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Cruise Tourism in Fiordland, New Zealand

By

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A thesis
submitted in partial fulfilment
of the requirements for the Degree
of
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Mitre Peak, Milford Sound, Fiordland, New Zealand
(Source: www.newzealand-escape.com/new_zealand_pictures_photos)

Travel by sea nearly approximates
the bliss of babyhood. They feed
you, rock you gently to sleep and
when you wake up, they take care
of you and feed you again.

Geoffrey Bocca

Abstract

Coastal cruises to the spectacular fiords and the UNESCO World Heritage Area of Fiordland are an emerging market within the sector of cruise tourism to New Zealand. The Resource Management Act 1991 (RMA) is the governing legislation for the allocation of access rights in New Zealand. In many regards, the RMA is seen as an example of Habermasian ideals of communicative action in practice, as it includes requirements for open and transparent public participation in decisions. This thesis explores the power relations within the decision-making process for the allocation of access rights of a common-property resource in a case study of cruise tourism in Fiordland.

A Foucauldian analysis has indicated a matrix of power relationships among the decision-making elite, through their legitimised and accepted role as planners in governmental organisations. This matrix has resulted in an alternative to a resource consent for cruise companies wanting access to Fiordland's internal waters, an *Environmental Partnership, Deed of Agreement between the New Zealand Cruise Industry and Environment Southland*. While the Deed of Agreement appears to follow sustainable management guidelines, the negotiation did not follow the process of public participation intrinsic in the RMA.

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Abbreviations

| | |
|------------------------------------|---|
| CNZ | Cruise New Zealand Incorporated |
| Deed of Agreement or the Agreement | Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland |
| DoC | Department of Conservation |
| Environment Southland | working name of Southland Regional Council |
| ESMF | Environment Southland Marine Fee |
| Forest and Bird | Royal Forest and Bird Protection Society (NZ) Incorporated |
| ICCL | International Council of Cruise Lines |
| MSA | Maritime Safety Authority |
| NZPI | New Zealand Planning Institute |
| NZTB | New Zealand Tourism Board (now Tourism New Zealand) |
| RCP | Regional Coastal Plan |
| RMA | Resource Management Act 1991 |
| TNZ | Tourism New Zealand (formerly New Zealand Tourism Board) |

Chapter 1

Introduction

Introduction

Environmental issues and sustainable tourism have provided topical areas for debate on a global scale in recent years. Environmental and social carrying capacity have emerged as prominent methods for determining limits of growth (Hall and Page, 2002). Butler's curve (1980) and subsequent adaptations have also provided popular techniques for attempting to determine growth limits and the associated effects on communities and other resource users (Pearce, 1995; Page, 2000; Orams, 1999). International agreements by the United Nations and industry organisations (e.g. the World Travel and Tourism Council) have attempted to manage tourism and its effects on the environment. In some sectors of the tourism industry there has been an international trend towards comprehensive management plans to ensure that the attractions, particularly environmental attractions, are preserved, even when they have become part of the mass tourism sector (e.g. Great Barrier Reef, Australia (Kenchington, 1994) and Glacier Bay, Alaska (National Park Service, 2002)).

Geographers have participated in tourism and environmental management debates in both the applied and practical, and theoretical spheres. Sustainable development in tourism and the role of planning and policy to help achieve this objective has been discussed by, among others, Hall (1994 and 1999), Hall and Page (1999) and Nelson et al. (1993).

The interaction between tourism and the environment places many, sometimes conflicting and incompatible, demands on the fragile coastal ecosystem. Among the

issues that crop up is the nexus between obtaining tourism rights and those of the communities toured. National and local planning responses are frequently used to resolve these issues and the outcomes are as diverse as the contexts in which they take place. The context and resource management regime affects the strategies employed to influence and create policy and the weight that policy-makers ascribe to certain economic and social interests (Hall and Jenkins, 1995). Thus, the social settings and the matrices of power relations embodied within them also influence the processes used to reach the solution.

New Zealand has not been exempt from having to resolve environment and tourism management issues. New Zealand's environmental law reforms were part of the greater restructuring undertaken by New Zealand in the 1980s and 1990s (Kelsey, 1993; Le Heron and Pawson, 1996). The result was the introduction of the Resource Management Act 1991 (hereafter RMA) with sustainable management, incorporating public participation through consultation in the decision-making process, as its goal.

Although there has been much interest and research on New Zealand's radically differing approach to governance since 1984, little has been done in the areas of common property resources, such as the marine environment. This suggests that resource use in areas where allocation is contentious because of multiple users and rights continues to raise discussions about best practice for allocating such rights and to whom. Furthermore, because of the common property factor, all interested and affected parties should be involved in the decision-making process of allocating such resources in order for equity and compliance with the final outcome (Rosier, 1993). Thus it is not just the end that is of importance but also the process of achieving it. Jürgen Habermas' (1984; 1989) theory of communicative action proposes an ideal process of communication which is seen to purvey social justice. New Zealand's environmental legislation, the RMA, is in many respects an illustration of Habermas' communicative action applied to resource management:

Public participation is widely regarded as an essential ingredient in tourism planning and policy-making. Public participation refers to decision-making by the target group, the general public, relevant

interest groups, or other types of decision-making by the target group, the general public, relevant interest groups, or other types of decision makers whose involvement appeals to our desire to use democratic procedures for achieving given goals (Nagel, 1990: 1056 as cited in Hall and Jenkins, 1995: 76).

Tourism, particularly marine tourism, utilises common pool resources. Consequently, decisions made regarding tourism in marine environments and the allocation of access rights should ideally involve all interested parties and stakeholders. Tourism is the largest industry in the world (Hall and Jenkins, 1995). The fastest growing sector in the industry is cruise tourism (Cartwright and Baird, 1999). Cruising is increasing in popularity internationally, particularly among wealthier tourists (Espiner, 2000). Within the international cruise sector New Zealand is a relatively new cruise destination and is expected to increase in popularity (Mitchell, 2001). Consequently, the focus of this thesis is to explore the decision-making process through which the allocation of access rights to the marine environment has been granted to the cruise industry. This has been placed in the context of New Zealand's RMA which includes public participation as an integral part of the process of achieving sustainable management.

Research Objectives and Questions

This thesis, therefore, has two objectives. They are:

Objective 1 To explore the power relations in the arena of planning for marine environments

Objective 2 To examine how these power relations shape the resultant management regime and, by wider implication, the applicability to environmental policy and subsequent management and planning techniques, especially in New Zealand

I have applied these objectives to the example of cruise tourism because the embodiment of power is the very essence of the industry. Cruise liners, by nature are large and prominent and are often seen as sailing *on* the sea, harnessing the resource, rather than being *at one* with the ocean and thus nature (as are say kayakers). Cruise tourism is also perceived as an elite type of tourism. Cruise tourists yield higher economic returns (to ports visited) than other types of tourism (Hall and Page, 2002). Furthermore cruise tourism has been viewed as a white space – from the ethnicity of the majority of passengers to the colour of the ships themselves. Additionally, New Zealand is not a traditional cruise tourism destination; it is renowned for nature and adventure travel, trampers and backpackers – types of travel that blend in with New Zealand's cultural image (clean and green (Bürhs and Bartlett, 1993)). Consequently, cruise tourism provides an ideal type of tourism through which to explore power relations. Combined in a case study at a location, Fiordland, that is a well known national and international destination for nature and adventure travel, cruise tourism provides an ideal example to achieve the research objectives. Marine waters have typically had minimum restrictions on access, but in a multiple use area such as Fiordland, there is potential for conflict between cruise tourism and other tourist users. Access rights, therefore, become critical to the presence or absence of a cruise tourism industry.

Some general research questions have devolved from these objectives. They include: Who has made, and continues to do so, decisions regarding the access rights of cruise ships into the area? What impact do the decisions made have on other user's access rights? What conditions, if any, are attached to the decision reached? Does the decision represent the public's view? To ascertain power one needs to ask whom does the discourse serve?

Definitions

This section will briefly outline the most commonly used terminology in this thesis.

Cruise Tourism Defined

In this thesis cruise tourism will be defined as *marine travel on a purpose built passenger vessel where the primary purpose is fulfilling leisure related needs or pleasure seeking as part of a holiday package, often where the ship is the destination and day-trips to land-based activities are optional* (adapted from Harris and Howard, 1996; Dowling, 2000; Cartwright and Baird, 1999). Scale is also an important determinant in regards to cruise tourism, especially as New Zealanders have a culture that includes a history of ‘cruising’ in boats around the country’s coastline. Cruise ships or liners, for the purposes of this research, will be classified as ships at or over 1,000 gross tons¹. This definition incorporates boats that travel from international waters for the purpose of offering cruise holidays to large numbers of people over the summer season (Cartwright and Baird, 1999: xix).

Within the sector of cruise tourism there are many types of cruises. Fiordland receives coastal cruises – an emerging, niche market that is popular in fiord destinations such as Alaska. The characteristics of coastal cruises are:

- using smaller vessels than mainstream cruise ships;
- focused on smaller areas;
- leaving the estuarine areas for considerable portion of the cruise; and

¹ The definition of a cruise ship in this research is based on tonnage as this measure is also used by Environment Southland in the Deed of Agreement (Environment Southland, 2001) as a marker for calculating the Marine Fee charged. Gross tons are measured according to the International Convention System.

- the destination is the entertainment (in contrast to the majority of cruise tourism) (Ministry of Tourism, 2001).

Coastal cruises that call at New Zealand ports are marketed predominately to overseas tourists (Mitchell, 2001).

Fiordland's Internal Waters

The internal waters of the fiords are the destination for coastal cruises in Fiordland. Of importance to this research is the classification of boundaries and thus which governing body has jurisdiction. The Fiordland coastal interface acts as a perimeter between two management regimes that are the responsibility of DoC, as Fiordland Park Manager under the National Parks Act 1980, and the Southland Regional Council, as the coastal manager under the RMA, in conjunction with the Minister of Conservation. Thus the coastal marine area, which extends from the mean high water spring level to the 12-nautical mile territorial sea limit from Awarua Point to Brothers Point including the fiords internal waters, are essentially managed by the Southland Regional Council (Southland Regional Council, 1997; Figure 1.1). Environment Southland is the working name of the Southland Regional Council.

Planning Defined

"Planning is the guidance of future action" (Forester, 1989: 3). While it is not within the scope of this research to discuss the nature of the institute of planning and its role in society, a definition is fundamental to the discussion in this thesis. In Western society planning is considered an acceptable and legitimate authority in the decision-making process of resource allocation and management, albeit that it is, to varying degrees, a political process. Consequently issues of democracy and public participation are elementary to the decision-making processes of planning. This does not necessarily, however, translate to consensual decisions made, although such expectations may be raised by the process.

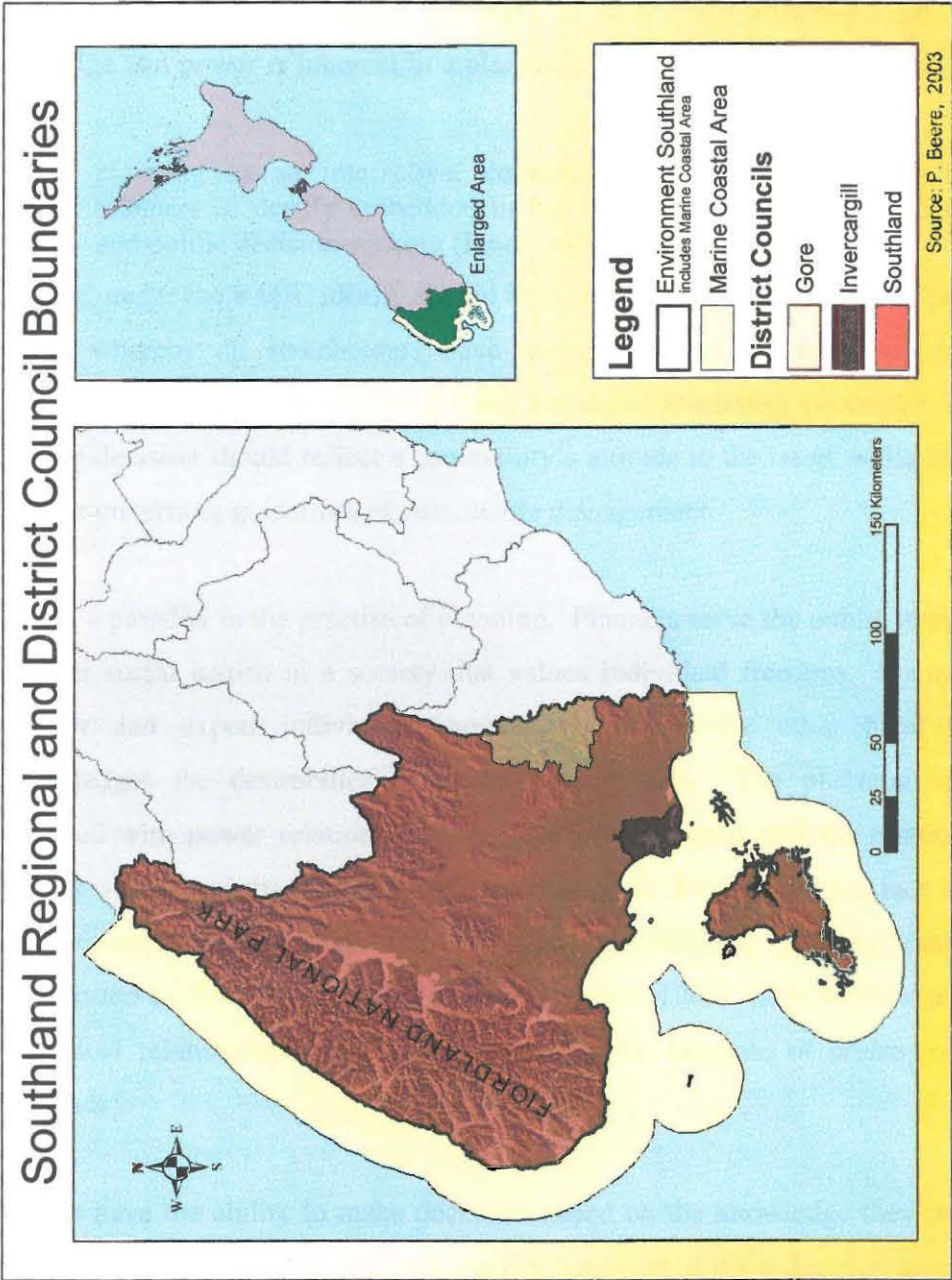


Figure 1.1

In Western society, planners have the ability to make resource allocation decisions in the interest of public justice and implement them within a politically accepted sphere which has legitimacy and authority (Mitchell, 1997). As a consequence, the public are involved in power relations executed in their 'best interests'. A level of knowledge and power is inherent in a planner's job. Communicative action theorists view:

planning as an interactive, communicative activity and depicts planners as deeply embedded in the fabric of community, politics, and public decision-making (Innes, 1995: 183).

Planning, under the RMA, ideally should be a communicative activity that provides a process whereby all stakeholders have the opportunity for equal (in language, discourse and representation) input into the decision-making process. Thus the resulting decision should reflect a community's attitude to the issue, while keeping in mind the governing guidelines of sustainable management.

There is a paradox in the practise of planning. Planners serve the public interest, they represent social justice in a society that values individual freedom. Planners have authority and expert individual knowledge, but on the other hand planning acknowledges the desirability of public participation. The planning system is embedded with power relations. Power relations are built into the relationship of planners with the community that they seek to serve. Planning in the face of power involves constant ethical challenges of balancing conflicting planning issues which are contested by different groups of society (Forester, 1989). This thesis explores this paradoxical relationship as it is played out in the example of cruise tourism in Fiordland.

Planners have the ability to make decisions based on the knowledge they possess or to consult, to varying levels, the stakeholders and thus make a decision according to their combined knowledge base. This knowledge may reflect scientific truth, local knowledge or a combination of both. By consulting, the planner(s) are redistributing the power relations in the "matrices of transformations" (Matless, 1992: 46).

Knowledge

The advantage of a participatory approach to resource and environmental management decision-making is the additional experiential knowledge that people who live and work in an area can provide to professionally trained experts. Such knowledge has been called *traditional*, *indigenous* or *local* and as such is differentiated from scientific knowledge based on formal study (Mitchell, 1997). Co-management is an approach that seeks to combine local and scientific knowledge and thereby empower the local community:

Western, science-based resource management has provided many useful concepts and methods for resource management and use... The growing recognition that indigenous people who live in an area have understanding and insights about resource, environment and ecosystems as a result of observation over various seasons and many years has been extended to recognise that any people, indigenous or otherwise, living in an area may be aware of aspects that a scientist could miss (Mitchell, 1997: 180).

Stakeholders and Interest Groups

Stakeholders refer to a person or people who have an interest or concern in an issue and can be active or inactive² (Pearsall, 2001; Mitchell, 1997). An interest group is any association or organisation which makes a direct or indirect claim on government with the aim of influencing public policy outside the formal powers of government (Hall and Jenkins, 1995). Organised interest groups are those that can articulate, have financial resources, monitor, conduct research and make submissions to government (Mitchell, 1997). The term 'interest group' generally covers a wide range of groups and the terms are often used interchangeably. Terms include 'pressure groups', 'lobby groups', 'special interest groups', and 'organised interests' (Hall and Jenkins, 1995). The main organised interest groups active in Fiordland are Royal Forest and Bird Protection Society (NZ) (national interests) and The Guardians of Fiordland's Fisheries and Marine Environment.

² Whether the stakeholders involved in participation in resource management reflects a reasonable cross-section of the stakeholders likely to be affected or impacted by the decisions (see discussion in Mitchell, 1997) is not in the scope of this research.

Discourse

This thesis draws on Foucault's concepts of power and discourse. When discussing Foucault's work it is important to understand his definition of discourse, which is integral to his argument on power, knowledge and truth. To use a rough equation, discourses for Foucault, are like structured bodies of knowledge and social practice which are collected into disciplines (McHoul and Grace, 1993; Fairclough, 1992). Thus, the discourse of power is the accumulation of what people know about power.

Culture and society can be seen as built up of recognizable 'discursive practices', as such as those used in educational, legal, religious or political contexts. 'Discourse' points to the fact that language always occurs in specific social contexts and always reflects specific codes, expectations, ideological pressures and presuppositions (Allen, 2000: 212).

Consequently, discourse analysis critiques the social contexts, codes and presuppositions embodied in every situation. Discourses within which cruise tourism in Fiordland is operating are: media, planning, tourism and scientific discourses. These spheres overlap and contribute to the context within which the *Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland* is working.

Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland

The *Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland* is a key focus document in this research. Also called the Deed of Agreement or the Agreement throughout this thesis, this document is the current mechanism for cruise tourism management in Fiordland.

Thesis Structure

Habermas' theory of communicative action, which is seen as an ideal method to achieve social justice in resource and environmental planning, is presented in *Chapter 2, Theoretical Framework*. Foucault's perspective of power is also introduced as a method of critiquing the power relationships embedded in the planning sphere. *Chapter 3, Methodology and Research Methods*, discusses the methodological case study approach, framed by the theoretical perspective, and the specific techniques adopted for the purposes of this research.

Cruise tourism is then placed within the broader context of international and national cruise tourism and cruise management regimes in *Chapter 4, Contextual Framework*. New Zealand's resource and environmental management background and governing legislation is also discussed in relation to cruise management in Fiordland. *Chapter 5, Cruise Tourism in Fiordland – The Case Study*, delves further into the case study and introduces the management mechanism adopted, the *Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland*. A critical reflection on this Agreement and the negotiation process through which it occurred is provided in *Chapter 6, Critical Reflections*.

The threads of the story of cruise tourism management in Fiordland are woven together in *Chapter 7, Summary and Conclusions*, to provide an explanation of the management approach taken and the applicability of the mechanism in national and international tourism management.

Chapter 2

Theoretical Framework

‘Without theory, there is nothing to research’

Silverman (1994: 1)

Introduction

Jürgen Habermas’ theory of communicative action has been adopted by prominent planning theorists as an ideal to achieve in environmental and resource management in Western societies as it exemplifies social justice in practice. Consequently, good planning is seen to incorporate Habermas’ ideal form of communication processes. New Zealand’s Resource Management Act 1991 has gone further and incorporated processes of consultation into the policy. This makes New Zealand a noteworthy example in which to apply a case study critique of communicative action in practice. Application of such ideals in society is not straightforward however. Consequently, this research uses Foucault’s perspective of power to examine the power relations present in the case study and how they have affected and impact on cruise tourism management in Fiordland.

These two theories have been combined in several planning case studies (Innes, 1995; Healey, 1992a; Healey, 1993; Hoch, 1992; Hillier, 1993; Forester, 1989; Sager, 1994). Application of communicative action theory, however, has not been studied in New Zealand, where the aim has been to strengthen public participations and consequently level the playing field (Memon and Perkins, 2000), but has been applied to frameworks where politics and power are accepted parts of the planning approach.

Critics of the Resource Management Act 1991 in New Zealand have argued that, apart from limited opportunity in the plan approval process, social concerns are considered by planners only in so much as they legitimise planners' actions (Gunder, 2000). However, rigorous case studies have never been undertaken in the coastal arena. This research provides a critique of cruise tourism management in Fiordland, a case study in the marine environment, using the theoretical approach of Habermas and Foucault combined.

This chapter begins by reviewing key tourism theoretical developments and then placing cruise tourism in Fiordland within the broader context of tourism theories and management models. Next, an outline of Habermas' theory of communicative action is provided and examined in relation to the discourse of planning. Then, power as defined and applied by Foucault and its relevance to planning in action is discussed. Lastly, previous research which has combined both these theories in the planning arena is examined as a basis for this research.

Tourism Management Models

Tourism depends on people participating in activities; sustainable tourism is dependent on matching tourism activities and tourists with the carrying capacity (socio-cultural and biophysical) of the host setting. Consequently, much of the modelling of tourism has focussed on the evolution of the industry in terms of tourist numbers (e.g. Butler, 1980) and/or means of classifying tourism into some taxonomy to enable more efficient model building. Neither of these is attempted in this thesis, but because of their prevalence within the literature on tourism management, it is useful to position the case study of cruise tourism to Fiordland within these standard frames of reference.

Cruise tourism in Fiordland can be placed on Butler's curve (1980) to illustrate the growth of the industry and the associated repercussions that can occur alongside

tourism operations – especially as the numbers of tourists increase. This is applicable to cruise ships due to their large scale and the numbers of people on board on any one visit. The cruise industry in Fiordland could be classified as in the exploration and rapid growth stage in the development of marine tourism. Any management technique employed at this stage has the potential to avoid or limit the annoyance and antagonism on the community and fellow tourists that often accompanies the latter competition stage. Additionally, an early intervention could result in adaptation, acceptance and co-operation by the various user groups sooner than predicted on the adaptations of Butler's curves.

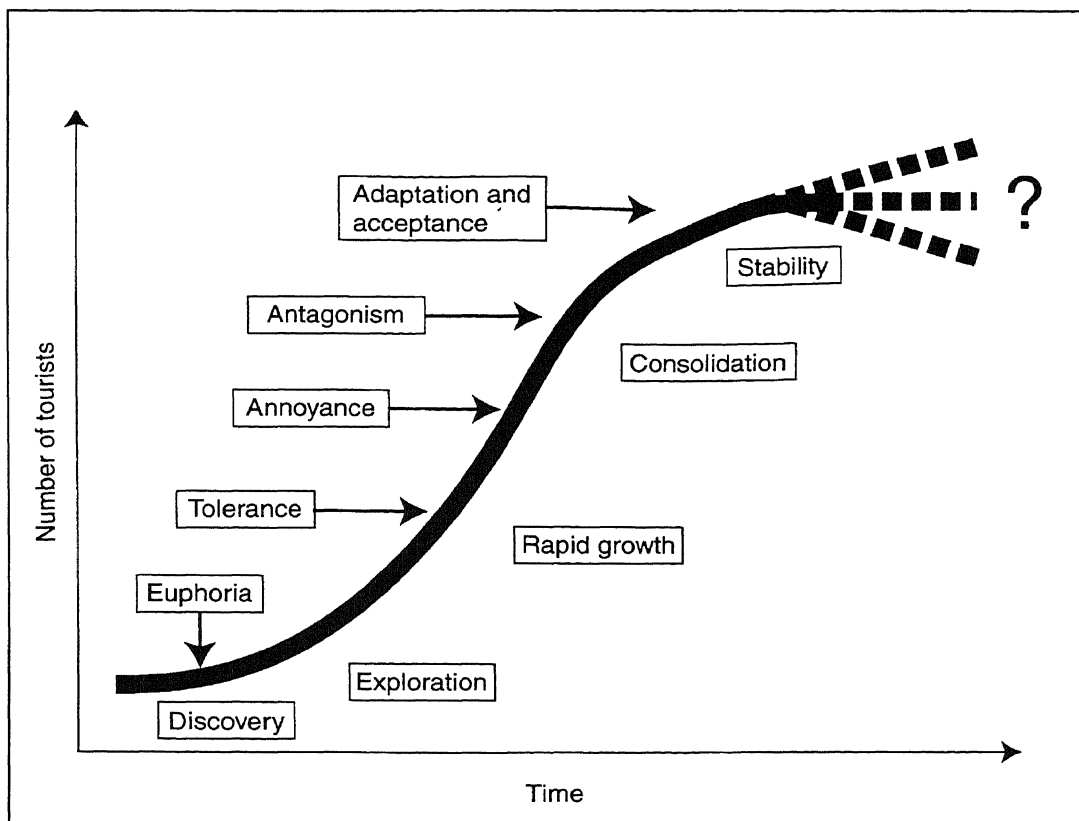


Figure 2.1 Possible Stages in the Development of Marine Tourism Attractions and Associated Community Reactions (adapted from Butler, 1980; Doxey, 1975)
(Source: Orams, 1999: 64)

Among the taxonomic models for classifying tourism activities, some of the most intuitively useful and frequently used (for tourism planning) is the Recreational

Opportunity Spectrum (Butler and Waldbrook, 1991; Page, 2000; Boyd and Butler, 2000). This takes 'access' as its definitive taxonomic criterion. In this model different types of tourism experiences and activity opportunities are related to the ease of accessibility. The nature of opportunities available may change if accessibility changes (e.g., the building of new roads to previously inaccessible locations).

Orams (1999, Figure 2.2) has developed a conceptual model for the management of marine tourism using a marine version of the Recreational Opportunity Spectrum and combining it with potential intervention strategies to indicate possible management actions to alter or retain particular tourist experiences under this model. From a national perspective, Fiordland has limited access. Most areas are not accessible by road, only by boats or floating equipped aid-vehicles, and infrastructure (for example, ports) for ocean going vessels is not provided. Within Fiordland, however, using distance-based categories from shore and human influences (ranging from easily accessible to remote) enables a more accurate classification relevant to cruise tourism. Areas such as Milford Sound and Doubtful Sound would fall under Class III – less accessible (due to the avalanche risk on Milford Road); while the inlets that ships are not permitted to enter without specific permission, along with those passages that are too narrow for the size of ship would be classified as remote – Class V. The sheer scale of cruise tourism has the potential to detract from any feelings of wilderness other users of Fiordland might experience, however, the relatively immense scale and topography of the fiords does reduce the visual impact of the cruise liners.

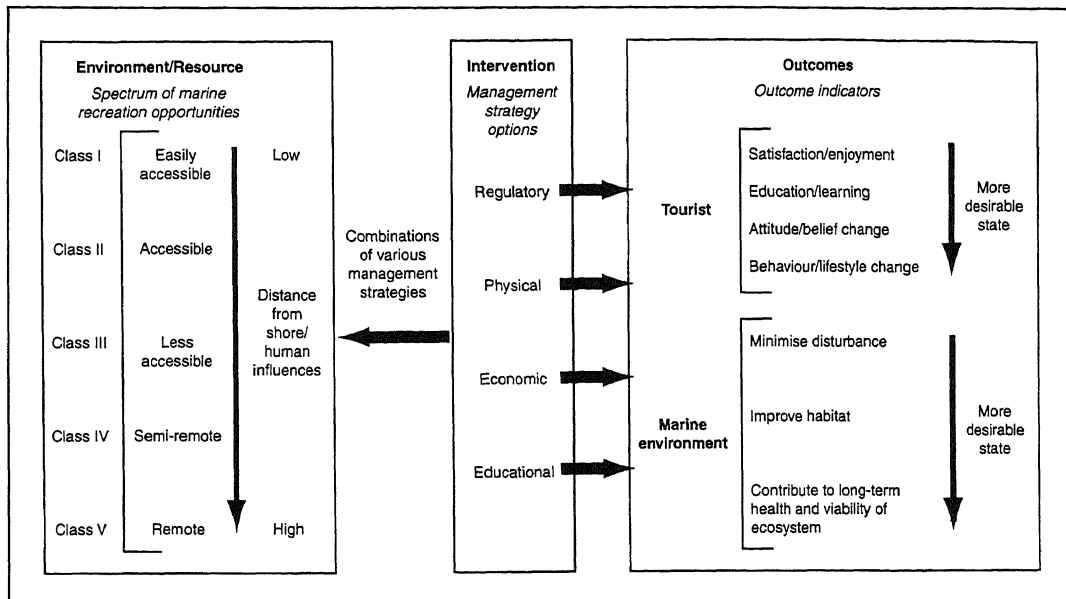


Figure 2.2 A Conceptual Model for the Management of Marine Tourism
(Source: Orams, 1999:92)

Communicative Action

Critical theorists, particularly Habermas, have potentially the most useful and richest ideas for planning theory, providing a holistic approach that links action, knowledge, ethics and politics (de Neufville, 1983). Critical theory is useful for reflective thinking on social practices, such as tourism, and searching for ways to enhance a society's future in a collaborative and collective manner, often through the mechanism of planning (McDowell and Sharp, 1999). It is in this capacity that Habermas' theory of communicative action and the ideal form of communication he proposes is useful to the case study of cruise tourism in Fiordland. Cruise tourism in Fiordland and the negotiation of a management regime can be reflected on critically and compared with Habermas' ideal to see if it conforms to his ideal communication.

Origins in Critical Theory

Formulated in the Frankfurt School, critical theory builds on Marxist ideas and has been developed further by Jürgen Habermas (Innes, 1995; McDowell and Sharp, 1999; Johnston et al., 2000). McDowell and Sharp (1999: 44) define critical theory as the “systematic study of the relationships between human agency and social structures in capitalist societies”. Theorists of this approach take a critical stance on contemporary cultural, economic and political relations and as a result are committed to changing such relations for the better (McDowell and Sharp, 1999; Johnston et al., 2000). At this point some postmodernist theorists take a differing perspective. They view all attempts to suggest a ‘better future’ as Western-centric notions of progress and, as such, not representative of the diversity of society as a whole and thus doomed to failure (McDowell and Sharp, 1999).

Habermas’ Theory of Communicative Action

Fulfilling McDowell and Sharp’s (1999) definition of a critical theory, Habermas’ theory is two-tier. He has used critical theory to challenge the methods and structure society uses to communicate. Additionally, Habermas takes his theory of communicative action one step further than critiquing forms of communicating in society. He provides ideal guidelines for such communication, pushing for open public dialogue and proposing a prototype of achieving better relationships between people and the social structures within which they live. While the ideal goal of communicative action is advocated by Habermas it has not been developed into a set of operational and widely usable concepts (de Neufville, 1983).

According to Habermas, social interaction is organised through a system of communicative action which is governed by communicative rationality (Johnston et al., 2000). Communicative action is a process that occurs through language and language reflects the social context of society. Use of language implies the pursuit of a consensus in a situation, ideally when all participants are free to express their views

(Brand, 1990). One must “presuppose an ideal situation of verbal communication, on both sides, whenever we wish to carry on discourse” (Habermas, 1974: 25).

The ideal of communicative action occurs when the actions of the players involved are coordinated with the aim of reaching understanding:

In communicative action participants are not primarily oriented to their own individual success; they pursue their individual goals under the condition that they can harmonize their plans of action on the basis of common situation definitions. In this respect the negotiation of definitions of the situation is an essential element of the interpretive accomplishments required for communicative action (Habermas, 1984: 286).

Essentially then, communicative action centres on the motivational reasons for the communication; whether it is a success-oriented attitude or attitude aimed at reaching understanding. Thus, communicative action is the process of reaching shared understanding. Habermas’ ideal communication involves ordinary, common sense, mutual understanding and consensus which makes shared knowledge possible (Forester, 1985).

Applying communicative action to contemporary democratic societies and describing an ideal decision-making process, Habermas (1984: 82) states that in modern law:

the private contract draws its binding power from its legality but the law that gives it this legality owes its obligatory character, demanding recognition, to a legal system legitimated in the end by the political will-formation. It is the achievement of mutual understanding by a communicative community of citizens, their own words, that brings about the binding consensus.

It is the second part of Habermas’ theory, his work on communicative action, specifically the ideal form of communication he advocates and its application in practice in society, as described in the above quote, that is relevant to this research.

Communicative Action and Planning

Habermas’ theory of communicative action has been applied to the general field of planning. Throgmorton (1993) and Healey (1992b) are two prominent authors whose

writing has informed direction in this field. Healey (1992a; 1993) has applied Habermas' communicative action to the practice of planning and termed it 'planning through action'. The guidelines that Habermas provides as an ideal form of communication would ideally be applied to achieve empowerment of all sectors of society to allow and encourage participation in resource management. Planning, following Habermas' communicative action rationale and ideals to achieve optimum interactive communication, epitomises a method of achieving representation of the public that they serve. Thus, the essence of communicative action being a process of reaching shared understanding is particularly applicable to the aim of public empowerment; where the diversity of local voices contributes to planning decisions:

A profession's legitimacy rests on its knowledge. The study of practice shows that what ordinary people know is at least as relevant as what is found through systematic professional inquiry, but we [planners] have no professional standards to evaluate what ordinary people know. Moreover, much of the important knowledge includes stories, myths, and the implicit understandings shared in a community. Indeed, the connection to such narratives is what makes the difference between information that is used and information that is not... Social processes turn information into meaningful knowledge and knowledge into action... [K]nowledge that is generated and validated through social processes involving its users becomes embedded in the taken-for-granted assumptions and practices of these users (Innes, 1995: 185 – 186).

Planners, in many contexts where knowledge and values are in contention, have created innovative, stakeholder-based, consensus-building processes. Habermas (1984) spells out a process for learning and deciding that bears close resemblance to such practices and which provides principles for managing these processes, such as assuring representation of all major points of view, equalizing information among group members, and creating conditions within the group so that the force of argument can be the deciding factor rather than an individual's power outside the group (Innes, 1995: 187).

Communicative Action and the RMA

More specifically in a New Zealand resource management context, communicative action forms the theoretical underpinning of the RMA and its implementation. On

paper the RMA is an exemplar of communicative action in legislative practice. The processes of consultation and sharing of knowledge and values in order to achieve a shared understanding of resource management are an integral part of the RMA and is integrated into the resource consent and planning processes (Part 5, Part 6, First Schedule and the Fourth Schedule of the RMA). Accordingly, the RMA empowers and delegates' power in resource management decision-making to the public. The processes for empowerment are written into the legislation. It is within this sphere of the ideal of communicative action, incorporated in and providing the best practice guidelines for New Zealand's RMA, that cruise tourism in Fiordland is situated:

While Habermas, unlike some other critical theorists, argues that there is a role for instrumental rationality and scientific method, and thus makes his work acceptable to professional in many fields, he focuses his attention on the development of critical or emancipatory ways of knowing that are designed to get past the embedded power relations in a society. These ideas are attractive to planners because, rather than forcing them to try for a value-neutral, expert role in which they do not believe, they offer planners the possibility of an ethical stance with the world as they experience it (Innes, 1995: 186).

Foucauldian Power

The seductiveness of Habermas' theories for planners must be tempered by an appreciation of Foucault's re-conceptualisation of the nature of power relations. Foucault's thoughts have dominated Western debates since the 1970s. A Foucauldian definition of power ceases to view it by the negative effects that can result, coercion or constraint, but rather by the things it traverses and produces; it induces pleasure, forms knowledge and produces discourse (Gordon, 1980). Thus Foucauldian power "is enabling, exercised rather than possessed, relational and immanent, neither institution nor structure nor strength but a complex strategical situation which is constantly and locally shifting" (Foucault, 1981 as cited in Matless, 1992: 46).

Foucault opened up the realm of power being bottom-up rather than imposed from the top-down *upon* us (Foucault, 1981):

Power is everywhere; not because it embraces everything but because it comes from everywhere ... Power comes from below; that is there is no binary and all-encompassing opposition between ruler and ruled at the root of power relations, and serving as a general matrix – no such duality extending from the top down and reacting on more and more limited groups to the very depths of the social body (Foucault, 1979: 93 as cited in McHoul and Grace, 1993: 39).

It is this view that power is embodied in people, and thus embedded in every cell and every action that a person makes, that is fundamental to Foucault's concept of power. Consequently, power is inherent in the relations that are built into the practices of everyday life and all social processes (McHoul and Grace, 1993; Giddens, 1995). Thus all people are caught in the web of power whether they choose to be or not. Foucault coined the term bio-power to encompass the concept of power in people's physical bodies as well as that which exists in the population.

Foucault states that power is only power when addressed to individuals who are free to act in one way or another. Thus:

[p]ower is defined as 'actions on others' actions': that is, it presupposes rather than annuls their capacity as agents; it acts upon, and through, an open set of practical and ethical possibilities. Hence, although power is an omnipresent dimension in human relations, power in a society is never a fixed and closed regime, but rather an endless and open strategic game ... (Burchell et al., 1991: 4).

Power, Knowledge and Truth

From this approach where power is specific, flexible and positive, Foucault makes the link between power, knowledge and truth. Power, from a Foucauldian perspective, is inseparable from knowledge and truth. In order to understand Foucault's perspective of power, therefore, one needs to understand the links and interactions between the three phenomenon.

Power and knowledge act in a circular manner; possession of one can enhance the other. Power provides the ability to access and acquire knowledge. Knowledge can lead and add to power utilised in any given context:

For Foucault, power produces knowledge, and knowledge presupposes and constitutes relations of power. The term 'power-knowledge' embodies the relation of the two. Again the emphasis is not on confinement by an embracing structure of power-knowledge, but on process, struggle, and possibility: relations of power-knowledge are not static forms of distribution, they are 'matrices of transformations'. Representations, then, of whatever kind, might be regarded as enacting relationships of power-knowledge (Matless, 1992: 46).

Official knowledge (or knowledge accepted as truth in a society) works via a process of repeating or revealing and as an instrument of 'normalisation' (McHoul and Grace, 1993). Knowledge is an evolution of a set of understandings (de Neufville, 1983):

Foucault also has an interest in examining the methods, practices and techniques by which official discourses go about this process of normalisation and, in the process, occlude forms of knowledge which are different from them (McHoul and Grace, 1993: 17).

Consequently the truth devolves from a certain perspective and gradually becomes accepted in society as fact. Capitalist societies have assigned the value of having knowledge as knowing the 'truth'. Scientific facts and findings hold a place of truth in Western societies; however this reflects the values of their society rather than actual 'truths'. Every society will have differing truths that are reflected in the decisions made (Habermas, 1987; de Neufville, 1983):

The universality of the claim to truth is an illusion; what is accepted as true at any given time is a matter of convention (Habermas, 1984: 126).

Foucault's critique of power locates it at its extremities, in areas where official discourses over-assert their authority (McHoul and Grace, 1993: 21). This occurs at the site of local, regional or national institutions, as it is here power always appears less legitimate, less legal. Fiordland is an example of this as it is located at the physical extremity, and consequently social extremity, of New Zealand.

Additionally Foucault states that power is outside conscious or intentional decisions made. Thus, the focus is not who is in power but how it installs itself and produces material effects. Consequently, the fields of power are of interest rather than the authors of power. So rather than talking about power being an individual's domination over another, the subject becomes part of the mechanisms of power. The analysis of power, therefore, should not focus on possession, but on the relations between individuals, and thus domination is something relative rather than absolute (Cousins and Hussain, 1984). Power is both reflexive and impersonal, acts autonomously, and produces subjects as much as subjects reproduce it (McHoul and Grace, 1993).

Developing this perspective of power, the questions Foucault poses are: Who exercises power? How do they exercise power? Who or what is the subject of the power? In Western societies these questions translate to: Who makes decisions for people's actions? Who are preventing people from doing this and telling people to do that? Who is programming people's movement and activities? This research poses these questions in the context of Fiordland's cruise tourism. Who has made, and continues to do so, decisions regarding the access rights of cruise ships into the area? Do these decisions, impact other user's access rights? What conditions, if any, are attached to the decision reached? Does the decision represent the public's view? To ascertain power one needs to ask whom does the discourse serve? Accordingly, the methodology used in this research reflects the need to answer these questions.

Furthermore, Foucault does not believe that the question of who exercises power can be resolved without the simultaneous questions of: How does it happen? How were the decisions made? And how they became accepted by everybody? (Foucault, 1988). Foucault believes that the study of social action is a study of power and, therefore, needs to encompass what he calls the "strategies of power, the networks, the mechanisms, all those techniques by which a decision is accepted and by which that decision could not but be taken in the way it was" (Foucault, 1988: 104). The allocation of space for resource use and, subsequently access rights to common

property, tells a story of the discourse of these power relations/power networks, mechanisms, and techniques (Faubion, 2001).

The Interface between Habermas' Communicative Action and Foucauldian Power

While it might appear that there is a paradox between the application of both the theory of communicative action and Foucauldian power, research by Innes (1995), Healey (1992a; 1992b & 1993), Hoch (1992), Hillier (1993), Forester (1989), Abram (2000) and Sager (1994) has shown that they can be combined. Basically, Foucault and Habermas both address issues of social interaction, although they have different foci for their theory – one through power, the other communication. Habermas' proposal of an ideal form of communication in society is a good baseline on which to compare and analyse planning in practice. He does not, however, state that this goal will ever be completely achieved (Hoch, 1992). According to Habermas, even if it is only partially accomplished, this would be better than having no target, and thus not implementing any of the values present in a society. If a Foucauldian perspective of power relations in society and its inherent nature is also used, a fuller picture and understanding can be gained. Thus, Foucauldian power provides an explanation as to why the ideal form of communication can not be fully accomplished.

As a result the general theoretical paradigms of Habermas' communicative action and Foucauldian power underpin the more specific research questions of this research. These two theories have been used to define the research problem as well as provide a prescription within which the research problem can be conceptualised. Consequently these theories offer guidelines for the level and type of analysis, the form of data generated as well as the interpretations to take.

The aforementioned list of authors who have applied the combination of communicative action and Foucauldian power in analysis have done so through a case study approach. While these theories have been combined to explore and explain situations that have arisen within the planning sphere in case studies overseas, specifically the United Kingdom and Australia, there is a lack of similar research in New Zealand, in particular in research on coastal marine areas and tourism. Therefore, while the arena of planning has been explored, the nature of competition for communal marine space and the solution used have not received the same level of attention. This research looks at how these issues are played out within the setting of cruise tourism in Fiordland. More importantly, what theoretical insights can be gained from a case study in a marine context where interests and rights are less clear and more complex than in the terrestrial environments.

Chapter 3

Methodology and Research Methods

Introduction

The case study methodology, incorporating discourse analysis, is similar to the research approach taken by both Foucault and Habermas. Although the unique nature of Fiordland and its New Zealand context does not allow a direct comparison with prior research, similar case study approaches have been adopted by prominent planning theorists when researching power in a planning context. Within this general methodological approach the research methods of key informant interviews, participant observation and discourse analysis were used. This chapter will discuss case study methodology, the rationale for its use in this research and details about the research methods and their application.

Research Methodology

Case Study

Foucauldian discourse studies treat “every instance of reality construction as a distinctive event that warrants its own analysis... [I]t also considers how every instance of reality construction involves knowledge about transsituational skills and issues which are, to some degree, context free” (Miller, 1997: 27). According to Foucault’s perspective, discourse studies involve “treating the data as expressions of culturally standardized discourses that are associated with particular social settings” (Miller, 1997: 34). Following this rationale and remembering that Foucault himself used a case study approach for his research on mental health, sexuality and prisons, a

case study methodology is appropriate when exploring power relations in the specific setting of Fiordland cruise tourism management. While Foucault uses case studies, the method of discourse analysis is the prominent technique used. It has been suggested that 'reading texts' through case studies is more constructive than abstract discussion (Forbes, 2000: 129).

Case studies using discourse analysis have been used to study planning and deconstruct plans in Great Britain (Healey, 1993) and the United States (Milroy, 1991; Throgmorton, 1993). One of the aims of the aforementioned research was to create a broader knowledge base of what is and is not achieved through plans. Language ingrained in plans is deconstructed to find cultural goals and policies, often reflecting those of interest groups that exerted power during plan formulation (Berke et al., 1997). Language plays a significant role in the continual transformation of power relations. Consequently, a case study methodology, utilising discourse analysis, is appropriate for research on planning for cruise tourism management in the specific example of Fiordland.

Similarly, communicative action theorists rely on qualitative interpretative inquiry more than logical deductive analysis as they seek to understand the unique and the contextual rather than make general propositions (Innes, 1995). They tell stories, "thick descriptions" (Geertz, 1973), and look for insights to deepen understandings. Research by Innes (1995) suggests that socially constructed information in a community is influential. Consequently, what society takes as 'reality' or the 'truth' is formed through social processes which combine subjective and objective knowledge (as discussed in *Chapter 2*). Thus a case study is ideal to analyse the praxis of Habermas' theory in a socially constructed community.

A case study is an in-depth strategy for research, in a real life context, which involves an empirical investigation of a particular contemporary phenomenon using multiple sources of evidence from various perspectives within a boundary of time and space (Yin, 1994; Robson, 1993; Kitchin and Tate, 2000):

Social realities are always locally constructed and contingent. They are 'built up' through setting member's organization and use of the discursive resources and opportunities that are made available to them in concrete social settings (Miller, 1997: 26).

De Neufville (1983) states that research undertaken using a critical approach should rely on a range of methods, including open-ended interviews, language and content analysis, direct observation and in-depth case studies.

Case studies can be used to provide detailed analysis of events and/or to analyse deviant cases that run counter to generalizations (i.e. are exceptions) and "to help provide an intuitive feel for the subtleties and nuances of the policy process and the practice of politics" for policy analysis (Anderson, 1984: 165 cited in Hall and Jenkins, 1995: 98). A case study, therefore, is an ideal methodological approach in which to examine values, choices, perceptions and ideology and interlink them with description and context and provide a theoretical explanation, as illustrated in Figure 3.1.

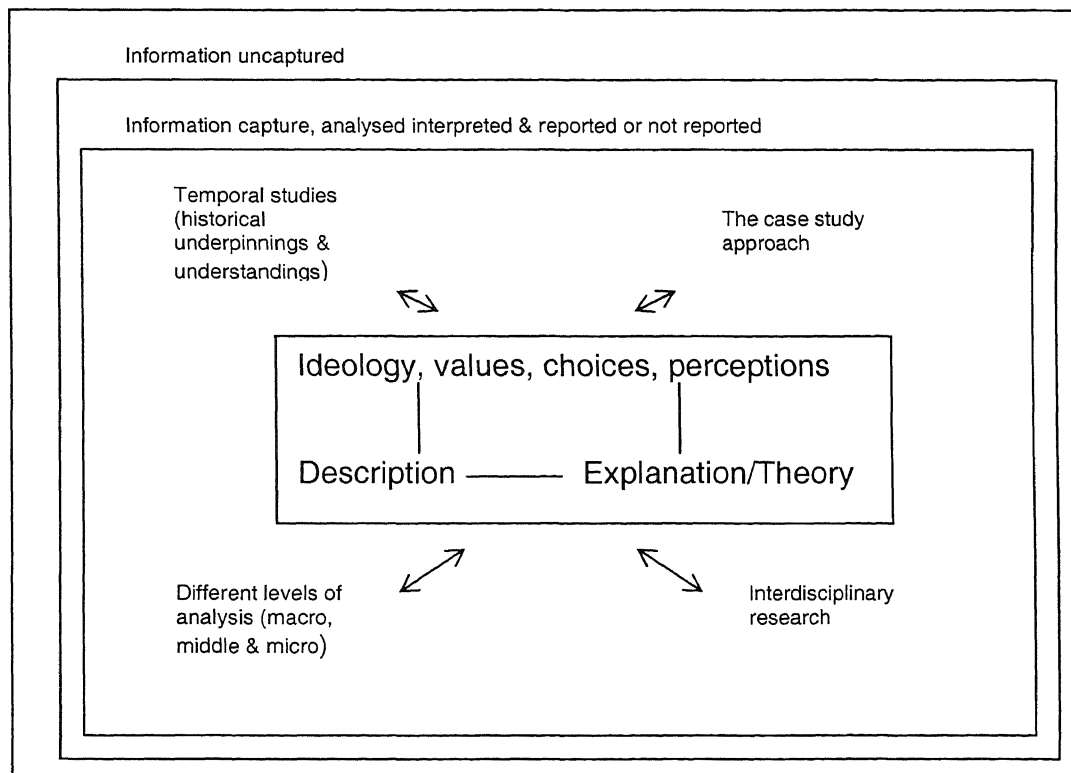


Figure 3.1 A Conceptual Framework for Studying Tourism Public Policy
(Source: Hall and Jenkins, 1995: 95)

Salter (1967 as cited in Mitchell, 1989) argued that case studies can be especially valuable when beginning to explore a situation and when undertaking exploratory research. Case studies help to understand how policy develops and to identify the purposive behaviour of the actors involved and thus why decisions were made (Hall and Jenkins, 1995). A case is chosen because of it is an example of a specific phenomena and has unique qualities (Yin, 1994; Travers, 2001; Ragin and Becker, 1992), in this instance, cruise tourism in Fiordland. It is not necessarily chosen because it is a representative sample. There are limited New Zealand cruise tourism destinations and each have different features that shape the context. A single case study is researched because of the rich qualitative data and a narrative approach is often taken in order to tell the story of that example (Ragin and Becker, 1992).

Many tourism researchers employ bulk surveys and other quantitative methodology when undertaking research on tourism topics. However, the small size and transient nature of the population in Fiordland which has large numbers of tourists all year round does not lend itself to gathering large survey data. Furthermore, while similarities with other cruise tourism countries can be made on some issues, the nature of the resource management restructuring of the 1980s and 1990s has made the New Zealand context extremely different from other cruise countries. Therefore, due to the special nature of the Fiordland area and its status as the only area regulating cruise ship visits in New Zealand it was not possible to do a comparative study. Additionally, exploratory research showed that there were only a small number of players involved in the Agreement. As a consequence an in-depth case study, including textual analysis, presented the most viable research option.

The intensive methods of in-depth semi-structured interviews and discourse analysis were used because while there are other regions in New Zealand that have cruise ships visit and need to implement policy in regards to them, each district has different priorities as specified in their regional and district plans. Furthermore, under the Resource Management Act 1991 all regions are autonomous and thus can deal with similar situations in varying ways and means. It is, therefore, required that research

on cruise ship legislation in New Zealand is done on a case by case regional basis, although similar lessons might be applied in differing regions. An alternative approach involving comparative case studies was considered but the Fiordland context and management response appears unique. A comparative approach would therefore have been of little advantage and logistically difficult to undertake within resource constraints.

The decisions and actions of various actors and agencies, and systems of political management are complex and require a corresponding rich detail in their analysis (Hall and Jenkins, 1995: 97).

Case study or field research has no pre-packaged research designs and thus, allows data collection methods and analysis styles to evolve, as appropriate, throughout the research process (Crabtree and Miller, 1992). Several data generation techniques are frequently used within a single case study. They are usually qualitative and generally include participant observation and key informant interviews (Kitchin and Tate, 2000).

Research Methods

Discourse Analysis

Discourse analysis draws on a wide range of intellectual traditions. There is a range of approaches the researcher can draw upon to deconstruct one or multiply 'text(s)' and these are frequently illustrated through a case study approach (Forbes, 2000). Consequently, in discourse analysis and the reading of the text, the reader brings something of themselves and their knowledge, and the characteristics of the researcher because of social construction (Aitken, 1997).

Discourse analysis, or a critical reading of the Deed of Agreement, was a research method used as because the recently implemented document is the mechanism being

used to manage cruise tourism in Fiordland and, consequently, is central to this research. Prior (1997) and Fairclough (1992) discuss using Foucault's work, critical methods and a highly descriptive discourse analysis (McHoul and Grace, 1993), as a guiding methodology for empirical investigations¹. His insights into applying interpretive qualitative research, especially in regards to power relations, have contributed to the research tools utilised under a case study framework for this research. Additionally, Fairclough's (1992) conceptualisation of discourse analysis to a more specific textually-oriented discourse analysis has also been used as a guide.

Texts, according to Prior (1997) and Jupp and Norris (1993), can provide a starting point and object for qualitative analysis in their own right as they are neither neutral nor subjective. The multiple layers of meaning in text means that there is more than one reading or interpretation possible (Forbes, 2000). It is through text that power relations are constituted as they are embedded in it (Jupp and Norris, 1993). Foucault, for instance, was interested in what the "texts reveal about the mechanisms by which power is exercised" (Jupp and Norris, 1993: 39). Institutional documents are records that embody individual actions and encounters and the power relations embedded in them (Atkinson and Coffey, 1997; Wetherell, 1999). Consequently, a discourse analysis of an institutional document, such as the Deed of Agreement, highlights the power relations that were at play and resulted in the document. Furthermore, such inquiry must incorporate how the documents are produced, circulated, read, stored and used for a wide variety of purposes because they hold social facts and a place in organisational settings, with cultural values attached, in their distinctive type and form (Atkinson and Coffey, 1997; Aitken, 1997).

Language is not always transparent. Different types of language, or discourses, are used in different social settings and situations (e.g., planning terminology, legal jargon):

¹ While using Foucault's works as a reference for discourse analysis the shift in focus from his early to his latter works is recognised (Fairclough, 1992).

Discourses do not just reflect or represent social entities and relations, they construct or 'constitute' them (Fairclough, 1992: 3).

Discourse emphasises interaction between the writer and reader as well as the processes of producing and interpreting writing and the situational context that language is based within (Fairclough, 1992). Consequently, analysis of text is more than trying to interpret the text, rather it is an analysis of the origins, history and structure of the discursive themes which have produced the text (Prior, 1997):

Postmodern analysis of texts seeks to make explicit the implicit social production of knowledge (Aitken, 1997: 211).

Planning implies the aim of making something occur. As such discourses and policies are written to construct everyday reality through restricting or allowing activities to happen. Thus it is a top-down power approach by the very definition of the term that is used so freely in contemporary society – a term that classifies many everyday activities in modern societies. In fact planning is a growing sphere that is highly sort after and encouraged. Thus, critical reflection on the Agreement should “focus on the ways in which everyday life is organized within, and through, language” (Miller, 1997: 26).

Habermas (1984: 130) states that the interpretation of any communication needs to be undertaken with an awareness of the context and by “gaining access to the definitions of the situation presupposed by the transmitted text through the lifeworld of its author and his audience”. This is important because the lifeworld forms the context within which the participants agree upon something in their common social world and reach an understanding. Society, or the lifeworld as Habermas calls it, reflects cultural values and norms and these are dependent on the social context:

The interpreter has to clarify the context that must have been presupposed as common knowledge by the author [and other players]. The meaning of the text can be disclosed only against the background of the cognitive, moral, and expressive elements of the cultural store of knowledge from which the author and his [sic] contemporaries constructed their interpretations (Habermas, 1984: 132).

The discourse analysis on the Deed of Agreement was approached on three levels – the production and the language used to create the text, the text itself and the intended audience and how they might interpret the text (Barnes and Duncan, 1992; Wetherell, 1999). Different questions contributed to the examination of each of these levels. Ideologies or beliefs; frequently stemming from cultural influences and impacting social relations and identities; power relations and systems of knowledge were themes searched for in the Agreement. Discourse analysis on the Agreement also looked at the intertextuality², or the independence of meaning in the text on those that preceded it and is associated with it (Aitken, 1997). Subsequent texts that refer to or interact with the Agreement and thus contribute to its legitimisation due to confirmation of the agreement (intersubjectivity) were also analysed.

The vulnerabilities of discourse analysis alone, including ethical issues of privileging the researcher and the critical nature of review (Forbes, 2000), are sought to be overcome by the combination of research methods chosen.

Interviews

Interviews were chosen for this research as they allow the examination of power relations and insight into social processes particularly in regards to a particular setting (Longhurst, 2003; Dunn, 2000). Exploratory research before I went into the field highlighted the small number of parties involved in managing cruise tourism in Fiordland. Consequently, a small number of in-depth interviews with key personal were undertaken. Participants for the key informant interviews were chosen for their experience and involvement, often in the decision making process, in the research topic. These interviews were supplemented by several exploratory

² Intertextuality refers to the construction of a text by reference to previous texts, drawing the reader into a network of textual relations. Works of literature are thus built from systems, codes and traditions previously established by other works (Allen, 2000). Consequently, to interpret the meaning of a text it is necessary to trace those relations, which become a process of moving between texts (Allen, 2000; Forbes, 2000; Worton and Still, 1990). Furthermore, intertextuality alludes to the interconnectedness, relationality and interdependence woven into a text that is a critical part of modern cultural life.

interviews that canvassed the opinions and roles of other organisations involved in both the cruise industry in New Zealand and in environmental issues in Fiordland.

All the interviews were semi-structured, flexible, informal and conversational in nature (Valentine, 1997; Kitchin and Tate, 2000; Dunn, 2000). They were used to probe reasons why certain decisions were made regarding the negotiation of a cruise tourism management regime in Fiordland. While an interview guide was used, it was important to keep the interviews open as the exploratory nature of the work meant that there were many issues I was not aware of. This was also due to the limited amount of information and research on the general nature of cruise tourism in New Zealand and their specific management regimes.

The interviewee's locations were widely dispersed and as a result some interviews were conducted face-to-face (Environment Southland and CNZ's legal representation) and others by telephone, depending on availability of people at the time of the fieldwork (21 August, 2002 till 4 September, 2002). The New Zealand cruise industry is relatively new and the majority of the organisations involved in its policy, planning and marketing are located in either Wellington or Auckland, not in the research field area.

The face-to-face interviews were audio-taped. Further notes and a general analysis of the interview information was completed immediately afterwards. Notes were taken in the telephone interviews, which were revisited and extended immediately after the conclusion of the interview. The information collected through the interview process was sorted and classified via an informal coding according to themed categories (Tolich and Davidson, 1999; Kitchin and Tate, 2000). The themes I was looking for were: a description of the situational context, the decision making process, timeframes, the reasons and rationale behind decisions made, an organisation's or person's role in cruise tourism management in Fiordland and their interaction with other actors. Classification was an interpretive process that developed as a fuller picture of the situation emerged.

The table below (Table 3.1) shows the organisational actors in cruise tourism in Fiordland and the type of interview.

| Organisation | Face-to-face Interview | Telephone Interview |
|---|------------------------|---------------------|
| Environment Southland (Ken Swinney) | • | |
| Cruise New Zealand (Craig Harris) | | • |
| Department of Conservation (Ken Murray) | | • |
| Te Ao Marama ³ (Michel Skerrett) | | • |
| Tourism New Zealand (Two contacts) | | • |
| Ministry of Tourism (Two contacts) | | • |
| Legal Representation for CNZ | • | |
| Forest and Bird, Southland Branch (Two contacts) | | • |
| Maritime Safety Authority | | • |

Table 3.1 *Organisational Actors in Cruise Tourism Management in Fiordland*

Participant Observation

Participation observation has been “adopted and adapted by geographers seeking to understand more fully the meanings of place and the contexts of everyday life” (Kearns, 2001: 108). Participant observation was used during the fieldwork period in a complementary capacity to gather additional descriptive information, to ‘experience’ the place and thus to help interpret findings derived from other sources. Observation means purposefully watching worldly phenomena in order to gain information (Pearsall, 2001). Common usage has increasingly broadened the concept beyond ‘seeing’ to include ‘apprehending’ the environment, including landscape, through all our senses (touch, sound, smell) for research purposes (Kearns, 2001). It

³ Te Ao Marama Inc. is a resource management consultant group who consult on behalf of Nga Runanga o Murihiku are the kaitiaki runanga for Murihiku (Southland) region.

is this expanded definition of participant observation, wider than the traditional ethnography approach found in social anthropology, which is undertaken in this research. Fieldwork was carried out in an observer-as-participant role; a research situation in which I was primarily able to observe but in so doing also actively participated in social situations (Kitchin and Tate, 2000).

I travelled to Fiordland to 'get a feel' of the area as a tourist. Through relatively unstructured interaction with 'locals' and tourists I was able to gain 'experience'. Unfortunately I was unable to partake in a 'cruise experience' in Fiordland due to my research being completed in the university year, which allows fieldwork to be undertaken anytime from May to November, but which unfortunately is the off season for cruise tourism in Fiordland. However, according to Kearns (2001), the geography of everyday experience requires such unstructured interaction as it develops understanding through the spontaneity of everyday interactions. The observation of interactions between tourists and other tourists; tourists and 'locals'; and tourists and the environment in Fiordland was essential to understanding the appeal of the area as a prime tourist destination in New Zealand. I placed myself in situations in order to gain understandings of the place and tourist interactions, through which the challenges for planning for tourism, in particular cruise tourism, became apparent. These 'natural' interactions were done by participation in social processes that tourists engage in. Active participation also allowed me to observe first hand and gain an understanding of the challenges faced for making and implementing a working management regime for the area.

Past experiences as a tourist, both in New Zealand and overseas, influenced how I interpreted the interactions and experiences that I participated in while in Fiordland. Some of my travels have included destinations where cruise tourism is a major and highly visible industry. These experiences contributed to ease of interaction with other tourists, 'locals' and tourist operators and provided a backdrop on which to compare the experience and understand the complexity of management regimes from a broader perspective.

Chapter Summary

The research for this thesis adopted a case study methodology using discourse analysis, key informant interviews and participant observation. While a case study approach has limitations and the results can not be extrapolated, the nature of the topic provided an ideal case to undertake exploratory research, particularly as Fiordland is the only place where such a management regime has been implemented within the context of an international exemplar of resource and environmental planning. There is, however, potential for application of the initiative within the New Zealand context and thus is significant for future direction in resource and environmental management. Having established the research methodology and process used to obtain the results, I will now situate the research in its local and national context.

Chapter 4

Contextual Framework

Introduction

This chapter provides an initial overview of cruise tourism both internationally and in New Zealand. Options for managing cruise tourism and examples where these have been implemented are discussed. A contextual view of environmental management in New Zealand and the governing regulatory regime within which cruise tourism operates is also covered. Finally, this chapter draws all these threads together to focus on the organisations and governing resource management legislation applicable to the case study of cruise tourism management in Fiordland.

International Cruise Tourism

Cruise tourism has experienced a rejuvenation over the past ten years. Cruising is a popular holiday option due to its excellent safety record, the high level of service provided and the range of options available while still being in a package form (World Travel and Tourism Council et al., 2002). The cruise industry has high capital costs and, because the product and infrastructure are internationally transferable by nature, it operates within many complex regulatory and legal environments (Mitchell, 2001). (As a result of the popularity boom, worldwide cruise tourism is the largest growing sector within the leisure travel industry)(Cartwright and Baird, 1999; New Zealand Tourism Board et al., 2001). (A growth rate of almost eight percent per year in the industry has been recorded for the past decade)(World Travel and Tourism Council et al., 2002). Accordingly there has been much interest

shown in the industry, especially in the most popular areas of the Caribbean and Alaska (Orams, 1999; Dickinson, 1993). Cruise literature has the tendency to extol the economic benefits of the industry or is often self-promotional in nature.

The sheer scale of some cruise liners and the resulting number of passengers that can be accommodated aboard places cruise tourism within the mass tourism category. Destinations where cruise ships dock require similarly large scale facilities for passengers to embark and disembark. (For this reason cruise ships are limited in their destinations as not all ports can accommodate their size and needs.) Specialised cruise ports, like Singapore, can berth several ships at a time with facilities designed to specifically cater to their needs. Other destinations such as coastal ports of call, e.g. Picton, New Zealand, can only accommodate smaller vessels.

In order to keep pace with the growth in demand, several cruise companies are building larger vessels. Some of the new mega-liners coming into service between 2001 and 2005 can accommodate in excess of 3,000 passengers (World Travel and Tourism Council et al., 2002). Many of these larger vessels are billed as 'floating cities' due to their size and the number of passengers and crew they can accommodate. These new, large capacity vessels are usually launched in the most popular destinations such as the Caribbean (CNZ et al., 2001).

The increasing size of several of the newer ships and their deployment on popular routes has led owners of older, smaller cruise vessels to search for new destinations and niche passenger markets. This is one of the main reasons for the extent of the specialisation and diversification which has occurred (Mitchell, 2001). To stand out in the discerning and popular cruise market many cruises are becoming themed. Family, singles, education or film cruises are just some of the variety offered.

As the above discussion indicates, there are a variety of different types of cruises available. There are also a significant number of passengers who return, often on a regular basis such as annually (CNZ et al., 2001). The majority of cruise companies

have a loyalty club for repeat passengers where they can gain benefits and extra savings. Passenger's expectations have increased partly in response to repeat passengers and the marketing of a cruise as an exotic and pampering holiday¹.

The cruise ship industry influences many sectors in the ports, cities and countries from which they operate. This is due to the purchasing of provisioning supplies and services, the use of pilots and tugboats, waste disposal services, fuel and water, local artisans and shore excursions that encompasses further attractions, restaurants and retail shops, by the cruise ships at ports of call. Furthermore, port user fees, passenger taxes and other surcharges are extras that cruise companies are also required to pay at many destinations (WTTC, 2002).

It is anticipated that the growth of the cruise industry will continue and as a result the trends of larger vessels and specialisation in destinations will play a major role in shaping the future cruise industry. It is within the specialisation section of the industry in particular that New Zealand as a cruise destination is an emerging market.

Cruise Tourism in New Zealand

The development of New Zealand as a cruise destination has occurred in three distinct phases which follow the international patterns previously discussed. New Zealand, as a distant island nation, originally developed from passenger (especially migrant) vessels. Second, when international cruise tourism was in the initial rejuvenation stage, the cruise tourism sector in New Zealand was limited to occasional, sporadic visits, often associated with Antarctic or Australian cruises. Third, the restructuring of New Zealand transportation in the 1980s and 1990s allowed foreign vessels, such as cruise ships, to trade on the New Zealand coast

¹ Ships are rated on a five star system (similar to other accommodation quality certification schemes with five being the highest, although the majority of liners are rated 3, 4 or 5).

(Cavana, 1993). As a result New Zealand has emerged as a cruise destination. New Zealand is experiencing a steady increase in the cruise industry (Hodgkinson, 2002). The growth, however, has been sporadic. While around-the-world cruises to the port of Auckland are more firmly established, trans-Tasman and coastal cruises are a recent addition to the range of cruise itineraries (CNZ et al., 2001).

Lloyd's Cruise International has classified the world into four cruise tourism regions (Wild and Dearing, 1999). The three primary regions are the Caribbean, the Mediterranean and northern Europe, and the North American west coast. New Zealand is classified as part of the Asia Pacific cruise tourism region, which is one of the fastest growing areas in the market (Ports of Auckland, 2002; Hodgkinson, 2002). This vast area is listed as the fourth major cruising area and covers countries within and also bordering the south and west Pacific but excludes the South American countries that border the Pacific Ocean (Wild and Dearing, 1999; Wild and Dearing, 2000).

As a consequence of its geographical isolation, the extensive coastline and the spectacular and varied scenery, New Zealand is frequently considered a sole destination. This is a contrast in an industry promoted for the ease of travel to many ports, often in different countries, in a short span of time (CNZ et al., 2001).

New Zealand has been promoted as a cruiseship friendly country (Hutcheon, 2001; Seatrade Cruise Review, 1998). Reasons for this include the high level of support that local, regional and national government provide in terms of infrastructure and service provision. New Zealand also has a solid reputation for quality provedoring facilities. New Zealand food and wine is award winning and the cruise companies are increasingly re-provisioned from New Zealand, where it is cheaper than importing from the United States. New Zealand port facilities are also highly regarded and work is continuing to make them more attractive front areas for tourism. Linking with good hotels and airlines (Air New Zealand), which completes the cruise package, also makes New Zealand an attractive cruise destination (CNZ et al., 2001).

New Zealand's position as a cruise friendly country is further enhanced by the lack of visa requirements needed for countries such as the USA, Britain, Germany, France, Italy and Japan. These countries provide the largest passenger markets for the New Zealand cruise industry, which in turn reinforces cruise tourism in New Zealand as a predominately white, western space.

There are some issues that could limit the potential success of the cruise industry in New Zealand. These are currently under negotiation between the New Zealand Government and Cruise New Zealand Incorporated. The paying of Goods and Services Taxes (GST) on the cost of cruises is one issue being discussed as presently international shipping operators are not required to pay New Zealand taxes (Cavana, 1994; CNZ et al., 2001). Other matters being discussed are immigration issues, border and customs control (New Zealand Tourism Board et al., 2001; Neal, 2000; Bess, 2001).

The unusual characteristics and problems associated with the ownership and management of international ocean vessels also applies to cruise ships. For example, a vessel can be owned in one country, registered in another, chartered in another country and financed by another, with the crew frequently coming from different nations (Cavana, 1994). This lends complexity to managing social and environmental crisis, such as oil spills in the event of accidents, and consequently poses difficulties for host communities addressing potential environmental disasters and hazard management issues. Accepting cruise ships into the region contains potential low probability but high impact and high cost risks (e.g. groundings and oil spills) that need to be addressed. This is an important issue for areas of national significance such as Fiordland (Southland Regional Council, 1997).

The majority of the recorded impacts from cruise ships coming into New Zealand ports are measured in economic terms and this aspect is widely published in the written media (Lyttelton Port Company, 2002; Perry, 2001; Mason, 2001; Minister of

Tourism, 2001). While the industry is identified as having high potential earnings the dividends so far have been erratic (McDermott Fairgray, 2001). McDermott Fairgray has been commissioned to do several economic impact reports for cruise ship visits for Cruise New Zealand (e.g. McDermott Fairgray, 2001).

Types of Cruise Tourism in New Zealand

New Zealand is promoted as an up-market cruise destination (CNZ et al., 2001). The market is dominated by the more luxurious four and five star vessels (Mitchell, 2001). Consequently, New Zealand attracts wealthy, high spending tourists (The Dominion, 2001; New Zealand Herald, 2001; Mitchell, 2001; McDermott Fairgray, 2001).

Cruise tourism to New Zealand can be categorised into three types: round-the-world itineraries, a base for trans-Tasman and Pacific cruises, and 'coastal cruises' around New Zealand ports. Cruise ships with round-the-world itineraries visit Auckland for a brief stopover as they circle the globe via many international ports. Passengers can take the entire voyage or, alternatively, chose a section within the itinerary, flying to or from any of the ports visited to board or after disembarking. Trans-Tasman and Pacific cruises is the largest and highest growth sector for cruise tourism in New Zealand (CNZ et al., 2001).

As previously mentioned, the 'coastal cruise' sector that cruises around New Zealand ports is a recent addition to the cruise itinerary. This section offers more opportunity for smaller ports to host cruise ships. Thus it is a niche market that caters for 5-star, silver service voyagers and eco or soft adventure tourism (New Zealand Tourism Board et al., 2001). The internal waters of Fiordland come within the coastal cruise category of cruise tourism to New Zealand and are the focus of this research:

Of particular interest is the potential for coastal cruising utilising the large (> 1700 passenger) vessels. A number of cruise lines have expressed interest in operating one or more coastal cruises, as part of a series of Trans Tasman cruises (Mitchell, 2001: 14).

While the round-the-world itineraries and trans-Tasman cruises operate out of New Zealand waters all year round, the coastal cruise sector has a limited season. The season is from November till April, however, the majority of ships arrive from January through to April (Mancini, 2000).

Cruise Tourism Management Mechanisms

While the ultimate success of management regimes for cruise tourism is context and actor dependent, some general mechanisms can be applied. Institutional arrangements for governing resource and environmental management are defined as mechanisms for management by Sorensen and McCleary (1990). Management options include:

- Regulatory regimes,
- Incentive-based regimes,
- Co-management/partnership arrangements and
- Educational arrangements.

The aim of these management techniques is to achieve sustainable development.

The Galapagos Islands, Ecuador, are an example of applying a regulatory regime. Special legislation, the *Special Law for Galapagos 1998*, has been enacted for Galapagos Islands in order to achieve conservation of biodiversity and sustainable development (Bensted-Smith, 2002). Additionally the Galapagos Islands have a strong environmental education focus, with Environmental Education Centers structured into the management regime through a partnership with the Charles Darwin Foundation for the Galapagos Islands (Charles Darwin Foundation for the Galapagos Islands, 2000). Regulations and incentives to strengthen environmental education and training, and public participation were included in the *Special Law*. The *Special Law* also incorporates the 'precautionary principle'; in the case of doubt the alternative least likely to harm the environment should be adopted (Bensted-

Smith, 2002). In order to achieve implementation of the *Special Law for Galapagos* a strategy of participatory management was adopted². The Galapagos Islands and Fiordland are both designated UNESCO World Heritage sites and have areas, although of differing sizes, allocated for marine reserves (Department of Marine Research and Conservation, 2002). Additionally, the Galapagos Islands are a cruise tourism destination for eco-cruises on smaller vessels. Thus the management regime implemented in the Galapagos Islands is of interest when examining management techniques for cruise tourism in Fiordland.

Fiordland also shares similar characteristics with Glacier Bay National Park, Alaska. Commonalities include:

- Internationally significant natural areas,
- Popular tourist destinations,
- Similar access challenges (most visitors use water access),
- Common pool resources that are shared by many users and
- Home to many indigenous and threatened wildlife species.

Glacier Bay first introduced vessel quotas in 1979 (Glacier Bay National Park and Preserve, 1989). The recognition that ships, particularly cruise liners, posed a risk to the threatened humpback whales in the 1970s provided a strong motivation to place restrictions on vessel numbers. In 1981 the limit for cruise liners was set at two per day during the peak tourist season (Catton, 1995). Subsequent, vessel management plans have been implemented; the latest was the *Vessel Management Plan* in 1996 (Glacier Bay National Park and Preserve, 2002). Currently, only two cruise ships per day are allowed access with a total of 139 entries per season. It is proposed that the seasonal limit be increased to 184 entries per season (Glacier Bay National Park and Preserve, 2002). Regular scoping, incorporating participations with user and interest groups, stakeholders and the indigenous population, is undertaken to revise the limits and restrictions in the plans (Glacier Bay National Park and Preserve, 2002). Consequently, the vessel management approach implemented in Glacier Bay provides

² The fishing sector, comprised of fishing cooperatives, opposed the *Special Law for Galapagos* (Charles Darwin Foundation for the Galapagos Islands, 2000).

an example of a cruise management technique in practice and used as a guide for cruise tourism in the Fiordland context. Mechanisms for allocating marine space in New Zealand are governed by the Resource Management Act which will now be outlined.

Resource Management Act 1991

It is within the backdrop of wider socio-economic changes and restructuring undertaken in the 1980s and 1990s in New Zealand that the Resource Management Act 1991 (RMA) has its roots. The RMA encompasses a new approach to environmental management and planning as a result of government restructuring and resource law reform that coincided with international awareness of sustainable management (Dixon et al., 1997; Bührs and Bartlett, 1993; Memon, 1993; Memon and Gleeson, 1995). The ideology and practice, arguably reflected in the new legislation, heralded a paradigmatic shift in environmental planning. Memon and Gleeson (1995) argue that the RMA blended the New Right's ideological commitment to economic liberalism and the environmental movement's commitment to environmental protection into one resource management regime. The combining of two principals that are possibly antithetical has the potential to leave a significant gap between policy and practice (Gleeson, 1995; Dixon et al., 1997). The RMA, however, has been branded an innovative piece of legislation worldwide, especially in other western countries (Memon and Gleeson, 1995):

In the sphere of planning at least, New Zealand claims to have resolved the apparent paradox between environmentalism and economic growth through the formulation of a new [in 1991] resource management statute (Memon and Gleeson, 1995: 110).

The purpose of the RMA is to sustainably manage physical and natural resources within a co-operative planning framework through the regulation of environmental effects (Berke et al., 1997). Hon. Simon Upton, in his third reading speech in the House on the Resource Management Bill, said that the Act has one purpose:

to promote sustainable management of natural and physical resources, and it does this in two ways: first, through the allocation of resources in public ownership such as the coast and geothermal energy; and secondly, through limiting the adverse environmental effects of the use of natural and physical resources (Banks, 1992 as quoted in Grundy, 1994a: 20).

The RMA replaced a plethora of environmental and management statutes, including the Town and Country Planning Act 1977, which had fragmented environmental management across many government agencies (Grundy, 1994b). Thus it was intended to provide an integrated yet flexible approach and clarify resource management responsibilities (Dixon et al., 1997). The RMA manages and allocates resources through a hierarchical, three-tier planning structure – the Ministry for the Environment, regional councils and local or territorial councils, and a plan-led regulatory effects-based planning system (Memon and Gleeson, 1995). The development and enactment of policies and plans, therefore, is the main environmental management mechanism. Essentially the RMA is a planning instrument rather than an operational code (Memon and Gleeson, 1995).

The RMA has a complexity that can in part be attributed to a carry-over of thinking from the old environmental regime to the new. Practitioners must now adjust to effects-based decisions rather than land use control and traditional approaches such as activities-based zoning that provided a certain amount of certainty among resource users (Dixon et al., 1997). Thus the resource consent process is seen to provide a level of uncertainty among developers.

The devolution of environmental management responsibilities from central to local government occurred as part of the wider reform of the public service. New or different authorities were given jurisdiction of different facets of environmental

management under the RMA. Coastal plans, directed by the Coastal Policy Statement produced by the Minister of Conservation, are prepared and administered by regional councils but are approved by the Minister of Conservation (Department of Conservation, 1994a; 1994b and 1994c). Accordingly, regional councils share control over management of the coastal marine area with central government (Memon and Gleeson, 1995). Regional councils also have the responsibility for writing regional policy statement and regional plans, while district plans are the domain of local councils.

The liberalisation of resource management included 'innovation' provisions in the new planning legislation (Gleeson, 1995). In 1997 (608), Dixon et al. argued that:

The New Zealand RMA may be characterized as a co-operative mandate. This is because it *enables regional and local councils to adopt a flexible and innovative approach to their environmental problems* within the context of a devolved and hierarchical planning system. This is in contrast to the earlier planning regime where the means by which outcomes were to be achieved were rather more prescribed. *Under the RMA, the plan is seen as one of many instruments, including economic instruments, that may be used to achieve the mandated goal – the sustainable management of natural and physical resources*, in order to minimize the adverse environmental effects of development. (Emphasis added)

Resource Consents

Resource consents are instruments of planning permission, established under the RMA, which relate to the use of land, air or water resources (Gleeson, 1995). On land a general presumption of the RMA is that landowners could do whatever they wanted with their land provided they did not adversely affect others, including future generations. By contrast, in the coastal marine area, because the area was not individually owned, there could be no general presumption of a landowners right to exclusive use. Consequently activities in the coastal marine area are either permitted by rules in a plan or a resource consent (a coastal permit in the coastal marine area) is required in order to carry out the activity. Whether or not an activity was permitted was to be determined by the nature of its effects. A resource consent application

requires an assessment of environmental effects (AEE) to be attached. Depending on the scale of effects and the people affected by the activity, the application will either be notified (opened to submissions from public) or non-notified. If the activity is contested the decision will be made in the Environment Court. An exception to this occurs in the coastal marine area when the effects of an activity are of such a magnitude to exceed specific thresholds set in the New Zealand Coastal Policy Statement or Regional Coastal Plans. In which case they are deemed to be restricted coastal activities (RCAs) and the final decision on such applications is made by the Minister of Conservation after receiving recommendations from the Environment Court (if necessary) and the relevant regional council.

In relation to cruise ships generally, whether or not they required a coastal permit would be decided, under the RMA approach, by whether the regional coastal plan permitted the effects that a cruise ship might have. If it does have effects that are not permitted by a plan then a resource consent (coastal permit) would be required to enable cruise ship operators to have those specific environmental effects (unless the effects were prohibited). The requirements for cruise ships in Fiordland under the Southland Regional Council, Environment Southland, will be discussed in further detail in *Chapter 5*.

The Bruntland Report, *Our Common Future*, (World Commission on Environment and Development, 1987) highlighted an increasing international focus on detrimental environmental effects of resource use on the environment. The Earth Summit in Rio de Janeiro (1992) and the subsequent Agenda 21 initiatives reflected the worldwide focus on sustainable development. Agenda 21 provided a framework for action that promotes planning and advocates the empowerment of local people (Sitarz, 1993) in order “to undertake self-directed initiatives that exert control over resource consumption and development activities in their own communities” (Berke et al., 1997: 451). New Zealand is a signatory to Agenda 21 and therefore has a moral obligation to act in accordance with such guidelines.

Consultation

When a resource consent is being applied for, the assessment of effects is to include identification of the persons affected by or interested in the resource use, their consultation and response. If, however, the activity is a permitted activity in the coastal plan, consultation is not necessary (Ministry for the Environment, 1999).

Ultimately the question of whether to consult or not must be undertaken with due consideration to the RMA requirements and, while desirable, it is not a statutory requirement. The key message of a study of models and outcomes of local government's environmental management by the Parliamentary Commissioner for the Environment (1999: 6), when applied to environmental management of cruise tourism in Fiordland, summarizes the context well:

The actual model adopted by local government to achieve effective environmental management needs to reflect the diversity of environmental issues of the regions and the socio-economic, cultural and biophysical outcomes desired by the communities involved.

The preface of the New Zealand Coastal Policy Statement (1994a, i) states that the RMA “established a new coastal management regime based on a partnership between the Crown and the community through their regional and local authorities”. What constitutes good consultation is not outlined in the RMA, rather best practice guidelines have been provided by subsequent Ministry for the Environment publications. As a consequence the precedence is set through case law. The concept of consultation that is used as a reference point for other resource management cases is the *Wellington International Airport v Air NZ* [1991] 1 NZLR 671 case (Ministry for the Environment, 1999). According to best practice and the Court of Appeal's principals, environmental management should involve consultation to ascertain community views in order to achieve a better project (Parliamentary Commissioner for the Environment, 1999). There is, however, no formal accountability regarding the adherence to these guidelines and recommendations. It has, nevertheless, been pointed out that it is prudent to undertake consultation as part of the resource consent process, a view supported by the Environment Court decision in *Malfroy Area*

Residents Action Group v Rotorua District Council A 92/98 (Ministry for the Environment, 1999).

The Ministry for the Environment (1995) stated that when managing activities within their jurisdiction, councils are required to consult all affected parties, local and iwi authorities (Ministry for the Environment, 1995). Ngāi Tahu are the local iwi in the South Island, except in the Nelson-Marlborough area. The Ngāi Tahu Claims Settlement Act 1998 included Statutory Acknowledgement status on areas with particular meaning and significance to Ngāi Tahu. Fiordland – Te Mimi o Tū Te Rakiwhānoa, has Coastal Statutory Acknowledgement status. Consequently, Ngāi Tahu must be informed of resource use that affects this area and identified as an affected party.

Side Agreements

Sometimes as a method to avoid notification for a resource consent and sometimes to honour consultation recommendations, parties enter into a side agreement. These are arrangements within the resource consent process and are usually between the consent applicant and stakeholders (Parliamentary Commissioner for the Environment, 1998; Bevan, 1998). The agreements can be classified as small scale arrangements. The Parliamentary Commissioner for the Environment (1998), summarised the motivations for side agreements and the general context in which they have evolved and risks related:

The RMA creates a climate where there are clear incentives to enter into private agreements for a variety of reasons with potentially positive or negative environmental outcomes. *The incentive to enter into agreements is particularly strong in relation to avoiding notification of an application, or minimising costs and delays if an application is notified* (Parliamentary Commissioner for the Environment, 1998b: iii, emphasis added).

While the Deed of Agreement for cruise vessels entering Fiordland does not fulfil all the criteria of a side agreement, there are several of the same motivations in evidence. These include the desire for a speedier process, to secure access rights that are not

guaranteed etc. The areas of departure from side agreements are the scale – it is larger than the side agreements discussed; place – it is in New Zealand’s largest national park and also has UNESCO World Heritage status; area – there is no local community (except iwi) to consult with, however, DoC is the adjacent landowner; impact – because of the scale and place the impact, if anything should go wrong, could be large and devastating. Some practitioners, however, “believe side agreements pose a threat to adequate environmental management because they result in less overall public participation in the RMA process” (Parliamentary Commissioner for the Environment, 1998: 27).

Essentially it comes down to the process – players are reverting to side-agreements when a resource consent process is seen as overly complex, cumbersome, inefficient, time consuming, and expensive (Parliamentary Commissioner for the Environment, 1998a). These factors were also identified by the cruise industry in Fiordland as deterrents in the resource consent process and consequently, an alternative agreement has been negotiated, as will be discussed in *Chapter 5*.

Chapter Summary

Cruise tourism in Fiordland occurs within this broad context of national and international cruise tourism growth and specialisation of the market. Access rights for cruise ships to ‘cruise’ through the internal waters of Fiordland are allocated under New Zealand’s governing resource management legislation, the RMA, an effects based, plan led regulatory system. Resource consents, with requirements to consult affected or interested parties, are the mechanism for gaining planning permission under the RMA. Access rights are allocated through this mechanism. *Chapter 5* moves from the broad governing legislation to focus on the more specific setting and organisations that guide the day-to-day management of Fiordland’s marine environment as it applies to the case of cruise tourism management.

Chapter 5

Cruise Tourism in Fiordland – The Case Study

Introduction

Part of what makes Fiordland an area of national significance and a popular tourist destination is the unique geology, climate and natural environment that provide the remote wilderness atmosphere. It is these same factors that are extremely influential in providing the history and shaping the context within which the Deed of Agreement was formed – from the rationale it was needed to the content included. This chapter, therefore, provides a summary of the importance of the case study area of Fiordland and the factors that are so influential in the resultant resource management regime for cruise tourism. The details of the Deed of Agreement – the history, purpose, contents and conditions, are also discussed in this chapter.

Tourism in Fiordland

Fiordland contains the largest national park in New Zealand. Although the National Park was officially created in 1952, part of the land was already set aside as wilderness as early as 1904 (Peat and Patrick, 1996; Potton, 1998). There is only one public access road in the park – the Milford Road which includes the Homer Tunnel and provides access to Milford Sound. Fiordland National Park is also part of Te Wahipounamu, the Southwest New Zealand World Heritage Area, which was granted United Nations Educational, Scientific, and Cultural Organization (UNESCO) status in 1990 in recognition of the area's outstanding natural value. The World Heritage Area covers 2.6 million hectares which is 10% of New Zealand's land area

(Department of Conservation, 2002: 2). To have such an extensive area of New Zealand recognised as a world heritage area – “a place so special that protecting them is of concern to all people” (Department of Conservation, 2002) highlights the importance of the area and the challenges that this imposes on the management of the environment.

The core recreational activities within Fiordland National Park are walking, mountaineering, fishing and hunting, wildlife watching, scenic flights and nature-based activities such as kayaking. Fiordland's economy is primarily based on tourism, with some fishing, agriculture, forestry and hydroelectric power development. Fiordland, and Milford Sound in particular, is a popular tourist destination with an international reputation, aided by the UNESCO World Heritage status. Milford Sound, Te Anau and Doubtful Sound attract approximately 300,000 international visitors annually (including cruise ships), significant numbers of which are ‘free independent travellers’ (FITS) (Venture Southland, 2002). Most tourism operators offer year-round activities, although the numbers are usually reduced during the off-season. The reduction in tourist activities over the winter months is to avoid further detrimental environmental impacts from occurring and give the wild-life a chance to recuperate.

Within Fiordland Mitre Peak, the most photographed icon in New Zealand, is a well recognised image. There are also several ‘Great Walks’ in the region; the Milford Track being the most well known. Advertisements claim that:

Fiordland is characterized by low population numbers, few roads, and an isolated and untouched state. Its landscape is typically wild and mountainous and is a rare place where humans have made little impact on the environment. Instead, there lie countless mountains and fiords, rivers and lakes, and forests teeming with life (Travel Link Internet Limited, 2001).

Thus, one of the aims for the National Park is sustainable development – the protection and preservation of the qualities and natural features to ensure that future generations can also enjoy the Park.

Fiordland National Park's actual boundaries encompass only the land area, but the very notion of a fiord means the water within the fiords, therefore these areas should be considered as part of the iconic landscape. The marine tourism activities within Fiordland can be categorised as those that are directly dependent on nearby land bases (e.g., submarine, kayaks and small boat trips) and those that originate from further afield (e.g., cruise ships). It is this latter group, specifically cruise liners, on which my research has focused because it is both relatively new to the area and represents the advent of mass marine tourism.

Although the territorial areas of Fiordland are largely protected by the National Park, only two small marine reserve areas in Milford Sound and Dusky Sound (7.8 km² combined) have equivalent levels of protection (Seafriends, 2002). Consequently, the waters of Fiordland feature a variety of possibly incompatible uses that have attracted national attention. An article in last year's Wellington based Dominion newspaper presented the following scenario:

The 20-metre motor-sailer Breaksea Girl glides the deep waters of Doubtful Sound, its 10 or so visitors intent on enjoying the silent vastness and learning as much as they can from Ruth Dalley and Lance Shaw, who run the small business with an emphasis on tapping into the environment.

Not far away, several large charter boats have roared up to anchor points so those on board can fish. The tourists are after blue cod, once plentiful but in some places now almost fished out. In the frame, too, there's a sleek, raked-bow cruise ship, its layered decks lined with binocular-toting tourists.

ALL have different agendas and requirements. It's a scene that encapsulates many of the problems that tourist management faces (Aldridge, 2002, 11).

Fiordland as a Cruise Destination

Fiordland has several unique features as a cruise tourism destination. One significant factor is the lack of infrastructure, or more specifically, ports. As a consequence

cruise liners 'cruise' through Fiordland and, its passengers unable to disembark, the region does not gain any income from passenger spending. Furthermore, in Southland there is a small ratepayer base, partly as a result of significant portions of the area being designated as a national park. The Southland region, including Gore, Invercargill and Southland District, has 91,002 inhabitants (2001 census, Statistics New Zealand, 2003). The burden of funding infrastructure and emergency services falls to the local councils. As the number of tourists increases, the permanent population declines (negative growth of 6.3% from the 1996 census to the 2001 census, Statistics New Zealand, 2003). Consequently, local governmental planners have the challenge of allocating rights to users fairly, while bearing in mind the financing of operations. The issues of 'who pays' and 'users rights' are topical, especially between local communities and 'outside' users. It is not surprising therefore, that the rationale for a management regime for cruise ships in Fiordland incorporates a degree of user pays philosophy:

Since its inception, the Council [ES] has been concerned with the cost of its coastal management activities particularly around Fiordland and Stewart Island. The region only has 3% of the country's population, but is expected to manage 17% of the country's coastline (3,095kms) much of which is nationally or internationally significant, and adjoins a vast amount of non-rateable land held for the benefit of the nation as a whole. Local residents bear a disproportionate amount of the management cost compared to other beneficiaries (Environment Southland, 2001: 20).

As previously mentioned, Fiordland has no port facilities, thus, ships cruise through the area without actually mooring at anytime. This creates a unique situation where benefits, especially economic, that potentially could be gained from the cruise industry by a local community, are not obtainable. The cruise ships seldom dock in the only significant Southland port, Bluff, and instead dock in other regional councils' areas. In other words, the local authorities with primary responsibilities for environmental management of the fiords have no real means of obtaining income from the cruise ship users of the fiords. Consequently the question of who should pay for the needs and costs of the ships coming into the area becomes important to both the industry and local government. Clearly, if local management arguably receives no returns from the use of the area by the industry they will have little incentive to

support cruise tourism access when pressured by other users and ratepayers to protect the area from the potential impacts of cruise tourism. The management regime for this area is therefore of considerable importance to the cruise industry if it wishes to continue to use Fiordland.

Current Management Regimes in Fiordland

The land that comprises Fiordland National Park is administered primarily by DoC. In order to undertake certain activities, including hunting, fishing and commercial activities' on DoC land, a licence, permit or concession is required. The majority of recreational and tourism activities on land require concessions to be granted by DoC (Department of Conservation, 2002). The marine waters adjacent to the Park come under the jurisdiction of the regional council except for the marine reserves and the management of fisheries¹. The Maritime Safety Authority (MSA) also has some responsibility for maritime safety and aspects of marine pollution (Maritime Safety Authority, 2002). The MSA also inspect approximately 2/3 of all the cruise ships that come to New Zealand, with extra emphasis on vessels from companies with a bad reputation² (Maritime Safety Authority pers. comm. 2003).

A range of statutory and non-statutory publications (Table 5.1) produced by organisation involved or interested in the management of Fiordland's marine environment. The recently published Guardians of the Fiordland Fisheries and Marine Environment (2002) *Integrated Management Strategy for Fiordland's Fisheries and Marine Environment Draft*, as suggested by the inclusive title, advocates working together across agency boundaries on issues that involve surface water activities. The Management Strategy strongly promotes co-operation between

¹ The Regional Coastal Plan still covers marine reserves, but the Marine Reserves status provides management of fishing. Management of fisheries elsewhere generally are the responsibility of the Ministry of Fisheries.

² The New Zealand MSA access an international database (equasis) that provides details of ships history.

| Organisation | Publication Regarding Resource Management in Fiordland | Status | Year |
|--|--|---------------------------|-------------------|
| Ministry for the Environment | Resource Management Act 1991 | Operative | 1991 |
| Department of Conservation | New Zealand Coastal Policy Statement | Operative | 1994 |
| Department of Conservation | Conservation Act 1987 including legislation administered under this Act including National Parks Act 1980 and Marine Reserves Act 1971 | Operative | 1987 |
| Maritime Safety Authority | Maritime Transport Act 1994 New Zealand Marine Oil Spill Response Strategy & the National Marine Oil Spill Contingency | Operative | 1994 1999/2000 |
| Southland United Council (now Environment Southland) | Southland: Regional Planning Scheme. Section III Coastal and Marine Resources Objectives and Policies | Transitional legislation | 1989- |
| Environment Southland | Regional Coastal Plan for Southland – now the bulk of the transitional regional coastal plan Navigation Safety Bylaws | Proposed Operative | 1997 2003 |
| Department of Conservation – Southland Conservancy | Fiordland National Park Management Plan | Draft | 2002 |
| Guardians of Fiordland's Fisheries & Marine Environment Inc. | Integrated Management Strategy for Fiordland's Fisheries and Marine Environment No Statutory Weight | Draft | 2002 |

Table 5.1 *Resource Management Legislation and Organisations Publications for Fiordland*

Iwi, commercial and recreational fishers, tourism operators, environmental interests, and the Ministry of Fisheries and Department of Conservation, in order to ensure the health of the coastal marine environment. While Environment Southland's Deed of Agreement is mentioned in the *Strategy*, the *Strategy* itself has no statutory weight. Aspects of the *Strategy*, however, could be taken up by other agencies using statutory tools.

The primary means the regional council uses for managing Fiordland's marine areas is through its regional coastal plan (RCP), developed under the RMA. The current RCP is yet to be finalised. This is due to the RMA requiring considerable consultation and providing for legal challenges to the plan. The RCP is intended to address the effects different uses of marine areas have on the environment. It is not intended to favour one activity (e.g., cruise tourism) over any other, except in terms of constraining adverse environmental effects. The effects of fishing are not included in the RCP, although it does have control over the allocation of space.

In 1997 Environment Southland publicly notified the Proposed RCP for Southland. Until this plan has gone through all the appeals in the Environment Court and becomes operative, the coastal zone is managed by transitional provisions (Ministry for the Environment, 1991). The transitional regional coastal plan consists of the operative provisions of district, combined schemes and maritime schemes under the former Town and Country Planning Act which are applicable within the coastal marine area (Ministry for the Environment, 1991).

If the effects of cruise ships are sufficiently adverse and fall outside provisions in the transitional plan then, arguably, they might require resource consents (a coastal permit in this instance) from the regional council to continue to access the fiords. The resource consent process might involve public notification, in which case the council's decision is challengeable at the Environment Court and could take several years to be granted. It could be granted with conditions, but also provide access for up to 35 years. The alternative to obtaining a resource consent is to have rules written

into the RCP that would accept the effects of cruise ships. These public consultative processes are intended to enable transparent, accountable decisions and the resolution of potential conflicts through community decision-making (Rennie, 1993; Mitcalfe, 2002). It is therefore clearly a regulatory mechanism that should be of considerable interest to the cruise tourism industry. The cruise ship industry, however, is not well-gearred to address such plans and there is little or no government support or involvement. In the Fiordland situation Cruise New Zealand Incorporated (CNZ) has effectively stepped in as the industry's advocate.

Southland Proposed Regional Coastal Plan and a Per-Passenger Tax

Environment Southland (Southland Regional Council, 1997) included a section on Foreign Vessels in the Proposed Regional Coastal Plan that related directly to cruise ships entering Fiordland's internal waters. The Plan states that there is no automatic right of innocent passage through all of the sounds, arms and inlets in Fiordland. Policies requiring restricted coastal pilots on foreign vessels over 100 tonnes and requirements offsetting present and future adverse effects through the use of financial contributions were included in the Plan. Additionally there were two rules (Rule 16.2.1 and Rule 16.2.2) that related directly to cruise ships. The first one lists the areas where access to cruise ships is prohibited. The second rule requires, where deemed appropriate, the sum of \$20 per passenger per day be paid to Environment Southland by the vessel operator as a financial contribution to offset the adverse effects of the vessel's use in internal waters (i.e. the waters of fiords). All of the policies and rules listed were open to submissions by the public and stakeholders.

The rule for a passenger head tax was opposed by CNZ and the cruise lines that access Fiordland (Hutcheon, 2001). The New Zealand Tourism Board wrote a submission in opposition to Environment Southland's proposal. Resistance to the tax was echoed by Norwegian Cruise Lines, Port Wellington Ltd, South Port, the Southland District Council and Fiordland Cruises Ltd (North, 1999). The submissions stated there was no evidence of problems caused by cruise ships.

Instead of regulations through the Southland Regional Coastal Plan and a per-passenger fee to minimise environmental impacts while gaining economic benefits a Deed of Agreement was negotiated as an alternative.

Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland

In September 2001 the Deed of Agreement (Appendix 1) was signed by Environment Southland and all the cruise companies who operate cruises in Fiordland. The Deed of Agreement concluded several years of negotiations between Environment Southland and cruise companies and operators who come to New Zealand. The cruise companies were represented by Cruise New Zealand Incorporated who negotiated on their behalf with legal help from a reputable Auckland-based resource management law firm. The Agreement applies to the coastal marine area adjacent to Southland Region which is under the management and control of Environment Southland. Details about the areas and number of vessels permitted in any inlet are outlined in the document.

The Agreement (Environment Southland, 2001: 1) states that:

The parties have entered into this Agreement for the purpose of setting out their respective rights and obligations and as an alternative to the regulatory provisions of the Regional Coastal Plan.

Furthermore it adds that “the increasing level of ship activity has increased the level of management activity that Environment Southland considers it necessary to undertake in order to meet its statutory obligations under the Resource Management Act 1991” (Environment Southland, 2001: 1).

The rights in the Agreement provide the ability for cruise ships to access a World Heritage area and a special part of New Zealand’s coastal marine area while the obligations aim to sustainably manage the resource that is the source of the attraction. Environment Southland is also obligated to provide certain services using financial

assistance from cruise companies to assist the sustainable management of the fiords. The Agreement is a collaborative management framework between the parties that allows for both management and growth of cruise ship operations in the internal waters of Fiordland (Environment Southland, 2001: 4).

In essence the Agreement regulates the numbers of cruise liners in any one inlet in Fiordland at any time to two vessels. There are also areas that are prohibited unless a resource consent has been obtained. Environment Southland draws up a time schedule for the liners a season in advance to ensure this requirement is met. Ships that choose to disembark passengers for shore excursions require additional concessions from the Department of Conservation in order to use land under their jurisdiction. As payment for ‘cruising’ through the area the cruise operators or companies are required to pay a marine fee (discussed in detail later). The vessels are required to meet environmental obligations incorporated into the Agreement. The Agreement also includes an annual meeting to be held between CNZ and ES to discuss any matters arising from the visits, review the previous year and preview the following year. The Agreement is for a duration of six years with an additional two year transition period if the Agreement remains under active negotiation.

The Deed of Agreement has several appendices – including attached conditions. The conditions include the prohibited areas of access and the environmental conditions highlighted in the Southland Proposed Regional Coastal Plan. This environmental deed is based on guidelines set down by the International Council of Cruise Lines that cruise companies must sign to say they will act in a responsible manner if they want to be members. Similar conditions are voluntarily undertaken by many cruise companies in order to gain an edge in the cruise market by incorporating environmentally friendly programs, policies and practices³. In addition international conventions and codes, such as MARPOL (Marine Prevention of Pollution from

³ In particular members of the International Council of Cruise Lines (ICCL – represents the interests of 85% of the worldwide passenger cruise lines) have agreed to adhere to self-imposed voluntary industry standards. These are similar to the conditions attached to Environment Southland’s Deed of Agreement.

Ships) and MEPC (Marine Environment Protection Committee) guidelines on pollution from ships⁴, also set environmental standard benchmarks that apply to all vessels engaged in international commerce (World Travel and Tourism Council et al., 2002; MEPC, 2002). Adherence to the conditions in the Agreement does not exempt the parties from their duties and obligations under the RMA. The conditions include restrictions and prohibitions on discharges to air and water, rubbish, noise, speed limits, cleaning and painting, landing, anchoring and mooring and wildlife protection. Environment Southland states that these are similar, if not the same, as those that would accompany a resource consent in the same situation (Swinney pers. comm. 2002).

An integral part of the Deed of Agreement is the marine fee (ESMF). This is payable by every cruise ship operator to Environment Southland for each cruise ship that goes through the 'Internal Waters' of Fiordland and Stewart Island as identified in the maps attached to the Agreement. The ESMF is calculated by the total gross registered tonnage of a cruise ship multiplied by \$NZ 0.34 plus GST if applicable (refer to the previous discussion on GST payments by cruise ships in New Zealand waters in *Chapter 4*). The Marine Fee is the equivalent amount of a normal port fee, based on gross tonnage, which is compulsory in most ports of call (Hutcheon, 2001). The money collected by Environment Southland contributes to the cost of meeting their coastal marine area obligations as required in the RMA (Environment Southland, 2001). This includes monitoring and managing Southland's coast and enables the employment of a harbour-master (Arnold, 2001).

The main difference from the per-passenger fee proposed in the Regional Coastal Plan by Environment Southland is that it is a flat fee irrespective of the number of days spent in the fiords. For example, if the Queen Elizabeth II (weighing in at 67,139 tons with 1,750 passengers and 1,004 crew, 4 ½ star) wanted to enter into Fiordland internal waters the company would be required to pay \$NZ 22,827 under

⁴ Guidelines are included on ship recycling, ballast water management, greenhouse gases and special areas and particularly sensitive areas. A "green passport" concept for vessels waste management is also included.

the Deed of Agreement. For a fully-loaded QEII this could amount to \$13 per passenger head (excluding crew). If the QEII cruised through Fiordland for one and a half days, under the proposed per-passenger tax in the Proposed RCP for Southland, the company would be required to pay \$NZ 70,000. Craig Harris (pers. comm. 2003) said that money was not really a factor as long as it was reasonable. There is a substantial difference, however, between the marine fee in the Agreement and the per-passenger tax proposed in the Proposed RCP for Southland which is more than double the former.

The Deed of Agreement is intended as an alternative to obtaining a resource consent to 'cruise' through Fiordland internal waters. The cruise liners' operators are thus not required to obtain a resource consent as long as they have signed the Agreement, only enter into the specified areas and operate in accordance with the conditions of the Agreement. The Deed of Agreement (2001: 4) states that "failure to comply with the provisions and terms of this Agreement may result in Environment Southland requiring resource consent[s] from the cruise ship owner and /or operator concerned".

The Agreement has been described as a win-win situation for all parties (Environment Southland, 2001). The cruise companies avoid the costs, uncertainties and time delays that can be symptomatic of the resource consent process (Anonymous, 2002: 23). In an article in *The Southland Times* (Burgess, 2002) Ken Swinney, Environment Southland policy and planning manager, said that:

applying for [a] resource consent would require a publicly notified hearing, and the process could end up in the Environment Court, which could result in lengthy delays.

Burgess (2002) reported that the Agreement is "designed to give certainty to both parties as well as environmental funding to the council". Essentially, Environment Southland stands to gain money to partially fund its coastal obligations under the RMA.

The Deed of Agreement was signed by the cruise companies in time for the 2001/2002 cruise season. Under the RMA activities in the coastal marine area are

prohibited unless permitted by a rule in a regional coastal plan or a resource consent. At the time the Deed of Agreement was signed the Regional Coastal Plan was still in front of the Environment Court and so was not operative. Thus the operative plan (the transitional regional coastal plan) was *Section III, Coastal and Marine Resources* of the *Southland Regional Planning Scheme* (1989) prepared by the Southland United Council (Environment Southland's predecessor) under the Town and Country Planning Act 1974. Cruise ships are not mentioned in the transitional plan, thus it is classified as an innominate activity, an activity that has not been mentioned and therefore is (usually) treated as a discretionary activity. A resource consent was therefore required for cruise ships to enter the internal waters of Fiordland. Consequently, the Deed of Agreement could not legally enable cruise ships to avoid the requirements of obtaining a resource consent, if such was required, until the Proposed RCP became operative and included a rule that allowed the cruise companies the option of either signing the Agreement or gaining a resource consent.

After the submission period for the Proposed RCP for Southland had ended CNZ and Environment Southland began negotiating the Deed of Agreement. Concurrent with the negotiation of the Agreement, Sections 13 and 16 of the Proposed RCP were rewritten and substantially revised incorporating additional information by Environment Southland to incorporate cruise ships either being signatories to the Agreement or a resource consent to be acquired. CNZ, TNZ (New Zealand Tourism Board at the time) and Forest and Bird (Royal Forest and Bird Protection Society (NZ) Inc.) lodged appeals regarding these sections in the Environment Court. CNZ (the initial appellant, the others jointed later) based its appeals on the fact that the new sections contained matters not previously available for submission, the fact that the Deed of Agreement had not yet been concluded to satisfactory terms, and that:

there is a legal doubt as to whether Council has the power under the RMA to prevent the activity of vessel passing across the surface of the water in the manner contained in Policies 13.1 to 13.5 and Rule 13.1 (Reference to Environment Court by Cruise NZ RMA 1088/00).

Concurrently, the Deed of Agreement was being negotiated between CNZ and Environment Southland and potentially might have been argued in the Environment

Court between more key organisations. When a satisfactory agreement was reached between CNZ and Environment Southland, the result was written into the Proposed RCP. In 2002, Forest and Bird, CNZ and Tourism New Zealand withdrew their appeals to sections 13 and 16 in the Environment Court. (See Table 5.2 for a summary timeline of the events⁵.) Consequently, if there are any challenges in Court to ship access these sections of the Proposed RCP for Southland will now be given the weight of an operative plan.

Table 5.2 *Timeline of the Proposed Regional Coastal Plan for Southland and the Deed of Agreement*

| Date | Event |
|--------------------|--|
| 1997 | Proposed Regional Coastal Plan for Southland open for public submissions |
| 1997, 27 June | Submissions for Proposed Regional Coastal Plan for Southland close |
| 1998, January | Submissions and hearings of the Proposed Regional Coastal Plan for Southland |
| 2000, 13 November | Southland Regional Council releases its decisions on submissions to the Proposed Regional Coastal Plan for Southland |
| 2000, 10 December | CNZ lodges appeal to the Environment Court |
| 2001, 1 March | Forest and Bird, Fiordland Travel and New Zealand Tourism Board join the reference as section 271(A) parties |
| 2001, 11 September | Deed of Agreement template released |
| 2002, August | Environment Southland Navigation Safety Bylaws made |
| 2002 | Withdrawal of references in Environment Court by all parties |
| 2003, 1 March | Environment Southland Navigation Safety Bylaws come into effect |

Negotiation of the Deed of Agreement

Specifically, Policy 13.6 of the Proposed RCP encompasses encouraging cruise ship operators to enter into a formal agreement, the Deed of Agreement, with Environment Southland to manage their activities within the coastal marine area. Rule 13.1 states

⁵ The time-line of the Agreement (Table 5.1) provides a rough guide to the period of time that the negotiation process took. Most of the parties when interviewed, however, were not aware of how long the process took or when the idea for an agreement was first floated.

that within the eight inlets, the green zones in the Agreement, cruise ships are a permitted activity provided they sign the Agreement. Otherwise they become a discretionary activity and thus require a resource consent. For all other areas cruise ships are a non-complying activity (Environment Southland, 2002).

In August 2002, after the first season where the Deed of Agreement came 'into effect', updated Navigation Safety Bylaws prepared by Environment Southland under the LGA were in their final edition stage. These bylaws come into force on 1 March 2003. Included in the Bylaws are excerpts from the proposed Regional Coastal Plan. By putting through the Bylaws, Environment Southland is effectively seeking to overcome the need for resource consents for cruise visits in the interim while waiting for the proposed RCP to become operative. These bylaws include Rule 13.1 *Cruise Ships within the internal waters of Fiordland and Stewart Island* that makes cruise ships a permitted activity to enter selected areas if the company has signed the Deed of Agreement. If the Agreement is not signed, the activity is a discretionary activity and thus requires a resource consent. Consequently, until the RCP is operative the same policy is being brought into force under the by-laws. However, there was a period of approximately one and a half years, including two cruise seasons, during which cruise companies had signed the Agreement and it was not legally enabling. Moreover, it remains legally moot whether or not the Navigation Safety Bylaws prepared under the LGA can override the statutory obligation to obtain a resource consent under the RMA. It could be argued that it would require a plan change to the transitional plan through the RMA process to remove the requirement for a resource consent.

Leaving such issues aside for the present, Schedule 7 of the Navigation Safety Bylaws includes excerpts from the New Zealand Cruise Ship Industry Deed (The Deed of Agreement) thereby incorporating the Agreement into legally binding policy. Having the same policy and rules being written into the RCP as in the Navigation Safety Bylaws provides consistency in environmental management through the transition from Town and Country Planning Act 1977 to the RMA. Schedules 6 and

7 of the Navigation Safety Bylaws and the changes to the rules in sections 13 and 16 in the Proposed Regional Coastal Plan came about after the provisions in the Proposed RCP were referred to the Environment Court but also after the Deed of Agreement had been finalised.

Chapter Summary

This chapter has outlined the situation of cruise tourism in Fiordland. The legislative framework, the options for management and the chosen approach of the Deed of Agreement have been laid out. The consequential legal ambiguity of the Deed of Agreement and its failure to meet the current standards of public process suggests an element of ‘bluffing’ was present and raises issues of power embodied and enabled in the Agreement. Essentially, the presence of the Agreement gave an aura of legitimacy to an activity that was, arguably, not legitimate. This suggests a respective disempowerment of the public may have occurred. Those who might have challenged resource consent applications for cruise ships could be referred to the Agreement, thereby avoiding the need for a resource consent process. The next chapter looks more closely at the power matrix that gave rise to the Agreement.

Chapter 6

Critical Reflections

'Defining the public good becomes a matter of power'

Kenny (1992: 191)

Introduction

This chapter goes beyond the management regime and legal details to reflect on the Deed of Agreement through a critical Foucauldian power analysis of the document. In particular this chapter poses and addresses the question: Does the defining of public good become a matter of power relations as Kenny (1992) suggests? In the process this chapter addresses outcome and process issues embodied in the Deed of Agreement and its making.

Cruise Ship Carrying Capacity

As noted in Chapter 1, carrying capacity is fundamentally important to sustainable tourism and the assessment of potential environmental effects. The extent to which carrying capacity has been constructed by the Agreement is therefore a critical outcome. Hypothetically the potential number of cruise ship visits per year to Fiordland under the Deed of Agreement is huge. The equation, set out in Table 6.1, was used to forecast the maximum possible number of cruise ship visits that could enter Fiordland per annum gives 35,040 visits.

| The potential cruise ship carrying capacity of Fiordland (The equation works in a progressive fashion by building on the resulting number of the previous row) | | |
|--|-------------------------|--|
| Rationale | Action | Resulting number of cruise liners |
| Approximate year average number of daylight hours in which to sightsee (12 hours) | | 12 |
| Number of hours a liner would spend in the inlet (2 hours) | Divide total hours by 2 | 6 |
| Number of ships permitted in an inlet at any one time (2 ships) | Multiply by 2 | 12 |
| Possible number of days in the year that the vessels could enter the inlet | Multiply by 365 | 4,380 |
| Number of inlets vessels can enter once signing the Deed of Agreement | Multiply by 8 | 35,040 |

Table 6.1 *The potential Cruise Ship Carrying Capacity Permitted by the Deed of Agreement*

While this number is extremely improbable, the table does not fully account for seasonality and far outweighs foreseeable future demand, it highlights the fact that there are no criteria in place for determining what carrying capacity is or even when this number is reached. Thus there is potential uncertainty with no transparent procedure for both parties and indeed cruise ship operators could point to the Deed of Agreement as legitimising any number of vessels up to the limit identified. This is contrary to the ideal mode of planning which is to plan for the future with transparent methods rather than re-active decision-making.

If the numbers of cruise ships did rapidly increase, negative impacts would be felt by the community and other users of Fiordland. In particular the wilderness sought by many users would be destroyed by the number of other tourists and the presence of the large cruise vessels. The reactions of annoyance and antagonism as predicted to

accompany the rapid growth stage by Butler (1980) and Doxey (1975) would occur (Orams, 1999). Additionally, the impacts on the marine environment could cause significant harm, especially to native species found only in Fiordland such as the bottle-nose dolphin (Murray pers. comm. 2003).

The opportunities for further expansion (presented in the Agreement in a manner which implies the possibility of limitless growth of the industry) are laid out in broad terms, however, there is little specificity as to the terms which will govern the regulation of development, particularly as development increases and the 'real' environmental and social carrying capacity is put under pressure. Moreover, the detailed considerations of planning controls are not addressed. Environment Southland, however, has alternatives in mind that are not set out in the Agreement.

There are several alternatives available before the social and environmental carrying capacity of cruise ships in Fiordland is reached. These include alterations and changes to the Agreement through the annual review process. Additionally the Agreement is up for re-negotiation after six years, during which time growth such as that extrapolated in Table 6.1 is highly unlikely. Alternatively, if a problem is apparent Maritime Safety Authority legislation governing the safety of ships and passengers could be brought into action for safety reasons due to the numbers of liners in the fiords (Murray pers. comm. 2003).

The cruise companies that visit Fiordland have the potential to include education and learning for their passengers. Moreover, Environment Southland could use the provision of monitoring reports and analysis of these to inform and educate the cruise operators. A precedent for eco-cruises and cruises that incorporate seminars and learning aboard, has been set by cruises to environmentally sensitive areas such as the Galapagos Islands and Antarctica. Although still only a small percentage of the cruise market, educational and eco-cruises are a niche that is growing and popular. Environment Southland has included information, education and public awareness as

a practical method in the Proposed RCP (Policy 9 (1.6.9), Southland Regional Council, 1997).

Organisational Actors and Consultation

The organisations interviewed in the Deed of Agreement are divided into two groups – those who made submissions to the Proposed RCP and/or lodged appeals in the Environment Court, which influenced the direction and contents of the Deed of Agreement, and those who were directly involved in the actual negotiation of the Agreement, Environment Southland and Cruise New Zealand. Discussion about the parties to the Agreement and the roles they played will be followed by analysis of the indirect input in the Agreement by other key organisations.

Environment Southland

Ken Swinney, Environment Southland's senior planner, was the driving force behind the idea of the Agreement. Swinney played an important role in bringing the Agreement to completion. The other main negotiator in the Agreement was CNZ who represented the cruise companies who visit Fiordland as part of their New Zealand itinerary.

Cruise New Zealand Incorporated

Cruise New Zealand was set up in 1994 with the main purpose of marketing New Zealand as a cruise destination to foreign cruise companies, particularly during the northern hemisphere's cruising off-season (Mitchell, 2001). With New Zealand established as a destination and growth reaching a plateau, Cruise New Zealand's focus changed to one of negotiating regulatory issues in order to gain better conditions for the industry in New Zealand (Mitchell, 2001). The aim of this liaison and co-ordination role on behalf of cruise ship owners, operators and agencies who

operate in New Zealand territorial waters, is to establish better and more enticing conditions in order to encourage further growth. Due to this role in the cruise industry and lack of government involvement, CNZ was reluctantly drawn in to negotiate on behalf of the cruise companies (Harris pers. comm. 2003). While CNZ did not want to become involved in the politics and legal issues of cruise tourism in Fiordland, it became unavoidable due to the nature of the negotiation and the lack of any other organisation or government agency prepared to step in (Harris pers. comm. 2003).

Cruise New Zealand is comprised of members from:

- Tourism NZ¹
- Air NZ
- Shipping agents
- Port companies
- Inbound tour operators
- Provedoring companies
- Port agencies
- Coach companies
- Regional tourism organisations, and
- Shipping agents (Mitchell, 2001).

Captain Craig Harris is the chairperson. Cruise New Zealand registered as a company in July 2000 (NZ Companies Office, 2002). CNZ has been credited with the large growth of the cruise industry in New Zealand that has seen it rise from an emerging market to a reasonably well established destination. Cruise New Zealand Inc. has adopted a partnership approach across government departments in order to address issues such as customs, transport and infrastructure (Ministry of Tourism, 2001).

¹ During the course of this research the responsibility for national cruise tourism policy issues has changed from Tourism New Zealand to the Ministry of Tourism, however, Tourism New Zealand is still a member of CNZ.

Tourism New Zealand (New Zealand Tourism Board at the time) made a submission to the Proposed RCP and later lodged an appeal to the Environment Court. Although not specifically included in the negotiation of the Agreement in their own right, Tourism New Zealand was involved in the capacity of a member of CNZ.

Combined with Environment Southland, CNZ negotiated an Agreement which purportedly produces benefits on both sides – Environment Southland gain financial support to contribute to coastal management and the cruise companies gain an environmental deed through a method which is quick, the details are upfront prior to signing and allows companies to continue their two-year advance planning with a degree of certainty (Burgess, 2002; Tourism New Zealand, 2002; Swinney pers. comm. 2002). According to CNZ, the Agreement is the best approach to take as it creates certainty and parameters for the cruise industry to work within (Harris pers. comm. 2003). Additionally, the Agreement is similar to other cruise industry agreements elsewhere in the world (as discussed in the Chapter 4; Harris pers. comm. 2003).

CNZ are pleased with the resulting Agreement, although it was very costly and nearly bankrupted the company (Harris pers. comm. 2003). Harris stated that he was impressed with the level of commitment being displayed by the cruise companies to meeting the terms of the Agreement (Harris pers. comm. 2003). One result of the Agreement is that companies which were bringing older boats to Fiordland prior to the implementation of the Agreement are now deploying newer ships which comply with the environmental standards (Harris pers. comm. 2003).

The changes to Sections 13 and 16 of the Proposed RCP after the public submissions process ended, however, meant that only the knowledgeable and adequately resourced members of the public were able to voice their opinions on them. Only the people or organisations that had made submissions to the original sections are allowed to appeal and thus be involved in subsequent decisions made. Consequently,

no formal consultation occurred for Sections 13 and 16 of Southland's Proposed RCP. Additionally, the Deed of Agreement was the result of a negotiation solely between Environment Southland and CNZ and thus no formal consultation was undertaken. Some organisations, however, knew about or were involved in informal consultation about the Agreement.

Local Iwi – Ngāi Tahu

Fiordland, Te Mimi o Tū Te Rakiwhānoa, has coastal Statutory Acknowledgment status which is acknowledgement of Ngāi Tahu's special relationship with the area by the Crown (Ministry for the Environment, 2002). Consequently Ngāi Tahu is required to be informed of any proposal that may affect the area.

No formal process for general iwi consultation occurred while the Deed of Agreement was being negotiated. However, an informal process of consultation occurred via a representative from Te Ao Marama². This was through a general, ongoing, continuing and regular consultation process they have set up with Environment Southland. Te Ao Marama also produces a Resource Management Strategy that details their position and recommendations on resource management issues.

Te Ao Marama were aware of the Deed of Agreement while it was being negotiated and are generally satisfied with the outcome. "It has its benefits" (Skerrett pers. comm. 2003). The Agreement is a mechanism that provides an important source of funding for coastal management in Fiordland. The money contributes to environmental protection in an area in which the local iwi have a vested interest. The annual review clause written into the Agreement also provides an avenue through which Te Ao Marama can discuss any issues that arise with cruise tourism, the Agreement and its implementation.

² Te Ao Marama is an incorporated society who are the mandated iwi representative for Ngāi Tahu on resource management issues in Southland.

One perspective of the Agreement is that it is a selling of access rights to the cruise companies. If this point of view was taken and iwi successfully claimed ownership of access rights then local iwi could demand payment for the use of their resource, either as a percentage of the Marine Fee or a separate amount. A precedent for this is provided in fisheries management where various court cases have been won over access rights to harvest fish and financially significant compensatory arrangements for iwi have resulted (Rennie, 2002).

Department of Conservation

Water transport, particularly by boat, is a distinctive feature of tourism opportunities in Fiordland due to the location and topography:

While having no direct jurisdiction over the waters of the fiords, the challenge for park management is to ensure management between the water/land interface is consistent (DoC, 2002: 71).

DoC's, Southland Conservancy 2002 Fiordland National Park Management Plan is currently in draft form. The plan incorporates a three-tier management approach which is focused around zoning. There are detailed provisions for activity and development management and specific provisions for areas of significance. The central idea of the plan is to have open access areas that all users can benefit from and encourage growth as well as to discourage motorized boat use in other places in order to protect the natural quiet and wilderness 'feel'. The DoC plan states that the water activities of the fiords are governed by ES through the resource consent process of the RMA 1991:

The department's [DoC's] advocacy position regarding use of the coastal waters adjoining the park will be based on providing for a range of different intensities and kinds of use, that are consistent with the adjacent visitor settings within the park wherever practical (DoC, 2002: 112).

Thus a recreational planning approach is taken and advocated by the Southland Conservancy of DoC.

While Environment Southland and CNZ were the main negotiators in the Agreement, Te Ao Marama and the Southland Conservancy of DoC were consulted informally through regular contact in their general duties.

Other Organisations

Another organisation that played a role in cruise ship management through submissions to the Proposed RCP in 1997 and subsequent appeal to the Environment Court was the Royal Forest and Bird Protection Society (NZ) Inc. Forest and Bird has since withdrawn their appeal. Forest and Bird could have maintained its challenge of the policy and rules within which the Deed of Agreement is referred to if it wanted to. By withdrawing its challenge it effectively accepted the Agreement.

Other organisations that are involved in the management of Fiordland are the Guardians of Fiordland's Fisheries and Marine Environment and the New Zealand Maritime Safety Authority. Neither of these organisations was involved in the Agreement negotiations or submissions on Sections 13 and/or 16 in Southland's Proposed RCP. The Guardians' (2002) identify cruise ships as an issue which, with increasing numbers and access, could affect the loss of wilderness experience. They also refer to Environment Southland's Agreement with cruise ship companies in their *Draft Integrated Management Strategy for Fiordland's Fisheries and Marine Environment* (2002: 57-58) and consequently are acknowledging and recognising the Agreement.

The lack of objections to the Deed of Agreement could be attributed to the fiscal contribution to coastal management that the cruise companies are making as a result of the marine fee. The financial gain that the Agreement provides and the subsequent possible benefits were mentioned in interviews with key organisations. As a consequence of the marine fee there is money to address coastal and marine management issues that are important to many of the key organisations identified in this research (Te Ao Marama, Forest and Bird, Guardians of Fiordland's Fisheries

and Marine Environment, DoC). This alignment of interests of the key organisations, and the potential achievement of these interests as a result of the Agreement, gives them incentives to support the Agreement. Additionally, the provision of a full-time harbour master at Milford Sound as a result of the Agreement has resulted in cross-subsidisation for other industries and users. Their costs are being borne by the cruise industry, particularly recreational users where there is no method or mechanism to charge a user fee.

In summary, while stakeholders and interested parties had the chance to voice their opinions through the submissions process on the Proposed RCP, which included two rules regarding cruise ships, there was no formal consultation process specifically for the Deed of Agreement, which occurred as a result of the opposition voiced through the submissions. DoC and Te Ao Marama were involved in informal consultation. Consequently, the negotiation of the Agreement may be classified as an informal consultation process which only involved decision-making elite within a power network.

Power Networks

Planning is essentially a power network mechanism that involves power relations being negotiated through issues. By consulting, both with stakeholders and the public, the planner(s) and those involved in the decision-making are redistributing the power relations in the “matrices of transformations” (Matless, 1992: 46). Through analysing the informal consultation process that occurred in the negotiation of the Agreement, the pattern of a power network emerges.

In this case the network involves several of the decision-making elite from Environment Southland, DoC Southland Conservancy, CNZ and Te Ao Marama. Each of these organisations has specific and potentially conflicting mandates and interests. They had an existing informal consultation process prior to the Agreement

negotiation (with the exception of CNZ). It was evident from the interviews that there is a large measure of trust between the members of the three parties:

There comes a stage where you just have to let the planners get on with it [their job] (Murray pers. comm. 2003).

Consequently players within the network know trusted people to contact within the other organisations that could be relied upon to achieve compatible goals or alert them to potential conflicts. Interesting and perhaps not coincidentally, all the key informants identified within this power network were male.

A working relationship had been established, each actor knowing the general attitude and priorities of the others. Additionally the members of this power network are bonded in this instance through similar motivations, goals and culture which draw them together. There is a general acceptance of the Agreement among the power network even though the specific details were not widely known by them all. DoC and Te Ao Marama were aware of the Agreement negotiations but trusted Swinney's planning mechanisms to deliver an acceptable outcome without insisting on a 'sign-off' right. This acceptance by seemingly diverse organisations with contrasting mandates could contribute to explaining why the end decision appears so palatable to the community. Consultation reorganises the distribution of power, however, the type of informal consultation displayed by the members of the power network is more in the style of passing the power amongst themselves rather than opening the power matrix to 'outsiders'.

The embodiment of the power network which was crucial in cruise management decisions in Fiordland is comprised of predominately white males in positions of decision-making importance. This power network contributes to the construction of / reinforces the white, masculine space of Southland. The relatively limited involvement of the Te Ao Marama representative also suggests a predominantly white male decision-making regime similar to the white domain of cruise tourism in general.

The Deed of Agreement Negotiation Process

As discussed previously, the negotiation of the Deed of Agreement can be divided into and assessed in two parts – the submission process on the Proposed RCP for Southland and the subsequent appeals to the Environment Court and the negotiation of the Deed itself. The submission process was open to public participation. Significant revisions and substantial additions to Sections 13 and 16 were undertaken after the public submission process had occurred. If organisations had not made submissions on the initial sections, however, they were unable to appeal the later Environment Southland decisions to the Environment Court. Consequently, only Forest and Bird, CNZ, NZTB and Fiordland Travel³ appealed the changes to Sections 13 and 16. Thus the final forms of Sections 13 and 16 were not open to contestation by the general public. Out of this process came the negotiation of the Deed of Agreement. The Agreement was not part of the initial options in the Proposed RCP for Southland and consequently not included in the planning process and publicly notified participation process.

Placing the process of the negotiation for the Agreement in the context of New Zealand resource management, and the Habermasian ideals of communicative action which the RMA seeks to adhere to, enables critical analysis of the process. The status of the Agreement and its legality would seem dependent on the robustness of the process by which it was prepared and the outcomes that the Agreement encapsulates. Evaluating the process of making the Agreement and its outcomes required the development of an evaluative framework (Table 6.2). The criteria used are derived from the RMA purposes and principals (Part II) and as such are indicators of how well the process of making the Agreement complies with New Zealand's current

³ Fiordland Travel are a private company who offer coach, cruise and air tourism in Fiordland National Park.

consultation standard for resource management legislation⁴. The criteria measure not only the outcome of an activity and the potential effects, but also the ideal process by which to achieve it.

The analysis (Table 6.2) suggests that the Deed of Agreement fulfils the criteria for sustainable management. The analysis clearly indicates that the substantive outcomes expected to be met by the RMA are well-addressed by the Agreement with the exception of the Treaty of Waitangi. This has not, however, been achieved by the ideal process of public participation detailed in the RMA. Rather a process of informal consultation has occurred amongst several of the people in positions of decision-making in key organisations, as discussed previously.

There is no reference to the local iwi, Ngāi Tahu, throughout the Agreement and the attached Schedules. The Agreement's omission of the importance of the area used by cruise ships to Ngāi Tahu contributes to the creation of a 'normal' social setting, in which Ngāi Tahu are not established as stakeholders and/or concerned parties. The fashion in which the Agreement was structured creates and reinforces notions of masculine dominance over the wilderness and the local iwi. The exclusion of Ngāi Tahu marginalises them as a group and reinforces the image of cruise tourism as a white space.

The sections relating to cruise ships were challenged in the Environment Court concurrent with the negotiation of the Deed of Agreement (Table 5.2) and consequently the appellants did not avoid all the costs or the time delays associated with appeals:

It's been a long and hard-fought battle in environment courts and it has cost us a fortune but now, after three years, it's a good news story (Craig Harris quoted in Hutcheon, 2001: 81).

⁴ The criteria could be used as an evaluative framework to transparently compare any management regime for a resource use in New Zealand.

| Criteria (relevant provisions of the RMA appear in parenthesis) | Does the Deed of Agreement comply? | Comment |
|--|------------------------------------|---|
| <i>Outcomes</i> | | |
| Protects natural and physical resources (s. 5 (2)) | Yes | Fiscal provisions to help protect resources |
| Allows development of natural and physical resources at a sustainable rate (s. 5 (2)) | Yes | Constrained development (limits numbers of liners in an inlet to two at one time) |
| Safeguards the life-supporting capacity of air, water, soil and ecosystems (s. 5 (2b)) | Yes | Reviewed on an annual basis in order to monitor the state of the environment and the effects caused by cruise ships and conditions regarding environmental requirements attached |
| Avoids, remedies or mitigates any adverse effects of activities on the environment (s. 5 (2c) & s. 17) | Yes | The attached list of conditions regulates the adverse effects caused by the vessels and regular monitoring by the harbour master will enforce them |
| Preservation of the natural character of the coastal environment (s. 6 (a)) | Yes | Cruise ships are only permitted in the most commonly used waterways to reduce intrusions on the remote wilderness environment |
| Protection of outstanding natural features and landscapes from inappropriate use and development (s. 6 (b)) | Yes | There could be a fine line between whether or not a cruise ship could be perceived to interfere with the landscape due to the scale of the vessels, however, they are movable and not permanent structures |
| Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s. 6 (c)) | Yes | There are some areas where the ships are not permitted to enter because sensitive ecosystems and endangered flora and fauna are being preserved |
| Maintains and enhances public access to the coastal marine area (s. 6 (d)) | Yes | Allows an access option to a wider range of users for seeing Fiordland, which is predominately accessed through water transportation |
| <i>Process</i> | | |
| Maori, their culture and traditions honoured by direct participation and partnership (s. 6, 7, 8) | Partially | No mention of Maori or any indication that their relationship with the resource was considered, however, Te Ao Marama were included in informal consultation |
| Takes into consideration the principles of the Treaty of Waitangi (s. 8) | No | No mention of Maori or any indication that their Treaty principals were considered |
| Consultation with affected parties (First and Fourth Schedules) | Partially | Environment Southland and CNZ were the negotiators, Te Ao Marama and DoC were consulted informally, Forest and Bird had an input via their Environment Court appeal, however, no formal consultation occurred |
| Time: Avoids unreasonable delays (s. 21) | No | The Deed of Agreement took several years to negotiate, including legal challenges, which was time consuming and costly |
| Public notification and provision of documents to public-bodies (First Schedule) | No | The passenger tax rule was made public via the Proposed Regional Coastal Plan, however, the actual Deed of Agreement was not made public during negotiation |

Table 6.2 *Deed of Agreement Evaluation*

No public notification of the Agreement occurred and the document was not made available to public-bodies during the negotiation period. Consequently the public were not able to access the specific details of the Agreement if they knew that a negotiation was occurring⁵. In general, Table 6.2 illustrates that while the management of cruise tourism through the Deed of Agreement ascribes to the outcomes of sustainable management (with the exception of concepts of carrying capacity as already discussed) the process to achieve this has not fulfilled the criteria for public participation in resource management in the RMA.

The Deed of Agreement and the NZ Planning Institute Merit Award

Prior to reference to the Deed of Agreement in a rule in the revised Navigation Safety Bylaws and the Proposed RCP and the withdrawal of objections by TNZ and CNZ, the document would not have stood up to an Environment Court challenge.

The public acclaim that the Agreement has received (Table 6.6) has contributed to the legitimisation of the document, particularly in the period when it was not a legal management mechanism, but was still operating in a de facto sense. The New Zealand Planning Institute Award of Merit was a significant stamp of approval which contributed to the appearance of legitimacy for the Agreement. This occasional award is given to an organisation, group, person, Council or other body in recognition of a “meritorious contribution to the theory or practice of planning or meritorious service to the profession” (NZPI, 2003). The award is given through a nomination process but who nominated the Agreement was not obtainable during this research nor was there a transparent process for evaluating nominations apparent in the NZPI mechanisms.

⁵ A general survey of the public was not undertaken as part of this research. I understand from interviewees, however, the fact that a negotiation between Environment Southland and CNZ was being undertaken was not public knowledge.

Textual Analysis of the Deed of Agreement

The Deed of Agreement was also analysed using adaptations of discourse analysis from Fairclough (1992) and Duncan and Barnes (1992) applied to the example of cruise tourism in Fiordland. The following section details and discusses the findings of this analysis.

The Agreement can be read as a document of assertive directives rather than reflecting negotiations by the stakeholders in the resource and the subsequent compromise. The Agreement is written by the resource regulator, Environment Southland, for the users, cruise companies. Thus the production of the Agreement reinforces the relationships between the parties – that of governor and user (Table 6.3 summarises the production details of the Agreement). The first mention of negotiation with other parties is in Schedule 6 *How the cruise ship and tourism industry benefits*. In this schedule the tone changes to that of a collaborative agreement where both parties gain benefits.

Environment Southland, CNZ and cruise companies (but not individually specified) are mentioned consistently and frequently throughout the entire document. MSA, DoC, the International Council of Cruise Lines (ICCL), masters, crew and pilots are mentioned in the schedules, after the details of the agreement are laid out. The inclusion of benefits for the tourism industry, Schedule 6, signals inclusion of the business community towards the end of the Agreement. The Southland community is mentioned in Schedule 7.3 – the last paragraph. Additionally, as previously discussed, the Agreement does not refer to the local iwi or the importance of the area to them. Thus it appears to be a document by Environment Southland *for* the people, in their best interests, not *with* the people. This is reiterated by the Agreement being written in a legal genre for the intended audience of the cruise companies that come

to Fiordland. Additionally, the Agreement is only circulated to the negotiations involved and the companies that have signed. Anyone however, can request a copy.

| The production of the Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland |
|---|
| <p>Where was it written?</p> <p><i>Environment Southland, Southland, New Zealand</i></p> <p>When was it written?</p> <p><i>Finalised copy in 2001, Negotiated for 3 years prior</i></p> <p>Who wrote it?</p> <p><i>Environment Southland</i></p> <p>Who signed it?</p> <p><i>To date, Environment Southland and all cruise companies that enter Fiordland</i></p> <p>Was it written for a particular audience?</p> <p><i>For Environment Southland, the cruise companies coming to New Zealand and Cruise New Zealand Incorporated</i></p> <p>What were the relations between the producer of the text and the subject of the text?</p> <p><i>The producer of the text is the regulatory authority for Fiordland and the subject is the cruise companies who are the users of the resource that is regulated</i></p> <p>Does the form of the text reconstitute those identities and relations?</p> <p><i>Yes the text is written for the users by the regulating authority.</i></p> |

Table 6.3 Analysis of the Production of the Deed of Agreement

At one level the Deed of Agreement appears clear, succinct and understandable. Environment Southland states who they are, their role and responsibility in Fiordland and their reasons and motivations for negotiating the Deed of Agreement. The layout is simple and well ordered, an extensive definition section is located in section one,

and the maps are clearly labelled and easy to follow with green shading for the permitted areas and orange for the areas where a resource consent is required.

A critical reading of the Deed of Agreement, however, shows that the language used reflects that used by the parties actively involved in the negotiation – Environment Southland and CNZ (Table 6.4). The Agreement is written in English, which may not be the native language for all parties involved (notably the international cruise line companies). Consequently, written into the Agreement is the fact that CNZ negotiated on behalf of the cruise companies. Additionally, the authors assume the readers have a level of familiarity with the RMA. The terminology and language used reflects knowledge of the planning and legal arenas; a substantial amount of legal, shipping, and planning vocabulary is used. Other readers may require help interpreting the document to fully understand the meaning. It is clear and upfront for those *within* the conversation. Those marginalised or left on the outer will have difficulty interpreting the agreement. Equally applicable are Healey's (1993: 96) words (in relation to a different document):

It is largely opaque to everyone else, except central government officials and inspectors who are used to the debates involved.

Planning consultants and lawyers could be employed, at a cost, to translate the message. The Agreement was written in a discourse between planners and policy makers and CNZ who obtained legal advice. Consequently, CNZ had the role of interpreting the details of the Agreement to the cruise companies.

The negotiation of the Deed by Environment Southland and CNZ constructs a social world in which the players are assigned distinct, positions that are hierarchical and have power associated with them. This social world centres around these two actors. They confirm that they have the power to create and/or change social realities. These positions are upheld and re-iterated by the acceptance of society of their positions that enables them to freely shape social reality. Thus, when others in society accept the decisions made, they re-confirm those peoples position in power and their power to construct reality.

The Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland

What is being said?

Details of the agreement negotiated between Environment Southland and Cruise Companies entering Fiordland

What are the components of the text?

Background, details of the agreement, including definitions, parties, obligations, marine fee details, reviews, insurance and indemnity, length of the agreement, termination, waivers, relevant legal information, dispute resolution, the attached appendices include the signatories and maps of internal waters, contact details, and an attached schedule which includes relationships to the Regional Coastal Plan, Environment Southland's and the cruise industry's coastal management obligations, logbook details and how the cruise ship, tourism industry and Southland coastal environment benefits

How are they arranged?

In the order given above

Does it have any visual images?

Topographical maps with cadastral information of Fiordland inlets are included

What is the genre of the text?

A legal agreement

To what extent does the text draw on the characteristics of the genre?

Exclusively, the rhetoric of the document lends it legitimacy, authority and authenticity

What knowledge is being deployed?

Expertise in resource management, the local environment, resource legislation, cruise industry and legal knowledge

Whose knowledge is being excluded from the text?

The local community's, other tourism businesses in the area, local iwi, interest groups, other users, stakeholders

Is the text contradictory?

No

Table 6.4 *Analysis of the Deed of Agreement*

In labelling that agreement an 'alternative' Environment Southland and CNZ are (re)confirming that resource consents are the 'normal' or 'usual' process for resource management. The word alternative reinforces that the Agreement is a new and unique management option that has been developed for this particular industry in Fiordland. If this alternative approach to resource management of individual industry sectors is applied or adapted in other places, the label of alternative will surely change as the approach gains mainstream acceptance in the resource management and planning spheres.

Illegal Ship

In February 2002 a cruise ship, Pacific Venus operated by Barwil Agencies Ltd, entered Deep Cove, an area that is not included in the permitted cruising areas in the Deed of Agreement and thus access requires a resource consent (Arnold, 2001). The breach of the conditions of section 11.1 of the Agreement by Pacific Venus could be cause for termination of the Deed of Agreement between Barwil Agencies Ltd. and Environment Southland. While the incident was investigated no action was taken after the company had apologised and the company familiarised with the Agreement details. Ken Swinney (Bellew, 2002: 12) said that no further action was taken as the agreement with shipping companies had been made only in December, but the issue would be raised with CNZ at their next meeting. Thirty three cruise liners visited Fiordland during the 2001/2002 season and Pacific Venus was the only one to sail into a restricted area without a resource consent. Mr Swinney stated that pilots and shipping agencies would be more accountable for breaches of the Agreement (Arnold, 2001).

According to Craig Harris (2003) the Japanese ship entering Deep Cove was the result of a misunderstanding and last minute organisation of the details in the Deed of Agreement in order to get the document operational for the 2001/2002 cruise season. Additionally, Harris noted that it was a Japanese cruise operator who had chartered a cruise liner and had failed to comprehend all of the details included in the Agreement. While CNZ has twice visited all of the American and European companies who come

to New Zealand to update and familiarise them with the Agreement, they have not talked to any Japanese cruise companies. This focus on attracting and building relationships with American and European cruise companies again reinforces the cruise industry in Fiordland as a white space.

The Deed of Agreement and the Media

The Deed of Agreement does not stand alone. Other texts have contributed to the meaning constructed in the document. The media is one area that is influential in the perception and construction of a text. A review of the media referring to the Agreement found three articles (Table 6.6) which quote either Ken Swinney, Environment Southland or CNZ representative Craig Harris voicing praise for the document. The general tone of the articles is positive and reflects favourably on the Deed of Agreement. No evidence of negative reporting about the Agreement was found through the media search. The construction of the Agreement as a positive management technique through the discourse of media influences the way the readers view the Agreement, even without direct readership or knowledge of the document itself.

The Deed of Agreement is:

An innovative contribution to planning practice in New Zealand that will benefit Southland's coastal environment and the cruise ship industry.

NZPI, Tourism New Zealand, *Tourism News*, 2002

A sensible but flexible way of working with Environment Southland and Cruise New Zealand to protect a very special part of New Zealand.

Craig Harris, CNZ spokesperson, *Tourism News*, 2002

A first for New Zealand ... welcomed by the [cruise] industry and would be highlighted when the organisation [CNZ] visited trade shows and cruise ship companies.

Craig Harris, CNZ. In Arnold, *The Southland Times*, 2001

Good for all ... While the council [Environment Southland] is the obvious winner, so is the [cruise] shipping industry.

Burgess, *The Southland Times*, 2002

Table 6.5 *Quotes and approval used in the media referring to the Deed of Agreement*

Access Rights Security for the Cruise Industry

The inclusion of clause S2.1 that states the RMA and RCP are the fall-back position should the arrangements in the Agreement fail provides Environment Southland with an escape clause. When this mechanism, however, is deemed necessary is not transparent, particularly for the cruise companies. While this backup provides flexibility for management options for Environment Southland and safeguards their options, the cruise companies are left with uncertainty as to what, other than their non-compliance with the conditions, could result in the withdrawal of the Agreement and reverting to the resource consent process. This raises questions of long-term security for the cruise industry as it lacks assurance and continuity if the Agreement fails. The Agreement is written for the audience of the cruise tourism industry, however, it does not provide them with the level or degree of certainty that they require to make definite plans for the future tourist seasons.

The Agreement provides resource management options at a time when there is potential conflict over other common resource use and rights. While the local people might interpret the outcome as giving one (paying) user group right over other (non-paying) user groups, planners could view it as an innovative initiative. The planners however, will be judged on future management conflict on the issue between other user groups as they attempt to assert their access rights. This could raise the questions of whether a broader based debate would have been a more politically robust strategy (Healey, 1993). There are potentially more political and economic advantages to having taken a more pluralist form of democracy and greater applicability to adaptation in other areas.

On the surface the message of the Agreement appears to be clear but on probing, this clarity disappears into ambiguity about future management options. However, the ambiguities are concealed so that the dilemmas faced are not readily apparent. The richly textured nature of the tensions the council faces are not presented or hinted at

through the text. The Agreement is not open; policies are hidden in the text. Only in reference to other documents can the reader construct the story. To quote Healey (1993: 91):

The council preserves its own discretion and autonomy to interpret its policies and set its priorities outside the plan framework.

Intertextuality

Intertextuality is an integral part of the planning and legal systems in New Zealand. It is necessary to refer to a multitude of legislation, plans and case law when analysing any situation or context. This research is no exception, especially as New Zealand is currently in a transitional resource management phase (Rennie, 2000). Determination of the status the Deed of Agreement required consultation with the Proposed Regional Coastal Plan (1997), the Southland Regional Planning Scheme Section III Coastal and Marine Resources (1989), the RMA (1991) and the Local Government Act and subsequent amendments (Table 6.5). Additionally, DoC (2002, Draft) produce a *Fiordland National Park Management Plan* every 10 years and the Guardians of Fiordland Fisheries and Marine Environment have a *Draft Integrated Management Strategy* which both refer to the cruise ship Agreement. Thus written into the Agreement is reference to other legislation and documents while they also refer to the Agreement. While these documents are referred to, however, the direct content is not mentioned and it is left to the reader to access the specific details. The Agreement, thus, incorporates and assumes a degree of prerequisite knowledge. If this information is not known and furthermore, is not known where to or unable to access, the author and parties that do hold the required knowledge marginalise those without. Furthermore, if the knowledge was not known then the persons or groups are unable to fully participate in any decisions made in regards to the Agreement, whether at the time of writing or at a latter date, including objections and misuse of the Agreement.

| The audience of the Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland |
|---|
| <p>Who would have been the original audience?</p> <p><i>Cruise New Zealand Incorporated and cruise companies entering Fiordland</i></p> <p>Where and how would the text have been displayed originally?</p> <p><i>Not on public display but available if requested through Environment Southland</i></p> <p>How is it circulated?</p> <p><i>Circulated to the parties who have signed and involved in the negotiation</i></p> <p>How is it accessed? By whom?</p> <p><i>Anyone could ask to see a copy of the Agreement from Environment Southland</i></p> <p>Who are the intended audiences?</p> <p><i>Cruise New Zealand Incorporated, Cruise companies entering Fiordland</i></p> <p>Where is the reader positioned in relation to the text?</p> <p><i>Outside the Agreement</i></p> <p>What relation does this produce between the text and the reader?</p> <p><i>No involvement</i></p> <p>Is the text one of a series or part of a network and how do they affect its meaning?</p> <p><i>The Agreement is intended to come within the broader sphere of resource management legislation – the <u>RMA</u>, which incorporates a network of the other documents including the <u>New Zealand Coastal Policy Statement</u>, <u>Southland Regional Coastal Policy Statement</u>, <u>Proposed Regional Coastal Plan for Southland</u>; as well as supporting legislation including the <u>Local Government Act</u>; the transitional legislation – <u>Southland Regional Planning Scheme Section III Coastal and Marine Resources</u>, <u>Navigation Safety Bylaws</u>.</i></p> <p><i>These accompanying documents provide the context, terminology and genre and contribute to building the meaning the Agreement has.</i></p> <p><i>Additionally, further meaning and context can be built up if read in conjunction with DoC's <u>Fiordland National Park Management Plan</u> and the Guardians of Fiordland's Fisheries and Marine Environment's <u>Integrated Management Strategy for Fiordland's Fisheries and Marine Environment</u></i></p> <p>Is more than one interpretation of the text possible?</p> <p><i>The Agreement is written in the legal genre to minimise the range of interpretations that could result, however, it is open to interpretation challenge in a Court of Law</i></p> |

Table 6.6 Analysis of the Audience of the Deed of Agreement

In my interview, Ken Swinney (2002) stated that the 2002/2003 season would be the deciding period as to whether the public would object to any aspect of cruise tourism in Fiordland and thus the Agreement, because there is more information about the Agreement accessible to the public and because there has been time for a person or group to acquire the information needed to challenge the Deed. Gaining this knowledge, however, is contingent on many factors, including time, money, basic knowledge and the ability to acquire further knowledge. These contingencies severely limit the number of people or groups able to participate in any of the decisions made about cruise ships and their management in Fiordland.

Knowledge and Power

In negotiating the Deed of Agreement, Environment Southland and CNZ displayed several areas of expert knowledge including resource management procedures, design, planning, politics and institutions. This knowledge enabled ways to find an 'alternative' to the resource consent process. The design of the Agreement drew on ideas from other environmental and tourism models (e.g. Butler's curve) to help place cruise tourism on a growth and its associated impact scale, formulate ideas and produce a workable model that could be implemented in Fiordland. This discourse is not accessible to everybody. Additionally, the Agreement begins by outlaying the 'facts' of the case as seen by Environment Southland set out under the heading 'Background', giving the impression of truth of the discourse used.

The successful negotiation of the Deed of Agreement and its implementation was made possible by the in-depth knowledge of the cruise industry of CNZ, their legal representation and Environment Southland's thorough knowledge and familiarisation of the political-institutional context within which the Agreement was set. Environment Southland had a depth of knowledge about the system and how it works and CNZ gained legal help in the resource management field. "We started off as adversaries, after a while we started to talk the same language" and progress was

made (Harris pers. comm. 2003). Thus the parties involved in the negotiation of the Agreement form a textual community⁶ which excludes those who lack similar understanding of the discourse. Innes (1995: 186) states that:

knowledge that is generated and validated through social processes involving its users becomes embedded in the taken-for-granted assumptions and practices of these users (Innes, 1995: 186).

This in turn gives those 'knowledgeable' parties power in the decision-making within that discourse. The Deed of Agreement is an example of how those with the knowledge in certain areas and validated through their positions of decision-making in accepted processes of resource management can influence and shape social settings – in this case, cruise tourism management in Fiordland.

The planner studied by Forester (1989) had:

substantial discretion – power – to frame problems, inform and call attention to one point or another and, in the process, to empower or disempower individuals (Innes, 1995: 186).

This is a similar situation to the decision-making elite in the power network involved in decisions in the planning sphere for cruise management Agreement in Fiordland.

Innes' (1995: 185) comments on a general scenario summaries the knowledge and power relations evident in cruise tourism management in Fiordland:

If knowledge that makes a difference is constructed through a process in which a planner is not only a player, but a guide and manager, initiating and framing questions and directing attention, then ethical principles for this planner become even more essential. We cannot assume that if consensus was reached, it represents truth. Participation in a common education and culture gives us common assumptions and blinds us to what might be obvious to others... If professionals actually create such processes instead of following the rules of scientific inquiry, they have far more power and discretion than is legitimate, according to the norms that govern public choice.

Barnes (1988) discusses the ability of gaining knowledge to change the distribution of power. The provisions of public participation in resource management processes and

⁶ Textual communities are groups of individuals who share understandings of the meaning of texts (Faubion, 2000).

decisions, however, are not sufficient to alter power relations without a level of knowledge of the resources and processes. Thus although New Zealand has incorporated consultation requirements into the RMA, without the knowledge of the processes and the issue and the resources to be involved in the processes it is still not a level playing field that transforms the matrices of power relations.

Chapter Summary

Planning is the field of power that is the interest and focus for this case study. The subject, cruise tourism management, is the mechanism through which power is exercised. The relations being examined are between the individuals involved in decision-making for cruise management and their power to empower or silence stakeholder and community voices. The Deed of Agreement is the product of the power relations in this planning arena. The power has been emplaced through the legitimisation of the planning sphere in Western societies and produced the Deed of Agreement. A critical analysis of the Deed of Agreement has shown that the public good has been defined by a matrix of power relations among the decision-making elite in the case of cruise tourism management in Fiordland. The next, concluding chapter expands on this analysis in considering the wider implications of this research.

Chapter 7

Summary and Conclusions

Addressing the Research Problem

This thesis set out to explore power relations in the arena of planning for marine environments. Consequently the research examined the product of the power relations in the case study of cruise tourism management in Fiordland, the *Environmental Partnership, Deed of Agreement between the New Zealand Cruise Ship Industry and Environment Southland*, and its negotiation. The implications of this Agreement were explored, both as a cruise management regime in Fiordland and its applicability to other areas; and as a piece of legislation in the context of resource management in New Zealand following Habermasian ideals of communicative action. The application of Habermas' ideals was shown not to have been achieved in cruise tourism management decisions in Fiordland through a Foucauldian analysis of the Deed of Agreement and its negotiation process.

In the situation of cruise tourism management in Fiordland a power matrix, comprised of a select group of decision-making members of a hegemonic elite class (white, middle-aged, Western technocratic males), determined access rights for cruise ships through their legitimised and accepted role as planners and decision-makers in organisations recognised by the New Zealand Government. The mechanism through which they executed this decision-making power was the Deed of Agreement and its negotiation process. Through this negotiation process the power network used their positions and knowledge of the resource management processes and the resource to make a decision on access right and thus resource use. The decision impacts on other

users, although the application of limits does minimise them. Additionally the user fee charged to the cruise companies provides cross-subsidisation for other users.

A legal and planning discourse was used to convey the resulting decision in the Deed of Agreement document, thereby making it inaccessible to some members of the public. Members of the Southland Conservancy of DoC, Te Ao Marama and Environment Southland who hold positions with authority to make decisions have used a matrix of power relations to limit public participation in resource use decisions and consequently privileged white cruise space. As a result Habermas' principals of communicative action, which are sought to be achieved through the processes of consultation in the RMA, have been subverted by this matrix of power relations. However, the outcome, the Deed of Agreement, generally incorporates sound sustainable management principals.

Is it, therefore, the process, the outcome or the combination of both which is important? New Zealand's Resource Management Act 1991 has incorporated both the process and the outcome in order to achieve its goal of sustainable development. In the case study of cruise tourism in Fiordland, however, the embodiment of power evident in the decision-making process is, arguably, an obstacle to achieving public good in the planning sphere. Consequently, the decisions made reflect the establishment of a white, masculine elite in positions of decision-making that have used a traditional planning process style within the RMA, allowing the creation of a elite white cruise tourism space for the economic benefits it can provide.

Cruise Tourism: An Experimental Industry?

This research indicates that the cruise industry in Fiordland is an ideal activity on which to trial a new planning technique resulting in a new environmental management regime. There are several reasons for this:

- Cruise tourism in Fiordland is a relatively small industry (30-40 vessels a season);
- Fiordland receives 4-5 star vessels from companies that have, to date, all signed up to International Council of Cruise Line environmental guidelines, ensuring the liners meet environmental systems and practice standards and thus minimising environmental risk. Additionally, companies that were sending older ships to Fiordland are now deploying newer vessels that are certain to comply with the environmental regulations of the Agreement;
- The Deed of Agreement states that Environment Southland retains the right of refusal for any vessel that fails to meet international standards of environmental systems and management practices thus further discouraging inappropriate vessels and management;
- The MSA inspect 2/3 of all cruise ships that come to New Zealand and consequently ensure high environmental standards for ships coming to the country are maintained;
- The cruise companies are used to dealing with similar contracts in other countries as they are increasingly common in the cruise industry as a management mechanism;
- Fiordland is located at the physical and social extremities of New Zealand. Being a substantial distance from the seat of New Zealand Government could mean less intervention, less scrutiny and fewer regulatory controls and thus more flexibility for possible alternative management regimes.
- The niche sector of coastal cruises generally has the wealthier end of the clientele market and many repeat passengers who are looking for a cruise that is a little bit different and more in-tune with the environment, as a result they do not object to paying a small amount extra to achieve this;
- The Deed of Agreement incorporates an annual review process that can be used to address any difficulties or issues that arise; and
- Cruise tourism attracts elite, wealthy tourists, which indicated that a successful conclusion to the negotiations of the Agreement would yield

significant financial outcomes and thus provide a clear incentive to experiment on this industry.

All of these reasons contribute to make the cruise tourism industry in Fiordland a reasonably fail-safe option on which to experiment with new and alternative types of management mechanisms.

Environment Southland is currently negotiating similar agreements for other tourism operators (not yet revealed), the New Zealand Planning Institute has legitimised the approach through its planning awards, and other regions are interested in the Agreement. This suggests that this type of contractual approach to coastal zone management is here to stay, but for how long and how desirable it might be within the broader context of an integrated, participatory, pluralist approach is open to question.

The Deed of Agreement is a unique management regime and consequently an example or experiment that could be considered as 'best practice' and thereby applicable as a viable coastal management technique for other areas and industries in New Zealand. Successful implementation, however, would be most likely achieved in areas where similar wilderness values and experiences are being sought to be preserved, and in partnership with small scale industries. The Deed of Agreement also establishes a precedent for collecting financial contributions to offset present and future adverse effects of an industry on a common property resource.

International Applications

The type of coastal cruise tourism that New Zealand receives has set the scene for possible types of management regimes. The five star, silver service cruise ships that are predominate along coastal cruise itineraries has resulted in more responsible cruise companies using Fiordland as a destination. Thus the possible range of

management options is significantly more varied by the reliable nature of the cruise liners entering Fiordland's internal waters. Similar types of agreements have been used overseas in areas with significant wilderness values, such as those of Alaska and Canada. A management technique similar to the Deed of Agreement, however, is not as transferable to countries such as the Caribbean where there is a wider range of vessels and tours frequenting the destination and lack of similar regulatory framework.

Future Research

This thesis focused on a case study of marine tourism in the selected environment of Fiordland. The research process was hampered by a lack of other research on regulatory regimes in coastal areas in New Zealand during the transitional phase from the Town and Country Planning Act to when the regional coastal plans of the RMA become operative. The case study approach employed here highlighted elements of bluff, power and legitimacy that might be found through similar explorations of other transitional phases and cases. Gaining insights into the practical situations of resource management during this period of uncertainty would shed light on methods which could be used to better implement public participation in resource decision-making processes.

This thesis sourced a wide range of articles in the written media. Exploration into how this genre constructs cruise tourism is a possible avenue for future research. Finally the dearth of academic research on cruise tourism in New Zealand in general highlights the possibility for research on many aspects of cruise tourism in New Zealand to aid our understandings of policy and planning implications and of the industry generally.

Does Cruise Tourism in Fiordland have the Right of Way?

The case study of cruise tourism in Fiordland has provided an arena in which to explore power relations in the planning sphere for marine tourism. The cruise tourism management decision-making process in Fiordland has illustrated that the ideals of communicative action as advocated by Habermas have been subverted in the public participation process of the RMA by the power relations embodied in all social processes. The power matrix at play has resulted in the public being marginalised in cruise tourism access right decisions. Consequently, defining the public good for cruise management in Fiordland has become a matter of a power matrix which has given right of way to the cruise tourism industry. Whether or not this will ultimately be to the benefit or detriment of sustainable tourism in Fiordland will be revealed over the next few decades.

Appendix

DEED OF AGREEMENT
BETWEEN
THE NEW ZEALAND CRUISE SHIP INDUSTRY
AND
ENVIRONMENT SOUTHLAND

PARTIES ENVIRONMENT SOUTHLAND (ES)

[NAME OF CRUISE SHIP OWNER AND/OR OPERATOR]

The bodies and persons identified in and who have signed Appendix A as a party (collectively and individually referred to as 'Cruise Ship Owner and/or Operator')

BACKGROUND

- A. Environment Southland is the Regional Council for the Southland Region.
- B. The Coastal Marine Area (CMA) referred to is that area adjacent to Southland Region under the management and control of Environment Southland.
- C. Parts of the Internal Waters of the CMA adjacent to the Fiordland National Park and Stewart Island are subject to growing environmental management pressures brought about in part by the expansion of the number of visits of cruise ships.
- D. The increasing level of ship activity has increased the level of management activity that Environment Southland considers it necessary to undertake in order to meet its statutory obligations under Resource Management Act 1991.
- E. The parties have entered into this Agreement for the purpose of setting out their respective rights and obligations and as an alternative to the regulatory provisions of the Regional Coastal Plan.

THE AGREEMENT

1. DEFINITIONS

- 1.1 In this Agreement unless the context otherwise requires:

Annual Consultative Meeting ["ACM"] has the meaning set out in Clause 8.

Business Day means a day on which Banks are open for business.

Contaminant includes any substance (including gases, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar or other substances, energy, or heat—

- (a) When discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or
- (b) When discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged (*S.2 RMA 1991*).

Cruise New Zealand [“CNZ”] means Cruise New Zealand Incorporated, an entity that acts as a liaison and co-ordination agency for cruise ship owners, operators and agencies trans-shipping passenger cruises through New Zealand’s territorial waters.

Cruise Ship means any ship at or over 1000 gross tons (International Convention System) the main purpose of which is to carry passengers for hire.

CMA means the coastal marine area of the Southland Region.

Environment Southland [“ES”] is the brand name of the Southland Regional Council, and includes Council, and where authorised, its officers, contractors, agents and appointees.

Environment Southland Marine Fee [“ESMF”] is the name of the Fee established under Clause 7 of this Agreement.

Internal Waters means the internal waters of Fiordland and of Stewart Island as identified in the maps attached as Appendix B to this Agreement. The “Green” access areas are identified as those Internal Waters where cruise ship owners and operators party to this Agreement are able to operate within the terms of this Agreement without the need for further resource consent are:

- Milford Sound;
- Thompson Sound;
- That part of Doubtful Sound extending from open coastal waters to a line between Joseph Point and Espinosa Point, excluding First Arm and the areas east of First Arm;
- Breaksea Sound west of Acheron Passage;
- Acheron Passage;
- Dusky Sound west of the western end of Cooper Island;
- Halfmoon Bay, Stewart Island;
- Paterson Inlet, Stewart Island.

All other areas within the Internal Waters are considered to be “Orange” areas where resource consent(s) will be required for any cruise ship or related activity.

MSA means the Maritime Safety Authority of New Zealand

RCP means the Proposed Regional Coastal Plan for Southland publicly notified on 15 February 1997 and includes the Regional Coastal Plan and any amendment to either document.

RMA means the Resource Management Act 1991.

Zero discharge for the purposes of Clause S4.2.2 of the Schedule means no discharge of contaminants.

- 1.2 **Terms** not defined in this Agreement shall have the meaning given to them in RCP and RMA.
- 1.3 **Headings**
Clause and other headings are for ease of reference only and do not form any part of the context nor affect the interpretation of this Agreement.
- 1.4 **Parties**
Reference to parties is to the parties to this Agreement.
- 1.5 **Defined Expressions**
Expressions defined in the main body of this Agreement bear the defined meaning in the whole of this Agreement, including the appendices and schedule.
- 1.6 **Plural and Singular**
Words importing the singular number shall include the plural and vice versa.
- 1.7 **Negative Obligations**
Any obligation not to do anything shall be deemed to include an obligation not to suffer, permit or cause that thing to be done.
- 1.8 **Statutes**
A reference to a statute includes reference to the statute, regulations, orders or notices and amendments made pursuant or in substitution to that statute or regulation.
- 1.9 **Clauses and Appendices**
A reference to a clause or appendix or a schedule is to a clause or appendix or schedule to this Agreement.
- 1.10 **Whole Agreement**
This Agreement includes the appendices and schedule to it which shall be read with and deemed to be part of the Agreement.

2. PARTIES TO AGREEMENT

- 2.1 The parties to this Agreement shall be the signatories hereto and any other body or person whom ES agree may be a party to this Agreement and who sign Appendix A.
- 2.2 A body or person signing Appendix A in accordance with Clause 2.1 shall be a party from the date of so signing unless it is otherwise agreed between ES and that body or person. Those signatures shall bind the owners, operators, master, crew and pilots of those cruise ships who become parties to the Agreement.
- 2.3 Any Cruise Ship Owner and/or Operator may by 31 March in any calendar year, give notice in writing to ES requesting withdrawal from this Agreement. From the effective date of withdrawal the provisions of this Agreement shall cease to apply to it, provided that withdrawal in accordance with this clause shall not affect that party's liability for any monies owing to ES in accordance with this Agreement or prejudice the right of ES to recover the same.

- 2.4 In withdrawing from this Agreement, the provisions and requirements of the Regional Coastal Plan will apply, including any requirement to apply for resource consent(s).
- 2.5 The parties acknowledge that CNZ Inc. is an incorporated body under the Incorporated Societies Act 1908 co-ordinating Cruise ship visits to New Zealand as an agent only for the various Cruise ship owners/operators and as such that it is not liable for any non-performance or breach of the terms of this agreement by any of the Cruise ship owners/operators.

3. PURPOSES OF AGREEMENT

- 3.1 The purposes of this Agreement are:
- To enable managed access to unique parts of New Zealand's coastal marine area and a World Heritage area.
 - To foster and promote the sustainable management of the Internal Waters in a manner consistent with the principles and provisions of RCP and RMA.
 - To meet ES's coastal management and control obligations in CMA generally.
 - To provide a collaborative management framework between ES and Cruise Ship Owners and/or Operators allowing as far as possible the management and growth of cruise ship operations in the Internal Waters.
- 3.2 In carrying out their obligations of this Agreement the parties shall use their best endeavours to ensure that the purposes of this Agreement are adhered to and promoted. Any interpretation of this Agreement shall be such as best promotes the purposes set out in this Clause.
- 3.3 Failure to comply with the provisions and terms of this Agreement may result in Environment Southland requiring resource consent[s] from the cruise ship owner and/or operator concerned.

4. RELATIONSHIP OF AGREEMENT TO RMA AND RCP

- 4.1 This Agreement applies only in respect of cruise ship activities in the Internal Waters.
- 4.2 For as long as the Cruise Ship Owners and/or Operators comply with the terms and conditions of this Agreement there will be no requirement on their part to obtain resource consents under the RCP with respect to activities referred to in Chapter 13 of RCP.
- 4.3 This Agreement does not exempt Cruise Ship Owners and/or Operators from obligations and duties under RMA or RCP which this Agreement does not specifically or by reasonable implication deal with.

- 4.4 This Agreement does not permit Cruise Ship Owners and/or Operators to discharge any contaminants to air or water where those discharges are explicitly required to be authorised under the RMA, RCP or resource consent.

5. ENVIRONMENTAL OBLIGATIONS OF CRUISE SHIP OWNERS AND/OR OPERATORS

When operating cruise ships in the Internal Waters the cruise ship owners and/or operators, including the master, and crew, and pilots shall adhere to the obligations on them as set out in Clause S4 of the Schedule.

6. NUMBER AND TIMING OF VISITS TO INTERNAL WATERS

- 6.1 All scheduling and duration of cruise ships in and through the Internal Waters shall be co-ordinated by CNZ, and ES. The scheduling of all cruise ships shall be provided to ES yearly in advance at the Annual Consultative Meeting or at any such other mutually agreed time. Any subsequent alterations to scheduling and duration shall be notified by the cruise ship owners and/or operators to both CNZ and ES and shall be approved by ES in advance.
- 6.2 Parties shall attempt to ensure that no more than two cruise ships shall enter any water way, passage, fiord, bay or inlet in any one day.
- 6.3 ES retains the power to refuse to allow the visit of any particular cruise ships identified in the schedule or any part of it, on the following grounds:
- a) That the number of cruise ships specified and the scheduling and duration of visits is inconsistent with the provisions of the RCP.
 - b) In the case of any particular cruise ship or ships:
 - The previous misconduct in Internal Waters or breach of obligations under this Agreement; and/or
 - The vessel's environmental systems and management practices fail to meet international standards.
- 6.4 In the event of any refusal under Clause 6.3 the cruise ship owner/operator in question shall have the opportunity in the first instance, to put their case to a formal meeting of ES. If a decision by ES is made to endorse the refusal under Clause 6.3, the provisions of Clause 17 may then apply. Unless explicitly stated to the contrary by ES in its decision, the provisions of this Agreement will not apply to the specified cruise ship or ships in the sailing season or seasons subsequent to the decision being made in Clause 6.3. A resource consent application would be required for any particular cruise ship or ships in this situation.

7. ENVIRONMENT SOUTHLAND MARINE FEE

- 7.1 Each cruise ship operator shall pay to ES a fee to be known as the Environment Southland Marine Fee (ESMF) for each cruise ship operating in or through the Internal Waters.
- 7.2 The purpose for which the Environment Southland Marine Fee will be used is to assist ES to manage the coastal marine area of Southland and shall include any costs ES incurs with harbour management and navigation and safety activities. For clarity, such costs will not include port dues or port charges such as costs of pilots, tugs, wharf infrastructure or cargo handling. These latter costs are outside the scope of ES responsibilities.
- 7.3 ES shall invoice the relevant NZ shipping agent no earlier than two weeks prior to each cruise ship visit. Payment shall be received by ES within seven (7) days of receipt of the invoice by the NZ shipping agent and made without deduction.
- 7.4 The ESMF shall be calculated as follows:

Total Gross Registered Tonnage of cruise ship x \$NZ 0.34 cents = ESMF plus GST if applicable.

8. ANNUAL CONSULTATIVE MEETINGS & REVIEW OF AGREEMENT

- 8.1 CNZ shall submit a draft schedule of intended cruise visits for the forthcoming year/season to ES in March of each year.
- 8.2 CNZ and ES shall meet annually in May each year or at such other time as may be agreed to consider the following matters:
- Discussion on previous year's visits and any matters arising from those visits.
 - Review of ES's coastal monitoring for past year.
 - Preview of forthcoming year's monitoring programs and projects that will be included in ES's next available Annual Plan round.
 - Update on ES's coastal management activities proposed for the forthcoming year.
 - Level of visits for forthcoming year.
 - Any technology and /or environmental advances/improvements/issues relating to the operation of cruise ships.
 - Any need for a review of this Agreement.
 - Any other matters of relevance or mutual interest.
- 8.3 If, as a result of any matter arising out of ACM, the parties agree that there is a need to review the Agreement, ES and a properly appointed delegate or representative of cruise ship owners and/or operators shall use their best endeavours to agree on amendments.

- 8.4 The ESMF will increase every two (2) years unless otherwise agreed by the parties at the same level as the total average Consumer Price Index (CPI) from each of the two preceding years.
- 8.5 Any amendment agreed shall be binding on all parties unless that party advises ES in writing. In such a case, the party shall be deemed to have withdrawn from Agreement.

9. INSURANCE AND INDEMNITY

- 9.1 Each of the cruise ship owners and/or operators shall, prior to entering the Internal Waters under this Agreement, confirm to ES that for the duration of the cruise in the Internal Waters it holds appropriate comprehensive and internationally recognised insurance.
- 9.2 The insurance referred to in Clause 9.1 means that:
- 9.2.1 The Cruise Ship Operator shall save, hold harmless, defend and indemnify Environment Southland in respect of all losses, claims, actions, damages, judgements and expenses incurred by, claimed or awarded against Environment Southland attributable to any act or omission on the part of the Cruise Ship Owner and/or Operator, its servants, agents, contractors and passengers, arising out of the cruise in the Internal Waters.
- 9.2.2 The Cruise Ship Operator warrants that any vessel which it operates within the Internal Waters will hold P&I Insurance with a P&I Association which is a member of the International Group of P&I Club; and
- 9.2.3 When requested by Environment Southland the Cruise Ship Operator will produce evidence of such P&I insurance.

10. TERM

- 10.1 The term of this Agreement shall be six (6) years with a further two (2) year transition period provided the Agreement remains under active negotiation. This transition period recognises the fact that cruise itineraries are planned 2 years in advance.
- 10.2 At the Annual Consultative Meeting immediately prior to the termination of this Agreement the Parties shall consider:
- Renewal/new agreement
 - Terms.

11. TERMINATION FOR CAUSE

- 11.1 ES may terminate this Agreement as regards any Cruise Ship Owners and/or Operators for the following reasons:
- Significant breach and /or non-compliance by the Cruise Ship Owner and /or Operator of any of the provisions of RMA RCP (as it applies to activities under this Agreement)
 - Failure to provide insurance in terms of Clause 9.
 - Serious breaches of rules and/or indiscretions relating to safety and good navigation practices.
 - Wilful failure on the part of the Cruise Ship Owner and/or Operator to follow the reasonable directions of ES or MSA.
- 11.2 Notice of termination shall be in writing and shall specify the reasons for the termination (arbitration clause to apply as to validity and/or reasonableness of the notice of termination) and the time and date proposed for the termination with the final date of termination being subject to any arbitration decision in terms of Clause 17.
- 11.3 For the avoidance of doubt, if the Agreement is terminated in respect of any Cruise Ship Owner and/or Operator the benefits covered on the Cruise Ship Owner and/or Operator shall cease from the time and date of the termination (as fixed by arbitration if any arbitration occurs) and all of the provisions of the RCP including Chapter 13, shall apply to the activities of that Cruise Ship Owner and/or Operator in the Internal Waters.

12. NOTICES

- 12.1 Any notice or communication which any party gives to any other party concerning anything relating to this Agreement shall be confirmed in writing. Notices shall be delivered by hand or sent by post with postage prepaid or by facsimile to that party at the address of that party notified from time to time. Any facsimile or electronic transmission shall be supported by a copy sent or pre paid letter on the same day as that transmission.
- 12.2 A notice or other communication delivered by hand shall be deemed to have been received at the time of delivery. However, if the delivery is not made on a Business day or made after 5.00 p.m. on a Business Day, then the notice or other communication will be deemed to have been delivered on the next Business Day.
- 12.3 A notice or other communication delivered by pre-paid post shall be deemed to have been received on the next Business Day after posting.
- 12.4 A notice or other communication sent by facsimile shall be deemed to have been received on the day of transmission provided the facsimile has answerback and the facsimile is shown to have been received. However, if the date of transmission is not a Business Day or the transmission is sent after 5.00 p.m. on a Business Day then the notice or other communication will be deemed to have been given on the next Business Day after the date of transmission.

- 12.5 A designated address for the Cruise Ship Owner and/or Operator and its NZ port operator for the purposes of this Agreement shall be those as set out in the Schedule or as supplied by CNZ at the Annual Consultative Meeting.

13. WAIVER

No party shall be deemed to have waived any right under this Agreement unless such waiver is in writing and signed by such party. Any such waiver by a party of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent or continuing breach of such provision or of the breach of any other provision of this Agreement by that party.

14. NO ASSIGNMENT

No Cruise Ship Owner and/or Operator may assign its interests under this Agreement, except with the prior written approval of ES, which shall not be unreasonably withheld. Any change in the effective control of a Cruise Ship Owner and/or Operator, as noted in the Annual Visits Schedule as submitted by CNZ in May each year shall be deemed to be an assignment.

15. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with New Zealand law.

16. SUBMISSION TO NEW ZEALAND JURISDICTION

Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the Courts of New Zealand for the purpose of hearing and determining any disputes or proceedings arising out of or in connection with this Agreement.

Invercargill shall be deemed to be the place nearest to where any dispute or material part of any dispute arose.

17. DISPUTE RESOLUTION

- 17.1 If any difference or dispute arises as to the interpretation of this Agreement or as to any other matter arising out of or in connection with this Agreement then the parties in dispute shall by notice in writing served on the other party or parties to the dispute set out the details of the difference or dispute.
- 17.2 The parties undertake to use their best endeavours to resolve any difference or dispute between them by amicable and bona fide negotiation or by utilising appropriate alternate dispute resolution techniques.
- 17.3 Where a difference or dispute remains unresolved for more than one (1) month, the parties or any of them shall be entitled to refer such difference or dispute to

arbitration in accordance with the Arbitration Act 1996 or its amendments passed in substitution.

- 17.4 The decision of the arbitrator is final and binding on both parties.
- 17.5 Nothing in this clause shall entitle any party to arbitrate any matter which is the statutory responsibility of ES to decide.

The Common Seal of the Southland Regional Council was hereunto affixed in the presence of:

W. L. Coore

CHAIRMAN



Andray M. King

GENERAL MANAGER

DATE 21 AUGUST 2002

Appendix A – Cruise Ship Owners and Operators bound by Agreement

Cruise ships of the signatory that are included within the scope of this agreement.

This Appendix can be added to or cruise ships names deleted by way of an exchange of letters between the owners/operators and Environment Southland as required or at the Annual Consultative Meeting.

| Cruise ship owner and/or operator | Vessel name(s) | Formal execution |
|-----------------------------------|----------------|------------------|
| | | |

Note: Signatories must formally execute this Appendix.

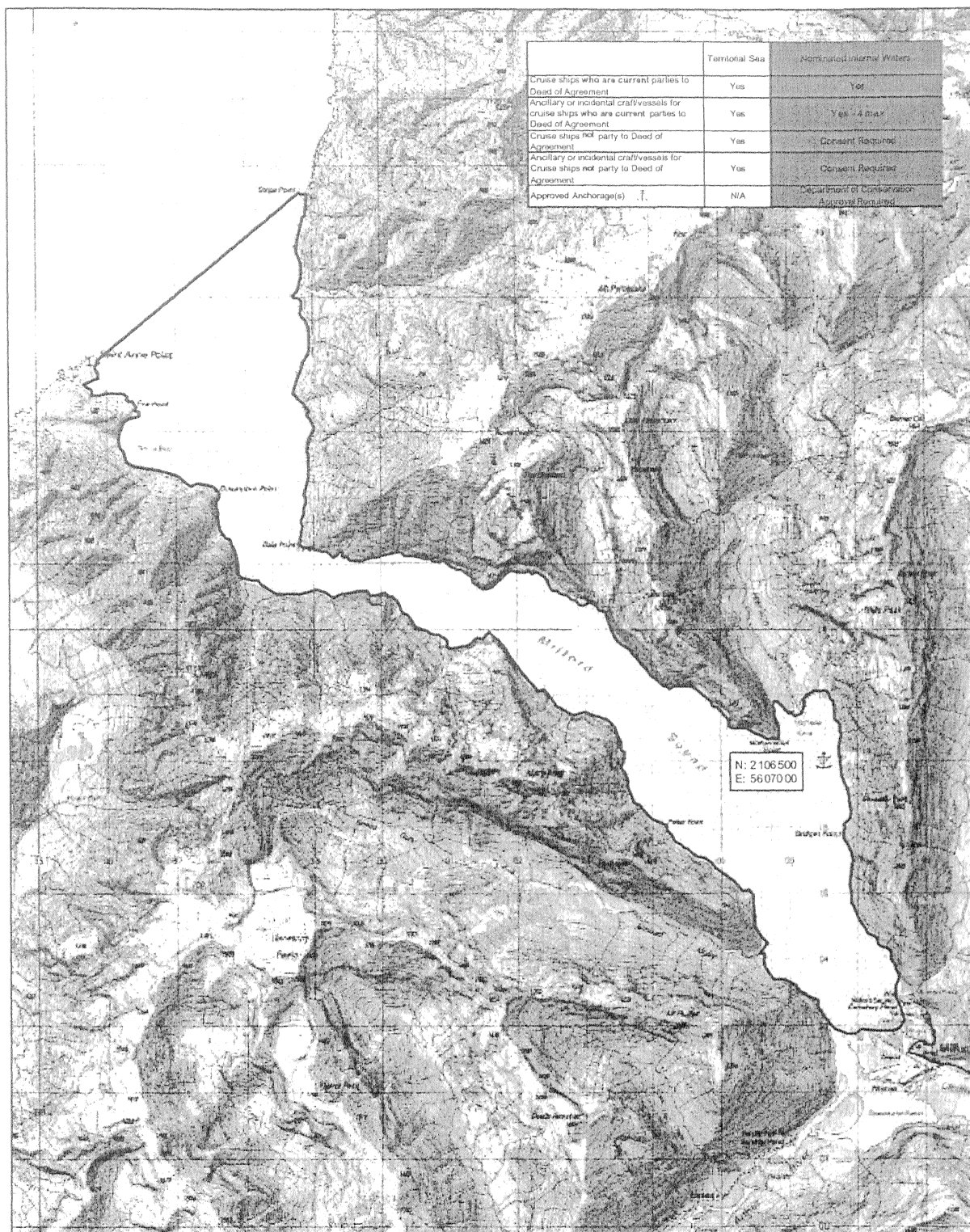
Appendix B – Maps of Internal Waters

Visits by cruise ships to other than those areas shown Green on these maps are either prohibited in the Regional Coastal Plan or require a specific resource consent to be sought from Environment Southland prior to the visit.

The anchorages shown on the maps are those identified by Cruise New Zealand as being the positions normally used by vessels that operate under this Agreement. Any changes or additions to those positions shown requires endorsement at the Annual Consultative Meeting. It is recognised that any other anchorage may be used at the discretion of the ship's Master or Pilot during times of bad weather or in the event of an emergency.

The Maps include –

- Map 1 - Milford Sound
- Map 2 - Poison Bay (Temporary anchorage option ONLY. Not to be used for cruising purposes)
- Map 3 - Thompson and Doubtful Sounds
- Map 4 - Breaksea and Dusky Sounds and Acheron Passage
- Map 5 - Halfmoon Bay and Paterson Inlet, Stewart Island



Map 1 Milford Sound

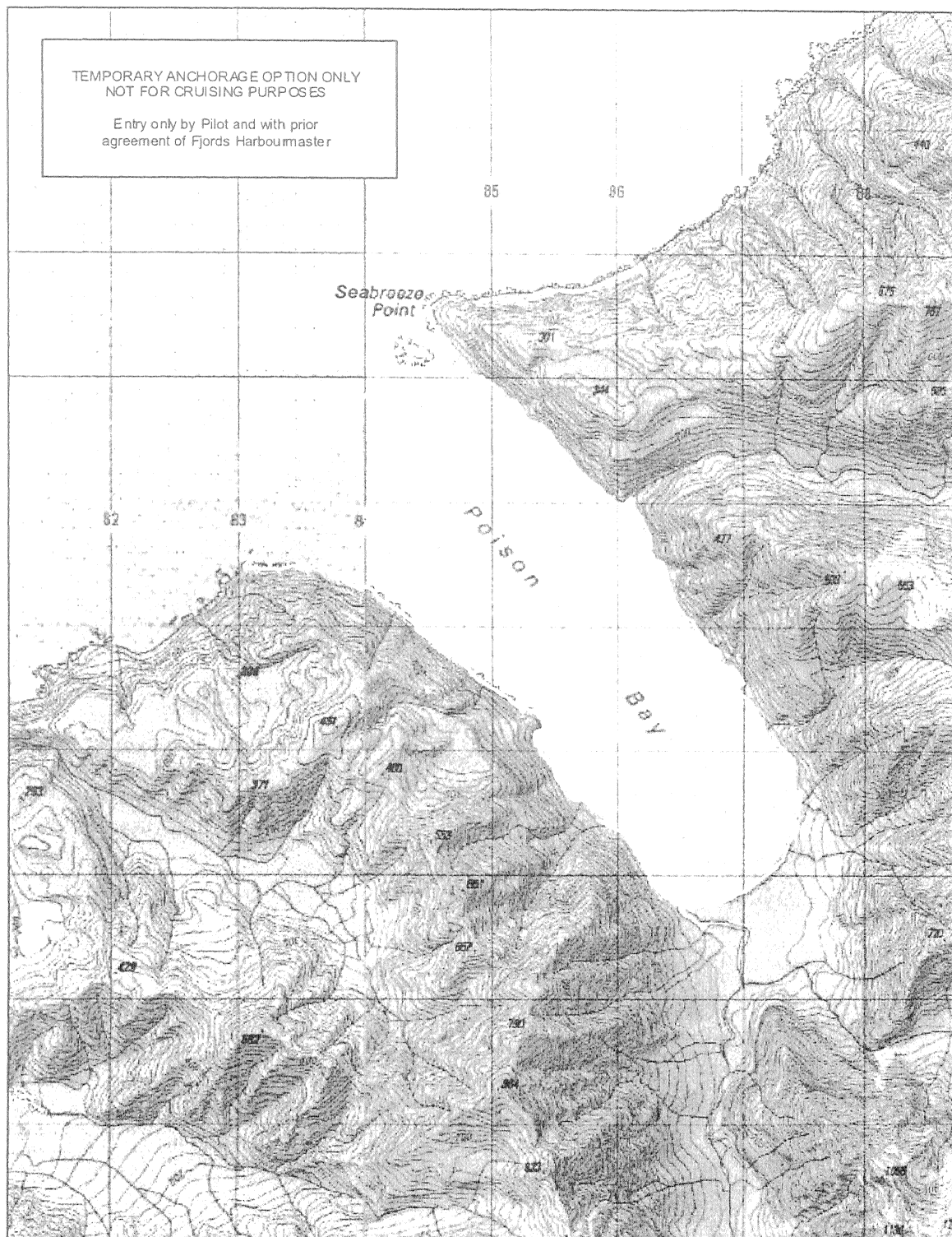
Date: 24/09/2001



1 : 75000

DATA SOURCE: E.S. GIS 2001
Topographical & Cadastral information sourced from LINZ. Digital License No. TD09361462
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Environment Southland cannot guarantee that the information shown is 100% accurate and should not be relied on in any manner without proper consultation to its owner.



Map 2 Poison Bay

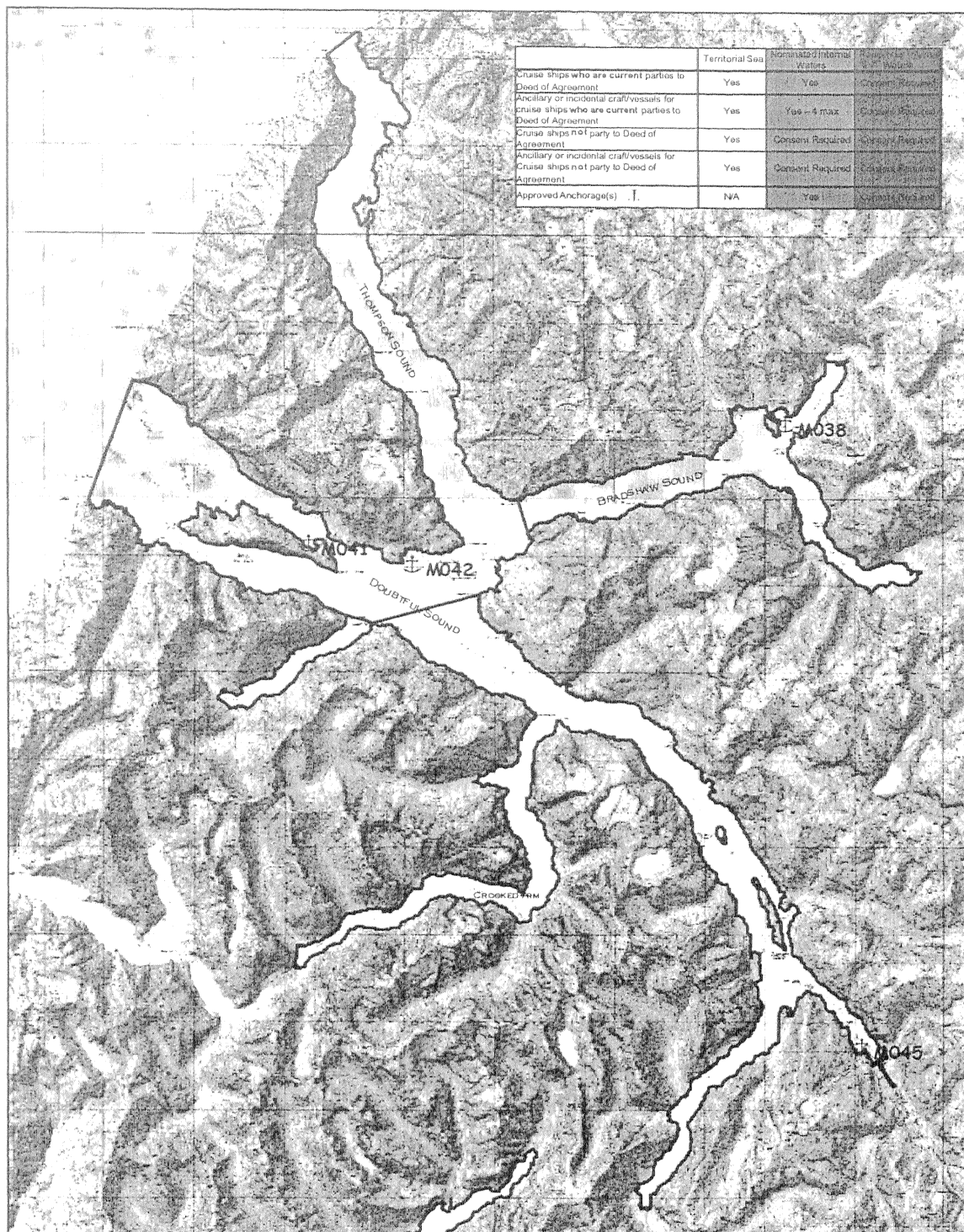
Date: 25/09/2001



1: 40000

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Map 3 Thompson Sound and Doubtful Sound

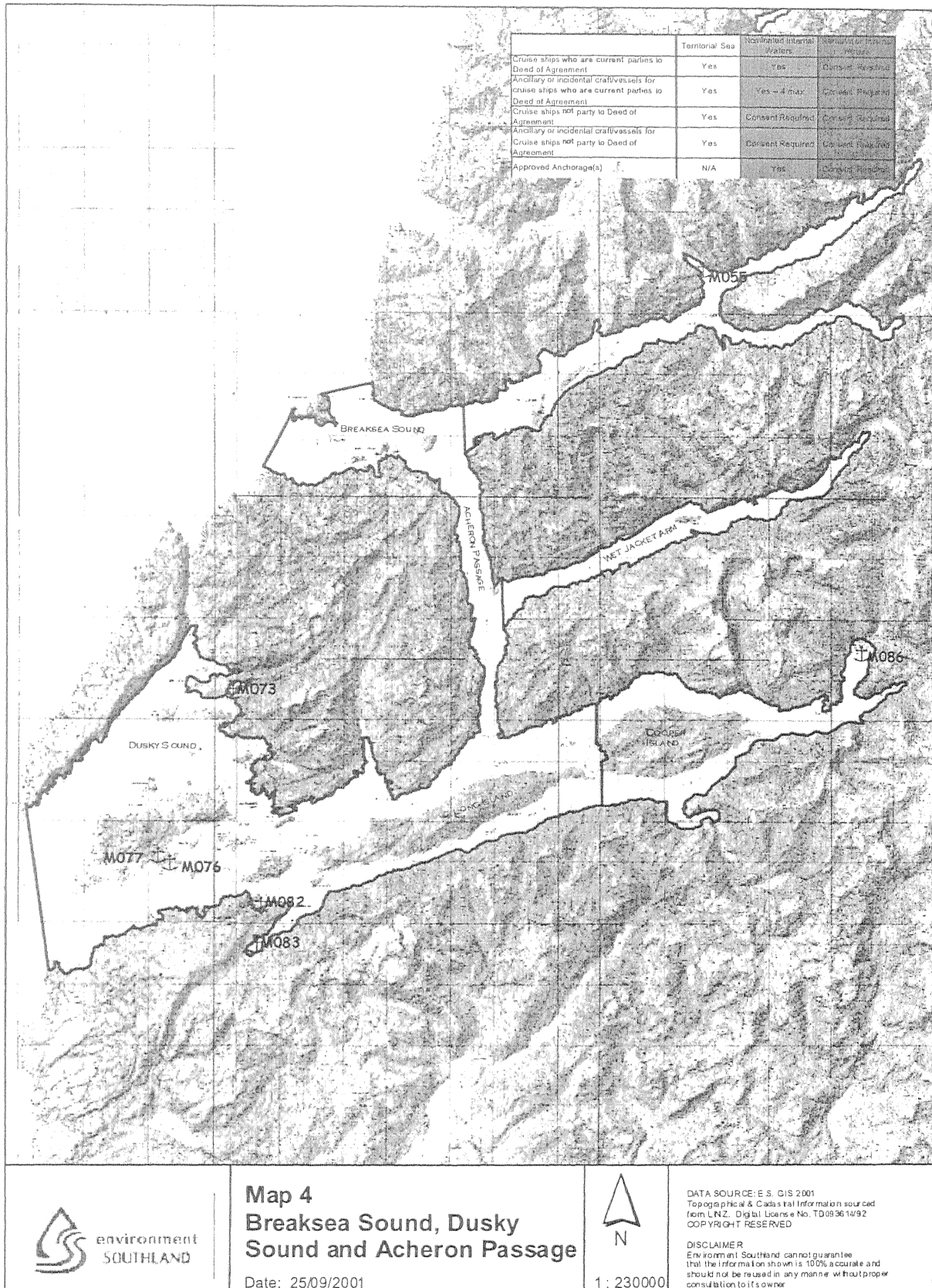
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should not be relied on in any manner without proper
consultation to its owner



Appendix C – Contact Addresses

Environment Southland

Phone: During normal office hours (8am – 5pm Monday to Friday excluding public holidays) – +64 3 215 6197
Outside normal office hours (24hr line) – +64 3 215 6194

Fax: +64 3 215 8081

E-mail: service@envirosouth.govt.nz

| | | |
|------------------|----------------------|--|
| Personnel | Les McGraw | 24 hour Emergency Response Duty Officer Phone:- +64 3 215 6194 Mobile:- +64 25 324 401 |
| | Warren Tuckey | Director of Environmental Management Regional On-Scene Marine Oil Spill Commander Phone:- +64 3 215 6194 |
| | Captain Mike Pearson | Maritime Manager/Harbourmaster Phone:- +64 3 215 6194 Mobile:- +64 21 433 348 |

Cruise New Zealand Inc.

Craig Harris C/- McKay Shipping
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Fax: +64 9 3020 087
Mobile: +64 21 491 040
Email: HarrisC@mckayshipping.co.nz

Jeannine Paul
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Email: jeannine@pmnz.co.nz

SCHEDULE

S1. Introduction

- S1.1 The rapid expansion of tourism and in particular eco-tourism in and around the Southland coast over the last decade has given a new urgency for different environmental management solutions. The Fiordland and Stewart Island coastal areas of Southland in particular are the present destinations of interest for tourism operators, including increasing cruise ship visits.
- S1.2 The Fiordland National Park and associated World Heritage Area, and Rakiura National Park and Stewart Island provide considerable draw cards for visitors to the Southland region. The Parks have an extensive coastline/coastal interface which also acts as the boundary between two management regimes that belong to the Department of Conservation (as the Park Manager under the National Parks Act) and Environment Southland (as the Coastal Manager under the Resource Management Act, in conjunction with the Minister of Conservation).
- S1.3 On Stewart Island, the new Rakiura National Park has been gazetted. This status will further increase the level of interest in the CMA.
- S1.4 The potential for the increasing level of cruise ship activity to adversely impact on the coastal environment is a contributing factor to the increase in the level of management activity that Environment Southland has to undertake the CMA. Consent holders in the area contribute through their consent processes to the ongoing monitoring of their activities and consent compliance. Cruise ships do not at this point have any such similar requirements and because of that there are equity concerns for the Southland community.
- S1.5 The cruise industry has stated that it is dedicated to preserving the marine environment and oceans upon which their ships sail. The industry, through The International Council of Cruise Lines (ICCL) representing 17 of the major international cruise companies, has developed guidelines for waste management practices and procedures (1999). In that document, the industry states:

"The cruise industry is inextricably linked to the environment. Our business is to bring people to interesting places in the world, over the water. Recognising the future of the industry depends on a clean and healthy environment, cruise industry senior management is committed to being stewards of the environment and setting policies that will make the industry a leader in environmental performance."
(1999, Pg1)

S2. Relationship of Agreement with RMA and Coastal Plan

- S2.1 This Agreement deals with the issue of potential environmental impacts of cruise ship activity within the Southland CMA and seeks to add value to the Resource Management Act (RMA) provisions and those of the Regional Coastal Plan. The RMA and the RCP are the fall-back position should the arrangements in this Agreement fail.

- S2.2 All parties to the Agreement are bound by the terms and conditions of the Agreement. The intent is not to duplicate the provisions and consent regimes imposed on cruise ship operations as set out in the RCP while an operator is a signatory to this Agreement. To remove any doubt, this Agreement removes any requirement on the Cruise Ship Owners and/or Operators to seek and hold resource consents under the RCP as far as those consents relate to activities controlled under Chapter 13 of the RCP. The RCP provisions specifically recognise this Agreement.
- S2.3 It should be noted however that the provisions and exclusions provided for in this Agreement do not exempt the parties from their general duties and obligations under the RMA or any other legislation. The majority of discharges from ships, whether they be to water or to air, are covered by national and international legislation such as MARPOL, or other maritime rules. However, the cruise ship owners/operators party to this Agreement will implement and operate a “zero discharge” regime while in the Southland CMA. Any changes to the legislation or rules that are applicable to the intent of this Agreement will be automatically considered to be part of this Agreement and will be formally included in the Agreement as part of any review.
- S2.4 Any cruise ship owner/operator who is not a party to this Agreement will be required to meet the ordinary provisions of the RCP in order to operate within the Southland CMA. These latter operators will be required to undertake resource consent applications for their operations as set out in Section 13 of the RCP.

S3. Environment Southland’s Coastal Management Obligations

- S3.1 Under both the RMA and other legislation, Environment Southland is responsible for the development and implementation of the RCP and for ongoing management of the CMA under both the RMA and RCP. The RCP forms the environmental management framework for Southland’s coastal marine area and coastal environment.
- S3.2 Since its inception, the Council has been concerned with the cost of its coastal management activities particularly around Fiordland and Stewart Island. The region only has 3% of the country’s population, but is expected to manage 17% of the country’s coastline (3,095kms) much of which is nationally or internationally significant, and adjoins a vast amount of non-rateable land held for the benefit of the nation as a whole. Local residents bear a disproportionate amount of the management cost compared to other beneficiaries.
- S3.3 Environment Southland’s present coastal management activities include:
- Development and implementation of the Regional Coastal Plan;
 - Administration;
 - Research;
 - Environmental Education;
 - Information dissemination;
 - Coastal State of the Environment Monitoring;
 - Consent Monitoring;
 - Coastal Permit processing and monitoring;

- Enforcement (including complaint response);
- Regional level Oil Spill Contingency Planning and Response;
- Navigation and safety functions (pending);
- Harbourmaster responsibilities (pending).

S4. The Cruise Industry's Coastal Environment Obligations

- S4.1 As indicated previously, the provisions and exclusions provided for in this Agreement do not exempt the parties from their ordinary duties and obligations under the RMA, or from their duties as good citizens.
- S4.2 When operating cruise ships in the Internal Waters the Cruise Ship Owners and/or Operators, masters, crew and pilots shall, observe the following:
- S4.2.1 **Discharges to air** – while smokestack emissions are currently permitted¹, all reasonable steps shall be taken to minimise smoke opacity levels while in the Southland CMA. Vessels operating under this agreement are encouraged to obtain and hold all relevant environmental protection certification such as those issued by Lloyd's Register and adhere to the International Cruise Council of Lines (ICCL) environmental monitoring policies.
- S4.2.2 **Discharges to water** – take all reasonable steps to operate a “zero discharge” regime while in the Southland CMA. Vessels operating under this agreement are encouraged to obtain and hold all relevant environmental protection certification such as those issued by Lloyd's Register and adhere to the International Cruise Council of Lines (ICCL) environmental monitoring policies.
- S4.2.3 **Cleaning and painting** – all hull cleaning, painting, and hull scraping activities or any other hull maintenance are prohibited while the vessels are within Internal Waters. That prohibition includes the ship's other structures where the possible discharge of cleanings, rust, chemicals, detergents and/or paints may be dislodged and enter the Internal Waters.
- S4.2.3 **Navigational and safety issues** – Owners and/or operators shall take a pilot on board for the period of time that the vessel is in that part of the Southland CMA. No pilotage exemptions will be considered.
- S4.2.5 **Cruise ship speeds** – The ship's master is to exercise judicious control over cruise ship speed when in the confines of the Fiords and Paterson Inlet. Apart from the obvious safety issue, this will ensure some degree of control over potential damage occurring from vessel wake. A maximum speed of 5 knots within 200 metres of shore and within 20 metres of any other vessel shall be maintained except where ship handling conditions make that inappropriate.

¹ These discharges are permitted under the Resource Management (Marine Pollution) Regulations 1998. These regulations came into force on 20 August 1998 and relate to the implementation of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 (MARPOL) and the 1996 Protocol to the Convention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (The London Dumping Convention).

- S4.2.6 **Getting ashore** – In most instances, going ashore at places other than existing wharf or jetty areas, will mean landing in National Park areas. DOC concession requirements may apply in these instances and applications are to be sought from the Department before any landings take place.
- S4.2.7 **Wildlife protection** – comply with the requirements and directions of the Department of Conservation in relation to stand-off distances from seal colonies and bird nesting areas including any seasonal restrictions reflecting breeding or similar periods. Fishing from any cruise ship or ancillary or incidental vessel is also prohibited.
- S4.2.8 **Shipboard noise** –Noise transmitted on outside decks of the ship travels readily over water and can interfere with the wilderness and remoteness values of the Fiords and Paterson Inlet. The provisions of the RCP with regard to noise shall be complied with.
- S4.2.9 **Underwater noise** – Radiated noise from cruise ships (as for all propeller driven vessels, particularly higher revolution/higher frequency vessels) can contribute to underwater sound levels in the CMA having the potential for inducing behavioural changes in marine mammals which may ultimately affect reproductive capability or survival. Owners and/or operators will make utmost endeavours to minimise levels of underwater noise. There is no current evidence that this is causing a significant adverse effect from cruise ship activity within Fiordland.
- S4.2.10 **Interpretation** – for the purposes of interpretative services, operators should maximise the involvement of local interpreters either from the DOC and/or other locals with extensive knowledge of the history, culture and wildlife of the areas being visited.
- S4.2.11 **Litter** – Particular effort must be made to ensure that rubbish and other materials are not discarded or blown from vessels. The “green ship” concept applies.
- S4.2.12 **Helicopters** –Use of helicopters is not provided for by this Agreement.
- S4.2.13 **Use of ancillary or incidental vessels** - the launching, use and movement of vessels ancillary or incidental to the principle activity, such as kayaks, “Zodiacs”, and tender vessels for sightseeing purposes shall be kept to a minimum within the “Green “ areas (refer to maps in Appendix B) on the following basis:
- the maximum number of vessels in any one area at any one time shall be four (4) in any combination (ie. 4 kayaks, 2 “Zodiacs” and 2 kayaks, etc).
 - In the “Orange” areas (refer to maps in Appendix B) resource consent shall be sought for the activity.
- S4.2.14 **Anchorage and Moorings** - all anchoring and mooring activities shall only take place at recognised and/or agreed anchorages and moorings within the “Green” areas (refer to maps in Appendix B).

This provision shall not apply to emergency situations or situations where the ship's Master deems it necessary for the safety of the ship and its passengers and crew.

Note: Any anchoring in Poison Bay (see Map 2 in Appendix B) is intended to be temporary anchorage only to effect shipboard duties. It is not to be used for cruising purposes. Entry is to be by pilot only and with prior arrangement from the fiords harbourmaster.

S4.2.15 **Ballast Water** – The cruise ships will neither ballast nor deballast in Internal Waters.

S4.2.16 **Emergency situations** – In the event of any of the above obligations not being complied with, the master shall advise ES immediately. Contact addresses are set out in Appendix C to the Agreement.

S5. Logbooks

S5.1 Within ten [10] days of each visit the Cruise Ship Operator must provide Environment Southland with confirmation of the route taken, location and duration of any stops made during the visit, and the reasons for those stops and the activities undertaken at each stop.

S5.2 This information must be supplied on the appropriate form provided by Environment Southland for this purpose and completed either by the Purser or the Master. The completed form can be faxed, or emailed to Environment Southland. Alternatively, the visit information can be registered on the Environment Southland web site at www.envirosouth.govt.nz/cruiseships²

(Note: Expect web registration page to be available for 02/03 season).

S6. How the Cruise Ship and Tourism Industry Benefits

S6.1 As the world and potential cruise line passengers become more discerning over which line they should travel on, combined with the increase in competition within the industry as more new cruise ships enter the market, it is important to have an edge. The cruise ship industry is achieving significant advances internationally in its responses and action on environmental matters relating to the industry. The President of the International Council of Cruise Lines (ICCL), Cynthia Colenda concluded in her testimony before the American House Coast Guard Subcommittee on Maritime Transportation and the House Subcommittee on Water Resources and Environment in March 1999:-

"The passenger cruise industry has a long-standing commitment to protecting the environment. Today, the cruise industry is a leader in its environmental programs and partnerships and will continue to aggressively improve our performance. We have a vested interest in protecting the beauty of the oceans where our vessels sail. We will continue to strengthen our onboard environmental programs through enhanced technology and improved policies and practices."

² S5 amended 13 June 2002.

S6.2 Benefits to the industry as a result of this Agreement could include but not be exclusive to:-

- i) an immediate and tangible benefit for operators is that they do not need to seek and obtain resource consents under the provisions of the Regional Coastal Plan to enter the Southland CMA, thus saving time and costs from such processes;
- ii) improved research, management and information programs through an environmental partnership;
- iii) an enhanced coastal environment within the Southland coastal marine area to retain the area as a destination of demand for cruise ship companies and passengers by providing the opportunities for maximum flexibility in cruise ship movements and to maximising opportunity for financial return and business growth within the industry;
- iv) an ability is provided to add value to the passenger's experience by having interpretative services provided either by DOC and/or by a local person;
- v) a means of minimising the adverse effects or impacts of cruise ship operations in the CMA;
- vi) offers a marketing option for the promotion of a "green ship" approach to eco-cruising by using the environmental partnership agreement and contribution as an example of collaboration with the local community;
- vii) provides the cruise companies with an avenue and working example to develop their environmental business plan options;
- viii) the opportunity to be leaders in the industry through a working partnership arrangement with the local community;
- ix) an opportunity to further the industry's goals, objectives and commitment to protect the environments it visits and to leave no "ship print";
- x) assists the local community through Environment Southland to achieve its coastal management goals;
- xi) to retain the very reasons why people visit Fiordland and Stewart Island by assisting to ensure that the demands of eco-tourism do not create such pressures on the environment that it "fails";
- xii) provides a means for compliance with local, national and international standards and conventions;
- xiii) assists in achieving a "win/win" for the environment, the community and the cruise ship industry.

S6.3 The tourism industry nationally also benefits from the unique response taken to the opportunity for flexibility in dealing with normally regulatory practices and approaches. The example provided by the Agreement can be promoted to other aspects of the tourism industry as a possibility for non-regulatory environmental management.

S7. How the Southland Coastal Environment benefits

S7.1 All funds raised by the Environmental Southland Marine Fee are to be used by Environment Southland for the purposes set out in Clause S3 of the Schedule. The fees are used in conjunction with other financial contributions raised under the RCP; monies obtained under the Coastal Occupation Charging regime; and

contributions from the General Funds and other sources to achieve this purpose. ES's coastal management activities are developed and promoted publicly through the Environment Southland's Annual Plan process. The public is able to contribute ideas about the relevant priorities of such activities.

- S7.2 The reason the tourists visit this unique part of the world is to see and experience the wildlife, and the grandeur of their natural habitat and surroundings. It is that environment that everyone is seeking to preserve and enhance, minimising all of the anthropocentric impacts that can occur. That work comes with a cost that has to be borne by all the users.
- S7.3 The ESMF in this instance is a means of the user paying or contributing to the upkeep of the environment that the user gains a benefit from. It is a means of assisting the Southland community and Environment Southland in the management of the local coastal environment, and to some extent a way of compensating in some way for the residual, indirect or unavoidable effects that remain of cruise ship visits after all avoidance, mitigation and remedial measures have been applied. The fee is not intended to be a substitute for prudent environmental operations and activity by the Cruise Ship Owners and/or Operators.

Bibliography

- Aitken, S.C. 1997: Analysis of texts: Armchair theory and couch potato geography. In R. Flowerday and D. Martin, (Editors) *Methods in human geography: A guide for students doing research projects*. Longman, Essex 197-212.
- Aldridge, V. 2002: Turning green to gold. *The Dominion*. Wellington 11.
- Allen, G. 2000: *Intertextuality*. Routledge, London.
- Arnold, K. 2001: Council sets levy on cruise ships. *The Southland Times*. 27 December 2001, 5.
- Atkinson, P. and A. Coffey 1997: Analysing documentary realities. In D. Silverman (Editor) *Qualitative research: Theory, methods and practice*. SAGE Publications, London 45-62.
- Barnes, B. 1988: *The nature of power*. Polity Press, Oxford.
- Barnes, T. J., and J.S. Duncan (Editors) 1992: *Writing worlds: discourse, text and metaphor in the representation landscape*. Routledge, London.
- Bellew, V., 2002: Cruise ship avoids council action. *The Southland Times*, 16 March, 2002, 12.
- Bensted-Smith, R. 2002: *The special law for Galapagos*. Charles Darwin Research Station, Galapagos Islands.
<http://www.darwinfoundation.org/articles/n5900049816.html> (14 November 2002)
- Berke, P.R., J. Dixon and N. Ericksen, 1997: Coercive and cooperative intergovernmental mandates: A comparative analysis of Florida and New Zealand environmental plans. *Environment and Planning B: Planning and Design*, 24(3), 451-468.
- Bevan, N.J. 1998: Compensation commodification and consent: An exploration onto the nature of the compensation market for written approval. Masters Thesis. University of Waikato, Hamilton.
- Boyd, S.W., and R.W. Butler, 2000: Managing ecotourism: An opportunity spectrum approach. In C. Ryan and S. Page, (Editors) *Tourism management: Towards the new millennium*. Pergamon, Amsterdam. 337-351.

- Burchell, G., C. Gordon and P. Miller, (Editors) 1991: *The Foucault effect: Studies in governmentality with two lectures by and an interview with Michel Foucault*. Harvester Wheatsheaf, London.
- Burgess, D., 2002: Cruise ship agreement good for all. *The Southland Times*, 23 August 2002.
- Bürhs, T., and R.V. Bartlett, 1993: *Environmental policy in New Zealand. The politics of clean and green?* Oxford University Press, Auckland.
- Butler, R.W. 1980: The concept of a tourism area cycle of evolution: Implications for management resources. *The Canadian Geographer*, 24(1), 5-16.
- Bulter, R.W. and L.A. Waldbrook, 1991: A new planning tool: The tourism opportunity spectrum. *Journal of Tourism Studies*. 2(1), 1 -14.
- Catton, T., 1995: Protecting the humpback whales. *A History of administration and visitor use in Glacier Bay National Park and Preserve*. National Park Service, Alaska.
- Cartwright, R. and C. Baird, 1999: *The development and growth of the cruise industry*. Butterworth Heinemann, Oxford.
- Cavana, R. Y. 1993: *Coastal shipping policy in New Zealand: Economy wide implications*. Graduate School of Business and Government Management, Victoria University, Wellington.
- Cavana, R.Y. 1994: *Policy issues relating to coastal and international shipping in New Zealand*. Graduate School of Business and Government Management, Victoria University, Wellington.
- Charles Darwin Foundation for the Galapagos Islands, 2000: *Support for participatory management of the marine reserve*.
<http://www.darwinfoundation.org/Ourwork/social/s6.html> (14 November 2002).
- Charles Darwin Foundation for the Galapagos Islands, 2000: *Environment education centers*.
<http://www.darwinfoundation.org/Ourwork/social/s2.html> (14 November 2002).
- Colin, E., 2000: Cruise vacations back in vogue. *The Press*, 24 October, 2.
- Cousins, M. and A. Hussain, 1984: *Michel Foucault*. Macmillan, London.
- Crabtree, B.F. and W.L. Miller, (Editors) 1992: *Doing qualitative research*. SAGE Publications, California.

- CNZ, TNZ, TIA, OTS, Air NZ, 2001: *Issues paper*. Draft. 13 February.
- de Neufville, J. 1983: Planning theory and practice: Bridging the gap. *Journal of Planning Education and Research*, 3, 35-45.
- Department of Conservation, 1994a: *New Zealand Coastal Policy Statement 1994*. Department of Conservation, Wellington.
- Department of Conservation, 1994b: *Commentary of the New Zealand Coastal Policy Statement 1994*. Department of Conservation, Wellington.
- Department of Conservation, 1994c: *Report and recommendations of the Board of Enquiry into the New Zealand Coastal Policy Statement*. Department of Conservation, Wellington.
- Department of Conservation, 2002: *Fiordland National Park management plan. Draft*. Department of Conservation, New Zealand.
- Dixon, J.E, N.J Ericksen, J.L Crawford and P. Berke, 1997: Planning under a co-operative mandate: New plans for New Zealand. *Journal of Environmental Planning and Management*, 40(5), 603-614.
- Dowling, R. 2000: *Sustainable tourism-Cruise tourism*. http://www.business.ecu.edu.au/mtl/tourism/sustainable_tourism/cruise.htm. 27 July 2002)
- Dunn, K. 2000: Interviewing. In I. Hay, (Editor) *Qualitative research methods in human geography*. Oxford University Press, Victoria.
- Environment Southland, 2001: *Environmental partnership, Deed of Agreement between the New Zealand cruise ship industry and Environment Southland*. Southland Regional Council, Invercargill.
- Environment Southland, 2002: *Navigation Safety Bylaws*. Southland Regional Council, Invercargill.
- Espiner, C. 2000: Cruise vacations back in vogue. *The Press*. 24 October 2000, Wellington. 17.
- Fairclough, N. 1992: *Discourse and social change*. Polity Press, Cambridge.
- Faubion, J.D. (Editor) 2001: *Michel Foucault power: The essential works*. The Penguin Press, London.
- Fischer F. and J. Forester (Editors) 1993: *The argumentative turn in policy analysis and planning*. Duke University Press, Durham.

- Forbes, D. 2000: Reading texts and writing geography. In I. Hay, (Editor) *Qualitative research methods in human geography*. Oxford University Press, Victoria.
- Forester, J. (Editor) 1985: *Critical theory and public life*. The MIT Press, Cambridge.
- Forester, J. 1989: *Planning in the face of power*. University of California Press, Berkeley.
- Foucault, M. 1977: *Language, counter-memory, practice. Selected essays and interviews*. (translated D.F Bouchard and S. Simon in D. F Bouchard (Editor) Cornell University Press, New York.
- Foucault, M. 1988: Critical theory/intellectual history. In L. Kritzman and H. Andover, (Editors) *Michel Foucault: Politics, philosophy, culture*. Routledge, London 17-46.
- Geertz, C. 1973: *The interpretation of cultures*. Basic Books, New York.
- Giddens, A. 1995: *Politics, sociology and social theory: Encounters with classical and contemporary social thought*. Polity Press, Cambridge.
- Glacier Bay National Park and Preserve, 1989: *Alsek River visitor use management plan*. Glacier Bay National Park and Preserve, Alaska.
- Glacier Bay National Park and Preserve, 2002: *Environmental impact statement for vessel quotas and operating requirements*. Scoping Newsletter, July 2002. Glacier Bay National Park and Preserve, Alaska.
- Gleeson, B.J. 1995: The commodification of resource consent in New Zealand. *New Zealand Geographer*. 51(1), 42-48.
- Gordon, C. (Editor) 1980: *Power/Knowledge. Selected interviews and other writings 1972-1977 Michel Foucault*. Pantheon Books, New York.
- Guardians of Fiordland's Fisheries and Marine Environment Inc. 2002: *Draft Integrated Management Strategy for Fiordland's Fisheries and Marine Environment*. Invercargill, New Zealand.
- Gunder, M. 2000: Urban policy formation under efficiency: The case of the Auckland City Council's Britomart project. In P.A. Memon and H. Perkins, (Editors) *Environmental planning and management in New Zealand*. Dunmore Press, Palmerston North.
- Grundy, K. 1994a: Public planning in a market economy. *Planning Quarterly*, 114, 20-24.

- Grundy, K. 1994b: Reinterpreting sustainable management. In J.K. Selsky, R.K. Morgan and A. Memon, (Editors) *Environmental and resource management in New Zealand. Proceedings of a conference on current and future research*. Environmental Policy and Management Research Centre, University of Otago, Dunedin 75-82.
- Habermas, J. 1974: *Theory and practice*. Heinemann, London.
- Habermas, J. 1984: *The theory of communicative action, Vol 1*. Beacon Press, Boston.
- Habermas, J. 1987: *The philosophical debate of modernity: Twelve lectures*. Polity Press, Oxford.
- Hall, C.M., 1994: *Tourism and Politics. Policy, Power, and Space*. Wiley, Chichester.
- Hall, C.M. and J. Jenkins, 1995: *Tourism and public policy*. Routledge, London.
- Hall, C.M. 1999: *Tourism Planning: Policies, processes and relationships*. Prentice Hall, Harlow.
- Hall, C.M. and S.J. Page, 1999: *The geography of tourism and recreation: Environment, place and space*. Routledge, London.
- Hall, C.M. and S.J. Page, 2002: *The geography of tourism and recreation: Environment, place and space*. (Second edition) Routledge, London.
- Harris R. and J. Howard, 1996: *Dictionary of travel, tourism and hospitality terms*. Hospitality Press, Melbourne.
- Haywood, K. 1988: Responsible and responsive tourism planning in the community. *Tourism Management*. 9(2), 105-118.
- Healey, P. 1992a: Planning through debate: The communicative turn in planning theory. *Town Planning Review*, 63(2), 143-162.
- Healey, P. 1992b: A planner's day. *Journal of the American Planning Association*, 58(1), 9-21.
- Healey, P. 1993: The communicative work of development plans. *Environment and Planning B: Planning and Design*, 20, 83-104.
- Hillier, J. 1993: To boldly go where no planners have ever... *Environment and Planning D: Society and Space*, 11, 89-113.

- Hoch, C.J. 1992: The paradox of power in planning practice. *Journal of Planning Education and Research*, 11(3), 206-215.
- Hodgkinson, E. 2002: See the world in cruise control. *Travel Digest*. 10 December 2002.
- Hutcheon, H. 2001: Cruiseship-friendly country. *Seatrade Cruise Review*, December 2001.
- Innes, J.E. 1995: Planning theories emerging paradigm: Communicative action and interactive practice. *Journal of Planning Education and Research*, 14(3), 183-189.
- Johnston, R.J., D. Gregory, G. Pratt and M. Watts, (Editors) 2000: *The dictionary of human geography*. Blackwell, Oxford.
- Jupp, V. and C. Norris. 1993: Traditions in documentary analysis. In M. Hammersley (Editor) *Social research: Philosophy, politics and practice*. SAGE Publications, London 37-51.
- Kearns, R. 2001: Being there: Research through observing and participating. In I. Hay, (Editor) *Qualitative research methods in human geography*. Oxford University Press, Victoria 103-121.
- Kelsey, J. 1993: *Rolling back the state: Privatisation of power in Aotearoa/New Zealand*. Bridget Williams Books, Wellington.
- Kenchington, R. 1994: The Great Barrier Reef Marine Park zoning plans and their management. In K. Anutha and D. O'Sullivan (Editors) *Aquaculture and coastal zone management in Australia and New Zealand: A framework for resource allocation*. Turtle Press, Hobart 63-65.
- Kitchin, R. and N.J. Tate, 2000: *Conducting research in human geography: Theory, methodology and practice*. Prentice Hall, Harlow.
- Le Heron, R. and E. Pawson. (Editors) 1996: *Changing places; New Zealand in the nineties*. Longman Paul Limited, Auckland.
- Longhurst, 2003 forthcoming: Semi-structured interviews and focus groups. In N. Clifford and G. Valentine (Editors) *Research methods in human and physical geography*. Sage, New York 1-24.
- Lyttelton Port Company Limited, 2002: Cruise season success for Canterbury. *Media Releases*. 8 May 2002.

- Mancini, M. 2000: *Cruising: A guide to the cruise line industry*. Thomson Learning, Albany.
- Marine Environment Protection Committee (MEPC), 2002: 48th session 7-11 October 2002. London.
http://www.imo.org/Newsroom/mainframe.asp?topic_id=109&doc_id=2543
(7 January 2003)
- Matless, D. 1992: An occasion for geography: Landscape, representation and Foucault's corpus. *Environment and Planning D: Society and Space*, 10: 41-56.
- Mason, B., 2001: Boom in cruise ships a strain – Industry NZ. *The Dominion*. Wellington 19 July, 19.
- May, P., R.J. Burby, N.J. Ericksen, J.W. Handmer, J.E. Dixon, S. Michaels and D.I. Smith 1996: *Environmental management and governance: Intergovernmental approaches to hazards and sustainability*. Routledge, New York.
- McDermott Fairgray, 2001: *The Economic Impacts of Cruise Ship Visits: 2000/01 Season*. The New Zealand Tourism Board and Cruise New Zealand.
www.cruise-nz.com
- McDowell, L., and J. Sharp, (Editors) 1999: *A feminist glossary of human geography*. Arnold, London.
- McHoul, A. and W. Grace, 1993: *A Foucault primer: discourse, power and the subject*. Melbourne University Press, Melbourne.
- Memon, P.A. 1993: *Keeping New Zealand green: Recent environmental reforms*. University of Otago Press, Dunedin.
- Memon, P. A. and B. Gleeson, 1995: Towards a new planning paradigm? Reflections on New Zealand's Resource Management Act. *Environment and Planning B Planning and Design*. 22(1), 109-124.
- Memon, P.A and H. Perkins (Editors) 1993: *Environmental planning in New Zealand*. Dunmore Press, Palmerston North.
- Memon, P.A. and H. Perkins, (Editors) 2000: *Environmental planning and management in New Zealand*. Dunmore Press, Palmerston North.
- Miller, G. 1997; Building bridges: The possibility of analytic dialogue between ethnography, conversation analysis and Foucault. In D. Silverman *Qualitative research: Theory, method and practice*. Sage Publications, London 24-44.

- Ministry for the Environment, 1995: *Case law on consultation*. Ministry for the Environment, Wellington.
- Ministry for the Environment, 1999: *Striking a balance: A practical guide on consultation and communication for project advocates*. Ministry for the Environment, Wellington.
- Ministry for the Environment, 2002: *Ngai Tahu: Statutory acknowledgements*. <http://www.mfe.govt.nz/publications/rma/stat-acknowledgements-flyer-dec02.pdf> (3 January 2003).
- Minister of Tourism, 2001: *Cruising – a \$600 million industry*. Media statement, Wellington.
- Mitcalfe, K. 2002: *Valuing our environment: The costs of the RMA*. Forest and Bird Protection Society of New Zealand Inc.
- Mitchell, A. 2001: *The New Zealand cruise industry- an informal industry sector review*. Report to Industry New Zealand, Cruise New Zealand and Tourism New Zealand. Australis Maritime Limited.
- Mitchell, B. 1989: *Geography and resource analysis*. Longman, Harlow.
- Mitchell, B. 1997: *Resource and environmental management*. Longman, Harlow.
- Neal, T. 2000: Cruise ship market restricted by red tape. *The Nelson Mail*. 23 December 2002, Edition 2, 2.
- New Zealand Herald*, 2001: New Zealand urged to prepare for upsurge in cruise visitors. 27 July, 1.
- NZ Companies Office, 2002: *Company search*. http://www.companies.govt.nz/search/cad/DBSVWCO.View_Company (23 December 2002).
- Nelson, J.G., R. Butler and G. Wall, 1993: *Tourism and sustainable development: monitoring, planning, managing*. Heritage Resources Centre Joint Publication no. 1. University of Waterloo, Department of Geography. Publication series no. 37, University of Waterloo.
- New Zealand Government, 1995; *Resource Management Act 1991*, New Zealand Government, Wellington.
- New Zealand Planning Institute, 2003: The New Zealand Planning Institute Awards. <http://www.nzplanning.co.nz/awards.htm> (13 February 2003).

- New Zealand Tourism Board and Cruise New Zealand 2001: *The economic impacts of cruise ship visits; 2000/01 season*. www.cruise-nz.com
- North, R. 1999: Cruise ships worry DOC. *The Southland Times*, 28 April 1999, Edition 1, 10.
- Orams, M. 1999: *Marine tourism: Development, impacts and management*. Routledge, London.
- Page, S., 2000: Tourism and the natural environment: Marine and ecotourism. In C. Ryan and S. Page, (Editors) *Tourism management: Towards the new millennium*. Pergamon, Amsterdam. 273-278.
- Parliamentary Commissioner for the Environment, 1998: *Side agreements in the resource consent process: Implications for environmental management*. Parliamentary Commission for the Environment. Wellington.
- Parliamentary Commissioner for the Environment, 1999: *Local government environmental management: A study of models and outcomes*. Red Inc and Associates (Editor) Wellington.
- Pearce, D., 1995: *Tourism Today: a geographical analysis*. (Second edition), Longman, Harlow- Essex.
- Pearsall, J. 2001: *The new Oxford dictionary of English*. Oxford University Press, Oxford.
- Peat, N. and B. Patrick, 1996: *Wild Fiordland- Discovering the natural history of a world heritage area*. University of Otago Press, Dunedin.
- Perry, F. 2001: Cruise ships boost economy, *InforMARE*, 26 July 2001.
- Pinkerton, E. 1993: Co-management efforts as social movements: The Tin Wis Coalition and the drive for forest practices in British Columbia. *Alternatives* 19 (3) 33-38.
- Ports of Auckland, 2002: *Another record cruise season for Auckland*. <http://www.poal.co.nz/cruises/cruises.htm> 24 September 2002.
- Potton. C. 1998: *National Parks of New Zealand*. Craig Potton Publishing, Auckland.
- Prior, L. 1997: Following in Foucault's footsteps: Text and context in qualitative research. In D. Silverman (Editor) *Qualitative research: Theory, method and practice*. SAGE Publications, London 63-79.

- Ragin C. and H. Becker, (Editors) 1992: *What is a case? Exploring the foundations of social enquiry*. Cambridge University Press, Cambridge.
- Rennie, H.G. 1993: The coastal environment. In P.A Memon and H. Perkins (Editors) *Environmental planning in New Zealand*. Dunmore Press, Palmerston North 150-168.
- Rennie, H.G. 2000: Coastal fisheries and marine planning in transition. In P.A. Memon and H. Perkins, (Editors) *Environmental planning and management in New Zealand*. Dunmore Press, Palmerston North 215-222.
- Rennie, H.G. 2002: A geography of marine farming rights in New Zealand: Some rubbings of patterns on the face of the sea. Ph.D. Thesis, Department of Geography, University of Waikato.
- Robson, C. 1993: *Real world research: A resource for social scientists and practitioner-researchers*. Blackwell Publishers, Cambridge.
- Rosier, J. 1993: Coastal planning in New Zealand and the Resource Management Act. *New Zealand Journal of Geography*, 96 (October) 2-8
- Sager, T. 1994: *Communicative planning theory*. Avebury, Aldershot.
- Seafriends, 2002: *Seafriends – Index to marine reserves of New Zealand*. <http://www.seafriends.org.nz/issues/res/> (5 October 2002).
- Seatrade Cruise Review*, 1998: ABC Business Press, New Zealand. 12(4), 19.
- Silverman, D. 1994: *Interpreting qualitative data: Methods for analysing talk, text and interaction*. Sage, London.
- Sitarz, D. 1993: *Agenda 21: The earth summit strategy to save our planet*. Earth Press, Boulder, Colorado.
- Sorenson, J.C. and S.T. McCleary, 1990: *Coasts : Institutional arrangements for managing coastal resources and environments*. Revised second edition. National Park Service, U.S Department of the Interior, Washington.
- Southland Regional Council, 1997: *Proposed regional coastal plan for Southland*. Southland Regional Council, Invercargill.
- Southland United Council, 1989: *Southland: Regional planning scheme. Section III Coastal and marine resource, objectives and policies*. Publication 3/7. Southland United Council, Invercargill.

- Statistics New Zealand, 2003: *2001 Census*. <http://www.stats.govt.nz/census.htm> (10 February 2003.)
- The Dominion*, 2001: Wellington seen as model for cruise ship industry. 27 July, 2.
- The Nelson Mail*, 2000: Cruise ship market restricted by red tape. 23 December 2000, 2.
- The Southland Times*, 2002: Cruise ships avoids council action. 16 March, 1.
- The New Zealand Tourism Board and Cruise New Zealand, 2001: *The economic impacts of cruise ship visits*. McDermott Fairgray, New Zealand. www.cruise-nz.com
- Throgmorton, J.A. 1993: Planning as a rhetorical activity. *Journal of the American Planning Association*, 59(3), 334-347.
- Tolich, M. and C. Davidson, 1999: *Starting fieldwork*. Oxford University Press, New Zealand.
- Tourism News*, 2002: Cruising down this season. November issue, 2
- Tourism New Zealand*, 2002: Cruising in Southland wins environmental award. July 2002. 23
- Travel Link Internet Limited, 2001: *Fiordland history*.
<http://www.travellijk.co.nz/media/page.asp?UID=59> (8 August 2002).
- Travers, M. 2001: *Qualitative research through case studies*. SAGE Publications, London.
- Valentine, G. 1997: Tell me about...: Using interviews as a research methodology. In R. Flowerday and D. Martin, (Editors) *Methods in human geography*. Longman, Essex 110-126.
- Venture Southland, 2002: *Tourism*.
http://www.venturesouthland.co.nz/venture/eco/profile_pages/tourism.html (1 July 2002).
- Wetherell, M. 1999: Discourse analysis. In C. Davidson and M. Tolich, (Editors) *Social science research in New Zealand: Many paths to understanding*. Longman, Auckland 265-276.
- Wild, P. and J. Dearing, 1999: Lands of promise. *Lloyd's Cruise International*. 37, 17-23.

- Wild, P. and J. Dearing, 2000: A star in the east. *Lloyd's Cruise International*. 44, 18-23.
- World Commission on Environment and Development, 1987: *Our Common Future*. World Commission on Environment and Development, Oxford.
- World Travel and Tourism Council, International Federation of Tour Operators, International Hotel and Restaurant association and International Council of Cruise Lines, 2002: *Industry as a partner for sustainable development*. United Nations Environment Programme, Division of Technology Industry and Economics, Paris.
- Worton, M. and J. Still, 1990: *Intertextuality: Theories and practices*. Manchester University Press, Manchester.
- Yin, R.K., 1994: *Case study research: Design and method*. Sage Publications, Thousand Oaks.

Personal Communications

- Swinney, Ken, 2002: Manager policy and planning, *Environment Southland*. Semi-structured interview 23 August.
- Harris, Craig, 2003: Spokesperson for *Cruise New Zealand Incorporated*. Semi-structured telephone interview.
- Murray, Ken, 2003: *Department of Conservation, Southland Conservancy*. Semi-structured telephone interview.
- Skerrett, Michel, 2003: *Te Ao Marama*, Semi-structured telephone interview.
- Maritime Safety Authority*, 2003: Informal telephone interview/ conversation.