



29 January 2020

Environment Southland
Private Bag 90116
INVERCARGILL 9840

Email: George Gericke <George.Gericke@es.govt.nz>

Attention: George Gericke

Dear George,

RE: FURTHER INFORMATION REQUEST FOR COASTAL PERMIT APPLICATION

(APP-20201876)

Thank you for your letter dated 24 January 2020 requesting further information under Section 92(1) of the Resource Management Act 1991 (RMA) for:

- An assessment under Section 104D of the RMA to illustrate that the adverse effects of over allocation of commercial surface water activities within Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point (for day trips), and First Arm (for back country trips) on remoteness, tranquillity values and wilderness experiences will be no more than minor; or
- Illustrate that over allocation will not be contrary to the objectives and policies of the Regional Coastal Plan under Section 104D.

The proposed commercial surface water activity's effect on remoteness, tranquillity values and wilderness experiences will be no more than minor and the over allocation of commercial surface water activities within Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point (for day trips), and First Arm (for back country trips) is not contrary to the objectives and policies of the Regional Coastal Plan.

Section 104D of the RMA states;

104D Particular restrictions for non-complying activities

- (1) *Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
 - (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- (2) *To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.*

104(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

Under the RMA remoteness, tranquillity values and wilderness experiences are interpreted as amenity values. The Act defines amenity values as:

***amenity values** means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its **pleasantness**, aesthetic coherence, and cultural and recreational attributes*

The proposal is compatible with the amenity values of the coastal marine area (CMA) of Fiordland and the proposed activity within Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point (for day trips) and First Arm (for backcountry trips) will not create a more than minor effect on the pleasantness (remoteness, tranquillity values and wilderness experiences) of these areas.

Coastal Permit 97049 was granted on 3 November 2000. The proposal is for an existing activity in the CMA and the application is not seeking to alter any of the consent conditions for day trip activities.

The over allocation of commercial surface water activities in the Doubtful Sound Complex¹ has occurred because when the activity levels were originally set for the Doubtful Sound Complex in the Regional Coastal Plan for Southland, some historic operators activities were not accounted for and were authorised to continue operating in the CMA under s10A of the RMA. Because of this, when the Regional Coastal Plan for Southland became operative a portion of the commercial surface water activities in this area effectively became non-complying activities under this Plan.

The receiving environment of the Doubtful Sound Complex includes all of the lawfully established consented activity within Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point. As demonstrated by the current Coastal Permit, the proposal will not have a more than minor effect on, any remoteness, tranquillity values and wilderness experiences in the CMA because there will be no increase in the size or scale of lawfully established activity. Accordingly, the receiving environment [of Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point (for day trips)] upon which the proposed activity may have effects; already experiences the current level of the proposed activity and the proposal will not create a greater effect compared to what currently occurs in the receiving environment.

The proposed increased activity at First Arm (for backcountry trips) will not significantly impact the probability of all authorised operators utilising this Arm for anchorage on any given night. Commercial surface water operators within the Doubtful Sound Complex communicate with each other to ensure vessels anchor or moor away from each other as much as practical. Although the proposal is to enable anchoring (and water activities) in First Arm up to 31 times per month this frequency of activity is unlikely to occur as First Arm is a fine weather only anchorage. It is only likely in La Niña² summers (which occur irregularly, typically every two to seven years) when we experience prolonged periods of settled weather, that it will be possible to anchor close to 31 times per month. The proposal is simply requesting to alter some areas of operation to improve the safety of the activity by being able to respond to daily weather conditions; reduce vessel cruising time to make optimal use of the Fiord and daylight hours. Because of the communication amongst operators and the intent of the application's proposal, we contend that the proposal will not create a greater effect on remoteness and tranquillity values on the receiving environment of First Arm.

Wilderness experiences are not expected within the Doubtful Sound Complex this is explained in the sections below.

Remoteness, tranquillity values and wilderness experiences are not specifically defined in the Regional Coastal Plan for Southland and these values are not examined in Section 3 Values of the Coastal Marine

¹ Doubtful Sound, Hall Arm, Crooked Arm, First Arm, Thompson Sound, Bradshaw Sound (including Precipice cove and Gaer Arm).

² <https://niwa.co.nz/climate/information-and-resources/elnino/elnino-impacts-on-newzealand>

Area in the Plan. However, Remoteness, tranquillity values and wilderness experiences are mentioned in the explanations of Section 16 Policies in the Regional Coastal Plan for Southland (RCPS). Policy 16.2.8's explanation notes that the isolation people should expect in Doubtful Sound and Milford Sound are less than what they should expect in other fiords of the CMA and that Doubtful Sound and Thompson Sound are thoroughfares for the CMA and should expect vessel activity. Refer below;

Policy 16.2.8 - Remote and Wilderness Values in the Fiords, Inlets and Arms

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

Explanation - *Apart from Milford Sound, all of the principle arms, inlets and fiords in Fiordland offer significant remoteness values. In these areas there is an expectation of a greater degree of isolation than can be expected in Milford Sound and Doubtful Sound, principally because they are difficult to get to. Notwithstanding this difficulty, the amount of activity in these areas is increasing, some being attributable to people utilising more remote areas in an effort to find a place that offers the same degree of isolation once found in what are now more frequently visited areas. The effect of such activity is a matter of concern to people who value the remoteness of these parts of Fiordland. While some remoteness values remain in Milford Sound, it is considered that the physical limitations of the area itself will largely limit future development. Remoteness and Wilderness values in Doubtful Sound are more specifically addressed by Policies 16.2.9, 16.2.10, and Rules 16.2.2, 16.2.3.*

Policy 16.2.9 - Use of Doubtful Sound and Thompson Sound as a Thoroughfare

Provide for commercial surface water activity to use Doubtful Sound and Thompson Sound where it is necessary to:

- 1. pick up or off-load passengers to or from shore;*
- 2. access services;*
- 3. access wharves or launching areas;*
- 4. travel from one arm of Doubtful Sound to another in the case of commercial backcountry activities;*
- 5. off-load cargo and uplift stores;*
- 6. carry out activities associated with the construction and maintenance of the Manapouri Power Scheme and tailrace.*

Explanation - *Doubtful and Thompson Sounds are important thoroughfares for a range of ships wanting access to facilities or the road end at Deep Cove. They also provide access to anchorages or bases within the sounds themselves, for example, Blanket Bay and Deep Cove. Such access is necessary, but is largely incidental to the principal surface water activity of the ship. Access is also required for picking up and off-loading passengers, and for activities associated with the Manapouri power scheme. This policy seeks to minimise the presence of*

other commercial vessels in Doubtful Sound and Thompson Sound so as to protect the amenity of the area.

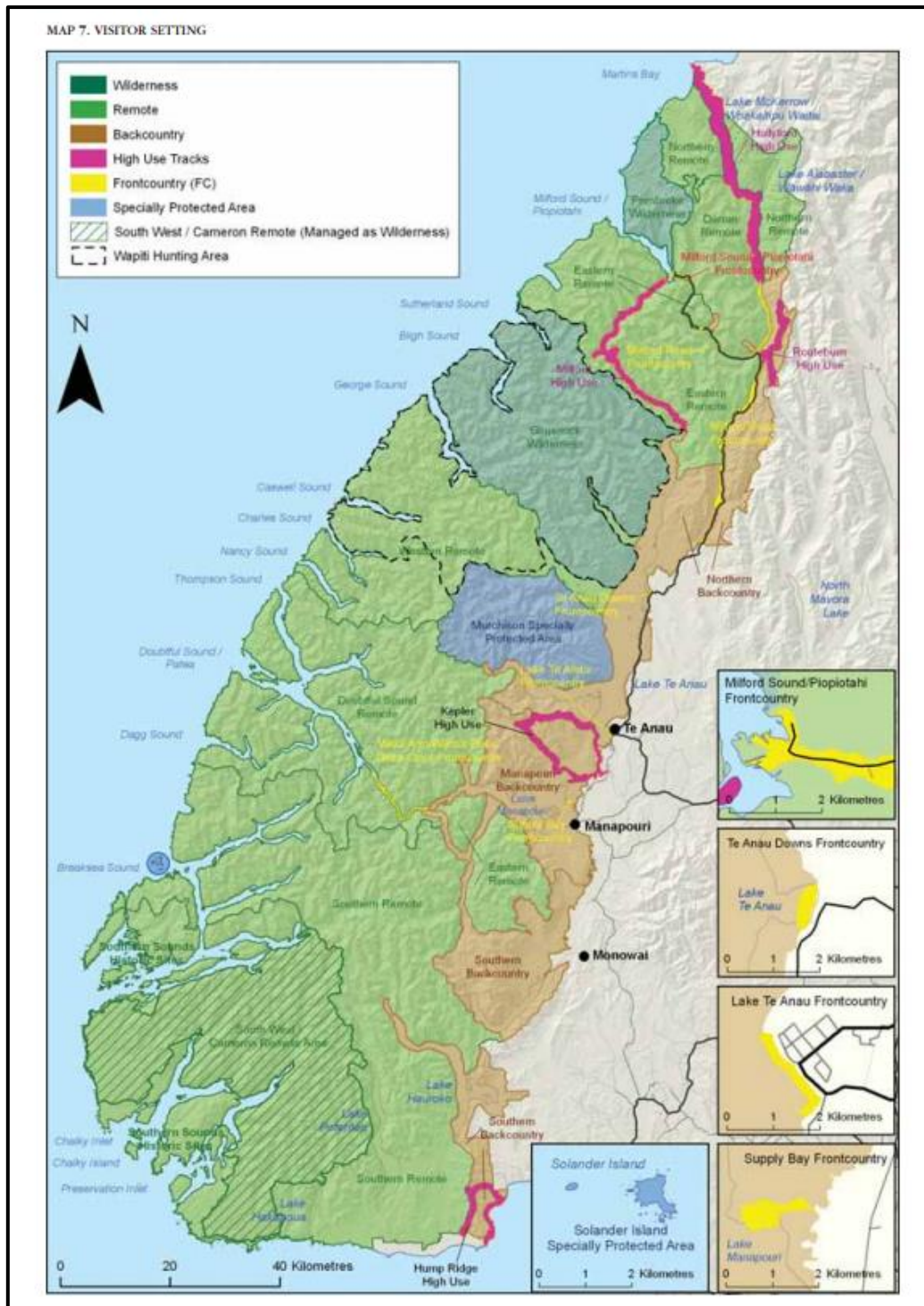
Policy 16.2.2 - Extent and number of commercial activities

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.

Explanation - *Too much activity can diminish the values that initially attracted people to an area. People then start seeking areas elsewhere which still offer the values they originally found in the now more popular area. The growth in activity can be both commercial and private, but in Fiordland it is commercial tourism activity that has the most significant effect, notwithstanding some private activities being of a similar effect and scale to commercial activities. The sustainable management of Fiordland's natural character, landscape and amenity values, particularly remoteness values, requires restrictions on the activities that occur in some areas. These restrictions will apply to the type or nature and number of activities. In some cases, the protection of specific values necessitates the exclusion of particular activities.*

Due to the integrated management of the Doubtful Sound Complex to gain a deeper comprehension of the values 'remoteness', 'tranquillity' and 'wilderness' the Fiordland National Park Management Plan (FNPMP) has been examined. The Department of Conservation has detailed the Fiordland National Park (FNP) visitor setting zones as shown on the map below:

Figure 1 – Map showing the visitor settings for the Fiordland National Park³



The Department of Conservation expects that the following type of visitor will want to experience each visitor setting within the FNP:

³ Fiordland National Park Management Plan, 2007, Map 7.

Table 1 – Visitors to the Fiordland National Park⁴

VISITOR MANAGEMENT SETTING	VISITOR GROUP
Wilderness Areas	Remoteness Seekers
Remote Experience Areas	Remoteness Seekers, Backcountry Adventurers
Backcountry Areas	Backcountry Adventurers
High Use Track Corridors	Backcountry Comfort Seekers
Frontcountry Areas	Short Stop Travellers, Day Visitors and Overnighters

On the land adjacent the Doubtful Sound Complex remoteness seekers and backcountry adventures are the expected visitor group in this region. These visitors are defined as:

- *Backcountry Adventurers are self-reliant trampers, hunters, mountaineers and kayakers who want a remote experience.*
- *Remoteness Seekers are self-reliant trampers, hunters and mountaineers who want a true wilderness experience with very few interactions with other visitors, and no facilities.*

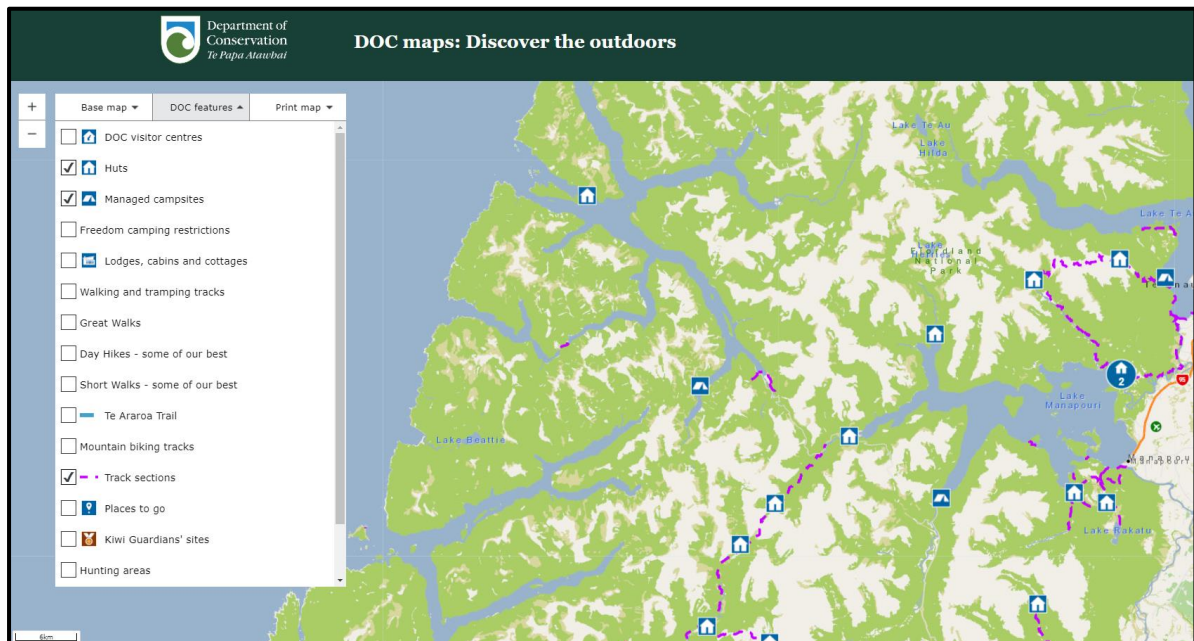
The locations of the coastal marine area that further information has been requested for are adjacent an area defined in the FNPMP as a Remote Visitor Setting. On land these areas are to expect:

- a reasonable expectation of isolation from sights, sounds and activities of other people;*
- interaction with few other groups; and*
- considerable self-reliance on backcountry skills.*

In the FNP there are no walking tracks, campsites or huts near First Arm. There are also limited huts, camping grounds and walking tracks on the other sections of the fiord. Refer map below:

⁴ Fiordland National Park Management Plan, 2007, Table 4.

Figure 2 – Map showing the location of Department of Conservation facilities adjacent the Doubtful Sound Complex⁵



The FNPMP states that remote visitor seekers are to expect interaction with a few other groups, thus observing another boat pass by within the area is not in conflict with this value. In considering wilderness experiences these are expected to be experienced in the CMA south of the Doubtful Sound Complex as shown on Figure 1.

Policy 16.2.8 of the Regional Coastal Plan for Southland supports the FNPMP view of wilderness visitor settings being away from the Doubtful Sound Complex in the policy’s explanation. Refer below;

“Apart from Milford Sound, all of the principle arms, inlets and fiords in Fiordland offer significant remoteness values. In these areas there is an expectation of a greater degree of isolation than can be expected in Milford Sound and Doubtful Sound, principally because they are difficult to get to.”

The proposal’s impact on tranquillity within the Doubtful Sound Complex can be considered less than minor as the proposals noise levels comply with the regulations set in the Regional Coastal Plan for Southland with respect to noise limits, accordingly the proposed activities will not impact the quietness or peacefulness of the Doubtful Sound Complex.

The proposed commercial surface water activity on Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point (for day trips) and First Arm (for backcountry trips) will not create a

⁵ <http://maps.doc.govt.nz/>

more than minor effect on the pleasantness of these areas. The areas are not located in a wilderness area in the FNPMP. In accordance with the FNPMP and the Regional Coastal Plan for Southland (RCPS) the proposed activity is an appropriate level of activity for a remote visitor setting and the proposal's level of noise generation is compliant with the Plan and will not create an impact on tranquillity.

Regarding potential perceptions of overcrowding and congestion effecting remoteness values in the CMA Booth⁶ states that;

“Most authors now recognise that there are no set or standard capacity values for natural resource areas (Latu and Everett, 2000; McCool and Lime, 2001). Rather, carrying capacity varies depending on place, season and time, user behaviour, facility design, patterns and levels of management, and the dynamic nature of the physical setting.”

In the “Fiordland Navigators” coastal permit application the proposed day trip activity is not seeking any amendments to the currently authorised activity and Real Journeys is not aware of any complaint made regarding the operations effect on remoteness and / or tranquillity values. Customer feedback on Real Journeys experiences in Doubtful Sound via TripAdvisor recommend the trip to others and comment on the remoteness and tranquillity of the area.⁷ The proposed amendment to the overnight activity in First Arm will not occur on a regular schedule and thus the “Fiordland Navigator” will not be a constant presence in this Arm. Further, any actual or potential effects on amenity values associated with the proposal are temporary in nature and will not permanently reduce the amenity values associated with thin CMA. This is because as soon as the vessel moves from one location to another or is removed from the CMA the effects of its presence disappear.

The proposed commercial surface water day trip activity is currently part of the receiving environment and the over allocation of commercial surface water activities has been a part of the receiving environment of this area since the Plan became operative. Thus, the proposals effect on Hall Arm, Doubtful Sound, Thompson Sound and Crooked Arm east of Turn Point (for day trips) will not have a more than minor effect on remoteness, tranquillity values and wilderness experiences and is not in conflict with s 104D(1)(a).

The proposed increased activity in First Arm will not significantly affect the probability of authorised users anchoring in this Arm as use of this Arm is still weather dependent. Moreover, the commercial surface water operators in this area communicate with each other to ensure vessels cruise and anchor

⁶ Managing Human Activity in Fiordland: A Carrying Capacity Method Prepared for Environment Southland Kay Booth and Stephen Espiner Social Science, Parks, Recreation and Tourism Group Lincoln University Canterbury, New Zealand 18 August 2006, page 9.

⁷ https://www.tripadvisor.co.nz/AttractionProductReview-g255124-d11447020-Doubtful_Sound_Overnight_Cruise-Te_Anau_Fiordland_National_Park_Southland_Region_S.html

/ moor away from each other. Vessel interactions are expected in a remote visitor setting and the proposed activities noise levels are compliant with the Plan. Because of the aforementioned the proposed backcountry activity in First Arm will not have a more than minor effect on the receiving environment of this Arm. Hence, the proposed increased activity in First Arm is not in conflict with s 104D(1)(a).

Policy 3 of the New Zealand Coastal Policy Statement 2010 states that when the effects on the coastal environment are uncertain, unknown, or little is understood regarding these concerns a precautionary approach is undertaken. This means that the actual and potential effects of the proposed activity should be avoided, remedied or mitigated. Values are subjective and can be interpreted differently by different persons, however, typically remoteness and tranquillity values can be affected by overcrowding and noise. Real Journeys Limited will avoid overcrowding in First Arm by continuing to communicate with other operators in the area to ensure that the Arm does not have multiple users anchoring within this fiord at any given time. Real Journeys Limited will also primarily use this location as a fine weather over night trip location to anchor / moor within. Noise that may affect tranquillity will be avoided by Real Journeys Limited continuing to be compliant to the Rules for noise set in the RCPS.

Real Journeys Limited notes that there is currently discussion around the increased use of the CMA⁸ and that this increase in use is being directed towards recreational vessels and commercial fishing vessels that are not directly controlled by the Council. Real Journeys Limited is a reputable tourism operator in Fiordland and will adhere to Council's regulations in order to avoid, remedy and mitigate the effects of their activity on the CMA. As such, because the company is approaching this coastal permit application in a precautionary manner to avoid potential effects, the proposal will not have a more than minor effect on the CMA environment and it is not in conflict with s 104D(1)(a).

In considering s 104 (1)(b) the proposal is not in conflict with the objectives and policies of the RCPS that relate to remoteness, tranquillity values and wilderness experiences. The Doubtful Sound Complex is located in an area considered a remote visitor setting and regular vessel interactions are expected in this area because of the fiords accessibility and use as a thoroughfare for vessels in the CMA. Refer to the relevant objectives and policies below:

⁸ The Future of Charter Fishing in Fiordland, 8 August and 9 August, 2019, Te Anau Club, Corner Pop Andrew Drive & Jackson Street, Te Anau

Objective 16.1.1 - Maintain essential characteristics.

To maintain the essential characteristics of the pristine coastal marine area environment adjoining the Fiordland National Park that contribute to a range of high quality experiences in a natural coastal environment.

Objective 16.1.2 - Preserve remoteness values

To preserve the remoteness and wilderness values of the internal waters of Fiordland.

Policy 16.2.1 - Identify and protect areas at risk of diminished natural character, landscape and amenity values.

Identify arms or parts of arms of Doubtful Sound and other waters of Fiordland where natural character, landscape and amenity values are vulnerable to the adverse effects of increased use.

Policy 16.2.2 - Extent and number of commercial activities

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 16.2.3- Restrictions on Commercial Day-trips in Doubtful Sound and Arms thereof

Exclude commercial day-trip activities from Bradshaw Sound, Gear Arm, First Arm and Crooked Arm west of Turn Point.

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

Policy 16.2.9 - Use of Doubtful Sound and Thompson Sound as a Thoroughfare

Provide for commercial surface water activity to use Doubtful Sound and

Thompson Sound where it is necessary to:

- 1. pick up or off-load passengers to or from shore;*
- 2. access services;*
- 3. access wharves or launching areas;*
- 4. travel from one arm of Doubtful Sound to another in the case of commercial backcountry activities;*
- 5. off-load cargo and uplift stores;*
- 6. carry out activities associated with the construction and maintenance of the Manapouri Power Scheme and tailrace.*

The proposals noise levels are not contrary to the relevant policies in the RCPS and are compliant with the rules set (Rule 5.3.4, Rule 5.3.6 and Rule 16.3.4) for noise levels in the CMA;

Policy 16.3.1 - Noise that Compromises Tranquillity and Peacefulness

Avoid noise that compromises the tranquillity and peacefulness which is a characteristic of Fiordland.

Policy 16.3.5 - Noise from commercial and non-commercial ships

Avoid, wherever practicable, or mitigate, the adverse effects of noise from commercial and non-commercial ships.

Because of this Council can disregard noise as an adverse effect on the environment in this application.

Wilderness experiences are not expected in the Doubtful Sound Complex, these are expected in the SW section of the FNP. Therefore, in considering the over allocation of commercial surface water activities effect on amenity values the proposal is not in conflict with the relevant objectives and policies in the RCPS. The proposal is not seeking to increase the size or scale of the current activity and because of the prevailing weather conditions within the Doubtful Sound Complex it is unlikely the “Fiordland Navigator” will be able to anchor in First Arm 31 times each calendar month. This proposal is simply requesting to alter some areas of operation to improve the safety of the activity by being able to respond to daily weather conditions. Hence, the proposal is not contrary to the policies stated above and it meets the criteria of Section 104(1)(a) and Section 104(1)(b) of the Act, as such it is considered appropriate for the Council to award consent for the proposed activity.

I trust that the information above clarifies your request for further information. Please do not hesitate to contact me if you require further clarification.

Yours sincerely



Fiona Black

Manager Concessions and Consents