

November 2011

The Guardians Newsletter

The Fiordland Marine Guardians are an advisory committee who work with government agencies and their Ministers on the management of the Fiordland marine area. They welcome this chance to keep you informed and up to date with happenings in the Fiordland Marine Area.

Environment Southland Councillors Visit Fiordland

Nine Environment Southland Councillors took the opportunity to visit Doubtful Sound, Bradshaw Sound and Milford Sound over two days in October 2011.

The principal reason for visiting Doubtful Sound was to check out the moorings in Deep Cove. The Council has been investigating ways to improve and rationalise moorings in this area, and had expressed a wish to see the problems first hand, and discuss what can be done through the Coastal Plan process to remedy any shortcomings.



Environment Southland Councillors and staff during their visit to Fiordland.
Photo courtesy of Environment Southland

Various suggestions had been put forward after consultation with users and other interested parties, and Environment Southland staff had prepared recommendations to the Council arising from this consultation. (A further meeting between Councillors, users, and others, including members of the Fiordland Marine Guardians, was held in Te Anau a week after the visit to further explore the various options).

The Department of Conservation had made their vessel *Southern Winds* available and Councillors were able to visit Bradshaw Sound, including Gaer Arm, Blanket Bay, the Gut and the entrance to Doubtful Sound.

Department of Conservation Area Manager Reg Kemper accompanied the Councillors, Environment Southland staff and iwi representative, Don Mowat, to give an overview of the work the Department is carrying out in Fiordland.

Southern Winds skipper Peter Young, provided insights into the joys and problems of working in the demanding Fiordland environment.

On day two Councillors visited Milford Sound to view the Cleddau flood protection works carried out at considerable cost by the Department of Conservation, and to see the proposed changes to the Fresh Water Basin infrastructure. The removal of the staff housing and its re-establishment on an elevated level after the flood protection works were completed was of particular interest. Environment Southland will be responsible for the ongoing maintenance of these works. The infrastructure works proposed for Fresh Water Basin had required an extensive planning process by the Milford Sound Development Authority, including various resource consents, and are to be completed during the winter of 2012.

This brief visit to Fiordland by Environment Southland Councillors provided an insight into the challenges of an important part of Southland's and New Zealand's natural heritage, and has given them a greater awareness of the reasons why the Guardians are so passionate about Fiordland.

Kevin O'Sullivan, Environment Southland.

Possession of Underwater Breathing Apparatus (UBA) together with Paua

A question often put to Fishery Officers is "can we get a feed of paua in Fiordland even though we have dive tanks on board?"

The Fisheries (Amateur Fishing) Regulations 1986, Regulation 21 specifically prohibits the use of UBA for the taking and possession of paua.

(21) No person shall –

Use any underwater breathing apparatus while taking paua:

Possess any paua while in possession of any underwater breathing apparatus:

Have any paua in or on any conveyance, in or on which there is any underwater breathing apparatus:

Possess any paua that the person knows to have been taken when the person taking them was using underwater breathing apparatus.

In addition, Regulation 20 of the Fisheries (Amateur Fishing) Regulations 1986 requires shellfish (including paua) to be landed in the shell in a measurable condition by providing;

(20) No person shall –

Possess seaward of the mean high-water mark; or

Land from any fishing vessel – any shellfish to which a minimum length restriction applies in such a state that it cannot be measured.

Both amateur regulations are strict liability regulations enacted to protect the valuable paua fishery from excessive harvesting abuse and localised depletion. Even in remote locations such as Fiordland, where vessels are used as the primary means of transport and accommodation on extended trips, the prohibition on UBA and paua together on board a vessel legally prevents persons from possession of paua to consume on board or to take home.

In past years, operators of recreational and charter vessels on extended fishing trips in Fiordland expressed frustration at their inability to consume a feed of paua in the course of their trip, especially in circumstances where UBA was held on board. Previously, Fishery Officers acting in good faith, may have attempted to exercise an element of discretion by adopting a pragmatic approach when applying the two regulations. Historically, some operators may have even previously been provided with written confirmation of the stance being applied at that time.

However, over time that position has been reviewed and in more recent times the stance to be applied by Fishery Officers in such circumstances has been further clarified.

In 2005 an amendment to the Fisheries (Amateur Fishing) Regulations 1986 was made to allow the possession of shucked dredge oysters and scallops on board a vessel for the purpose of consumption. Importantly no such concession was made in respect of paua and this signalled a clear intent from the lawmakers as to their position relating to paua.

Consequently Fishery Officers have now been instructed to enforce the legislation in accordance with that intent. Therefore for anyone wanting to take or eat paua in Fiordland (or anywhere else for that), the onus rests with them to ensure that their activities comply with the law.

Anyone who may have previously been issued with a letter indicating otherwise must now realise that any such well intended previous advice is no longer applicable and may be misleading. Therefore anyone who has such a letter in their possession is advised to destroy it.

Fishery Officers are compelled to apply the law as it is intended and have been instructed to take appropriate enforcement action when non-compliance is detected.

If anyone has any queries about this, they should contact the Ministry of Fisheries Office, 137 Spey Street, Invercargill, phone (03) 211 0060.

Reece Murphy, MFish, Invercargill

Sightings urgently sought

The basking shark (*Cetorhinus maximus*) is the second largest fish in the world, and part of a group of large to giant filter feeding elasmobranchs that includes the whale shark, manta and devil rays.

All of the species in this group recorded from New Zealand waters are fully protected under the Wildlife Act 1953.

The average size of basking sharks encountered around New Zealand is about six metres total length, with reliable reports of individuals up to nine metres long and some unconfirmed sightings of sharks up to 12 m.

New Zealand appears to be the centre of the species' distribution in the Southern Hemisphere, with only one confirmed record from Australia in the last 30 years, and a handful of records from Chile. Hot spots for basking shark sightings within New Zealand include Kaikoura, north and south Canterbury, Stewart Island, the Southern Plateau and West Coast.



Basking Shark photographed from the surface.
Photograph courtesy of Marine Conservation



Basking Shark (*Cetorhinus maximus*)
Photograph Courtesy of Charles Hood.

Aerial surveys conducted by the Department of Conservation (DOC) and Dr Demian Chapman, Stony Brook University, NY, around Bank's Peninsula for the last two summers have failed to find any basking sharks. The department would therefore like to hear of basking shark sightings anywhere in New Zealand over the last 10 to 20 years in order to increase knowledge of areas used by this species and to aid research on its movements and behaviour. Information such as date, location and number of sharks seen can be reported to DOC by email (sharks@doc.govt.nz) or to DOC's Southland Conservancy Office, 03 211 2400.

DVD on The Fiordland Marine Area and the Work of The Guardians

The Guardians have commissioned Big Screen Advertising to create a DVD on The Fiordland Marine Area and the Work of the Guardians. This is in the final stages of completion. If you would like a copy please don't hesitate to contact our Secretary Alison on info@fmg.org.nz and she will forward you a copy.

Storing live rock lobster in holding pots and application of the Rock lobster accumulation defence rule requirements

In October 2009, new holding pot regulations were introduced for the Fiordland Marine Area allowing the recreational use of one rock lobster holding pot per person, and up to two holding pots per vessel with two or more persons on board. The holding pot provision is exclusive to Fiordland, while elsewhere all pots capable of catching or storing rock lobster are considered to be a 'rock lobster pot' subject to the maximum pot limit per person and per vessel.



The Fiordland Marine Guardians secured the new holding pot regulation in recognition that many Fiordland fishers from necessity prefer to store live rock lobster in holding pots on multiple day fishing trips, particularly those on board smaller vessels without freezers. It is therefore permissible in Fiordland to use up to 3 rock lobster catching pots per vessel and up to 2 holding pots where there is more than one fisher aboard a vessel. It is important to remember holding pots and attached surface floats must be clearly and permanently marked with the *vessel name* and characters *HP1* for the first holding pot and *HP2* for the second pot. All catching pots still require the fisher's *surname* and *initials*.

In 2005 the local amateur regulations defence provisions were amended to allow possession within the Fiordland Marine Area of accumulated rock lobsters to a maximum of 15 rock lobsters, subject to being taken within prescribed limits over 3 or more days. Accumulation is strictly conditional on fishers complying with the regulation requirements to separately containerise or bag and label the daily catch. Labels must record the individual fisher's full name; the date the fish was caught; the number of fish held in the container or bag and the number of lobster caught from within the internal waters.

While the use of holding pots was introduced to assist recreational fishers, compliance issues have arisen in relation to the fishers' ability to comply with regulations requiring the daily catch separation, container labelling and fisher identification of live rock lobsters stored in holding pots. In practice, most fishing parties will usually resort to communal holding of their collective live lobster catch in one or two holding pots with up to several fishers sharing a pot. The present regulation defence provisions do not adequately provide for holding pot storage of accumulated live catch.

Fishery Officers view the rock lobster accumulation bag and tag conditions as being an indispensable tool for fisher catch inspections, particularly in dealing with large groups. It enables Fishery Officers to promptly quantify and identify each fisher's accumulated catch to ensure individual fishers' maximum limits are not exceeded.



To date, Fishery Officers have taken a pragmatic approach to enforcing the regulation defence provision, due to the impracticality of separating and identifying each fisher's catch in holding pots. Instead, Fishery Officers place emphasis on ensuring fishers comply with the bag and tag conditions once fish have been removed from the holding pots and the ensuing possession, custody and control while on the vessel during fiord transit, landing and transport out of Fiordland. Failure to comply with the regulation requirements for fishers to separate, containerise and label their accumulated catch, risks the confiscation of any rock lobster in excess of the daily possession limit of 6 lobsters per fisher, along with being issued either a \$250 or \$500 infringement notice penalty.

To try and overcome this deficiency, some regular fiord fishers have resorted to keeping written records (in varying degrees and formats) to keep track of daily lobster catches and if inspected, to satisfy Fishery Officer inquiry.

The issue was raised in the Guardian's 2011 *Review of the Rules Governing the Fiordland Marine Area* consultation paper resulting in submission feedback supporting the implementation of a written record requirement detailing the number of lobsters taken by each fisher and stored in holding pots each day.

The Guardians have been discussing possible solutions to make the practicalities around accumulating and holding rock lobster in Fiordland more workable. They intend to make a recommendation to the Minister of Fisheries on this issue in due course.

In relation to rock lobster accumulation, it has come to Fishery Officer attention that some perhaps less informed fishers, visiting the fiords over 2 to 3 day duration trips, have misconstrued and/or deliberately manipulated the accumulation provision by exceeding their daily take on either one or two days to bring home their full 15 rock lobster 3-day maximum entitlement. In plain language, fishers should not exceed the daily limit of 6 lobsters per person. The mere fact of being in Fiordland over the course of 3-days, including time spent in travelling in and out does not automatically qualify entitlement to the maximum daily limit. Any potting and diving must occur during a 24-hour day period to qualify for the daily limit. This is in line with the Guardian's philosophy of "Fish for a feed and not greed" and staying within the law will reduce the stress and consequences if your party is stopped and inspected.

Final Recommendations to the 2011 Review of the Rules Governing the Fiordland (Te Moana O Atawhenua) Marine Area

During the early part of this year the Guardians ran a round of consultation to ascertain user's views on the effectiveness of the rules package that was introduced in 2005. The Guardians considered that after more than five years it was very important to review what had been put in place and to identify new issues that had emerged since then. Following is a summary of the submissions and the recommended actions to the government agencies.

I would like to thank all of the people and organisations that attended the meetings or sent submissions.
Malcolm Lawson, Chairman, Fiordland Marine Guardians

Introduction

During 2011 the Fiordland Marine Guardians (FMG) produced and released a public discussion paper to seek submissions regarding the current suite of rules that are in place to assist in the Management of the Fiordland Marine Area. The current rule regime was introduced in 2005 as a result of the recommendations included in the document *Beneath the Reflections – Fiordland Marine Conservation Strategy* developed by the Guardians of Fiordland's Fisheries and Marine Environment.

Two public meetings were held in Invercargill and Te Anau. In addition a total of 30 written submissions were received.

The following recommendations are the result of:

consideration of the views of members of the FMG in the development of the discussion paper;
feedback from the public meetings;
comments from written submissions; and
comments in the Fiordland Marine Area User Survey 2010.

The discussion paper and this report followed the structure of the original Strategy and considered the eight objectives contained in that document. This report does not attempt to summarise in detail the content of each submission or comment from the other forums referred to above as this was done in an earlier report.

Objective 1 Information

The ongoing provision of information to users is the key to understanding the management objectives of the FMG and agencies and the actual rules. There was considerable support for the range of options used at present to disseminate information as well as a suggestion that social networks such as Facebook be considered to reach a wider audience.

There was a desire from some respondents for the results of research surveys to be made public through the FMG website.

The User Guide was commended.

Recommendations:

Continue with all methods currently used to disseminate information;
Investigate the use of Facebook with a link to the FMG website;
Include research and other relevant survey results on the FMG website.

Objective 2 Fisheries

This objective and the specific questions relating to blue cod management attracted the most responses. Fishing obviously continues to be a major part of users experiences when visiting the Fiordland Marine Area.

Dropline, dahn line and longline method definitions and alignment of maximum hook restrictions

Submitters supported the FMG position that the now defunct longline definition be removed from regulation and also that the maximum number of hooks allowed on any line, other than rod and reel or handlines, be 5 with a maximum number of 2 per vessel.

Rock Lobster

While some submitters favoured a change to daily limits to apply to all people on board a vessel or to a daily limit per vessel the FMG is mindful that regulations should be kept as consistent as possible with the rest of the country. There was a good level of support for the FMG's initial position of removing the bag limit of 3 per day for the internal waters with no accumulation, to a bag limit of 6 for all areas while retaining the accumulation limit at 15. This recognises the increase in rock lobster abundance since the introduction of the original regulation and that the internal waters are entirely non commercial fishing areas.

Some concern was raised regarding charter vessels and the potential opportunity for these vessels to harvest large numbers of rock lobsters from within the internal waters.

Concern was also raised regarding the limited amount of habitat within Milford Sound and that any increase in the bag limit may result in localised depletion of the areas.

Submitters noted difficulties in complying with current regulations in relation to keeping lobsters live within holding pots where multiple fishers are using the holding pots over a number of days. To address this, methods of identification for each fisher, such as various coloured cable ties applied to the base of the feeler of each lobster, and written records detailing the number of lobsters taken and stored by each fisher each day and the individual identifier for each fisher were recommended.

While there was some support for increasing the accumulation limit the majority of submitters felt that the current limit of 15 was well known and to change it would be confusing.

The current regulations pertaining to holding pots were considered adequate.

Bluenose

There was a high level of support for the FMG's position that the daily bag limit be reduced to 5. It should be noted that since the consultation round MFish has released an Initial Position Paper for bluenose. The recommendation within the IPP is also for a daily bag limit of 5 per person.

Recommendations

The now defunct longline definition be removed from regulation;

The maximum number of hooks allowed on any line, other than rod and reel or handlines, be 5 with a maximum number of 2 per vessel;

The daily bag limit for rock lobster be amended to 6 per person for all of the FMA except for the internal waters of Milford Sound where the daily bag limit of 3 per person should remain, with no accumulation from within this area;

The accumulation limit for the FMA, excluding Milford Sound of 15 should remain;

Charter vessel operators will be encouraged to fish outside the habitat lines as much as possible to avoid localised depletion;

A method of identification of lobsters in holding pots for each fisher who has taken and possesses the lobsters is required;

A written record is also required to support this by detailing the name of each fisher, the number of lobsters taken, the date(s) taken and the identifier for each fisher;

The daily limit for bluenose be reduced to 5 per person;

Other fishing method restrictions be maintained.

Blue Cod

Responses regarding blue cod fishing were wide ranging.

The majority of respondents who commented were supportive of the current maximum daily limit of 20 for the outer coast.

A range of management options were provided for Doubtful and Milford Sounds. Again responses varied on these. The FMG acknowledge that the closure of these areas has resulted in a shift of effort to adjacent areas, particularly into the open areas of Thompson and Bradshaw Sounds.

A newly designed two-year research project has been instituted with the aim of providing further advice on these fisheries to inform ongoing management. The FMG is aware that reopening these areas to fishing during the period of the research will impact on the research results as all work until now has been carried out with the fishery being closed. There was strong support at the public meetings to keep the areas closed until the research is completed in 2012 and for a management plan to be developed based on the results of this and the earlier project. Some written submissions also supported this.

A majority of respondents recommended that when re-opened the daily bag limit be restricted to either 2 or 3 fish per person.

Submitters were opposed to the proposition of having to keep fish whole on board their boats, citing risks to keeping fish in good condition.

Recommendations:

Daily bag limit on the outer coast remain at 20;

Doubtful and Milford Sound blue cod fisheries remain closed for the duration of the current research;

A management plan for these areas be developed once results of the research have been presented;

The management plan should consider the points raised in submissions.

Objective 3 Values of Special Significance

Submissions were balanced regarding the number of marine reserves. The establishment of a marine reserve on the outer coast was raised. The FMG is of the view that the Taumoana (Five Fingers) Marine Reserve is representative of the outer coast and also the risk to the original “gifts and gains” balance that another marine reserve would pose. Submitters supported ongoing monitoring of “China Shops” and the protection of Awash Rock in Preservation Inlet through the designation of this area as a “no anchoring area”.

There was support for the FMG to explore potential mechanisms that would allow protection for new areas of special significance.

One submitter suggested that research on scallop beds within the FMA be carried out. Currently scallops are not included in the biological monitoring projects.

Recommendations:

Develop a mechanism to provide for the addition/reduction of protected areas;

Continue monitoring and research of “China Shops”;

Consider the inclusion of scallops as a species within the biological monitoring projects.

Objective 4 Risks to the Marine Environment

Submitters support the FMG position that Fiordland’s special values are under threat from a range of sources, particularly marine pests. They support a biosecurity strategy that includes vector management, surveillance, and communication.

The checking of vessel hulls prior to departure for the FMA was seen as very important along with some form of certification or “passport” as evidence of hull inspections having been carried out.

Increased communication of the biosecurity message was supported through radio messaging, and increased provision of information to a wide range of ports.

Support for a compulsory Vessel Intention Register was split. Comments on this were also received under *Objective 7 Compliance*.

The effect of the freshwater discharge into Doubtful Sound and the potential effect on the Bottlenose Dolphin population was raised. The FMG is aware that one of the conditions of the Meridian Energy Ltd resource consent for increased discharge into Doubtful Sound is the requirement to establish a study of the Bottlenose Dolphin population in Doubtful Sound.

The increase in the seal population and movement into areas previously not colonised and the effect on fish populations was discussed at one of the public meetings. The FMG acknowledges that seals are a peak predator and that little research into population dynamics or feeding habits including diet have been carried out in the FMA.

Recommendations:

Continue with biosecurity operational plan;

Focus on vector management and communication;

Investigate the possibility of a clean hull certificate or “passport” for vessels prior to departure for the FMA;

Investigate the provision of cleaning equipment and stations for the use by owners and operators of vessels of all sizes;

Consider new methods for disseminating information;

Development of a study into the population dynamics and diet of the seal population within the FMA.

Objective 5 Expressing Kaitiakitanga

All submitters who commented on this felt that the FMG and Maori were doing a good job and that kaitiakitanga was being expressed through these close links.

Recommendation:

FMG and agencies continue to recognise and strengthen the relationship.

Objective 6 Implementing the Strategy

All submitters who commented on this felt that the original objectives had been met and ongoing publicity would ensure that the public were informed.

Recommendation:

FMG and agencies continue to support the integrity of the original strategy.

Objective 7 Compliance

The majority of submitters felt that the level of compliance effort was adequate for most times of the year. Some commented that more compliance presence was required during long weekends and holidays.

Submitters commented that the rules pertaining to the FMA were now well known and the compliance monitoring had had a positive effect on the fishstocks.

The increase in recreational fishing activity observed in Milford Sound also warrants more of a compliance focus.

Again there was a split in opinions regarding the establishment of a compulsory Vessel Intention Register.

Recommendations:

Increase the level of compliance monitoring during long weekends.

Increase the level of compliance monitoring in Milford Sound.

Maintain the level of compliance monitoring for the balance of the FMA

Continue to investigate methods for disseminating information.

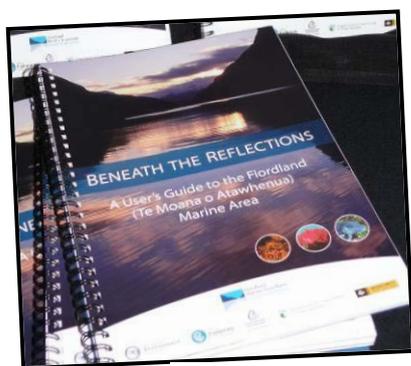
Objective 8 Monitoring the Performance of the Strategy

Submitters supported the integrated approach to management of the FMA and that it was having a positive effect however there was still room for more.

Recommendation:

Investigate opportunities to further the integrated management approach.

Malcolm Lawson, Chairman, Fiordland Marine Guardians.



‘Beneath the Reflections’ - A Users Guide to the Fiordland Marine Area.

The Fiordland Marine Guardians have produced this book with the assistance of The Ministry for the Environment, The Ministry of Fisheries, Ministry of Forestry - Biosecurity New Zealand, The Department of Conservation, and Environment Southland with the aim that it should be a “one stop shop”. The book has been **heavily subsidised** by the Government Agencies involved and retails for **only \$15.00**

The User Guide is available at the DOC offices in Invercargill, Te Anau and Haast, and is also now available at some selected retail outlets.

The User Guide contains all the relevant information about the area both practical and informative, and is made from water-resistant paper which is an added attraction for those wanting to make use of all the practical information it contains whilst in the area. Along with the Guide comes the opportunity to register for free updates should there be any regulatory changes in the area, which will be posted to you for filing in the specially designed pocket in the back of the book. The Guide has been referred to as “The Bible” for The Fiordland Marine Area – which is an indication of just how necessary it is if you are contemplating visiting the area. The Guardians hope is that everyone who is heading into the fiords will get a copy as it will enhance their visit.