



Recommendation and decision on notification of resource consent application(s) under sections 95-95G of the Resource Management Act 1991 (RMA)

Summary

I recommend the application is publicly notified. This is because:

- I consider that adverse effects that may result from this activity are likely to be more than minor.
- The proposal is inconsistent with Policy 16.2.2, 16.2.8 and Rule 16.2.1 which seek to limit the extent and number of commercial activities that occur within the coastal marine area of Fiordland to a level which does not reduce natural character, landscape and amenity values, specifically remoteness and tranquillity values.

The application

Particulars

Applicant:	Fiordland Cruises Limited
Application reference:	APP-20202246
Site address or location:	The coastal marine area of Fiordland within Doubtful/Patea and Thomson Sounds.
Resource consents required:	Coastal permit to undertake day trips within Doubtful/Patea and Thomson Sounds.
New consent(s) for new activity(ies) (s88)	<input checked="" type="checkbox"/>
New consent(s) for existing activity(ies) (s88)	<input type="checkbox"/>
Change to conditions of existing consent(s) (s127)	<input type="checkbox"/>

The proposal

Fiordland Cruises Limited (the applicant) is applying for a new resource consent to carry out commercial surface water activities in the form of daytrips within Hall Arm, Crooked Arm east of Turn Point, Doubtful and Thompson Sounds. The applicant is proposing to undertake one trip per day using a 20 metre vessel for up to 40 passengers. The vessel has been operating within Doubtful Sound/Patea complex for the past 10 years, and is currently being used for backcountry charter trips under Coastal Permit AUTH-201180.

Due to the flood damage to the Milford Road the applicant was recently granted a temporary variation to its current permit (AUTH-201180) to undertake day trips in the Doubtful Sound/Patea complex. The application for temporary variation was considered as a discretionary activity, and was granted on the basis that the effects resulting from the variation were temporary, and that visitors during that time would have recognised that the circumstances were unusual and would be more accepting of the additional activities within the fiords.

However, this application is for the undertaking of the same additional daytrip on a year round basis within Hall Arm, Crooked Arm east of Turn Point, Doubtful and Thompson Sounds as illustrated in Figure 1 below.

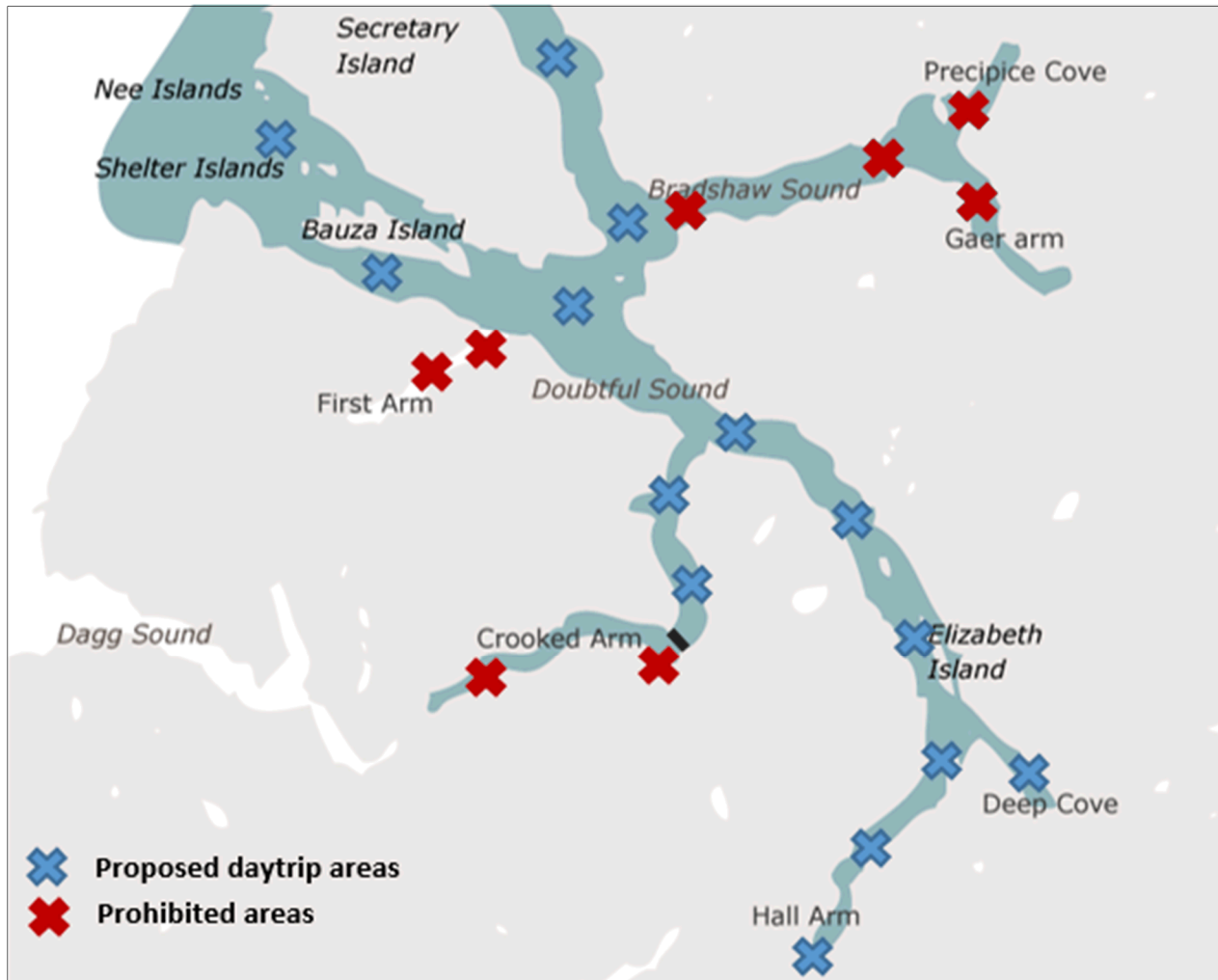


Figure 1: Proposed areas of operation



Figure 2: Southern Secret Vessel

Rule 16.2.1 of the Coastal Plan restricts the number of commercial surface water activities within the Doubtful Sound/Patea complex. As illustrated in Figure 2 below, the number of discretionary daytrips of 5 trips per day is currently exceeded at 9 trips per day within Doubtful Sound, Thompson Sound and Crooked Arm, and at 5.9 trips per day in Hall Arm, making this application a non-complying activity.



Figure 2: Current Allocation Map

Coastal permit	
Relevant rule(s)	Regional Coastal Plan: Commercial Surface Water Activity: 16.2.1 (2) Non-Complying

Overall, the application is a **non-Complying** activity.

Public notification consideration

1. Is notification mandatory?

1.1 Has the applicant requested that the application be publicly notified? (s95(3)(a)) Yes Application must be publicly notified. Go to 10.2

	<input checked="" type="checkbox"/> No	Go to 1.2
1.2 Was further information, or commissioning of a report, requested under s92?	<input type="checkbox"/> Yes	Go to 1.3
	<input checked="" type="checkbox"/> No	Go to step 2.1
1.3 If yes, was the request refused, or did the applicant fail to respond or fail to provide the information by the deadline?	<input type="checkbox"/> Yes	Public notification is required by s95C. Go to 10.2
	<input checked="" type="checkbox"/> No	Go to step 2.1

2. Is notification precluded?

2.1 Is each activity subject to a rule or NES that precludes public notification?	<input type="checkbox"/> Yes	Go to 4.1
	<input checked="" type="checkbox"/> No	Go to step 2.2
2.2 Is each activity a controlled activity?	<input type="checkbox"/> Yes	Application must not be publically notified unless special circumstances exist. Go to 4.1
	<input checked="" type="checkbox"/> No	Go to 2.3
2.3 Is each activity a residential activity <u>and</u> a discretionary activity or a restricted discretionary activity?	<input type="checkbox"/> Yes	Application must not be publically notified unless special circumstances exist. Go to 4.1
	<input checked="" type="checkbox"/> No	Got to 3.1

3. Is notification required?

3.1 Are any of the activities subject to a rule or NES that requires notification?	<input type="checkbox"/> Yes	Application must be publicly notified. Go to 10.2
	<input checked="" type="checkbox"/> No	Go to 3.2
3.2 Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor?	<input checked="" type="checkbox"/> Yes	Application must be publicly notified. Complete 3.3 and go to 10.2
	<input type="checkbox"/> No	Complete 3.3 and go to 4.1.

3.3 Reasons adverse effects on the environment are less than minor / minor / more than minor

The existing environment

The proposed commercial surface water activities will be carried out in the coastal marine area of Fiordland, within Doubtful Sound, Thomson Sound, Crooked Arm east of Turn Point and Hall Arm. Currently the operator undertakes commercial backcountry (overnight) charter trips within the Doubtful Sound, Thompson Sound and Bradshaw Sound areas under Coastal Permit AUTH-201180.

The fiords are unique estuarine systems. They have a variety of significant ecosystems, flora and fauna habitats, significant marine mammal and bird species and scenic and historic values. The land adjoining the area in which the Applicant intends to operate forms part of Fiordland National Park. Fiordland is also recognised internationally as a UNESCO World Heritage Site, as part of the Te Wāhipounamu - South West New Zealand World Heritage Area.

Commercial surface water activities impact on a number of values within the Fiordland environment generally, including wilderness and remoteness values. The proposed operational area has high wilderness and remoteness values due to the degree of isolation from the sights, sounds and activities of humans.

Adverse effects of the proposed activities on the environment

The following aspects and potential adverse effects on the receiving environment associated with the proposal were considered:

Noise effects

The permitted baseline for noise levels from the vessel to be used is stipulated in the Coastal Plan under Rules 5.3.4 and 5.3.6.

The noise assessment results submitted by the applicant on 5 August has illustrated that the noise levels that will be generated by the vessel is expected to adhere to the noise level requirements set in the RCP, and is therefore expected to be less than minor.

Public access and navigational safety

The proposed activities are expected to improve public access to the area, and are also not expected to have adverse effects on navigational safety as was confirmed by the Harbourmaster.

Wildlife, habitats and ecosystems

The operation will only use a single relatively small vessel in comparison to larger cruise vessels already operating in the area, and the applicant will only make use of existing infrastructure. It was considered that the addition of a single relatively small vessel is not expected to add significantly to the cumulative effects of vessel presence on wildlife, habitats and ecosystems in the fiords.

Wake effects

The effects of wake produced by the relatively small vessel at the proposed speed on the surrounding landforms, flora, fauna, structures or vessels is expected to be less than minor, and no more than the effects produced by natural wave action.

Cultural and historical values

The proposed surface water activities are to be undertaken within the Tū Te Rakiwhānoa (Fiordland Coastal Marine Area) which is a statutory acknowledgement area under Schedule 102 of the Ngāi Tahu Claims Settlement Act 1998, and local rūnanga may therefore be affected by the proposed activities.

Bio-invasion

The vessel will only be operating in this particular area, and the measures proposed by the applicant to mitigate the potential bio-invasion risks when maintenance on the vessel is required elsewhere was considered adequate. Potential effects on bio-invasion risk is considered less than minor.

Landscape, natural character and amenity values

To protect the wilderness and remoteness values, Rule 16.2.1 under the Coastal Plan restricts the number of commercial surface water activities within the Doubtful Sound/Patea complex to 5 trips per day within Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point. As illustrated in the table below the number of discretionary daytrips of 5 per day is currently exceeded at an average of 9 trips per day within Doubtful Sound, Thompson Sound and Crooked Arm, and 5.9 trips per day in Hall Arm.

Consent Nr	Consent Holder	Status	Expiry Date	Month													
				Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
203196	Offspring Travel Ltd	Current	20-Mar-2023	39	36	39	38	10					30	31	38	39	
206961	Deep Cove Charters	Current	13-Mar-2030				5	5	5	5	5	5	5				
97049-V4	Real Journeys	Current	03-Nov-2020														
200125-V3	Real Journeys	Current	16-Nov-2021	124	112	124	120	124	120	124	124	120	124	120	124	124	
301896-V1	Go Orange	Current	03-Nov-2020														
300538-V1	Fiordland Explorer Charters	Current	17-Nov-2031	31	28	31	30	31	30	31	31	30	31	30	31	31	
207431	Go Orange (support vessel for kayaking daytrips consented under permit 203307-V3)	Current	10-Mar-2028	124	112	124	120	62	60	62	62	60	124	120	124	124	
20201878	Go Orange (pending surrender of 301896-V1)	Pending															
Days Allocated				318	288	318	313	232	215	222	222	245	315	308	318		
Days Allowed				155	140	155	150	155	150	155	155	150	155	150	155	155	
Days in Month				31	28	31	30	31	30	31	31	30	31	30	31	31	

An increase above the 5 discretionary daytrips in these areas was previously approved by Council as a non-complying activity. A panel of councillors heard an application (APP-207431-01) in October 2010 for the use of a support vessel for kayaking activities in Doubtful Sound, and allowed for the number of discretionary day trips to be exceeded. While the hearing panel did not conclusively determine that the adverse effects of the higher number of day trips on the environment would be minor, it did conclude that the proposal passed the tests set out in s104D based on consideration of policy.

It should also be noted that another application (APP-20201878) for a replacement consent for daytrips was granted as a non-complying activity in February 2020. The effect of the previous 2010 decision was to make all subsequent applications for replacement consents for daytrips, non-complying as well. It was considered that the 2010 decision should be given regard to when considering the cumulative effect of commercial surface water daytrips in the Doubtful Sound/Patea complex. To do otherwise would be detrimental to applicants for subsequent renewal applications. The 2020 application was a renewal application, and did not seek to increase the number of day trips. It was therefore considered that the effects on current remoteness and tranquillity values will be no more than minor. However, a shorter consent term of 10 years (not the requested 25 years) was granted to align the consent expiry date with the expiry dates of the majority of other consents for undertaking daytrips within the Doubtful Sound/Patea complex. This would allow council to re-assess the cumulative effects of the number of consented day trips at the time of application for renewal of current permits.

This application is for undertaking a new additional daytrip on a year round basis within Hall Arm, Crooked Arm east of Turn Point, Doubtful and Thompson Sounds. It is my view that Rule 16.2.1 sets a threshold at which we can be satisfied that, for the purposes of Policies 16.2.2 and 16.2.8, the cumulative adverse effects of daytrips on remoteness and tranquillity values will be no more than minor. For this application a cautionary approach was taken because the proposed additional daytrips are above the benchmark that was set in the planning framework. I therefore consider that the effects of undertaking additional daytrips within Hall Arm, Crooked Arm east of Turn Point, Doubtful and Thompson Sounds on remoteness and tranquillity values will likely be more than minor.

Planning provisions (policies and objectives) relevant to adverse effects

Regional Coastal Plan:

The most relevant policies from the Regional Coastal Plan are below:

- Policy 16.2.2 Limit the extent and number of commercial activities that occur within the coastal marine area of Fiordland to a level which does not reduce natural character, landscape and amenity values, specifically remoteness and tranquillity values.

Policy 16.2.8 Protect the opportunity for remoteness and wilderness experiences in all of the principle Arms, Inlets and Fiords of Fiordland apart from Milford Sound.

I consider that the application is not consistent with Policy 16.2.2 and Policy 16.2.8.

Adverse effects that have been disregarded

Consideration has been given to section 95D, which requires that effects in relation to the following circumstances must be disregarded:

- Parties who own or occupy the land or adjacent land;
- Trade competition; or
- Effects on a party who has provided written approval.

Conclusion: significance of adverse effects on the environment

In line with Policy 16.2.2 and Policy 16.2.8, Rule 16.2.1 sets out to ensure that adverse effects of commercial activities on remoteness and tranquillity values are no more than minor. Inconsistency with the rule would likely result in effects on remoteness and tranquillity values that will be **more than minor**.

4. Special circumstances and public notification

4.1 Do special circumstances exist in relation to the application that warrant the application being publicly notified?	<input type="checkbox"/> Yes	Application must be publicly notified. Explain reasons in 4.2 and go to 10.2
	<input checked="" type="checkbox"/> No	Explain reasons in 4.2. and go to 5.1

4.2 Reasons why special circumstances do or do not exist:

I do not consider there to be special circumstances, as the activity is not out of the ordinary and the circumstances around the application are not unusual or exceptional.

Affected Parties and Limited Notification

5. Protected Customary Rights Group or Customary Marine Title group

5.1 Is the activity in the coastal environment, within an area where it may adversely affect a protected customary rights group(s) or a customary marine title group(s) (see s95G)?	<input checked="" type="checkbox"/> Yes	Go to 5.2
	<input type="checkbox"/> No	Go to 6.1
5.2 May the activity have adverse effects on a protected customary right carried out in accordance with the requirements of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011?	<input type="checkbox"/> Yes	The customary rights group(s) is an affected customary rights group(s). Application must be limited notified on them. Record in 5.3 and go to 6.1
	<input checked="" type="checkbox"/> No	Go to 6.1

5.3 Adversely affect a protected customary rights group(s) or a customary marine title group(s)

There are no recognised customary rights group or customary marine title groups as the applications have not been decided upon yet.

6. Statutory Acknowledgement Areas

6.1	Is the activity on or adjacent to, or may it affect, a statutory acknowledgement area?	<input checked="" type="checkbox"/> Yes	Go to 6.2
		<input type="checkbox"/> No	Go to 7.1
6.2	Are the adverse effects on Te Rūnanga o Ngāi Tahu minor or more than minor?	<input checked="" type="checkbox"/> Yes	Include TRONT in 8.2 and go to 6.3
		<input type="checkbox"/> No	Go to 6.3

6.3 Reasons why adverse effects on Te Rūnanga o Ngāi Tahu are less than minor, minor or more than minor

The proposed surface water activities are to be undertaken within the Tū Te Rakiwhānoa (Fiordland Coastal Marine Area) which is a statutory acknowledgement area under Schedule 102 of the Ngāi Tahu Claims Settlement Act 1998, and local rūnanga may therefore be affected by the proposed activities.

7. Is limited notification precluded?

7.1	Is each activity subject to a rule, NES or regulation that precludes limited notification?	<input type="checkbox"/> Yes	Go to 9.1
		<input checked="" type="checkbox"/> No	Go to 8.1

8. Are any people adversely affected?

8.1	Are the adverse effects on a person minor or more than minor (but not less than minor)?	<input checked="" type="checkbox"/> Yes	Go to 8.2
		<input type="checkbox"/> No	Go to 8.3

8.2 Person(s) considered to be adversely affected (complete and go to 8.3)

Person	Effect on person (see Note)	Reasons why effect is minor or more than minor	Has written approval been provided?
Te Ao Marama Inc	Activity may have cultural & spiritual effects	Activity may adversely affect cultural & spiritual values	No
Te Rūnanga o Ngāi Tahu	Activity may have cultural & spiritual effects	Activity may adversely affect cultural & spiritual values	No
Fiordland Marine Guardians	Activity may affect Fiordland Marine Area	The proposal may affect the effective management of the Fiordland Marine Area.	No
Department of Conservation	Activity may affect native species.	The proposal has the potential to affect wildlife, ecosystems and habitat.	No

8.3 Reasons why no other person is considered to be adversely affected:

Effects on other commercial surface water activity operators in the area were disregarded under section 95D as trade competition. However, effects of additional commercial vessel movement on remoteness, wilderness and tranquillity values, and the potential associated crowding effect of the additional activities on visitors to the area were considered to likely be more than minor. On that basis public notification of the application is recommended.

9. Special Circumstances – Limited Notification

9.1 Are there special circumstances that warrant limited notification of any other persons?	<input type="checkbox"/> Yes	Application must be limited notified to those persons and any other affected persons. Go to 9.2
	<input checked="" type="checkbox"/> No	Go to 10

I do not consider there to be special circumstances, as the activity is not out of the ordinary and the circumstances around the application are not unusual or exceptional.

Recommendation and decision

10. Officer's recommendation

10.1 The application be processed non-notified	<input type="checkbox"/>
10.2 Public notification is required/recommended	<input checked="" type="checkbox"/>
10.3 The application be placed on hold while the applicant tries to obtain written approvals from the affected persons	<input type="checkbox"/>
10.4 Limited notification is required. Persons to be served notice are those listed in 8.2	<input type="checkbox"/>



George Gericke
Consents Officer

Date: 10 August 2020

Decision under Delegated Authority

11.1 I agree with the recommendation	<input checked="" type="checkbox"/>
11.2 The application will be processed non-notified	<input type="checkbox"/>
11.3 The application will be publicly notified	<input checked="" type="checkbox"/>
11.4 The application shall be placed on hold while the applicant tries to obtain written approvals from the affected persons	<input type="checkbox"/>
11.5 The application will be limited notified. The parties to be served notice are those listed in section 8.2	<input type="checkbox"/>

This decision is made under delegated authority by:



Aurora Grant
Consents Manager

Date: 13 August 2020

