

Statement of the nature and magnitude of the problem and the need for government action

1. Fiordland is a globally unique marine environment that contains both exceptional marine biodiversity and valuable marine resources. Many species are found nowhere else. Other species, such as the protected black and red corals, are found here because of the unique combination of high mountains, high rainfall, and rainforest. The result is a darkly stained freshwater layer causing a huge reduction in light levels allowing normally deepwater species to live much closer to the surface. The diversity of species and habitats of the rock wall communities in Fiordland rival those in the most species rich regions of the globe.
2. Fiordland is also an important economic area. The landscapes of the fiords are iconic and over 300,000 tourists visit Milford Sound annually. The marine environment harbours important fisheries stocks, most notably rock lobster and blue cod. The Fiordland marine environment faces an escalation in human activity. These activities include cruise ships, fishing, diving, electricity generation and boating. These activities bring a wide variety of risks, including oil spills, bio-invasion, over fishing, and anchoring damage to sensitive corals.
3. Activities are managed by a variety of legislation and agencies, including both central and local government. Statutory planning processes can be very time-consuming. For example, Environment Southland's Regional Coastal Plan has been 11 years in development and is yet to become fully operative, due to references (objections) in the Environment Court. Fiordland's great size and relative remoteness can result in a lack of integration between the agencies, and this risks significant harm to Fiordland's values through poor co-ordination and information exchange. Additionally, there is currently little formal involvement by the community in decisions around the management of the Fiordland system.
4. The Guardians of Fiordland's Fisheries and Marine Environment (the Guardians) is a community group from the Fiordland area established in 1995, with major stakeholders from within the community represented. This group includes commercial and recreational fishers, environmental groups, charter and tourist operators, scientists and tangata whenua.
5. The Guardians identified that the marine area of Fiordland had many special features that need careful management, and believe this is best resolved at the local level. To do this, the Guardians produced the Fiordland Marine Conservation Strategy. This Strategy was launched in Te Anau on the 6th of September 2003 by the Ministers of Fisheries and the Environment, who made a commitment to implement this Strategy within two years.
6. Cabinet noted the Ministers endorsement to implement the Strategy by September 2005 (Cabinet Minute (03) 38/4). Officials formed an Investigative Group, which included the Guardians, to investigate and report on ways of giving effect to the intent of the Strategy.

Statement of Public Policy Objective

7. The public policy objectives below are consistent with the Guardians vision that "the quality of Fiordland's marine environment and fisheries, including the wider fishery experience, be maintained or improved for future generations".

8. The public policy objectives for the Fiordland Marine Area are to:

- Ensure that, in management of natural and physical resources, full and balanced account is taken of:
 - The intrinsic values of ecosystems
 - All values held by individuals and groups on the quality of the environment
 - The needs of future generations, in accordance with the Environment Act (1986)
- Provide for utilization, while ensuring sustainability, in accordance with the Fisheries Act 1996
- Advocate the conservation of natural and historic resources generally, in accordance with the Conservation Act 1996
- Ensure that 10% of the marine environment is protected by 2010, in accordance with the New Zealand Biodiversity Strategy
- Implement the efficient and effective integration of the regulatory management agencies
- Ensure the Fiordland Marine Area is established by September 2005.

Statement of feasible options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objectives

Status Quo

9. Currently the Fiordland marine area is managed by a number of different agencies and under a range of legislation. These include the Ministry of Fisheries, Department of Conservation, Environment Southland, and the Maritime Safety Authority.

10. The Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986 and the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 govern the harvesting of fish within the Fiordland. Recreational fishers can use pots, dredges or set nets to take species such as, for example, 30 blue cod, 10 paua, and 6 rock lobster per person per day. A fisher may also accumulate their daily catch during extended recreational fishing trips of several days duration. To exercise this defence the fisher must be able to prove that the fish or shellfish was taken within the prescribed daily limit on each day fished.

11. It is not appropriate to maintain the status quo as it does not meet the public policy objectives.

Preferred Option: Change to the Management of Natural Resources in Fiordland.

12. The preferred option includes a package of non-regulatory and regulatory measures, and legislative change. These changes include:

- a. Non-regulatory measures, which include:
 - Establishing voluntary industry codes of practice for users of Fiordland's resources, such as good anchoring practices
 - Establishing dedicated planning and implementation groups, comprising relevant central and local government management agencies, with community input through the Guardians, to:
 - Address the threats associated with marine bio-invasion and seek to reduce this threat (the Marine Biosecurity Agency to lead)
 - Improve information availability and awareness by users of the Fiordland area of the changes in management measures (the Ministry for the Environment to lead)
 - In a more integrated and effective way, implement compliance and enforcement measures (the Ministry of Fisheries to lead)
 - Gather appropriate information and undertake monitoring of the state of the marine environment, the level of activities, and any associated impacts (the Department of Conservation to lead).
- b. New regulations, under the Fisheries Act, to:
 - Prohibit commercial fishing inside much of the inner fiord area
 - Alter the recreational daily bag limits for a range of species, including for example:
 - Blue cod (down from 30 to 3 per day within the fiords, down to 20 per day outside the fiords, both with no accumulation, and a total catch ban within Milford and Doubtful Sounds for two years)
 - Groper (proposed to be 3 per day within the fiords, and 5 per day outside, with no accumulation)
 - Rocklobster (down from 6 to 3 per day within the fiords with no accumulation, and remaining at 6 per day outside the fiords, but with a maximum accumulation of 15).
 - Prohibit or restrict accumulation of recreational daily bag limits for blue cod, groper, jock stewart, rock lobster, paua and scallops
 - Restrict the following bulk harvesting methods inside much of the fiords:
 - cod pots, scallop dredges and set nets will be banned within the inner fiords due to their capacity to damage delicate species
 - dahn (multiple hook) lines will be limited to 2 per boat and 5 hooks per line
 - rocklobster pots will be limited to 3 per boat.
- c. Legislative change, through a new Fiordland-specific Act, to:
 - Establish the Fiordland Marine Area comprising an estimated 928,000ha, with commercial fishing excluded from 46,000ha of the inner fiords and 9430ha within eight new marine reserves.
 - Recognise the national and international importance of the area

- Create the Fiordland Marine Guardians advisory committee as a statutory body:
 - To comprise eight members appointed by the Minister for the Environment and who are a fair reflection of the range of interests (community, tangata whenua, commercial and recreational fisheries, charter boat operators, tourism interests, research and environment sectors) relating to the Fiordland Marine Area
 - To provide integrated advice on marine management within the Fiordland Marine Area
 - To facilitate integration between other central and local government management agencies and provide a forum for these management agencies to work together
 - To assist the management agencies in their operational capacity, as needed
 - Note, this statutory advisory committee is not the same body as the Guardians of Fiordland's Fisheries and Marine Environment Inc.
- Require the various management agencies (including the Ministry of Fisheries, Department of Conservation, Marine Biosecurity Agency, Environment Southland, and Maritime Safety Authority) to have regard to the advice provided by the Fiordland Marine Guardians
- Create eight new marine reserves (9430 ha in total) with appropriate conditions for each to provide for and manage a number of Fiordland-specific issues, including tangata whenua collection of non-living taonga, the storage of live rock lobster prior to export and the storage of unused rocklobster pots, restricting public access to sensitive areas and managing vessel anchoring practices.
- Require the Minister for the Environment to review, at five years after implementation, the effectiveness of the package of management measures
- Modify the Southland Regional Coastal Plan to include specific requirements relating to management of resource consents, vessel anchoring, diving activities and biosecurity

Other Options considered, but discarded:

13. The first option involved using existing legislation and management systems only to bring in the changes. Most of the specific immediate management measures could be implemented through existing statutory processes or Government policy by September 2005 (to meet commitments made to the Guardians). However, the changes to Southland's regional coastal plan could not. The overall result would have been a piecemeal and complex system, with lower certainty of delivering sound outcomes over time and would not meet local expectations.

14. The second option of developing new comprehensive legislation to improve integrated management is considered to be too complex and time consuming, and carries the very high risk of not being able to meet the expected timetable. In addition, it would set the precedent of completely replacing existing legislation within a defined geographic area of the country.

15. The third option proposed using a Fiordland-specific Act, but only to implement the management measures requiring immediate change. It did not propose to provide for ongoing management. It did not include: a purpose provision to identify the special values and to guide decision-makers; a statutory body with specified functions, including to provide advice on future management measures; nor a requirement that agencies have regard to its advice, and would not meet local expectations.

Statement of the net benefit of the proposal, including the total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of the proposal, and other feasible options

Environmental and Societal

16. Fisheries stocks, in particular the longer lived species (such as groper) and the iconic rock lobster and blue cod, will benefit from improved management. More focussed monitoring of populations and catches will improve sustainable utilisation of these important resources; in particular for rock lobster, as the Fiordland population acts as a brood stock for much of New Zealand. The fisheries management measures anticipate and allow for increased future recreational fishing demand, while still allowing fishers to 'fish for a feed' today - this meets the principles of sustainable fisheries management.

17. Additional benefits also come from maintaining a quality recreational experience in Fiordland, in the face of increasing visitor numbers and demand. Diving and fishing charters are the main tourist activities outside the main tourist destinations of Doubtful and Milford Sounds. Maintaining healthy fisheries, marine habitats and well protected iconic local attractions, such as black and red corals and underwater vistas, will continue to guarantee Fiordland a role as a premier dive location and fisheries experience.

18. Improved risk management for Fiordland, especially from the effects of over-fishing, bio-invasion and oil spills, will safeguard many of the area's unique resources and opportunities. Many of the species and habitats are slow-growing and long-lived. They are effectively irreplaceable. Greater effort and improved integration of compliance and enforcement, as well as monitoring and information provision, should result in more effective management of these risks. The likelihood of damaging effects from over-fishing, bio-invasion and oil spills, among others, should be greatly reduced.

19. This proposal has generated significant local support. It is not possible to place a financial value on this; however, the non-financial benefit of local support to the various management agencies (information, compliance, logistics, etc) will be

significant, both in terms of direct cost savings from logistical assistance and in the benefits of opportunity costs of lower enforcement costs. The value to the local community of the Government's recognition of their contribution (local solutions developed by local people) is inestimable.

Government (Central and Local).

20. In implementing this proposal in Fiordland, the government gains a significant contribution towards its targets under the New Zealand Biodiversity Strategy of achieving 10% of the New Zealand marine environment within marine protected areas. A significant amount of new marine protected area will be created (eight new marine reserves covering 9430 ha) and comprises more than 13% of the inner fiord area and associated habitats.

21. The Minister for the Environment's formal review of the whole package of management measures, after the first five years of operation, provides a significant opportunity for the community and management agencies to evaluate the overall effectiveness of the programme. The review should be able to identify and target under-represented habitats or threatened areas within Fiordland, and address new issues.

22. Costs fall in a number of areas. Implementing the Strategy will require central government agencies to allocate greater resources to Fiordland to guarantee success. These resources are not currently allocated within baselines, and additional resource will be needed.

	\$m - increase/(decrease) GST incl			
	2004/05	2005/06	2006/07	2007/08 & outyears
Proposed Departmental Costs				
Environment	0.000			
Fisheries:				
Information and Monitoring	0.000			
Enforcement of Fisheries Policies	0.000			
Biosecurity (Fisheries)	0.000			
Conservation	0.000			
Total increase sought for FY 2004/05 only	0.000			

23. All of the significant costs associated with ongoing management activities, such as monitoring, compliance and enforcement, education and information, and biosecurity activities, are estimates. Special interagency working groups are being established to plan and integrate these activities to improve delivery and effectiveness, and reduce overall costs.

Industry and Community

24. The most significant outcome of the Guardians' process is the package of measures proposed in their Fiordland Marine Conservation Strategy. This package arose from a process known as the 'gifts and gains' whereby each stakeholder group gave up some of their access to marine resources for the wider gain of the Fiordland marine environment. Because of this process, the costs that may fall on each of the stakeholder groups, of implementing these management measures, is understood and accepted by them as part of the benefits to accrue to the wider Fiordland area.

25. Rock lobster and paua are the most significant commercial fisheries. Fishers catch less than 10% of their catch in the inner fiords. They have agreed to forgo this opportunity by fishing their entire quota on the outer coast. All commercial fishers will now have to comply with the regulations of the proposed marine reserves. Some of the proposed marine reserves include areas where rocklobster fishers have traditionally stored unused pots and temporarily stored (coffed) their live rocklobster prior to export from Fiordland. Due to the geography of Fiordland there are no alternatives to these areas. Marine reserves that encompass these storage areas will include provisions for these activities to continue. There will be no charge to use these areas, rather users will be identified and appropriate concessions allocated by the Department of Conservation.

26. As they no longer have to compete with commercial fishers, recreational fishers have agreed to reductions in their catch. This includes temporary closures of Doubtful and Milford Sounds to blue cod fishing, to allow these stocks to rebuild. Additionally, there will be no ability to accumulate daily catches over a multi-day expedition in the fiords and there will be some method restrictions to reduce accidental damage to delicate or slow growing species, such as the corals.

27. All fishers agreed to the establishment of the eight new marine reserves to safeguard representative areas. Environment groups have also agreed to these areas, provided adequate monitoring is included and the five-year review is carried out.

28. With the creation of marine reserves, tourist operators will require concessions from the Department of Conservation, if their business includes activities inside proposed marine reserves. The Department of Conservation anticipate the annual cost of administering a concession to be between \$600 and \$1600 and this cost will be passed on to the charter boat operator. The concession fee may be reduced or waived in situations that involve the public good, core educational or non-commercial activities, or clear benefits to management. If a charter boat does not operate within a marine reserve, then this additional concession is not required. Fishing charters therefore would not require a concession. Marine reserves do not restrict the right of free passage.

Statement of consultation undertaken

29. The Guardians engaged in wide consultation with their draft Strategy prior to its launch. Submissions on the draft Strategy were carefully recorded, evaluated, and the final Strategy document reflected many of these recommendations. Due to the thorough consultative process, and the representative nature of the Guardians, it is

considered that there has been sufficient consultation over the issues raised by stakeholders in the Fiordland community.

30. In preparing their recommendations officials held discussions with representatives of the Guardians and these resulted in no significant concerns over the final proposals.

31. In preparing this proposal for Cabinet the Ministry for the Environment, the Ministry of Fisheries, the Department of Conservation, the Treasury, the Ministry of Justice, Te Puni Kokiri, Land Information New Zealand, the Ministry of Transport, the Maritime Safety Authority, and the State Services Commission were consulted. No significant concerns were raised.

32. In addition, advice was sought from Environment Southland, the Guardians of Fiordland's Fisheries and Marine Environment (Inc) and Te Runanga o Ngai Tahu.

Business Compliance Cost Statement

33. The compliance costs to commercial fishing and charter boat businesses are:

- Learning the new regulatory compliance regime.
- Obtaining a concession from the Department of Conservation for activities within the new marine reserves.

34. For all businesses, learning the new regulatory compliance regime will involve being able to access information and a small amount of time for study. The Ministry for the Environment is leading an education and information working party that will include management agencies (the Department of Conservation, the Ministry of Fisheries, the Marine Biosecurity Agency and Environment Southland), as well as the community and industry representatives. This working party will develop simple and effective means to supply all users, but in particular businesses, with information on the new rules and regulations. It is expected that this material, once developed, will be supplied to the various businesses free of charge and in a form most useful to them and their clients. This will benefit not only the businesses and their clients, but also the management agencies.

35. At present the process for obtaining the concession has not been developed, but the Department will know who these fishers are and has committed itself to develop a system that involves the minimum compliance costs to fishers. The Department will work with these fishers to develop this before the marine reserves are established.

36. Both the charter and fishing industries are typically small, owner-operator, locally-based businesses. There are approximately 15 locally-based, owner-operator, commercial rocklobster fishers who will require such a concession. There are currently around 31 charter vessels that hold a resource consent from Environment Southland to operate within the fiords. Some vessels are permanently based there; others cruise in from outside.