

Chair

Cabinet Policy Committee

Implementation of the Fiordland Marine Conservation Strategy

Proposal

1. This is the report and recommendations of the Minister for the Environment on the preferred options for implementing the Fiordland Marine Conservation Strategy [CAB Min (03) 38/4 refers]. The key elements of the proposal are:
 - a) A proposed package of complementary management measures to give effect to intent of the Fiordland Marine Conservation Strategy, as developed by the Guardians of Fiordland's Fisheries and Marine Environment
 - b) A special form of Fiordland-specific legislation as the means to implement most of the key management measures
 - c) No increase in departmental budget baselines are necessary for 2004/05 to begin implementing the legislative changes, but increases to baselines will be sought for 2005/06 through the normal budget process for the rest of the package.

Executive summary

2. Fiordland is a globally unique marine environment that contains exceptional marine biodiversity, valuable marine resources and generates significant economic activity.
3. In September 2003, the Guardians of Fiordland's Fisheries and Marine Environment (the Guardians) completed the Fiordland Marine Conservation Strategy (the strategy) to address their concerns about the impacts of human activities on Fiordland's fisheries and marine environment. In November 2003, the Minister for the Environment was asked to report on preferred options for implementing the strategy by September 2005 [CAB Min (03) 38/4 refers].
4. This paper summarises the recommendations of the Minister's Investigative Group, which included officials from the Ministry for the Environment, the Ministry of Fisheries, the Department of Conservation, Environment Southland, Ngai Tahu and the Guardians. Their full report is attached as Annex 4.
5. The Investigative Group analysed four broad options for implementing the management measures within the proposed package that will require statutory force. These options were:

Option A: Current legislation – no new legislation - using only measures already available, primarily under the Fisheries, Marine Reserves and Resource Management Acts

Option B: Comprehensive new legislation – new legislation that would apply in the Fiordland area only, and effectively replace the Fisheries, Marine Reserves and Resource Management Acts within that area

Option C: Minimal Fiordland-specific legislation- the least amount of statutory change necessary to implement the management measures in paragraph 33, but no provisions relating to ongoing management

Option D: More comprehensive Fiordland-specific legislation - Option C plus provisions for ongoing management (i.e. a purpose provision, a statutory advisory body with specified functions, and requirement on agencies to have regard to its advice).
6. The Investigative Group recommended **Option D** for Fiordland-specific special legislation that would both implement the necessary management measures and also provide for improved future

- management. Officials have subsequently reassessed the Investigative Group's analysis and concur with its recommendation.
7. The Fiordland-specific legislation needs to be passed by September 2005 to meet public commitments. The proposed fisheries measures can be implemented by this date through the normal regulation making powers under the Fisheries Act.
 8. The key elements to be implemented through the proposed Fiordland-specific legislation are:
 - a) A new geographic entity (the Fiordland Marine Area of 928,000ha) with its own advisory committee (the Fiordland Marine Guardians). Agencies working in the Fiordland area would be required to have regard to the committee's advice
 - b) An expectation of more integrated management within the Fiordland Marine Area
 - c) Eight new marine reserves (total of 9430 ha), established primarily within the inner fiords, represent over 13% of the area of the fiords and contain significant proportions of the marine habitats present (between 5% and 23%). The two existing Fiordland marine reserves total 820 ha; New Zealand's other 15 mainland marine reserves total approximately 14800 ha. There would be a moratorium on new marine reserve applications in Fiordland until the new management measures are formally reviewed after 5 years
 - d) The prescription of Fiordland-specific management requirements for the marine reserves, including allowance for non-living taonga collection, the use of rock lobster holding pots, storage of rock lobster pots, public access and anchoring
 - e) Changes to the Southland Regional Plan to implement measures relating to resource consents, vessel anchoring, diving activities and biosecurity.
 9. The changes to Fisheries Act regulations will:
 - a) Prohibit commercial fishing within the inner fiords, which creates a 46,000 ha commercial fishing exclusion zone across all the fiords
 - b) Change total and daily bags limits on key species (e.g. blue cod reduced from 30 per day to 3 per day), impose restrictions on bulk harvesting methods, and close Milford and Doubtful Sounds to blue cod fishing for at least two years.
 10. In addition to the management measures implemented through changes to legislation, a number of administrative programmes are also proposed that will improve management through more intensive management of risks and threats to the local marine environment. Improvements in coastal planning, monitoring, enforcement, education and biosecurity will be planned and implemented by central government agencies and Environment Southland.
 11. Implementation will be spread over three years. During 2004/05 the legislative components will be developed and implemented with a view to enact the new Fiordland legislation by July 2005. During 2005/06 there will be initial implementation of the Fiordland Marine Area including the new fisheries regulations and marine reserves, but most focus will go on planning the major management operations of environmental monitoring and compliance/enforcement. During 2006/07 these operational plans will become operative, if approved during the budget process.
 12. MFish, DoC and Environment Southland will continue to undertake day-to-day planning and management, but with an enhanced expectation of contributing to an overall more integrated, co-operative and efficient management regime within the Fiordland Marine Area. Many of the initiatives proposed are new management measures that will require additional funding.
 13. No new funding is sought for 2004/05. Funding requests for these subsequent years will be submitted during the normal Budget process.

Background

Fiordland's significance

14. Fiordland is a globally unique marine environment that contains both exceptional marine biodiversity and valuable marine resources. It is also an important economic area; over 300,000 tourists visit Milford Sound annually. Human activities bring a wide variety of risks, including oil spills, bio-invasion, over fishing, and anchoring damage to sensitive habitats. More detail is provided in the Regulatory Impact Statement (Annex 1, paragraphs 1-3).

The Guardians' Strategy

15. In 2003, the Guardians of Fiordland's Fisheries and Marine Environment (the Guardians) completed a strategy to address their concerns about the impacts of human activities on Fiordland's fisheries and marine environment. More information on the Guardians is at pages 1-2 of the Investigative Group Report at Annex 4. Attached at Annex 5 is a copy of the July 2004 North and South magazine article, Guardian Angels, which recounts the history of the Guardians.
16. In their strategy the Guardians proposed a package of complementary management measures. They believed some measures were best implemented through legislative change, and some through non-statutory plans and guidelines, industry and sector codes of practice, education and information provision.

Government commitment to implement the Guardians' Strategy

17. At a public meeting in Te Anau on the 6th of September 2003 the Ministers of Fisheries and the Environment gave a strong public commitment to implementing the strategy by September 2005.
18. In November 2003 Ministers confirmed that officials should proceed to implement the management measures proposed by the Guardians [CAB Min (03) 38/4 refers]. An Investigative Group was established to support the Minister for the Environment. It included the Ministry of Fisheries (MFish), Department of Conservation (DoC), Ministry for the Environment (MfE), Maritime Safety Authority (MSA), Environment Southland, the Guardians and Ngai Tahu.
19. This paper incorporates both the Investigative Group's recommendations; their full report is attached as Annex 4; and the subsequent analysis and recommendations by officials.
20. The Ministry of Fisheries noted at that time that some of the fisheries management measures proposed by the Guardians may be inconsistent with national approaches to fisheries management and that some fisheries management measures would also be difficult to enforce.

Investigative Group Report (Annex 4)

21. The Investigative Group recognised the Government's expectations to:
 - a) Complete the initial implementation by September 2005
 - b) Maintain the significant levels of community support
 - c) Retain flexibility about the most appropriate means to implement the proposed management measures.
22. Completed in May 2004, the Investigative Group report confirms the package of measures is feasible and recommends the best means to implement them. Some management measures were slightly modified by this process, but always with the Guardians' agreement.

Recommendations on the Package of Management Measures

23. The Investigative Group's recommendations on the package of management measures are provided at pages 7-9 in Annex 4. All have the Guardians' full agreement and endorsement.
24. In summary, the following should be provided for in a future Fiordland management regime:
- a) A Fiordland Marine Guardians advisory committee
 - b) An obligation on the primary marine resource management agencies (for fisheries, marine reserves, coastal planning and biosecurity) to have regard to the advice of the Fiordland Marine Guardians
 - c) A defined boundary for the Fiordland Marine Area and the management measures within it (see Map 1)
 - d) Eight new marine reserves in the Fiordland area, by September 2005 with specific conditions attached to each (see Map 2 for indicative marine reserve locations)
 - e) Review of the effectiveness of the package of management measures after five years of operation
 - f) A moratorium on subsequent marine reserve applications which expires at the completion of the first year review or at seven years, whichever is sooner (see Annex 4, paragraph 5d)
 - g) Changes to the Proposed Southland Regional Coastal Plan to implement the management measures relating to resource consents, vessel anchoring, diving activities, biosecurity and 'china shop' rules, by September 2005 (see Annex 4, pages 19-21, 36-37, 44-45 for detail)
 - h) Changes to local recreational and commercial fisheries regulations (see Annex 4, page 29 for detail)
 - i) A number of non-statutory, planning and administrative measures.

Options to Implement the Fiordland Management Measures

25. The Investigative Group recognised and used, wherever possible, existing management mechanisms; both statutory and non-statutory. Many of the proposed management measures can be implemented through non-statutory means (administrative, policy and operational changes). However, at least one of the proposed management measure (changes to the Southland Regional Coastal Plan) will be difficult to complete by September 2005 using normal processes.
26. Officials were mindful of the Government's expectations of implementing the package by September 2005, retaining a flexible approach and maintaining community support. Hence, it was considered important to simultaneously implement all the major management measures. This avoids any perception of an imbalance in the negotiated outcome (the gifts and gains) which the community considers all-important.
27. The Investigative Group analysed four broad options for implementing the management measures.
- Option A: Current legislation** – no new legislation - using only measures already available primarily under the Fisheries, Marine Reserves and Resource Management Acts
- Option B: Comprehensive new legislation** –new legislation that would apply in the Fiordland area only, and effectively replace the Fisheries, Marine Reserves and Resource Management Acts within that area
- Option C: Minimal Fiordland-specific legislation**- the least amount of statutory change necessary to implement the management measures in paragraph 46, but no provisions relating to ongoing management
- Option D: More comprehensive Fiordland-specific legislation** - Option C plus provisions for ongoing management (i.e. a purpose provision, a statutory advisory body with specified functions, and requirement on agencies to have regard to its advice).

28. Since the Investigative Group report was completed, officials have undertaken more detailed analysis of these options. The overall nature of the options has not significantly changed, but the descriptions above have changed slightly. The analysis presented in Annex 2 is slightly different to that in the Investigative Group report. However, the overall conclusion and recommendations of the Investigative Group has not been changed.
29. In summary:
- a) **Option A** is not recommended. It involved using existing legislation and management systems to bring in the management measures. 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 was unlikely to meet local expectations.
 - b) **Option B** is not recommended. It proposed developing new comprehensive legislation to completely replace existing laws in the Fiordland marine environment. It was considered to be too complex and time consuming, and carried 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.
 - c) **Option C** is not recommended. It proposed using a Fiordland-specific Act, but only to implement the management measures requiring immediate change. It did not propose to provide a statutory basis for ongoing management. It did not include: a purpose provision to identify the special values and to guide future decision-makers; a statutory body with specified functions, including provision of advice on future management measures; or a requirement that agencies have regard to its advice.
30. **Option D is recommended**, and is endorsed by Investigative Group, including MFish, DoC, Environment Southland, MfE, Ngai Tahu and the Guardians of Fiordland's Fisheries and Marine Environment. This option overcomes the limitations of the other options by being able to:
- a) Recognise the special nature of Fiordland's marine environment
 - b) Create the Fiordland Marine Guardians committee and specify its functions in statute including the need for its advice to be developed in an integrated way
 - c) Define a statutory boundary for all the management measures of the Fiordland marine area, and in the process create a geographically recognisable management entity
 - d) Impose a statutory duty on decision makers under the Resource Management, Fisheries and Marine Reserves Acts to have regard to the advice of the Fiordland Marine Guardians
 - e) Provide for a formal review of the package management measures after five years of operation and periodically thereafter.
31. Overall, it is estimated that there will be little cost difference between the options, once implemented. The implementation costs are of a similar order, and the significant ongoing costs of monitoring and enforcement/compliance are common to all management regimes. The parameters of the costs are set out in the Financial Implications section below.
32. The proposed management measures will be implemented in the following way:
33. **A Fiordland-specific Bill will:**
- a) Recognise the national and international importance of the marine habitats and communities and natural features within Fiordland's marine environment
 - b) Create the Fiordland Marine Guardians advisory committee. This will take an overview of marine management in Fiordland and provide integrated advice to Ministers, central government management agencies and Environment Southland on the effectiveness of overall marine

resources management within the Fiordland marine area. Annex 3 provides detail about the proposed makeup and operation of the committee.

- c) Require each of the primary management agencies making management decisions within the Fiordland marine area (Fisheries, Marine Reserves, Resource Management, Environment Southland) to recognise the Fiordland Marine Guardians and have regard to its advice
 - d) Create an entity known as the Fiordland Marine Area and define a common boundary within which the proposed management measures will apply. The Fiordland Marine Area should extend from the eastern bank of the Waiau River in Southland northwards to Awarua Point in northern Fiordland, encompassing all of the Southland Coastal Marine Area between these two points, and including all the sea area from mean high water springs out to the 12 mile territorial limit adjacent to the Fiordland, including the waters of the fiords, but excluding the area around Solander Island, as illustrated on Map 1. This area would be approximately 928,000 ha.
 - e) Create eight new marine reserves in the Fiordland marine area, as set out in the attached Map 2 comprising a total of 9430 ha.
 - f) For each new marine reserve, include conditions applying to non-living taonga collection, the storage of rock lobster and pots, public access and anchoring
 - g) Require a review of the effectiveness of the management measures to be undertaken after five years and periodically thereafter
 - h) Disallow subsequent marine reserve applications within the Fiordland Marine Area until the completion of the first review of management, or at seven years from commencement of the Act, whichever is sooner
 - i) Create changes to the Southland Coastal Plan to implement the management measures relating to consents, vessel anchoring, diving activities, biosecurity and 'china shop' rules, as set out in the Fiordland Marine Conservation Strategy Investigative Group Report, Annex 4 at pages 36-37 and 44-45.
34. **Other legislative changes will:**
- a) Implement all the fisheries management measures through existing regulation-making powers under the Fisheries Act 1996, as described in Table 1.
35. **Administrative changes will:**
- a) Require the formation of interagency groups to undertake the following tasks:
 - (i) **Implementation Planning** - The Ministry for the Environment will convene an 'Implementation Planning Group' to provide project planning and overall co-ordination for the period until the Fiordland Marine Guardians are established and departments and agencies have developed the specific management programmes noted below.
 - (ii) **Fiordland Marine Guardians set-up and support** - The Ministry for the Environment will, within the parameters set by Cabinet, be responsible for establishing and managing the Fiordland Marine Guardians.
 - (iii) **Environmental Monitoring** - The proposed new management measures will require monitoring. It is proposed that DoC lead and co-ordinate the development of a monitoring plan for the area.
 - (iv) **Compliance and Enforcement planning** - A new and innovative approach to compliance and enforcement in Fiordland. These need to be carefully planned so that responsibility is appropriately shared between the community and the relevant statutory agencies. It is proposed that MFish lead and co-ordinate the development of a compliance and enforcement plan for the area.
 - (v) **Biosecurity** - Preventing incursions by unwanted marine species that could impact on the particular habitats and values of the Fiordland marine environment is a priority. It is

proposed that the Marine Biosecurity Agency lead the development of a marine biosecurity plan for the area.

- (vi) **Information and Education** - Associated with both monitoring and compliance, but also as part of the broader requirement to change people's awareness and manage their behaviour is the need to inform them. DoC, MFish and Environment Southland will need to produce new information material, ranging from signs to pamphlets. It is proposed that Environment Southland (with MfE support) lead this role.
- b) Require central government agencies to assess and implement improved management relationships and interactions in the area.

Process and Timetable for Implementation

- 36. It is proposed that implementation take place in three stages, over three years; legislative (broadly 2004/05), planning (broadly 2005/06) and operational implementation (2006 onwards).
 - a) **Legislative** – During 2004/05 the relevant legislative initiatives will be developed, culminating in the passing of the Fiordland Marine Area Bill. This would also include the Fisheries Act Regulations. The outcome of this stage would be the implementation of the key management elements of the Guardians strategy with establishment of the Fiordland Marine Area, revised fisheries management rules, marine reserves and the Fiordland Marine Guardians advisory committee. The target date for the legislation to pass is July 2005. The Fiordland Marine Guardians committee could be established earlier by the Minister for the Environment to assist with the planning stage.
 - b) **Planning** – Once the Fiordland Marine Guardians are established they will be able to assist in the planning, development and co-ordination of the various operational requirements of the Fiordland Marine Area. Although various statutory agencies will have their lead roles as described above, it is important to ensure that local need, pragmatism and practicality are able to be important parts of the future management of the area and its resources. This would be a set of tasks to be undertaken during the 2005 calendar year, so that the results can become part of the various agencies business planning and Budget cycle for the 2006/07 year.
 - c) **Operational implementation** – During the 2006/07 year, i.e. from around July 2006 onwards, the agreed and funded plans associated with the relevant operational aspects of management would begin to be implemented.
- 37. This approach and timetable spreads the whole work programme over three years. It provides for a systematic and adaptive approach to planning and implementing the ongoing operational aspects of the management of the Fiordland Marine Area. It also provides for greater opportunity for the local community to work with the various management agencies to develop appropriate and innovative approaches to management, with a local Fiordland and Southland 'flavour'.
- 38. There is the risk that the Guardians may perceive this as not delivering on the original commitment to implement their strategy by September 2005. To address this risk, the proposed approach and timetable has been discussed informally with the Guardians group during August 2004. They support the approach. They also recognise the importance of, as they say, "do it once, do it right, and involve us as much as possible". The measured approach is acceptable to them.
- 39. There is also a timing risk for planning (Stage Two) and implementation (Stage Three). Agencies will need to begin planning as soon as possible in the 2005/06 year to ensure it is completed to provide fully costed proposals for the 2006/07 Budget. The Fiordland Marine Guardians will need to be appointed as early as possible if they are to play a meaningful role in this process. Officials seek the opportunity to provide indicative cost estimates early in the Budget cycle (before December 2005) and final proposals in February 2006.

Consistency with National Policies

Foreshore and Seabed legislation

40. The package of management measures and the Fiordland-specific legislation proposed to implement them are consistent with the proposed Foreshore and Seabed legislation. In particular, Ngai Tahu endorses the recommendation of the Investigative Group for Fiordland-specific legislation.

Oceans Policy

41. The development of a new approach for managing the Fiordland marine environment is consistent with the broad intent of a draft Oceans Policy, which is yet to be presented to Cabinet.

Biodiversity Strategy

42. The proposal for eight new marine reserves that cover most, but not all, of the full range of ecosystem types within the Fiordland Marine Area is consistent with the Government's policy for marine biodiversity protection of 10% of marine habitats within marine protected areas by 2010. More complete representation can be addressed as part of the initial five year review and through subsequent reviews. DoC advises that it is comfortable with the moratorium on marine reserve applications as proposed.

World Heritage Status

43. The Fiordland marine environment is of international significance and meets World Conservation Union criteria for World Heritage status. Although the Fiordland proposals would not conflict with any future World Heritage Status proposals, Ministers may wish to consider announcing their decisions on the Guardians proposals, before any announcements regarding World Heritage Status for Fiordland. This would avoid any unnecessary confusion in the Fiordland community about the Government's intentions.

Elements of the Strategy that have not been included

44. Parts of the Guardians' proposed strategy document are inconsistent with national policy and decisions. Therefore, the Investigative Group has recommended that neither the specific words of the Guardians' strategy nor their 'gifts and gains' approach be included as specific elements within the package of management measures or the process of implementation.

Next Steps

45. In order to achieve the expected timetable for implementation (by September 2005) the following key programme tasks need to be completed:
- a) Work programmes are already being developed for next year (2005/06)
 - b) Cabinet Legislative Committee approval for the draft bill (February 2005). This assumes policy development and drafting is given sufficient priority amongst the competing marine and resource management legislation drafting proposed in late 2004
 - c) Introduction of the Bill to Parliament in late February 2005
 - d) Possible establishment of a precursor committee to the Fiordland Marine Guardians by the Minister for the Environment in May or June 2005 to assist with planning for 2005/06 to meet business planning / budget timetables for the 2006/07 year
 - e) Departments and agencies begin work in July 2005 on planning for the implementation the management measures not requiring legislative change.

Consultation

46. MFish, DoC, Treasury, MSA, Justice, Te Puni Kokiri, Land Information New Zealand, and the State Services Commission have been consulted in preparing this paper.
47. This paper summarises the recommendations of the Investigative Group. The members of this group included the MFish, DoC, MfE, MSA, Environment Southland, the Guardians and Ngai Tahu.
48. The consultation undertaken by the Guardians regarding the proposed changes to management in Fiordland has effectively pre-empted the consultation normally required as part of the development of policy for new legislation. It is also considered that the Guardians would have met the consultation requirements for any marine reserve or coastal planning processes.

Human rights

49. There are no human rights issues

Legislative implications

50. The recommendations of the Investigative Group have legislative implications as outlined in recommendations 11-16 of this Cabinet paper. This paper proposes Fiordland specific legislation, as well as the use of existing regulation-making powers under the Fisheries Act 1996 to develop regulations for local fisheries management.

Regulatory impact and compliance cost statement

51. A regulatory impact and business compliance statement addresses the both the public policy objectives and alternative implementation options for this proposal. It concludes that change in the legislative regime is desirable and necessary, and that the option of Fiordland-specific legislation is appropriate. Extra compliance costs to businesses operating within the Fiordland area are identified and measures are being investigated to ensure these remain minimal. The regulatory impact and business compliance statement is attached at Annex 1.
52. Based on the information provided in the attached RIS/BCCS, the Regulatory Impact Analysis Unit considers that the disclosure of information is adequate, and the level of analysis is appropriate given the likely impacts of the proposal.

Gender implications

53. There are no gender implications.

Financial implications

(Note, all figures are have been removed as they are now part of the development of the 2005/06 Budget)

54. This is a significant new proposal for which departments and ministries with new work programmes will incur significant new costs. New funding specifically allocated and targeted to this programme will be sought in the 2005/06 Budget.
55. The significant ongoing cost areas are monitoring and compliance/enforcement activity across all areas of management. For both of these activities significant interagency planning and co-operation are likely to pay dividends. Hence the emphasis in 2005/06 for set-up and planning activity.
56. **Environmental Monitoring costs** – MFish and DoC will have new monitoring responsibilities and costs. These are split into planning costs (2005/06) and ongoing operational costs. For the first year (2005/06) planning and set up costs only are proposed. DoC has agreed to lead the planning for monitoring.
57. For 2005/06, DoC, MFish, Marine Biosecurity and MfE will be seeking increases to baselines to cover their involvement in the planning stage.
58. Outyear costs for monitoring the eight new marine reserves, fisheries populations and the other special areas and activity effects will depend on the timing and intensity of the programme. Much of any cost will cover the contracting of expert researchers, but another significant cost is logistics due to Fiordland's remote location and its enormous size.

59. A co-ordinated planning approach to monitoring, linked to other activities (compliance, site management) within the area should be able to ensure efficient monitoring. However, until agencies are able to plan, therefore know what is to be monitored, and where co-operation and synergy can be found; these estimates can not be firmed up.
60. **Compliance and Enforcement Costs** – MFish and DoC will almost certainly have higher compliance and enforcement costs than currently. MFish have agreed to lead the development of a compliance and enforcement plan during 2005/06.
61. For 2005/06, DoC, MFish, Marine Biosecurity and MfE will be seeking increases to baselines to cover their involvement in the planning stage. Both DoC and MFish expect that they will have increased compliance and enforcement costs during 2005/06 as the new rules within the Fiordland Marine Area become known..
62. Depending on the nature of the compliance and enforcement plan completed in 2005/06, there will be new costs associated with setting up new compliance and enforcement activities.
63. Biosecurity compliance costs depend entirely on the level of action proposed. No further funding is sought for this activity until a marine biosecurity plan is completed and agreed by Cabinet.
64. Environment Southland is expected to meet its own ongoing compliance and surveillance costs.

Departmental Cost Estimates

2004/05 Financial Year

65. Costs for 2004/05 will be found from within existing baselines. As this policy was not completed at the time the 2004/05 budget was completed, Departments have had to identify and defer other priority work programmes to meet the deadline for passing legislation and implementing the strategy by September 2005.
66. The current financial year (2004/05) has costs associated with preparation and planning. This includes legislation preparation and drafting (such as assisting Environment Southland to provide information on changes to its coastal plan for inclusion in the Bill), planning of an appropriate event to launch the Fiordland Marine Area, preparation of public information and establishment of the Fiordland Marine Guardians committee.

2005/06 Financial Year and beyond

(Note, all figures are have been removed as they are now part of the development of the 2005/06 Budget)

	\$m –Increase/(Decrease)				GST
	2004/05	2005/06	2006/07	2007/08 & Outyears	
Vote Environment					
Departmental Output Class: Environmental Policy Advice (funded by revenue Crown)	Nil				Incl.
Vote Fisheries					
Departmental Output Classes: Fisheries Information and Monitoring	Nil				Incl.
Enforcement of Fisheries Policies (all funded by revenue Crown)	Nil				Incl.
Vote Biosecurity - Fisheries					
Departmental Output Class: Marine Biosecurity Advice (separate decision) (funded by revenue Crown)	Nil				Incl.
Vote Conservation					
Departmental Output Class: Management of Natural Heritage (funded by revenue Crown)	Nil				Incl.
Total	Nil				

(Note – Marine Biosecurity Outyear costs (beyond 2005/06) will be subject to separate Cabinet decision based on the proposed Fiordland Marine Biosecurity Plan)

Publicity

67. A press release will be prepared once Cabinet decisions have been made. The Ministry for the Environment will develop a communications plan to ensure key stakeholders are kept informed of progress.

Recommendations

On 15 September 2004 the Cabinet Policy Committee:

1. **noted** that, in 2003, the Guardians of Fiordland's Fisheries and Marine Environment (the Guardians) completed the Fiordland Marine Conservation Strategy (the Strategy) to address its concerns about the impacts of human activities on Fiordland's fisheries and marine environment;
2. **noted** that the Guardians' Strategy is the result of an eight-year process of public discussion, consultation and negotiation. Their proposals form an integrated and complementary package and the Guardians expect the proposals will be implemented together;
3. **noted** that Ministers have given a strong public commitment to implement the intent of the Guardians' Strategy by September 2005;
4. **noted** that in November 2003, an Investigative Group was formed to provide the Minister for the Environment with a report on preferred options for implementing the Strategy [CAB Min (03) 38/4];

Options for implementing the package of management measures

5. **noted** that the Investigative Group identified four options for the implementation of the proposed statutory management measures:
 - 5.1. Option A: Current legislation – using measures already available primarily under the Fisheries, Marine Reserves and Resource Management Acts;
 - 5.2. Option B: Comprehensive new legislation – new legislation that would apply in the Fiordland area only, and effectively replace the Fisheries, Marine Reserves and Resource Management Acts within that area;
 - 5.3. Option C: Minimal Fiordland-specific legislation – the least amount of statutory change necessary to implement only the management measures, but no provisions relating to ongoing management;
 - 5.4. Option D: More comprehensive Fiordland-specific legislation - Option C plus provisions for ongoing management (i.e. a purpose provision, a statutory advisory body with specified functions, and requirement on agencies to have regard to its advice);
6. **noted** that a non-legislative approach would be piecemeal, complex, and be less certain of delivering sound marine resource management outcomes over time and would not meet local expectations;
7. **agreed** that Option D, comprehensive Fiordland-specific legislation, as set out in paragraph 5.4 above, is the recommended means to implement the statutory management measures, as it delivers the desired outcomes at no difference in overall, long-term cost;
8. **agreed** that a three-stage approach be taken to implementation:
 - 8.1. the first stage is the legislative programme (during 2004/05);
 - 8.2. the second stage is the initial establishment and planning of major programmes around monitoring, compliance and enforcement, and biosecurity (during 2005/06);
 - 8.3. the third stage is the implementation of the agreed plans (from 2006 onwards);

Statutory Measures

9. **invited** the Minister for the Environment to issue drafting instructions to the Chief Parliamentary Counsel for new Fiordland-specific legislation limited to the Fiordland area, which will:
 - 9.1. recognise the national and international importance of the marine habitats and communities and natural features within Fiordland's marine environment;
 - 9.2. create the Fiordland Marine Guardians advisory committee (the Guardians) and specify its role and functions;
 - 9.3. require each of the primary management agencies making management decisions within the Fiordland marine area (Ministers and departments responsible for fisheries, marine reserves and resource management, Environment Southland) to recognise the Fiordland Marine Guardians and have regard to its advice;
 - 9.4. create a new geographic entity known as the Fiordland Marine Area and define a common boundary within which the proposed management measures will apply as set out in Map 1 attached to POL (04)249;
 - 9.5. create eight new marine reserves in the Fiordland Marine Area, as set out in Map 2 attached to POL(04)249;
 - 9.6. for each new marine reserve, include conditions applying to non-living taonga collection, the storage of rock lobster and pots, public access and anchoring;
 - 9.7. require a review of the effectiveness of the management measures to be undertaken after five years and periodically thereafter;
 - 9.8. impose a moratorium on new marine reserve applications within the Fiordland marine area until the completion of the management review or at seven years from commencement of the Act, whichever is sooner;
 - 9.9. create changes to the Southland Regional Coastal Plan to implement the management measures relating to consents, vessel anchoring, diving activities, biosecurity and 'china shop' rules (small discrete areas that are outstanding for the abundance of particular animal species);
10. **agreed** that the Fiordland Marine Guardians advisory committee will:
 - 10.1. comprise eight members appointed by the Minister for the Environment, in consultation with the Ministers of Fisheries and Conservation, and Environment Southland;
 - 10.2. have the following functions:
 - 10.2.1. provide integrated advice on marine resource management and conservation within the Fiordland Marine Area;
 - 10.2.2. facilitate integrated management and provide a forum for management agencies to work together;
 - 10.2.3. act as a marine reserves advisory body;
 - 10.2.4. assist management agencies to:
 - 10.2.4.1. prepare and disseminate information and educational material;
 - 10.2.4.2. plan monitoring of the state of the marine environment, uses, activities and effects;
 - 10.2.4.3. undertake at five years from the commencement of the Act and periodically thereafter, a review of the effectiveness of the package of management measures;
 - 10.2.4.4. plan for compliance and enforcement;
 - 10.2.5. provide any other advice requested by Ministers;
 - 10.3. have no executive management responsibilities;
 - 10.4. be distinct from the Incorporated Society known as the Guardians of Fiordland's Fisheries and Marine Environment Inc;

11. **agreed** that the formal boundary for the Fiordland Marine Area should extend from the eastern bank of the Waiau River in Southland northwards to Awarua Point in northern Fiordland, encompassing all of the Southland Coastal Marine Area between these two points, and including all the sea area from mean high water springs out to the 12 mile territorial limit adjacent to Fiordland, including the waters of the fiords, but excluding the area around Solander Island, as illustrated on Map 1 attached to POL (04)249;
12. **directed** officials to report to Cabinet Legislative Committee by February 2005 with a Fiordland Bill that gives effect to the matters set out in paragraphs 9-11;
13. **agreed** that regulations be made to implement the fisheries management measures through existing regulation-making powers under the Fisheries Act 1996, as set out in Table 1 on page 16 of the submission under POL (04)249;
14. **directed** Fisheries officials to prepare for the Minister of Fisheries' approval, and for submission to the Cabinet Legislation Committee, appropriate Fisheries Act regulations that will implement all the fisheries management measures that will be provided for in paragraph 13 above, once the new legislation identified in paragraph 9 is enacted;

Non-Statutory Measures

15. **directed** the Ministry for the Environment (MfE) to co-ordinate project planning for the implementation of the package of management measures and the work of departments and agencies as they develop the specific management programmes in paragraphs 16-20 below;
16. **directed** The Department of Conservation (DoC) to lead the development of an integrated marine resource monitoring plan for the Fiordland Marine Area, with the support of officials from the Ministry of Fisheries (MFish), MfE, Environment Southland, the Guardians, and other interested parties;
17. **directed** the Ministry of Fisheries to lead the development of an integrated compliance and enforcement plan for the Fiordland Marine Area, with the support of DoC, MfE, Environment Southland, the Guardians, and other interested parties;
18. **directed** the MfE to work with Environment Southland to co-ordinate the development of an information and education programme for the Fiordland Marine Area, with the support of DoC, MFish, the Guardians, and other interested parties;
19. **directed** MAF Marine Biosecurity Agency officials to lead the development of a plan to address marine bio-invasion for the Fiordland Marine Area, with the support of by officials from DoC, MFish, MfE, Environment Southland, the Guardians, and other interested parties;
20. **directed** MfE, DoC, MFish and MAF (marine biosecurity), in conjunction with the Guardians and Environment Southland, to identify potential areas for better integration and cooperation between agencies, and means for achieving this;

Financial Implications

21. **noted** departments will undertake work, during the 2004/05 financial year, in preparation for the implementation of the Fiordland Marine Area, the Fiordland-specific legislation and the Fisheries Act regulations, within 2004/05 baseline allocations;
22. **noted** that departments have identified and deferred other priority 2004/05 work programmes to achieve this policy;
23. **noted** the departments are already in the process of developing funding bids for their 2005/06 work programme;
24. **noted** that funding requests for future years will be submitted during the normal Budget process.
25. **noted** that a consequence of ensuring the Fiordland Marine Guardians have a role in planning the significant work programmes for 2006/07 (monitoring, compliance, etc) is that these plans may not be completed before the end of the 2005 calendar year and so departments will need to provide indicative funding bids in the early stages of the 2006/07 budget cycle to ensure the proposed work programmes can be accounted for;

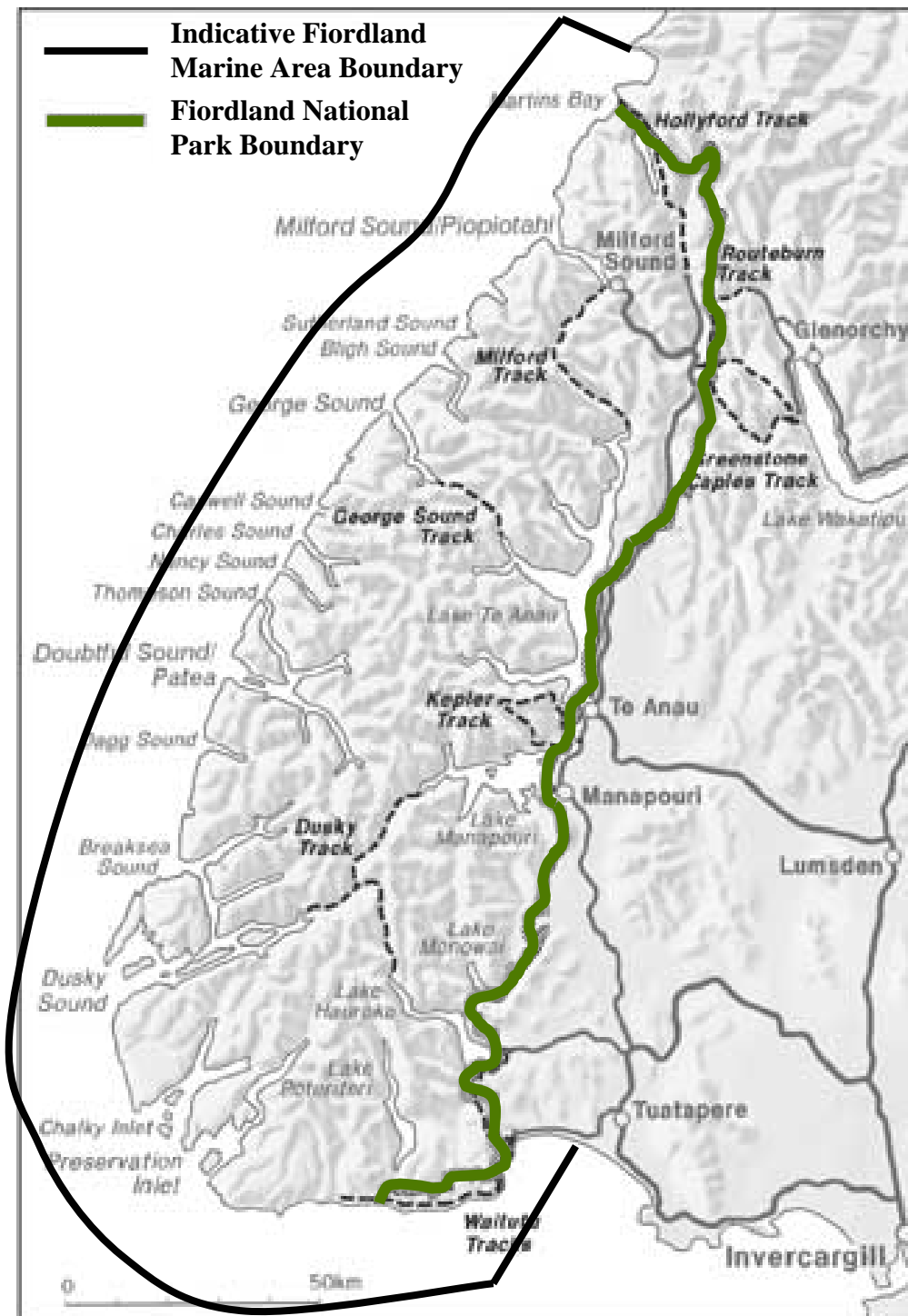
26. **authorised** an Ad Hoc Group of Ministers (the Minister for the Environment, the Ministers of Fisheries and Conservation, and the Chair of the Ad Hoc Ministerial Group on Oceans Policy (Hon Pete Hodgson)) to make decisions to implement the decisions above and any matters that are of minor detail;
27. **agreed** that the Minister for the Environment may publicly release the submission under POL (04)249 and Annexes, including the Investigative Group Report and the Regulatory Impact and Business Compliance Cost Statement, once Cabinet has made a decision;
28. **agreed** that the Minister for the Environment may make a media statement about the proposals above, once Cabinet has made a decision;

Consultation

29. **noted** that the Minister for the Environment indicates that consultation will be required with the government caucuses and other parties represented in Parliament.

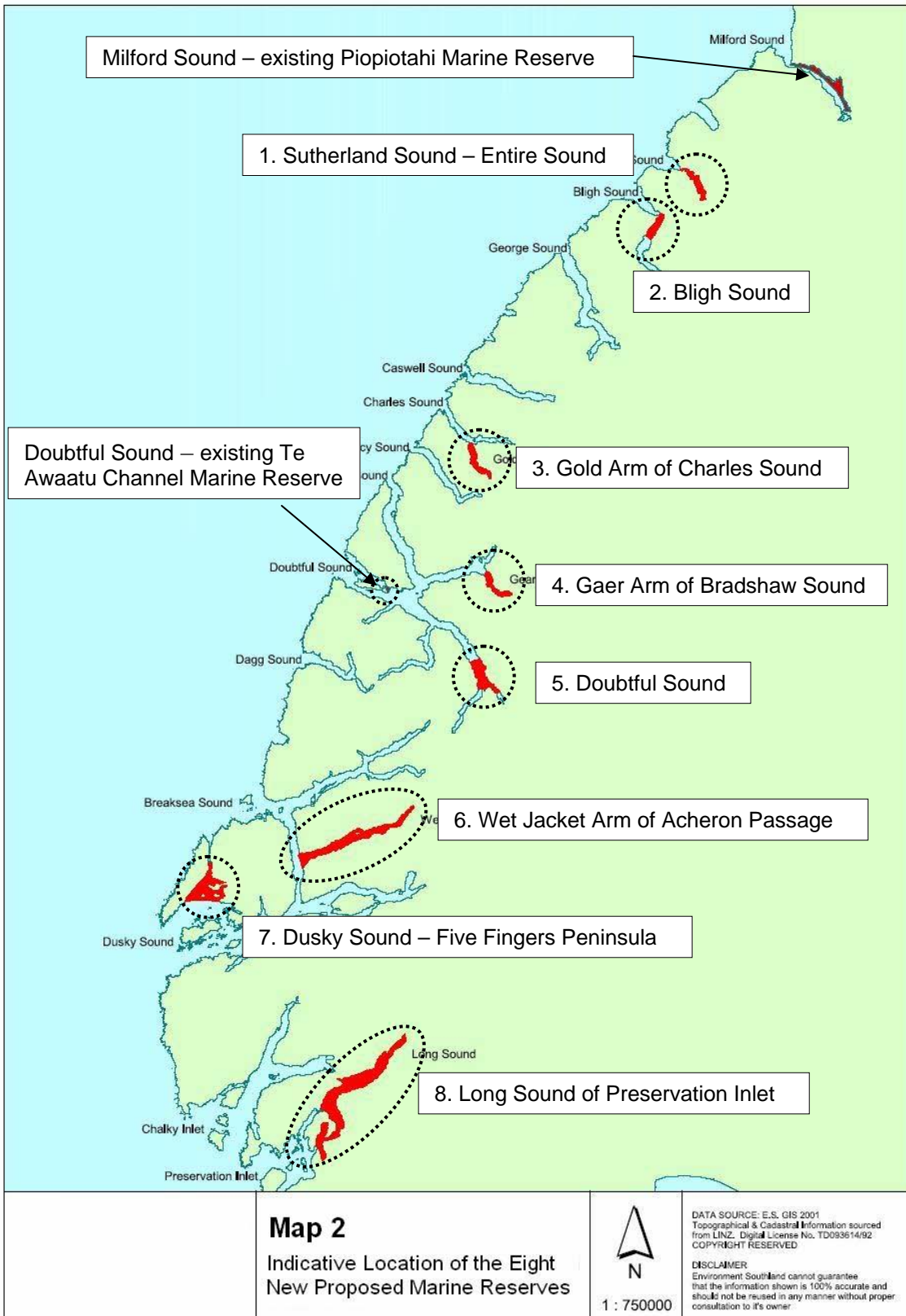
Hon Marian Hobbs
MINISTER FOR THE ENVIRONMENT

Map 1. Location of the proposed Fiordland Marine Area.



The proposed Fiordland Marine should extend from the eastern bank of the Waiau River in Southland northwards to Awarua Point in northern Fiordland. The area would encompass all of the Southland Coastal Marine Area between these two points. Thus, it would include all of the sea area from mean high water springs out to the 12 mile Territorial Sea Limit adjacent to Fiordland, including the waters of the fiords, but excluding the area around Solander Island.

Map 2. Location of the proposed Marine Reserves in the Fiordland Marine Area



Eight new marine reserves would cover a total of 9430 ha, established primarily within the inner fiords. These contain significant proportions of the local marine habitats present (between 5% and 23% of each habitat type) and together represent over 13% of the area of the fiords. This adds to the 820 ha of Fiordland’s existing two marine reserves, and the approximately 14800 ha included within New Zealand’s other 15 existing mainland marine reserves.

Table 1: Proposed Fisheries Management Measures

(adapted from Table 3 of the Investigative Group report)

Area	Management measures
Milford and Doubtful Sounds	<p>Commercial fishing</p> <ul style="list-style-type: none"> • No commercial fishing inside the Doubtful Sound habitat lines <p>Non-commercial fishing</p> <ul style="list-style-type: none"> • Two-year closure for blue cod, plus two additional years if necessary. • Groper daily bag limit of three, no accumulation*. • Rock lobster daily bag limit of three, no accumulation*.
Inside rest of the fiords	<p>Commercial fishing</p> <ul style="list-style-type: none"> • No commercial fishing inside the habitat lines. <p>Non-commercial fishing bag limits</p> <ul style="list-style-type: none"> • Blue cod daily bag limit of three, no accumulation.* • Groper daily bag limit of three, no accumulation.* • Rock lobster daily bag limit of three, no accumulation.*
Fiord entrances and outer coast	<p>Commercial fishing</p> <ul style="list-style-type: none"> • Harvest capped by the QMS.¹ <p>Non-commercial fishing bag limits</p> <ul style="list-style-type: none"> • Blue cod daily bag limit of 20, no accumulation* (includes the three blue cod limit from within the fiords). • Groper daily bag limit of five, no accumulation* (includes the three groper limit from within the fiords). • Rock lobster daily bag limit of six, with a three-day accumulation limit of 15.
Applying both “Inside rest of the fiords” and to “Fiord entrances and outer coast”	<p>Non-commercial fishing bag limits</p> <ul style="list-style-type: none"> • Scallop and paua daily bag limit 10, no accumulation.*² • Groper included in the total finfish bag limit. • Total finfish bag limit of 30 with no accumulation.* • Jock Stewart (Sea Perch) daily bag limit of 10 with no accumulation* – outside the combined daily finfish bag limit. <p>Non-commercial bulk harvesting methods</p> <ul style="list-style-type: none"> • No cod pots inside the habitat lines of any fiord. • Dahn lines limited to two/boat and five hooks per line. • Rock lobster pots limited to three/boat. • No scallop dredges and no set nets.

* Accumulation refers to aggregation of catch in extended recreational fishing trips of several day’s 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.

¹ Harvest is already capped by the QMS, so there is no change to commercial fishing in these areas.

² Note that the daily bag limit for paua and scallops is already 10. The change proposed is to limit accumulation.

Annex 1. Regulatory Impact Statement

LOCAL MANAGEMENT MEASURES IN THE FIORDLAND MARINE AREA.

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 no where 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.

Proposed Departmental Costs	\$m - increase/(decrease) GST incl			
	2004/05	2005/06	2006/07	2007/08 & outyears
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.

Annex 2. Further Detailed Analysis of the Four Options for Implementing the Fiordland Management Measures

(Note this analysis supercedes Annex 3 of the Investigative Group report)

1. The Investigative Group analysed four broad options for implementing the management measures.
2. It is important to note that subsequent to the conclusion of the Investigative Group report, officials have undertaken more analysis of the options. In doing so, the range of options has not significantly changed, but the descriptions provided below have been updated to reflect the better understanding of these options. Hence, those below are slightly different to those in the Investigative Group's report.

Option A: Current legislation – using measures already available primarily under the Fisheries, Marine Reserves and Resource Management Acts

Option B: Comprehensive new legislation –new legislation that would apply in the Fiordland area only, and effectively replace the Fisheries, Marine Reserves and Resource Management Acts within that area

Option C: Minimal Fiordland-specific legislation- the least amount of statutory change necessary to implement the management measures in paragraph 46, but no provisions relating to ongoing management

Option D: More comprehensive Fiordland-specific legislation - Option C plus provisions for ongoing management (i.e. a purpose provision, a statutory advisory body with specified functions, and requirement on agencies to have regard to its advice).

3. In analysing the options, officials have been mindful of the Government's expectation of maintaining community support, implementing the package by September 2005 and retaining a flexible approach.

Analysis of Option A - Using current legislation.

4. Option A would use existing processes and legislative provisions only, with no new legislation.
5. Officials are agreed that most measures proposed in the Investigative Group report could be implemented without special legislation with a reasonable (although not absolute) degree of certainty, subject to the caveats below:
 - a) A single Ministerial Advisory Committee could be established jointly under provisions in the Environment and Conservation Acts. Its terms of reference could provide that it also had a role to provide advice to the Ministers of Fisheries and Biosecurity, if requested, define the area over which it had jurisdiction to provide that advice and provide their involvement in the review of management measures after five years. Cabinet could invite Ministers, and direct agencies to have regard to that advice
 - b) Eight new marine reserves could be processed by September 2005 provided the Southland Conservancy of DOC was provided with additional staffing resources, the Fiordland Guardians were supportive of the process, and the Minister of Fisheries was able to meet the deadline. Given the level of support from the community, and fishers in particular, the risk of changes to proposed reserve boundaries and conditions would probably be no higher under the existing statutory process than under a select committee process
 - c) Fisheries measures would be implemented through regulations under the Fisheries Act
 - d) The Government could publicly announce that it would not make any further applications for marine reserves in the area for a five year period. Applications from outside Government would be highly unlikely given that most, if not all, potential applicants would be represented

on the Guardians and be committed to the gifts and gains process. In the rare event of an outsider making an application, that party would have difficulty meeting the pre-application consultation requirements (within the Marine Reserves Bill) within the 5 year period given the likely lack of co-operation of the key parties.

6. A key difficulty lies with implementing a variation to the Southland Proposed Regional Coastal Plan (or a plan change once the current plan is approved - likely early next year). There would be no guarantee that changes would be implemented by September 2005, particularly if appealed to the Environment Court. There is also the risk that the intent of the plan changes and integrity of the gifts and gains could be lost as a result of Council or Environment Court deliberations. Further, there is no certainty that the high level of additional funding required to implement the changes would be approved – particularly in the light of community concerns about the high cost and length of the current process (spanning 11 years).
7. The issue of the coastal plan changes aside, there are a number of arguments to support the use of existing legislation:
 - a) It would avoid pre-empting the Oceans process and avoid continuing the ad hoc approach already taken in relation to the Hauraki Gulf and Sugar Loaf Islands Marine Park. The Fiordland Guardians set out to address a fundamental problem that current marine statutes work largely in isolation from each other. Because of this, communities have considerable difficulty taking an integrated approach to marine planning and ensuring they are confident of an appropriate regional balance between use, development and protection. A key driver for the Oceans process was the need to address this problem
 - b) It would avoid creating a precedent– some other parts of the country are already signalling that they would like to investigate a Fiordland-type solution in their areas. In a country as small as New Zealand, it can be argued that multiple pieces of ad hoc legislation should be unnecessary, are inefficient and create inconsistencies from region to region.
8. On the other hand, there are also arguments to support special legislation in this case:
 - a) The natural features and biodiversity in Fiordland are unique nationally and internationally and justify special treatment. Use of existing legislation would not accord the special legislative status to Fiordland that the community considers it needs
 - b) In relation to concerns about a precedent effect, the Fiordland approach may not be as easily implemented elsewhere. Fiordland has the advantage of being remote from settlement and having limited demand for space for development. In the absence of significant change to primary statutes, other regions would have considerably greater difficulties achieving the level of consensus achieved in Fiordland
 - c) Special legislation is not likely to impede achieving a nationally consistent approach through the Oceans process (if necessary, Oceans legislation could amend the Fiordland legislation) and in any event, implementation of Oceans policy is likely to be some years away
 - d) It is important to capitalise on the momentum already generated in Fiordland. The Guardians made a considerable effort at no small cost over a number of years to bring their Strategy to fruition
 - e) While no Government promises have been made of special legislation, an expectation has reasonably developed that this is the most appropriate course of action. Although, with one exception (coastal planning), existing legislation could be used, it is piecemeal, less straightforward and possibly less certain as to outcome
 - f) Delivery would be dependent on a determined approach and the support of the Guardians (so that existing consultative procedures ran smoothly). This would rely on the Guardians having sufficient confidence that the measures would be pushed through in a timely and determined

way. It might be difficult to generate such confidence given existing expectations for special legislation

- g) It would overcome difficulties with implementing a variation to the proposed Southland Regional Coastal Plan by September 2005.
9. On balance special legislation is recommended as the preferred approach. Other arguments for special legislation are discussed further below.

Analysis of Option B - Comprehensive new legislation

10. Option B would involve completely replacing, for the Fiordland marine area, existing legislative provisions within the major marine resource management legislation (Fisheries, Resource Management and Marine Reserves Acts) with new legislation specific to the implementation of the Fiordland management measures. This option was rejected by the Investigative Group as unsuitable. It has never been done before. (See page 14 of the Investigative Group report)
11. New comprehensive legislation would be complex and time consuming, and so it is highly probable that it could not be completed and passed in the time available. There is also a significant risk that the resulting legislation may not be entirely compatible with existing national legislative provisions, such as the quota management system under the Fisheries Act and the regional coastal planning provisions of the Resource Management Act. Completely replacing existing legislation within a defined geographic area would also set a significant, probably unworkable, precedent for other areas of the country.
12. **Option B is therefore not recommended.**

Options C and D – Fiordland-specific legislative change

13. Both options C and D propose new legislation to implement the various management measures. Neither option would involve the comprehensive replacement of existing legislation proposed in Option B. Any new legislation would comprise only that required to implement the specific management measures within the expected time-frame. Once implemented, all management functions currently provided for in the primary legislation (Fisheries, Resource Management, Marine Reserves and Biosecurity Acts) would continue to operate as normal.
14. In creating the marine reserves and imposing management conditions under the Fiordland-specific legislation no more is being proposed than can be done under the Marine Reserves Act through the existing Order-in-Council process, or is being proposed under the new Marine Reserves Bill.
15. Note also that the proposed fisheries management measures would be implemented through existing regulations.
16. The major difference between options C and D lies in the extent to which the management measures listed as requiring legislative change are implemented through special legislation.

Analysis of Option C – Minimal Fiordland-specific legislation

17. **Option C** is a minimal approach to creating new legislation. It would only create those management measures requiring legislative change to implement. This approach would be by provisions within the legislation:
- a. Create the eight new marine reserves
 - b. Provide for a moratorium on subsequent marine reserve applications to expire on the completion of a review or 7 years after commencement of the Act whichever is the sooner
 - c. Create the necessary changes in the Southland Coastal Plan for mooring, anchoring and hull-fouling requirements for consented charter boat operators.

18. It would not create a statutory Fiordland Marine Guardians Committee. This committee would be done through other means. For example, a Ministerial advisory committee could be created under the Environment and/or Conservation Acts.

Limitations to Option C.

19. While providing more certainty that key management measures would be implemented, Option C still has some of the same limitations as Option A. Firstly, this minimum legislation would not include a purpose clause identifying the special values of Fiordland or provide the area with a separate and defined status. Secondly, the legislation would not impose a duty on decision-makers under the Resource Management Act, Fisheries Act or Marine Reserves Act to have regard to the advice of the Fiordland Marine Guardians. The need to have regard to such advice would instead result from Cabinet directive which is of lower status than special legislation and less permanent.

20. Finally, the Fiordland Marine Guardians committee would exist at the discretion of Ministers. The Committee (even though having single membership) would need to be established under several different statutes with multiple accountabilities. This could be confusing, messy and unlikely to be viewed as good process. All of these reasons undermine the community's very high expectation of having a secure and ongoing role for stakeholders and the community in the management of the Fiordland marine area.

21. **Option C is not recommended.**

Analysis of Option D – More comprehensive Fiordland-specific legislation

22. The primary difference between Options C and D is that, in addition to implementing the immediate management measures, Option D also provides for ongoing management, including: a purpose provision to identify the special values and to guide decision-makers; statutory advisory body with specified functions (including to provide advice on future management measures); and a requirement on management agencies to have regard to its advice.

23. The Investigative Group recommended Option D as it overcomes the limitations of Option C by:

- a) Recognising the special nature of Fiordland's marine environment
- b) Creating the Fiordland Marine Guardians committee and specifying its functions in statute including the need for its advice to be developed in an integrated way
- c) Defining a statutory boundary for all the management measures of the Fiordland marine area, and in the process creating a geographically recognisable management entity
- d) Imposing a statutory duty on decision makers under the Resource Management, Fisheries and Marine Reserves Acts to have regard to the advice of the Guardians
- e) Providing for a formal review of the package management measures after five years of operation and periodically thereafter.

24. **Option D is recommended.**

25. This option for implementation is supported by the Minister for the Environment's Investigative Group, which includes the three primary management agencies (MFish, DoC and Environment Southland), MfE, Ngai Tahu and the Guardians of Fiordland's Fisheries and Marine Environment.

Annex 3. The Fiordland Marine Guardians Advisory Committee

The proposed Fiordland Marine Guardians advisory committee will have a number of roles. It will take an overview of marine management in Fiordland and provide integrated advice to Ministers, central government management agencies and Environment Southland on the effectiveness of overall marine resources management within the Fiordland marine area. It would:

- (i) Provide advice on:
 - the effectiveness of the existing resource management, biosecurity, marine conservation and fisheries management measures and on their revocation, confirmation or amendment
 - whether marine reserves are effective in meeting the biodiversity protection purpose of the Marine Reserves Act
 - the need for new measures for fisheries or resource management, marine biodiversity protection, marine conservation, and biosecurity management
 - any other marine issues relevant to the Fiordland Marine Area as requested by Ministers
- (ii) Facilitate integrated management and act as a forum for management agencies to work together
- (iii) Act as a marine reserves advisory body in lieu of any appointment being made by the Minister of Conservation under the Conservation Act or under the new Marine Reserves Act
- (iv) Assist management agencies to:
 - prepare and disseminate information and educational material
 - plan monitoring of the state of the marine environment, uses, activities and effects
 - undertake the five year review of the effectiveness of the package of management measures
 - plan for compliance and enforcement
- (v) Comprise eight members appointed by the Minister for the Environment, in consultation with the Ministers of Fisheries and Conservation, and Environment Southland. Membership should be a fair reflection of the range of interests relating to the Fiordland marine area. The Minister may seek recommendations from the community, tangata whenua, commercial and recreational fisheries, charter boat operators, tourism interests, research and environment sectors. Ngai Tahu would be guaranteed one member as tangata whenua.
- (vi) Have no executive management responsibilities. The State Services Commission advise that it should not be able to employ, contract or otherwise control resources; these responsibilities will remain with the various management agencies. It would be a Group 4 body under the new Remuneration and Fees regime, and would come under the Fees and Travelling Allowances Act 1951. The Ministry for the Environment would take responsibility for the Fiordland Marine Guardians administration costs, management and administrative support.
- (vii) Not preclude central government agencies from providing independent advice to their Ministers. A sound and productive working relationship should see the need for separate advice diminish.
- (viii) Be distinct from the Incorporated Society known as the Guardians of Fiordland's Fisheries and Marine Environment Inc.

Annex 4. Implementing the Fiordland Marine Conservation Strategy
Report of the Fiordland Marine Conservation Strategy Investigative Group

Annex 5. “Guardian Angels” - North and South Article, July 2004