

## Acknowledgements

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Our "Beneath the Reflections" image is the product of Mike Hodges' artistic talent - and is something we are delighted to incorporate into every aspect of the Guardians' communications.

And for the occasional special gestures that keep voluntary groups together and smiling, such as celebrating important achievements and that end of the year BBQ, we thank the Fiordland Lobster Company.

To those who have helped fund the development of our draft strategy we are greatly indebted. The generous MfE Sustainable Management Fund grant, the Pacific Development and Conservation Trust grant and the contributions from MFish, DoC, and Environment Southland have all bought the reality of an integrated management strategy for Fiordland's fisheries and marine environment that much closer.

And finally, to the contributions of groups represented on the Guardians - the CRA8 Management Committee, NZ Paua Management Company, Fiordland Travel, the Waverly, Gore Boating Club, South Coast Underwater Divers Club and Maitauro Licensing Trust. Your investment in the group will hopefully bring major benefits for Fiordland's fisheries and marine environment.

## **Appendix 1**

**Figures 6 - 18: Maps of individual fiords showing habitat lines, china shops, representative areas and associated rock lobster pot storage areas**

## Appendix 2

### Amateur fishing rules: present and recommended

Table 4: Present daily fish species limits (for main species) and bag limits applying within Fiordland and the Southland Fisheries Management Area (FMA5)

Finfish Species	Daily Species Limit per Person	3 days Accumulation per Person	7 days Accumulation per Person
Blue cod	30	90	210
Trumpeter	15	45	105
Seven gilled shark	1	3	7
Combined bag limit	30	90	210
Jock Stewarts	No Limit	-	-
Groper*	5	15	35

*\*Note: The daily bag limit for groper is over and above the combined finfish bag limit of 30.*

Table 5: Present daily shellfish species limits (for main species) and bag limits applying within Fiordland and the Southland Fisheries Management Area (FMA5)

Shellfish Species	Daily species limit per person	3 days Accumulation per person	7 days Accumulation per person
Rock lobster	6	18	42
Paua	10	30	70
Scallops	10	30	70

Table 6: Recommended amateur/customary fishing measures within the Fiordland area

Finfish/Shellfish Species	Daily Species Limit/ person inside Milford and Doubtful Sound Habitat Lines	Daily Species Limit/Person inside Fiord Habitat Lines	Daily Species Limit/Person outside Fiord Habitat Lines	Accumulation provisions
Blue cod	*** s186B(2+2?years)	3	20	No accumulation
Groper*	2	3	5	No accumulation
Jock Stewarts**		10		No accumulation
Combined fish bag limit		30		No accumulation
Rock lobster	2	3	6	Maxm. 3 days accumulation of 15****
Paua		10		No accumulation
Scallops		10		No accumulation

\* Groper species daily limit included in combined finfish bag limit of 30.

\*\* New daily limit for Jock Stewart (Sea Perch) inside the combined finfish bag.

\*\*\* s186B is a customary measure that provides for temporary closures relating to a fishery.

\*\*\*\* Allows for a maximum daily take limit of 6 rock lobster with a maximum possession and accumulation limit of 15 rock lobster per person for trips of three days or more.

**Note:** *Capping accumulation of rock lobster to a maximum of 15 for three days or more and removing accumulation for finfish and the two main shellfish species can be implemented by a regulation change to the current amateur fishing defence provisions.*

## Appendix 3

### Schedule 102

Sections 205, 312 and 313

#### *Statutory Acknowledgement for Te Mimi o Tu Te Rakiwhanoa (Fiordland Coastal Marine Area)*

##### **Statutory Area**

The statutory area to which this statutory acknowledgement applies is Te Mimi o Tu Te Rakiwhanoa (Fiordland Coastal Marine Area), the Coastal Marine Area of the Te Anau constituency of the Southland region, as shown on SO Plan 11503, Southland Land District, as shown on Allocation Plan NT 505 (SO 19901).

##### **Preamble**

Under section 313, the Crown acknowledges Te Runanga o Ngäi Tahu's statement of Ngäi Tahu's cultural, spiritual, historic, and traditional association to Te Mimi o Tu Te Rakiwhanoa as set out below.

##### **Ngäi Tahu Association with Te Mimi o Tu Te Rakiwhanoa**

The fiords of this region represent, in tradition, the raised up sides of Te Waka o Aoraki. The waka (canoe) foundered on a submerged reef and its occupants, Aoraki and his brothers, Raraki, Rakiroa and others, were turned to stone. They stand now as the highest peaks of Ka Tiritiri o te Moana (the Southern Alps). The fiords at the southern end of the Alps were hacked out of the raised side of the wrecked waka by Tu Te Rakiwhanoa, in a effort to make it habitable by humans. The deep gouges and long waterways that make up the fiords were intended to provide safe havens on the rugged coastline, and stocked with fish, forest and birds to sustain travellers.

For Ngäi Tahu, traditions such as these represent the links between the cosmological world of the gods and present generations, these histories reinforce tribal identity and solidarity, and continuity between generations, and document the events that shaped the environment of Te Wai Pounamu and Ngäi Tahu as an iwi.

Particular stretches of the coastline also have their own traditions. The visit of Tamaahua to Piopiotahi (Milford Sound) in search of Poutini, who had absconded with his wife Waitaiki, is linked to the creation of Pounamu further north on Te Tai Poutini (the West Coast). The koko-takiwai which is found in Piopiotahi has its basis in a visit to Piopiotahi by the waka Tairea. A woman, Koko-takiwai, and her children, known as Matakirikiri, were left behind by the Tairea and were turned into varieties of pounamu.

Place names along the coast record Ngāi Tahu history and point to the landscape features that were significant to people for a range of reasons. For example, in his voyage around the Sounds in the waka Takitimu Tamatea gave the chiselled terrain the name “Te Rua-o-te-moko”, likening the deep gouges adorning the impressive cliff faces of the fiords to the tattoos on a chief's face. Martins Bay (Whakatipu-waitai or Kotuku) to the north of the fiords was the site of an old settlement, located to control the pounamu resources to be found here. An area of Doubtful Sound is known as Kahui-te-kakapo, while Dagg Sound had a canoe harbour known as Te Ra. Breaksea Island (within Breaksea Sound - Te Puaitaha) is known as Te Au Moana, referring to the ocean current that sweeps around the inlet. Cape Providence is known as Orariki, a cliff near here is called Taka-o-te-karehu-Tamatea, referring to an episode when some tattooing ink belonging to Tamatea washed over board. Chalky Sound is known as Taiari and a rock in the Sound is known as Te Kakahu-o-Tamatea, a place where Tamatea had his clothes spread out to dry after being drenched by the salt spray. Preservation Inlet has the name Rakituma.

The area was visited mainly by Ngati Mamoe and Ngāi Tahu, who had various routes and nohoanga for the purpose of gathering koko-takiwai and manu (birds), particularly the kakapo. The area played a significant role in the history of conflict between Ngāi Tahu and Ngati Mamoe, with a number of Ngati Mamoe taking refuge in the isolation of the fiords in order to escape the unforgiving attitudes of some sections of Ngāi Tahu. The noted rangatira Tarewai from Otago Heads met his end here at the hands of Ngati Mamoe, having pursued them from the Otago Peninsula to Rakituma. Tarewai and his warriors were successfully ambushed by those they were pursuing, with the result that no-one ever returned to Otago from this battle. Te Whare Pa in Rakitimu was the scene of one of the last major battles between Ngati Mamoe and Ngāi Tahu.

Another dark piece of history occurred at Te Tauraka o te Hupokeka (Anita Bay). Hupokeka and his whanau (family) regularly visited Piopiotahi, travelling from Murihiku to gather koko-takiwai, and staying at a nohoanga in Anita Bay. It was here, in the 1820s, that he and his whanau were slaughtered by sealers in retribution for an incident of which they were quite innocent.

Because of its attractiveness as a place to establish permanent settlements, including pa (fortified settlements), the coastal area was visited and occupied first by Ngati Mamoe and later by Ngāi Tahu. Through conflict and alliance these two iwi have merged in the whakapapa (genealogy) of Ngāi Tahu. Battles sites, urupa and landscape features bearing the names of tupuna (ancestors) record this history. Prominent headlands, in particular, were favoured for their defensive qualities and became the headquarters for a succession of rangatira and their followers. Notable pa and nohoanga occurred in many areas on the Fiordland coast including: Milford (Lake Marchant) and Caswell Sounds; Kahui-te-kakapo (Doubtful Sound), known as the gathering place of the kakapo, in reference to the gathering of kakapo meat and feathers which was one of the key reasons that Ngāi Tahu Whanui regularly travelled to the fiords; Dagg Sound gets the sun all day, and consequently is well known as a nohoanga site, it also has a good canoe harbour known as Te Ra; Rakituma is the site of several pa or nohoanga including one at Matauirā and another at Te Whare Pa.

It was the koko-takiwai and kakapo that primarily attracted Ngāi Tahu to Fiordland. The koko-takiwai is favoured as a softer type of pounamu, more easily shaped into a finer quality of end product. It was therefore particularly sought-after for the making of ornaments, such as

hei-tiki. The area also offered many other mahinga kai to sustain parties on their arduous expeditions, including a range of manu (birds), fish and kaimoana resources.

The tupuna had considerable knowledge of whakapapa, traditional trails and tauranga waka, places for gathering kai and other taonga, ways in which to use the resources of the area, the relationship of people with the coastline and their dependence on it, and tikanga for the proper and sustainable utilisation of resources. All of these values remain important to Ngāi Tahu today.

There are two principal trails linking the Fiordland coast with the rest of Te Wai Pounamu (the South Island). A sea route around the fiords links Piopiotahi to Murihiku, and was the main route by which the koko-takiwai gathered from that end of the fiords was transported. The inland route for transporting koko-takiwai by back pack lay over what is now known as the Milford track, over Omanui (McKinnon Pass), down the Waitawai (Clinton River) to the head of Te Ana-au (Lake Te Anau). From there, the pounamu would be transported by mokihi to the head of the Waiau River, and from there down the Waiau to Te Ara a Kiwa (Foveaux Strait). In addition, a trail from Martins Bay, up the Hollyford Valley and over into the Routeburn Valley to the pounamu source at the head of Lake Whakatipu-wai-Maori, was commonly used by Tai Poutini iwi, who regularly travelled south via this route to obtain koko-takiwai.

Hence tauranga waka (landing places) occur up and down the coast and wherever a tauranga waka is located there is also likely to have been a nohoanga, fishing ground, kaimoana resource, with the sea trail linked to a land trail or mahinga kai resource. The tupuna had a huge knowledge of the coastal environment and weather patterns, passed from generation to generation. This knowledge continues to be held by whanau and hapu and is regarded as taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the coast.

The fiords are the repository of many koiwi tangata, secreted away in keeping places throughout the region. There are also many other wahi tapu in the area, including examples of rock art in Chalky Sound. Urupa are the resting places of Ngāi Tahu tupuna and, as such, are the focus for whanau traditions. Urupa and wahi tapu are places holding the memories, traditions, victories and defeats of Ngāi Tahu tupuna, and are frequently protected in secret locations.

The mauri of Te Mimi o Tu Te Rakiwhanoa represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whanui with the area.

### **Purposes of Statutory Acknowledgement**

Pursuant to section 215 and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require that consent authorities forward summaries of resource consent applications to Te Rūnanga o Ngāi Tahu as required by regulations made pursuant to Section 207 (clause 12.2.3 of the deed of settlement); and

- (b) to require that consent authorities, the Historic Places Trust, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to Te Mimi o Tu Te Rakiwhanoa, as provided in Sections 208 to 210 (clause 12.2.4 of the deed of settlement); and
- (c) to enable Te Runanga o Ngäi Tahu and any member of Ngäi Tahu Whanui to cite this statutory acknowledgement as evidence of the association of Ngäi Tahu to Te Mimi o Tu Te Rakiwhanoa as provided in section 208 (clause 12.2.5 of the deed of settlement).

***Editorial Note***

*It appears that the above reference to “section 208” should be read as a reference to “Section 211” because Section 208 of the Ngäi Tahu Claims Settlement Bill, relating to the use of statutory acknowledgement with submissions, became section 211 of this Act.*

**Limitations on effect of Statutory Acknowledgement**

Except as expressly provided in sections 208 to 211, 213, and 215,—

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaws; and
- (b) without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under statute, regulation, or bylaw, may give any greater or lesser weight to Ngäi Tahu's association to Te Mimi o Tu Te Rakiwhanoa (as described in this statutory acknowledgement) than that person or entity would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of Te Mimi o Tu Te Rakiwhanoa.

Except as expressly provided in this Act, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

Except as expressly provided in this Act, this statutory acknowledgement does not, of itself, have the effect of granting, creating or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, Te Mimi o Tu Te Rakiwhanoa.

## Appendix 4

### Compliance within Fiordland's Marine Environment

*compiled by Stephen Logie, MFish Invercargill*

#### About this Appendix

This all encompassing account of compliance within Fiordland's marine environment was compiled for the Guardians by Stephen Logie. A wealth of information has been gathered about compliance generally, and the role of the various agencies and stakeholders in particular. It was essential that such a comprehensive account of this issue was available to the readers of the draft strategy. Accordingly, the account has been included in full in this appendix.

Aspects that specifically reflect the Guardians views about compliance, including ways the group can assist the relevant agencies appear in Section 8. Views have been taken from this account and from other sources.

#### Introduction

In developing an integrated management strategy, the Guardians recognise high levels of voluntary compliance of existing law and new regulations are critical to the success of the management regime. Since the Guardians inception compliance advice has been sought and received from key Government agencies. Stakeholder feedback received thus far confirms compliance and enforcement as being extremely important to ensure that rules are fairly administered. No law is effective unless the users accept the law is necessary and that the law is adequately enforced. Therefore adequate provision must be made for education and enforcement services to encourage voluntary compliance by fisheries and marine environment users in Fiordland.

Enforcement and compliance in Fiordland's marine environment is the chief domain of three principal agencies responsible for the administration of several important public statutes. The principal Government agencies are the Ministry of Fisheries, Department of Conservation and the regional government authority Environment Southland. In developing an effective compliance strategy it is important to recognise the various legislative roles, specialist responsibilities and agency capacity to deliver enforcement in Fiordland.

#### **MFish Compliance Role**

##### *Legislation Mandate*

The Ministry of Fisheries is responsible for the sustainable utilisation and management of New Zealand's marine fisheries resources. The MFish vision is sustainable fisheries in a healthy aquatic ecosystem, which recognises New Zealand's fisheries resources are not unlimited and that they are part of a wider aquatic eco-system.

These important principles are recognised in the Fisheries Act 1996, which provides for the utilisation of fisheries resources while ensuring sustainability. This entails maintaining the potential of fisheries resources to meet the reasonable foreseeable needs of future generations and the need to avoid, remedy or mitigate any adverse effects of fishing on the aquatic environment.

Another important statute administered by the Ministry of Fisheries is the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, which recognises the partnership between the Ministry and Maori and obligations to give effect to Treaty principles. The Ministry of Fisheries seeks to work co-operatively with tangata whenua, fisheries stakeholders and interested parties including:

- commercial fishers and fishing industry
- recreational fishers
- customary Maori (non commercial)
- environmental groups
- local government and other Government agencies with an interest in coastal and fisheries matters.

The Ministry of Fisheries (MFish) advises the Minister of Fisheries and Government on fisheries policy and develops laws to manage New Zealand's marine fisheries. MFish administers the Quota Management System that regulates New Zealand's commercial fishing industry. Introduced in 1986 the Quota Management System (QMS) controls how much fish can be harvested based on the annual assessment of individual fish stock size, species recruitment and abundance. The success of the QMS regime relies upon sound fisheries management decisions, effective administrative systems, information monitoring and effective enforcement to ensure compliance.

MFish is charged with delivering criminal enforcement services that:

- inform fisheries stakeholders of their legal obligations and the consequences of not meeting those obligations; and
- detect and where appropriate prosecute those persons who are operating outside the law.

### ***MFish Compliance Objectives***

A high level of voluntary compliance with fisheries laws is critical to the success of any fisheries management regime. MFish aims to achieve optimal levels of compliance with fisheries laws by:

- maximising voluntary compliance by encouraging fishers to comply voluntarily with fisheries laws; and
- creating an effective deterrent against illegal activity.

The strategies for maximising voluntary compliance require fisheries stakeholders to:

- be involved in developing the rules
- understand and accept the rules as fair and necessary
- accept the duties and responsibilities of being fisheries rights holders

- be involved in developing compliance strategies; and
- believe the rules are being administered fairly and equitably.

To achieve the second compliance goal, fisheries stakeholders and users need to believe:

- there is a reasonable chance of any cheating being detected
- there is a high probability of being successfully prosecuted or penalised
- the cost of being caught cheating outweighs the benefits.

### ***MFish Compliance Services***

In terms of MFish enforcement capability a team of seven Fishery Officers based in Invercargill services the Southland and Fiordland area. The Invercargill MFish District Compliance team is primarily responsible for policing inshore fisheries between Awarua Point, South Westland and Long Point on the South-East Otago coast and includes all of Fiordland, Foveaux Strait and Stewart Island.

Principle enforcement responsibilities include:

- detecting commercial and non-commercial offences against fisheries regulations through monitoring and surveillance of fishing activity and fish product flow;
- inspection of fishing vessels, vehicles, Licensed Fish Receivers and Dealers in Fish premises;
- audit and investigative examination of commercial fishing business records;
- investigation of illegal fishing activities including poaching and black-market;
- answering queries and providing compliance advice to fisheries stakeholders and the general public;
- delivery of educational material, including signage and information brochures to promote voluntary compliance by non-commercial fishers;
- managing a small Honorary Fishery Officer volunteer network to assist enforcement by delivering education information to non-commercial fishers.

In relation to fish stock management, Fiordland lies within the Southland fisheries management area (FMA) 5 bounded between Awarua Point in the north and Slope Point in the South. Fiordland is also a significant area within the commercial rock lobster CRA 8 fisheries management area bounded between Abut Head, South Westland and Long Point on the South-East Otago coast.

Enforcement activities within Fiordland are severely constrained by isolation and the wide geographic spread of the Fiordland coastline. Normal Fishery Officer access is by routine road patrols to main access points at Manapouri, Te Anau and Milford Sound, mainly checking commercial fisher landings and Licensed Fish Receivers. Dedicated patrols are carried out to inspect recreational fisher landings during peak holiday periods. Access to the Fiordland coast is limited to expensive aerial patrols by floatplane and helicopter. While the local MFish office, now possess a trailer borne 5.9-metre Stabi-Craft patrol vessel, ready deployment is limited to

Milford Sound and Doubtful Sound, the latter being logistically difficult for deployment at short notice. Annual sea patrols coinciding with peak season commercial activity, normally necessitates the hire of the Department of Conservation (16.5 metre length) vessel “Renown” and less frequently the use of inshore naval patrol craft, with the alternative of private charter vessel hire. As with fishing, all sea patrols on the outer Fiordland coast are weather and sea conditions dependant, which can severely limit operations.

### ***Customary Fisheries Compliance***

The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 requires the Minister of Fisheries to act in accordance with the principles of the Treaty, by consulting with Tāngata Whenua and developing policies to help recognise the use and management practices of Māori in the exercise of non-commercial fishing rights.

Under the terms of the 1992 Settlement Act, the Fisheries (South Island Customary Fishing) Regulations 1999 (replacing the original 1998 regulations) were introduced to recognise customary food gathering by Māori and the special relationship between Tāngata Whenua and those places, which are of customary food gathering importance (including tauranga ika and mahinga mātaītai), to the extent that such food gathering is neither commercial nor for pecuniary gain or trade.

Customary Regulations enable Tāngata Whenua to apply for the establishment of mātaītai reserves, within any part of their rohe (area). Tangata tiaki/kaitiaki (Guardians) are appointed by Tāngata Whenua to manage the reserve through the making of bylaws approved by the Minister of Fisheries. Bylaws can be made specifying the species, quantity, size limit, method, and area where the species may be taken. Generally commercial fishing is prohibited within mātaītai unless specifically exempted by regulation. The establishment of any mātaītai requires MFish to provide adequate signage and pamphlet information material to educate and inform fishers of the mātaītai reserve bylaws. Tangata tiaki/kaitiaki work closely with MFish to promote voluntary compliance of the bylaws, with enforcement carried out by MFish Fishery Officers and Honorary Fishery Officers through proactive patrols and reactive investigation to reports of illegal fishing. In dealing with remote areas such as Fiordland, it is important to build an effective information network to provide accurate and timely information to enable effective follow up and results. The Customary regulations provide for offences and court imposed penalties including maximum fines of \$10,000 for a first offence and \$20,000 for any subsequent offences.

Similarly taiāpure provisions in Part IX of the Fisheries Act 1996 provide for the establishment of taiāpure – local fishery areas that are customarily of special significance to an iwi or hapu as a source of food or for spiritual or cultural reasons. A taiāpure management committee recommends the making of fisheries regulations applying within the taiāpure, with offence and penalty provisions similar to amateur and commercial fishing regulations. The Fisheries Act 1996 also provides for section 186B rāhui/temporary closure of fisheries or restrictions of fishing method in an area to improve the size and availability of fish stocks and/or to recognise and provide for the use and management practices of the Tāngata Whenua. Offence and penalty provisions relating to fishing in breach of rāhui provide for a maximum fine of \$100,000 on the conviction of commercial offenders and \$5,000 for non-commercial offenders.

## ***Compliance Education and Awareness***

Fisheries compliance relies upon influencing people's behaviour through effective communication and use of information tools to promote local fishing rules and to encourage responsible fishing practices. Therefore an important component to any compliance regime is the provision of targeted educational material to inform fisheries users of the local fishing rules and their obligations. This will be especially important for any fisheries regulations that are specifically enacted for fine scale management of Fiordland fish stocks and for any particular Fiord restrictions and area closures.

With the commercial industry electing to fund their own industry compliance education, MFish has concentrated on producing education material for recreational fishers and more recently customary fishers. Traditionally this has relied upon the use of recreational fishing information signage erected at limited strategic locations, such as launching ramps, wharfs and Department of Conservation huts in coastal locations within the Fiordland National Park.

MFish signage information is supported by the wide spread distribution of recreational fishing brochures, namely the "*Guide to Marine Recreational Fishing Rules*", containing relevant fishing rules applying to the Southern Region Fishery Management Area (FMA), which includes the Southland FMA, Sub-Antarctic FMA and the South-East FMA. More recently MFish has produced several species and method specific brochures including the "*Guidelines for gathering paua*", "*Handling and measuring rock lobster*", "*Guidelines for releasing undersize fish*" and a "*Set net code of practice*". A local MFish initiative was the production of a fish ruler sticker to encourage fishers to measure their finfish and shellfish catch.

To further encourage responsible fishing practices in Fiordland, the Guardians of Fiordland Fisheries have produced a code of practice entitled "*Beneath the Reflections: Caring for Fiordland's Fisheries*", which is also distributed for recreational fishers and recreational charter vessel use. Information material is usually disseminated by Fisheries Officers and local Honorary Fishery Officers in the field and relies upon the joint co-operation of fishing clubs, local businesses and charter vessel operators to assist distribution and to reinforce voluntary compliance of the rules.

## ***Enforcement and Compliance***

It is important to recognise that "enforcement is an activity and compliance is a desired outcome". The Fisheries Act 1996 and associated Commercial, Customary and Amateur Fisheries Regulations place legislative restrictions and requirements on all fisheries users. The Quota Management System relies upon output controls, to govern and constrain commercial catch, as well as a number of necessary input controls relating to minimum fish size lengths, gear restrictions, closed season and closed areas.

Recreational and customary fisheries are not directly controlled by the QMS and instead rely on input controls that regulate non commercial harvesting of fish and shellfish species by imposing daily species and bag limits, minimum size lengths, method restrictions, closed seasons and closed area controls.

The introduction of any new fisheries regulation's that are specific to the Fiordland area will require changes in behaviour. Improving compliance education and raising levels of awareness is an important tool in promoting a high level of acceptance of fishing rules. However, a strong

enforcement deterrent regime is required to deter those people, who carelessly or deliberately breach fisheries regulations.

Whilst the Fisheries Act 1996 contains tough financial penalties for serious commercial fishing non-compliance there is often a high burden of proof where the prosecution is required to satisfy the Court that an offence was “knowingly” committed, with extreme environmental limitations posing a challenge to gathering of best evidence.

Compliance levels can be seriously undermined if regular infringements are not penalised by any meaningful sanction. The recent introduction of Fisheries infringement notices, as an alternative to court proceedings for less serious amateur offences, has increased the likelihood of amateur offenders receiving a financial sanction. The Fisheries Act 1996 and amendments to the Amateur Fishing Regulations now provide for new categories of offending and differing tiers of infringement fees (\$250 and \$500), along with increased maximum court fines (\$10,000 and \$20,000) and provision for custodial sentencing for serious amateur offences.

For example the following penalties apply for exceeding amateur bag limit offences:

- taking and possession of fish up to and including 2 x daily limit = \$250 infringement
- taking and possession of fish up to and including 3 x daily limit = \$500 infringement
- taking and possession of fish in excess of 3 x daily limit = \$20,000 maximum fine.

While there is provision for less serious commercial offences to be dealt with by infringement notices, most commercial offences including serious poaching and black-market offences will be referred to the courts, with increased maximum fines up to \$250,000 and up to 5 years imprisonment.

## **Department of Conservation Compliance Role**

### *Legislation Mandate*

The Department of Conservation (DoC) is the central government organisation charged with conserving the natural and historic heritage of New Zealand on behalf of all New Zealanders. The Department has primary responsibility for the conservation of New Zealand’s unique indigenous biodiversity, through protection and management of natural areas such as national parks, forest parks, reserves, off shore islands, marine protected areas and marine reserves. The Department encourages recreation and permits tourist activities on the conservation estate by providing facilities, management and granting of concessions in relation to access and commercial use.

The Conservation Act 1987 is the principal Act of 25 Acts administered by the Department of Conservation. In terms of Fiordland and the marine coastal environment these include the National Parks Act 1980, Reserves Act 1977, Wildlife Act 1953, Trade in Endangered Species Act 1989, Marine Reserves Act 1971 and Marine Mammals Protection Act 1978.

Marine and coastal conservation is an important responsibility of the department. It is responsible for Marine Reserves and for protecting marine mammal such as dolphins, whales, sea lions and fur seals and administers the regulations governing the whale and dolphin watching industry. The department is also responsible for the New Zealand Coastal Policy Statement, which promotes the sustainable management of the natural and physical resources of the foreshore, seabed, coastal water and airspace from the high tide mark out to the 12-nautical mile

limit of the Territorial Sea. Restricted coastal activities identified in the New Zealand Coastal Policy Statement must be included in Regional coastal plans required under the Resource Management Act 1991, which are administered and enforced by local Regional Councils, who manage and approve coastal consents for restricted coastal activities.

### ***Fiordland National Park***

The Southland Conservancy includes the Fiordland National Park (New Zealand's largest at 1,257,000 ha), which forms part of the Te Waipounamu – Southwest New Zealand World Heritage Area, and includes the Waitutu forest and the off shore Solander Island group, with its sea borne boundary extending to the mean high water mark. The Southland Conservancy Office is situated in Invercargill with the day-to-day operational management in Fiordland undertaken by the Te Anau DoC Area Office. The Te Anau Area Office/ Fiordland National Park Visitor Centre receives 150,000 visitors annually. The Southland Conservancy issues and administers approximately 140 concessions for commercial activity within the DoC estate including tourist landing and access and marine mammal watching. The Southland Conservancy operates an annual budget of approximately \$8.7 million, which is partly funded from revenue generation of \$2.9 million derived from concession licences, rentals and hut fees. The Conservancy employs about 90 permanent staff and up to 50 temporary and seasonal staff.

### ***Marine Reserves***

There are currently two Marine Reserves in Fiordland. Te Awaatu Channel (The Gut) Marine Reserve covers 93 ha near the eastern end of Bauza Island in Doubtful Sound and Piopiotahi Marine Reserve covers 690 ha along the northern shore of Milford Sound. Section 3 (1) of the Marine Reserves Act 1971 states that marine reserves are established “*for the purposes of preserving, as marine reserves for the scientific study of marine life, areas that contain underwater scenery, natural features or marine life, of such distinctive quality, or so typical or beautiful or unique that their continued preservation is in the national interest.*”

In administering marine reserves the Department places considerable effort on advocacy and education by providing opportunities for the public to learn about the marine life and habitats of the marine reserve. This is primarily achieved through the production of a *Fiordland Marine Reserves* pamphlet incorporating a *care code for divers*, boat ramp signage and interpretation panels erected at the Milford tourism booking office and West Arm information centre.

### ***DoC Compliance***

Present DoC policy is to provide effective compliance and law enforcement for each gazetted marine reserve. A *Compliance and Law Enforcement Action Plan* has been developed for both Fiordland marine reserves setting out the standard operating procedure for investigating complaints of illegal fishing inside the marine reserve.

Under the Marine Reserves Act 1971 it is an offence to:

- take any plant or animal:
- wilfully damage or injure marine life:
- erect any structure in, or over a marine reserve:
- wilfully interfere with or disturb marine life, foreshore or seabed, or natural features:
- discharge any substance or article injurious to marine life in, or into the reserve:
- introduce any living organism that does not naturally occur in the reserve.

While all fishing or taking of fish is prohibited inside marine reserves, all relevant fisheries regulations still apply in regards to possession of fish relating to minimum size and amateur daily bag limits.

Marine Reserves legislation provides for court penalty on conviction of up to 3 months imprisonment and/or maximum fines of \$250,000, \$50,000, \$10,000, \$5,000 and \$2,500 for differing categories of offending. For example the taking and removal of marine life for commercial purposes has a maximum fine of \$250,000, while wilful damage or injury of marine life attracts a maximum fine of \$10,000. Obstruction of an enforcement officer has a maximum fine of \$2,500 or up to 3 months imprisonment.

### ***Warranted Officers/Rangers***

Conservation enforcement is undertaken by warranted officers appointed pursuant to Section 59(9) of the Conservation Act 1987. In the Murihiku Region nominated conservancy staff are trained and warranted to carry out part time Compliance and Law Enforcement (CLE) duties. Provision exists for the appointment of Honorary Rangers under Section 17(1) of the Marine Reserves Act 1971, while subsection (7) provides that every member of the New Zealand Police and every Fishery Officer (appointed pursuant to the Fisheries Act) is deemed to be a Ranger appointed by the Director-General to exercise the duties of a Ranger in marine reserves throughout New Zealand. General enforcement powers relating to stop, search, questioning and seizure are exercisable within a marine reserve, but can only be used outside a marine reserve if the ranger is in fresh pursuit of an offender. This severely limits enforcement responses such as random vessel stopping, search and conducting enquiries outside the reserve.

Both Fiordland marine reserves are relatively isolated with accessibility limited primarily to boats, necessitating the use of sea-borne patrols for any proactive enforcement monitoring. Identified threats are illegal fishing and diving for rock lobster by recreational fishers and potential damage of marine life from inexperienced scuba divers.

The Department operates the 16.5 metres length GV *Renown* to perform programmed research and conservation project servicing around the Fiordland National Park. When the occasion arises the present skipper of the *Renown* is warranted to check boats that he observes inside the marine reserve and is also warranted as an HFO to exercise Fishery Officer powers both inside and outside the reserve. However ready deployment of the *Renown* to investigate illegal activity within the two present reserves is often impractical depending on where the vessel is operating and the steaming time to reach the reserve. In the absence of any dedicated enforcement patrols and the lack of warranted DOC staff to regularly monitor each reserve, the Department recognises the importance of tourist operators and commercial fishers who regularly pass through or near marine reserves to be their eyes and ears to report offences. Reports of illegal activity and offences are passed onto a designated CLE co-ordinator for appropriate response action including follow up investigation, the issuing of warning letters for first offences and prosecution action.

Similarly the Marine Mammals Protection Act 1978, Section 11(1), provides for every warranted officer appointed pursuant to the Conservation Act 1987 and every Fishery Officer appointed under the Fisheries Act and every Police Constable to be Marine Mammal Officers for the purposes of enforcing the Act. Subsection (9) states the Director-General shall issue to every Marine Mammal Officer (except a constable) a warrant showing the officers authority to exercise the enforcement powers conferred by the Act.

## **Environment Southland Compliance Role**

### *Legislation Mandates*

Local government responsibility for administering and enforcing coastal use activities in the Fiordland and Southland coastal area is the responsibility of Environment Southland which administers several important Acts requiring enforcement and compliance actions:

- Local Government Act 1971 (currently being reviewed)
- Resource Management Act 1991
- Maritime Transport Act 1994
- Bio-security Act 1993.

In Resource Management Act terms, the Coastal Marine Area (CMA) for which the Council has responsibility with the Department of Conservation is from the mean high water spring (MHWS) mark out to the 12-nautical mile limit of the territorial sea.

### *Delivery of Enforcement and Compliance Services*

In the coastal context, the majority of Environment Southland enforcement and compliance work is activated through the Resource Management Act and the regional Coastal Plan. The Act sets up the management framework and the Plan sets out the rules that have to be complied with.

Compliance is dealt with in a number of ways from activities, which are permitted without any further intervention from the Council, through to those that are prohibited. The consents process is one of the compliance mechanisms that sanction activities where the Plan or the Act determines that consent is required before they commence.

Failure to comply with the conditions of consent; failure to comply with the provisions of the Plan; or failure to comply with the provisions of the Act can all initiate a compliance response. In some cases a compliance response is initiated by way of a complaint from the public about a certain activity or effect that is being caused in the environment.

The regional Navigation Safety Bylaws also provide a compliance tool relating to a range of activities around the operation of vessels within the coastal marine area.

The components of the compliance task can include some or any of the following compliance tools being used (in priority order):

- education/advocacy;
- warnings;
- instant fines;
- Abatement Notices;
- Enforcement Orders;
- prosecution under the regional Coastal Plan and/or the regional Navigation Safety Bylaws (resulting in a criminal conviction and fine. Imprisonment is an option for the Court if needed);
- review of consent conditions;
- cancellation of consent (through the Environment Court).

### ***Environment Southland Capacity/Resourcing***

The compliance and enforcement function is undertaken primarily through the Council's Compliance Division but also to some extent through the Consents Division. The Maritime Manager/Harbourmaster also has a compliance role under the Resource Management Act and bylaws relating to maritime navigation and safety.

The present Environment Southland compliance resource capability is as follows:

- Compliance Division – 6 personnel
- Consents Division – 4 personnel
- Maritime Manager – 1 personnel

Other Environment Southland staff, when carrying out their normal duties, can also provide the first contact with an issue that requires compliance or enforcement action. In those cases, the Compliance Division is notified. Environment Southland recognises additional “eyes and ears” out in the community can be a valuable asset. Establishing effective networks, liaison, protocols, and strategic alliances with other agencies for the purpose of information sharing is important. Working more closely together helps in covering such a vast area such as the Southland and Fiordland coastline.

### **Guardians Approach to Compliance**

#### ***Compliance Networks***

The remoteness and isolation of Fiordland imposes considerable logistical difficulties and high costs on enforcement agencies in carrying out both proactive and reactive enforcement. Enforcement in all reality remains a necessary back up to an effective education and awareness programme, with enforcement resources targeting where possible repeat and aberrant offenders.

Meaningful responses to reports of illegal activity, requires timely and accurate reporting of offences to the appropriate enforcement authority. Directed policing and ready accessibility is hampered by the isolated geographic spread of Fiordland, combined with the dispersed and sometimes irregular human occupation allowing some opportunist offending to go undetected. However past experience has shown any sustained illegal activity is eventually reported by law-abiding operators.

Therefore it is important for enforcement agencies to cultivate effective information networks with key users and commercial operators encouraged to immediately pass on intelligence and any reports of illegal activity.

#### ***Guardian's Advocacy and Stakeholder Ownership***

The Guardian's of Fiordland's Fisheries Inc being representative of key stakeholder groups in Fiordland are well placed to fulfil a strong advocacy role to negotiate the adequate provision and delivery of enforcement services by the appropriate enforcement agencies and by providing valuable feedback and advice on compliance effectiveness.

Key stakeholders and regular fisheries users within Fiordland can play a major role in encouraging voluntary compliance of fishing rules. Key user groups include sport fishing and diving clubs, charter boat operators, private vessel syndicates and commercial fishers. As the majority of first time fishing interaction for many fishers visiting Fiordland takes place from either a charter vessel, private syndicate vessel or during an organised fishing or dive club visit, it is important that each user group accepts responsibility to ensure all fishers are made aware of the fishing rules and that all fishing is conducted within the rules.

This requires all regular fisheries users and charter vessel operators to take ownership and responsibility to promote the fishing rules by distributing brochures, displaying information posters and most importantly briefing and supervising fishers on board their vessels. Where possible any observed breaches of illegal activity should be promptly reported to MFish or the appropriate enforcement agency. In addition to supporting fishing regulations the potential use of voluntary codes of practice for charter boats and syndicate vessels, require all participants to play the game responsibly, with peer sector pressure a strong and positive motivator to conform.

### ***Enforcement Agency Co-operation***

With the introduction of any new rules, voluntary compliance requires the production and distribution of concise and informative pamphlet and signage material to clearly detail the appropriate rules applying both generally and to specific areas within the fiords. Interagency co-operation in co-production and shared funding of education material will be of major benefit to ensure visitors and users receive targeted information.

The primary agencies for delivering enforcement services relating to fisheries and the marine environment are the Ministry of Fisheries, Department of Conservation, Maritime Safety Authority and Environment Southland, along with co-operation with the New Zealand Police, New Zealand Customs Service and the New Zealand Defence Force. While each government agency is responsible for carrying out enforcement activities in support of administering specific departmental legislation, where possible, inter agency co-operation should be encouraged in relation to the sharing of intelligence relating to offenders and illegal activity.

Interagency co-operation could extend to planning of joint agency responses in carrying out proactive maritime and aerial surveillance patrols and to investigate reported offences. Presently, the facility exists for appropriate Department of Conservation Officers to be warranted as Honorary Fishery Officers with limited training provided to assist in the delivery of non-commercial fisheries enforcement and education. Reciprocal facility exists under the Marine Reserves Act for Fishery Officers to carry out enforcement powers of Marine Reserves rangers within marine reserves in support of Department of Conservation rangers.

Interagency co-operation and improved co-ordination of enforcement resources is deemed necessary and essential to ensure limited agency resources and funds are cost effectively utilised. The Guardians support an integrated enforcement approach should be taken by the various agencies to ensure the best results and compliance outcomes are achieved for Fiordland.