendix 4.
(x) if it is proposed that the plan be funded by a levy under section 100L, how the proposed levy satisfies section 100L(5)(d) and what matters will be specified under section 100N(1):	N/A
(xi) whether any unusual administrative problems or costs are expected in recovering the costs allocated to any of the persons whom the plan would require to pay the costs:	See paragraph 116.
(d) the effects that, in the opinion of the person making the proposal, implementation of the plan would have on –	
(i) economic wellbeing, the environment, human health, enjoyment of the natural environment, and the relationship between Māori, their culture, and their traditions and their ancestral lands, waters, sites, wāhi tapu, and taonga:	See section 10.2.
(ii) the marketing overseas of New Zealand products:	See section 10.2.
(e) if the plan would affect another pathway management plan or a pest management plan, how it is proposed to co-ordinate the implementation of the plans:	See section 16.
(f) the powers in Part 6 that it is proposed to use to implement the plan:	See section 9.4.
(g) each proposed rule and an explanation of its purpose:	See section 6.4.
(h) the rules whose contravention is proposed to be an offence under this Act:	See section 6.4.
(i) the management agency:	See section 14.2.
(j) the means by which it is proposed to monitor or measure the achievement of the plan's objectives:	See section 13.
(k) the actions that it is proposed local authorities, local authorities of a specified class or description, or specified local authorities may take to implement the plan, including contributing towards the costs of implementation:	N/A
(l) the basis, if any, on which the management agency is to pay compensation for losses incurred as a direct result of the implementation of the plan:	See section 14.3.
(m) information on the disposal of the proceeds of any receipts arising in the course of implementing the plan:	N/A
(n) whether the plan includes portions of road adjoining land it covers, as authorised by section 6, and, if so, the portions of road proposed to be included:	N/A
(o) the anticipated costs of implementing the plan:	See Appendix 5.

<b>Requirement</b>	<b>How it is met in the proposal</b>
(p) how it is proposed that the costs be funded:	See Appendix 4.
(q) the period for which it is proposed the plan be in force:	See section 14.1.
(r) the consultation, if any, that has occurred on the proposal and the outcome of it:	See sections 11 and 12.
(s) any matter that the national policy direction requires be specified in a plan:	The requirements for the objectives are discussed above. The proposal notes that the Plan consists of an Exclusion Programme for marine pests entering Fiordland Marine Area.
(t) the steps that have been taken to comply with the process requirements in the national policy direction, if there were any.	See paragraph 130.

***Section 91 Second step: satisfaction on requirements***

<b>Requirement</b>	<b>Can Council be satisfied?</b>
If the council is satisfied that section 90 has been complied with, the council may take the second step in the making of a plan, which is to consider whether the council is satisfied -	
(a) that the proposal is not inconsistent with -	
(i) the national policy direction; or	Yes.
(ii) any other pathway management plan or pest management plan; or	Yes. Refer to section 16 of the proposal.
(iii) a regional policy statement or regional plan prepared under the Resource Management Act 1991; or	Yes. Refer to section 16 of the proposal.
(iv) any regulations; and	Yes.
(b) that, during the development of the proposal, the process requirements for a plan in the national policy direction, if there were any, were complied with; and	Yes. Refer to paragraph 30 of the proposal.
(c) that the proposal has merit as a means of managing the subject of the proposal, which means the pathway or pathways; and	Yes.

Requirement	Can Council be satisfied?
(d) that each subject could spread an organism that is capable of causing at some time an adverse effect on one or more of the following in the region: <ul style="list-style-type: none"> <li>(i) economic wellbeing;</li> <li>(ii) the viability of threatened species of organisms;</li> <li>(iii) the survival and distribution of indigenous plants or animals;</li> <li>(iv) the sustainability of natural and developed ecosystems, ecological processes, and biological diversity;</li> <li>(v) soil resources;</li> <li>(vi) water quality;</li> <li>(vii) human health;</li> <li>(viii) social and cultural wellbeing;</li> <li>(ix) the enjoyment of the recreational value of the natural environment;</li> <li>(x) the relationship between Maori, their culture, and their traditions and their ancestral lands, waters, sites, wahi tapu, and taonga;</li> <li>(xi) animal welfare; and</li> </ul>	Yes. Refer to section 6.1 of the proposal.
(e) that, for each subject, the benefits of the plan would outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and	Yes. Refer to Appendix 3 of the proposal.
(f) that, for each subject, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan – <ul style="list-style-type: none"> <li>(i) would accrue, as a group, benefits outweighing the costs; or</li> <li>(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and</li> </ul>	Yes. Refer to Appendix 4 of the proposal.
(g) that, for each subject, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and	Yes. Council funding has been allocated. Other agencies have committed funding.
(h) that each proposed rule – <ul style="list-style-type: none"> <li>(i) would assist in achieving the plan’s objectives; and</li> <li>(ii) would not trespass unduly on the rights of individuals; and</li> </ul>	Yes.
(i) that the proposal is not frivolous or vexatious; and	Yes.
(j) that the proposal is clear enough to be readily understood; and	Yes.
(k) that, if the council rejected a similar proposal within the last 3 years, new and material information answers the council’s objection to the previous proposal.	N/A

**Section 92 Third step: satisfaction with consultation or requirement of more consultation**

Requirement	Can Council be satisfied?
(1) If the council is satisfied of the matters in section 91, the council may take the third step in the making of a plan, which is for the council to consider whether the council is satisfied –	
(a) that, if Ministers’ responsibilities may be affected by the plan, the Ministers have been consulted; and	No. Ministry staff have been involved in developing the proposal, but Ministers have not formally been consulted.
(b) that, if local authorities’ responsibilities may be affected by the plan, the authorities have been consulted; and	N/A
(c) that the tangata whenua of the area who may be affected by the plan were consulted through iwi authorities and tribal runanga; and	No. A representative from Kai Tahu Oraka/Aparima Runaka was on the Steering Group that developed the proposal. Wider tangata whenua of the area were consulted through an informal meeting with representatives of the four runaka. However, tangata whenua have not had the opportunity to see the final proposal.
(d) that, if consultation with other persons is appropriate, sufficient consultation has occurred.	No. Many affected parties were consulted during the development of the proposal, although they have not had the opportunity to see the final proposal.
(2) In considering whether the council is satisfied as required by subsection (1)(d), the council must have regard to the following: (a) the scale of the impacts on persons who are likely to be affected by the plan; and (b) whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and (c) the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.	The impacts of the Plan on vessel operators is potentially significant, as it would require them to clean their vessels and gear. Those consulted during the development of the proposal were generally supportive.
(3) If the council is satisfied as required by subsection (1), the council must apply section 93.	N/A

Requirement	Can Council be satisfied?
(4) If the council is not satisfied as required by subsection (1), the council may require consultation to be undertaken on the proposal.	
(5) If the council requires consultation to be undertaken, the council must determine the way or ways in which the consultation must be undertaken, including, but not limited to, ways such as- (a) consultation with persons likely to be affected by the plan or with their representatives: (b) the appointment by the council of 1 or more persons to carry out an independent inquiry into the proposal on terms of reference set by the council: (c) public notification of the proposal and receipt of submissions.	Staff recommend that Council require further consultation to occur by publicly notifying the proposal, calling for submissions, and conducting a public hearing (if required).
(6) After the consultation required by the council has been undertaken, the council must apply subsection (1) again.	

This report was prepared for Council by Fleur Matthews (Team Leader - Air and Coast) and Richard Bowman (Biosecurity Manager).

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Biosecurity Manager

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Team Leader - Air and Coast

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