

MILFORD & DOUBTFUL SOUNDS – PROPOSAL TO EXTEND THE BLUE COD AMATEUR FISHERY CLOSURES - FINAL ADVICE

Executive Summary

- 1 Milford and Doubtful Sounds have been closed to amateur fishing for blue cod (*Parapercis colias*) since 30 June 2005. The closures resulted from concerns of the Fiordland Marine Guardians (the Guardians) about localised depletion due to fishing pressure. The areas are due to reopen on 30 June 2009, and the Guardians had recommended to the Ministry of Fisheries (MFish) that the closures be extended for a further year.
- 2 An Initial Position Paper (IPP), released 23 February 2009, proposed to either:
 - (a) Allow the Milford and Doubtful Sounds blue cod amateur fisheries to reopen (Option 1), or
 - (b) Extend the current closures for 1 year (the Guardians' initial recommendation – Option 2A), or
 - (c) Extend the current closures with no specified end date (MFish preferred option – Option 2B).
- 3 Eight submissions were received. These came from the Guardians, recreational and charter interests, and from industry. No submissions opposed extending the closures, though four preferred Option 2A over Option 2B. The Guardians have reconsidered their preferred option, and now support an extension to the closures with no specified end date (Option 2B).
- 4 Extending the closures with no specified end date maximises the opportunity for blue cod stocks to recover. This option is also likely to be the most efficient use of MFish and stakeholder resources. It means it is unlikely there would be a need to consult again until evidence shows either recovery has taken place or the blue cod populations in the areas are stable.
- 5 There is no evidence that the fishery could recover by June 2010. The areas are likely to be reopened whenever monitoring shows the stocks have either recovered sufficiently or will not improve further. Reopening the areas will probably be initiated by the Guardians, who are also likely to make recommendations on how blue cod should be managed in these areas.
- 6 As Milford and Doubtful Sounds are the only ones that are accessible by road, while the closures continue, there will be reduced opportunities for recreational fishing for blue cod.
- 7 MFish's preferred option is still to extend the closures in Milford and Doubtful Sounds with no specified end date.

The Issue

- 8 The then Guardians of Fiordland’s Fisheries & Marine Environment Inc. published the “Fiordland Marine Conservation Strategy” (the Strategy) in 2003, after several years’ work, including public consultation. The Strategy was an integrated approach to managing the marine area of Fiordland. The Strategy concluded that, in regard to blue cod abundance, although blue cod were present in good numbers on the open coast:

It is clear from views canvassed and research conducted that blue cod stocks are not likely to be plentiful inside the fiords. Furthermore, blue cod do not undertake significant movements, meaning that increasing pressure, if not managed, will result in local depletion.¹

- 9 Fishing pressure in Milford and Doubtful Sounds is exacerbated by the relative ease of access for fishers. These two Sounds are the only ones accessible by road and are consequently thought to be particularly vulnerable to localised depletion. This led the Guardians to advocate closing Milford and Doubtful Sounds to recreational fishing for blue cod to allow time for the stocks to recover.
- 10 Blue cod stocks in the closed areas have been monitored during the existing closures and, at the date of writing, four summers’ data have been collected. The results of the monitoring do not show any clear trend in blue cod abundance over the course of the closures. No baseline data are available for either area prior to the closures, and it may be too soon for any improvement in abundance to have occurred.
- 11 Data from the marine reserve (Piopiotahi) in Milford Sound indicate that fish may be larger and more abundant there than the (more recently closed) remainder of Milford Sound. No rigorous statistical analysis has been done to confirm this as there is not yet enough data. But, the initial data suggest that improvement in blue cod abundance may be possible.

Summary of Options

Initial Proposals

- 12 The IPP proposed the following options:
- a) *Option 1 - status quo* (no action): Allow the Milford and Doubtful Sounds blue cod fisheries to reopen.
 - b) *Option 2A*: Extend the current closures for 1 year (the Guardians’ initial recommendation).
 - c) *Option 2B*: Extend the current closures with no specified end date (MFish preferred option).

¹ Page 36 of the Fiordland Marine Conservation Strategy (2003).

Final Proposal

- 13 MFish recommends that you:
- AGREE to place a notice in the *Gazette* to extend the current closures with no specified end date.
- 14 The Guardians support this final proposal.
- 15 MFish prefers that you use a notice in the *Gazette* to extend the closures, rather than amending the existing Regulation 3A of the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 (the Regulations). If the closures are extended by amending the Regulations, this will result in the areas being reopened for a period of approximately three months, due to the time required for the regulatory process. This is inconsistent with the purpose of the closures. As the Guardians note, re-opening the areas before a long-term management strategy is introduced is “unhelpful to the sustainable management of the blue cod stocks in these areas.” In contrast to amending the Regulations, a notice in the *Gazette* will avoid this situation, as it can be done in a timely manner.

Consultation

- 16 Section 12(a) requires that, before setting or varying any sustainability measure, you consult with those persons or organisations whom you consider to be representative of the classes of person who have an interest in the stock, including Maori, environmental, commercial, and recreational interests. Section 12(b) requires that you provide for the input and participation of tangata whenua having a non-commercial interest in the stock concern and have particular regard to Kaitiakitangi.
- 17 The Guardians’ members come from various groups including commercial and recreational fishers, tangata whenua, charter boat operators, scientists, and environmentalists. They have a statutory role in providing advice and recommendations on management of the Fiordland Marine Area to management agencies and relevant Ministers, including you as Minister of Fisheries. It was the Guardians’ recommendation that prompted the proposed extension to the existing closures.
- 18 The IPP was released for general public consultation from 23 February and was available on the MFish website. Te Runanga o Ngai Tahu, Oraka-Aparima Runaka, and Te Runanga o Maakawhio were all notified that consultation on this issue was taking place. All parties who made submissions last time the closures were extended, in 2007, were also notified.

Submissions Received

- 19 Submissions regarding this proposal were received from:
- Derek Brown, charter operator, Fiordland,
 - Fiordland Marine Guardians (the Guardians),

- Mark Hosie, recreational fisher,
- New Zealand Recreational Fishing Council (NZRFC),
- Seafood Industry Council (SeaFIC),
- South Coast Underwater Club, Gore (the Club),
- Tasman and Sounds Recreational Fishers' Association (Inc) (Tasfish), and
- Top of the South Recreational Forum (the Forum).

MFish Discussion

20 A review of the effectiveness of the management of the Fiordland Marine Area is scheduled for 2010. The Guardians have reconsidered their position in light of the timing of the review. Consultation on the review is due to start around the time the existing closures are due to end. The Guardians acknowledge that this means that there would be an unspecified period of time when the areas would be re-opened to fishing before any long-term management strategy (which might result from the review process) could be put in place. They view this as “unhelpful to the sustainable management of the blue cod stocks in these areas”. They also acknowledge that the process to extend the closures is “labour intensive”. They now support extending the closures with no specified end date.

21 Mark Hosie also supports the proposal to extend the closures with no specified end date. He lists several reasons for his support:

- Insufficient evidence of the effect of the closures to determine the effect of reopening the areas to fishing,
- Anecdotal evidence from fishermen that there used to be “a strong presence of blue cod in the area”,
- Several possible reasons for the decline in blue cod, including
 - lost cod pots continuing to catch blue cod until the pots disintegrate, which may take several years
 - recreational fishing pressure due to easier access, especially to Doubtful Sound
 - additional fresh water from the Deep Cove Tailrace,
- Blue cod remains very scarce in both areas, irrespective of the reason, and
- There is only a small area of habitat that supports blue cod, compared to the size of the Sounds.

He supports keeping the areas closed “until either the stocks recover and/or we have a better understanding of the sustainability of the Blue Cod stocks.”

- 22 SeaFIC does not oppose an indefinite extension to the closures. SeaFIC notes that “Milford Sound provides a further example of localised depletion of stocks in the absence of commercial fishing.”
- 23 Derek Brown did not comment on the proposal, but suggested reduced bag limits for blue cod in Dusky and Breaksea Sounds. His suggestion falls outside the current proposal and will be discussed with the Guardians.
- 24 NZRFC, Tasfish, the Club, and the Forum all support the Guardians’ initial recommendation for an extension of one year.
- 25 The Club refers to the opportunity for “recreational fishers to have input on current stock levels and ...when the fishery would reopen.” The Club would also support an extension to two years. The Club does not support an extension with no specified end date as they “feel this leaves no chance for input by recreational fishers.”
- 26 NZRFC states that, “[t]he [G]uardians are the established body in the area that have the knowledge of this fishery.” NZRFC also states that it is important for MFish to listen to the request from the Guardians for a one year extension “as they have been instrumental in closing it in the first place”. NZRFC does not support a closure with no specified end date, saying that they are concerned that they “will have to once again lobby to get the area open again”, and submitting “that MFish follow the management recommendations put forward by the Guardians.”
- 27 Tasfish states that, “[a]s the Guardians have been the driving force in establishing the current level of protection as well undertaking their own research it is logical that their recommendation should be followed.” Tasfish also state that having a closure with no specified end date “will force amateur fishers to go through a consultation process to reopen a fishery when they have been instrumental in closing it.”
- 28 The Forum supports “the view of the Guardians” for a one year extension.
- 29 The Guardians now support an extension with no specified end date. MFish notes that the Guardians include recreational representatives, and that it is likely to be on the recommendation of the Guardians that the reopening of the areas to fishing would be considered. MFish considers that there is sufficient opportunity for recreational fishers to have input into decisions about management of blue cod in Milford and Doubtful Sounds. In addition to the Guardians, this can happen through MFish’s recreational forums.
- 30 MFish further notes that, if there were to be only a one or two year extension, there would likely be another consultation process to determine if the areas should be allowed to reopen at the end of that time. This has already happened twice (including the current process). MFish considers regular, repeated, formal consultation on this issue is costly and undesirable, especially since it is unlikely that there will be improvement in stocks in the short term.

- 31 If the closures are extended with no specified end date, consultation on whether to reopen the areas is likely only to be required once. Consultation would be initiated, probably on the recommendation of the Guardians, when the monitoring shows either recovery has taken place or the blue cod populations in the area are stable. In addition, the Guardians will be seeking input from stakeholders during the review of the effectiveness of the management of the Fiordland Marine Area in 2010. This will provide an opportunity for stakeholders to comment on current management of blue cod in Milford and Doubtful Sounds.

Rationale for Management Options

- 32 The Guardians were established under the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005. Their role includes providing advice and recommendations to the Minister of Fisheries and MFish on fisheries management in the Fiordland Marine Area.² The Guardians work with management agencies³ providing advice and making recommendations to them.
- 33 As part of the Strategy, the Guardians advocated Milford and Doubtful Sounds be closed to recreational fishing for blue cod to allow the stocks to recover. Consequently, the existing closures were put in place in 2005 as part of a management package of legislative and non-legislative measures that were applied to the Fiordland Marine Area. The existing closures were brought about by an amendment to the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991.⁴
- 34 The 2005 closures to recreational fishing were for a period of two years. In the Strategy, the Guardians had also envisioned at least one extension to the closure may be necessary. The closures were in fact extended for two years on the Guardians' recommendation. The closures are currently due to end on 29 June 2009.
- 35 The Guardians and the management agencies developed a monitoring programme in regard to the management package. A summary of the monitoring programme was produced which included goals, outcomes, and monitoring objectives. The stated goal in regard to the temporary closures was:

To restore the blue cod fishery/stocks to allow reopening of the fishery in the future.

² Section 13(1)(a) of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005.

³ The Department of Conservation, Environment Southland, the Ministry for the Environment, the Ministry of Agriculture and Forestry, and the Ministry of Fisheries.

⁴ Regulation 3(1)(c) of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986 permanently excluded commercial fishing from all of the inner waters of the Fiordland Marine Area at the same time that the blue cod closures were first put in place. Due to a voluntary rāhui, there are also no customary permits being issued.

The stated outcome was:

Populations of blue cod in Milford and Doubtful Sounds are maintained or improved.

The monitoring objectives were:

To provide baseline data on blue cod population to provide data relevant to blue cod closure; and

To assess the impact of management decisions (closure and reduced bag limit) on the blue cod fishery in Milford and Doubtful Sounds.

- 36 The Guardians initially recommended continuing the closures for a further year. They now support extending the closures with no specified end date. They consider that there has been insufficient time for enough data to be collected to meet the monitoring objectives, particularly since no data are available for the stocks immediately prior to the closures. Based on known characteristics, such as age at maturity and the behaviour of blue cod (tending not to move far most of the time), MFish considers that there is unlikely to have been sufficient time for the stocks to recover.
- 37 Monitoring has been undertaken since the summer of 2005/06. Monitoring and other details are discussed in the IPP at paragraphs 25 to 28. To date, the monitoring does not show anything conclusive about the effects of the closure. It is intended that monitoring will continue.
- 38 Factors other than fishing pressure, such as changes in food and habitat availability, might cause natural fluctuations in blue cod abundance. But, increases in abundance and size of blue cod have been demonstrated when harvesting has been excluded from an area⁵ (though the site in that case was more productive and not subject to the freshwater layer that exists in Milford and Doubtful Sounds).
- 39 A recent report⁶ suggests fishing pressure is also an important factor in the Fiordland Marine Area. Biological monitoring, which includes blue cod stocks, is being undertaken as part of the overall Fiordland Marine Area monitoring programme. The report of the three year (2005-07) baseline work for that monitoring notes an overall decline in blue cod abundance across the whole Fiordland area since 1985-87. The report notes the greatest rate of decline in areas open to fishing (commercial and/or recreational). It found that the inner fiords, which are closed to commercial fishing, generally had larger fish than the open coast.

⁵ Davidson , R. J. (2001) Changes in population parameters and behaviour of blue cod (*Paraperca colias*; Pinguipedidae) in Long Island – Kokomohua Marine Reserve, Marlborough Sounds, New Zealand.

⁶ Wing S. R., Jack, L.(2007) Biological Monitoring of the Fiordland (Te Moana o Atawhenua) Marine Area and Fiordland's Marine Reserve – 2007. Report prepared for Department of Conservation.

- 40 In recent unpublished research undertaken by NIWA for MFish as part of the overall Fiordland monitoring programme, the researcher found that blue cod is the main recreational target species in the Fiordland Marine Area. The coastal area adjacent to and outside of Doubtful Sound was found to be one of the most popular areas for recreational fishing for blue cod in the Fiordland Marine Area.
- 41 There has been general support for the closures to date, and MFish's compliance team has not had any reports of non-compliance.
- 42 Based on their own knowledge, combined with background information gathered for the purposes of developing the Strategy, the Guardians believe that there has been significant depletion of the blue cod fisheries within both Milford and Doubtful Sounds. This belief is consistent with the findings of studies conducted in other areas of New Zealand which have shown a trend of local depletion occurring in more accessible areas, for example, in the inner Marlborough Sounds⁷ and Banks Peninsula.⁸

Assessment of Management Options

Option 1 – Status Quo - Allow the Milford and Doubtful Sounds Blue Cod Fisheries to Reopen

Impact

- 43 The evidence that the stocks were depleted by fishing prior to the closures was largely anecdotal. But, the anecdotal evidence of likely depletion is supported by the results of the biological monitoring of the Fiordland Marine Area⁹ and studies from other areas of the South Island.^{10, 11} If the areas are depleted and are reopened too soon, the risk is that the current closures would not have provided for a rebuild and will not have addressed the localised depletion.

Costs

- 44 The inner waters of the Fiordland Marine Area are subject to a reduced daily bag limit,¹² with no accumulation permitted for blue cod. MFish considers that, at current low levels of abundance, this is not restrictive enough for sustainable utilisation of blue cod. It is also likely that reopening Milford and Doubtful Sounds will result in further reductions in blue cod stocks in those areas and, consequently, the value of the fishery to recreational fishers.

⁷ Blackwell, R G (2002). Abundance, size and age composition of recruited blue cod in the Marlborough Sounds, September 2001. Final Research Report for Ministry of Fisheries, Project BCO2001/01 (Unpublished).

⁸ Carbines, G. D.; Beentjes, M. P. (2006) Abundance of blue cod off north Canterbury in 2004-05. *New Zealand Fisheries Assessment Report 2006/30*. 26p.

⁹ Wing S. R., Jack, L.(2007) Biological Monitoring of the Fiordland (Te Moana o Atawhenua) Marine Area and Fiordland's Marine Reserve – 2007. Report prepared for Department of Conservation.

¹⁰ Carbines, G. D.; Beentjes, M. P. (2006) Abundance of blue cod off north Canterbury in 2004-05. *New Zealand Fisheries Assessment Report 2006/30*. 26p.

¹¹ Carbines, G. D.; Beentjes M. P. (2006) Relative abundance of blue cod off North Otago in 2005. *New Zealand Fisheries Assessment Report 2006/09*. 20p.

¹² Down from 30, at one time, to 3 currently.

Benefits

- 45 Were the fishery to be reopened, monitoring could be carried out and compared with the data collected during the existing closures, to assess the impact of renewed fishing in the currently closed areas. This could be used to guide future management decisions in the Fiordland Marine Area.
- 46 Reopening the areas would enable recreational fishers to utilise the blue cod stocks in Milford and Doubtful Sound. But, MFish considers this is not currently sustainable.

Option 2A – Extend the Current Closures for 1 year (the Guardians’ Initial Recommendation)

Impact

- 47 There is no evidence that the closures have yet improved blue cod abundance.¹³ Given the biological characteristics of blue cod (for example, they are territorial and tend not to migrate to other areas), MFish considers it is unlikely any recovery would have occurred this quickly. MFish also considers it unlikely that one further year of closure would be sufficient to enable recovery.

Costs

- 48 As Milford and Doubtful Sounds are two of the more accessible areas of Fiordland, continuing the closures may impact the cost and accessibility of recreational fishing. The research carried out by NIWA showed recreational fishing occurs in all parts of the Fiordland Marine Area. But, it is unknown if this is a change from the situation before the closures. So, there may be increased cost to recreational fishers who may have to travel further to target blue cod. This would also be the case where blue cod stocks are depleted.
- 49 There are costs associated with continuing to monitor the closures. MFish considers that the information gathered is essential for informing future management decisions for the closed areas. MFish notes that whenever the areas are reopened, monitoring would likely continue, at least in the short term, to assess the impact of reopening the areas.
- 50 If the areas are reopened too soon, any improvement in blue cod stocks may be set back. The Guardians now support an extension for an unspecified period because of the risk that the areas may be reopened before any long-term management strategy could be introduced.

Benefits

- 51 Under this option, there will be a further year to gather information about the impact of the closures. This option allows for reopening of the fishery in 2010, should it be appropriate at that time, thus allowing for utilisation sooner than under MFish’s preferred option.

¹³ Data from the most recent experimental fishing, including February 2009 data, will be available later this year after it has been reviewed by MFish.

Option 2B – Extend the Current Closures with No Specified End Date – MFish Preferred Option – Now, Also the Guardians’ Recommendation

Impact

- 52 MFish considers that improvement in blue cod abundance is likely if the areas are closed for a sufficient time. How many more years of closures would be necessary is unknown without further data on the effect of the existing closures. But, given blue cod’s age and size at maturity, longer closures may be sensible to enable time for more blue cod to reach breeding size and for more blue cod to move into the inner fiords. Monitoring has continued in 2008/2009, and this could be extended, regardless of how long the closures remain in place.

Costs

- 53 The potential costs to recreational fishing and costs of monitoring are similar to extending the closures for only one year, but would be incurred for a longer, and indefinite, time.

Benefits

- 54 The longer the closures continue, the more opportunity there will be for both stock recovery and research into the impact of the closures. Extending the closures will provide more information upon which to assess the closures and base any future management decisions, and ultimately promote sustainable utilisation.
- 55 Under this option, the costly and time-consuming process of extending the closures each time they expire is avoided. The Guardians acknowledge the costs associated with this process. Also, once the data shows that the blue cod stocks have recovered (or are not going to do so) the closures can be reviewed. This can be initiated by a recommendation from the Guardians.

Other Management Controls

- 56 The inner fiords are subject to a blue cod daily bag limit of 3 per person per day, with no accumulation. There are no proposals for different rules to apply in Milford and Doubtful Sounds if the areas are allowed to reopen. However, it is likely that a long-term management strategy will be developed as part of the review of the effectiveness of the management of the Fiordland Marine Area in 2010. This may include different bag limits or other rules, such as increased size limits.

Statutory Considerations

57 In forming the management options, the following statutory considerations have been taken into account.

- (a) **Section 5(a) of the Fisheries Act 1996:** A wide range of international obligations relate to fishing (including sustainability and utilisation of fish stocks and maintaining biodiversity). MFish considers issues arising under international obligations are adequately addressed in the management options for these stocks.
- (b) **Section 5(b):** MFish considers issues arising under the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 are adequately addressed in the management options for these stocks. Tangata whenua are represented on the Guardians.
- (c) **Section 8:** The purpose of the Fisheries Act 1996 describes the overriding objective of fisheries management: providing for the utilisation of fisheries resources while ensuring sustainability. Management of blue cod stocks must be consistent with this requirement. Providing for utilisation while ensuring sustainability may be achieved in different ways and the objective may be reached over time. Utilisation of blue cod fisheries resources in the closed areas would be restricted for the period of the closures. However, the closed areas are small in relation to total area of BCO 5 and the Fiordland Marine Area. The benefits of obtaining a better understanding of the impacts of fishing on stocks and allowing time for recovery to occur outweigh any lost utilisation of the fishery in the short term.
- (d) **Section 9(a), (b), and (c):** This section provides three environmental principles that must be taken into account when exercising powers in relation to utilisation of fisheries resources and ensuring sustainability. First, associated or dependent species should be maintained above a level that ensures their long term viability. Second, biological diversity of the aquatic environment should be maintained. Third, habitat of particular significance for fisheries management should be protected. As the closures are only in regard to blue cod, fishing pressure on other species may increase while these areas remain closed, and pressure on blue cod stocks in neighbouring areas may also increase. If blue cod stocks increase within Milford and Doubtful Sounds, this may also impact the abundance of their prey species.
- (e) **Section 10:** This section requires the Minister to base decisions on the best available information. Option 2A was based on the initial recommendation of the Guardians, but they now support Option 2B. Members of the Guardians are experts on the Fiordland marine environment, and have significant knowledge of blue cod fisheries in Milford and Doubtful Sounds. Biological monitoring of the Fiordland Marine Area and other research supports the view that blue cod stocks

are depleted generally, and that blue cod populations in the inner fiords derive from the outer coast areas. Data from the ongoing monitoring is insufficient at present to determine the impact of the closures. However, other available information (including the wider biological monitoring of the Fiordland Marine Area) is consistent with localised depletion being caused by fishing pressure. Data from the monitoring of the closures suggests that blue cod abundance could be improved in the closed areas, though the timeframe for this to happen is unknown.

- (f) **Section 11:** The Minister may, from time to time, set or vary any sustainability measure by notice in the *Gazette* or by recommending the making of regulations under s 298 of the Fisheries Act 1996. Before setting or varying any sustainability measure for the blue cod stocks, the Minister must take into account any effects of fishing on the stock and the aquatic environment,¹⁴ any existing controls that apply to the stock or area concerned,¹⁵ and the natural variability of the stock concerned.¹⁶ No existing controls under the Act for blue cod will be affected by the continuation of the closures. The Minister of Fisheries may close an area to the taking of any species to assist in replenishing fisheries resources that have become depleted. A closure can last for any specified period of time or be indefinite. MFish's preferred option is that the existing closures be extended indefinitely. Reopening of the areas will depend on the recovery of the blue cod stocks and the outcome of the ongoing monitoring.
- (g) **Section 11(2)(a) and (b):** MFish is not aware of any provisions applicable to the coastal marine area known to exist in any policy statement or plan under the Resource Management Act 1991, or any management strategy or plan under the Conservation Act 1987, which are relevant to the continuation of blue cod closures.
- (h) **Section 11(2A):** Before setting or varying any sustainability measure under this Part or making any decision or recommendation under the Act to regulate or control fishing, the Minister must take into account—
- (a) Any conservation services or fisheries services; and
 - (b) Any relevant fisheries plan approved under this Part; and
 - (c) Any decisions not to require conservation services or fisheries services.

Fisheries services and decisions whether or not to acquire these are discussed above – see, for example, the discussion of monitoring being undertaken at paragraph 37. There are no relevant conservation services or proposals to acquire these that need to be considered. There are no approved Fisheries Plans for BCO 5.

¹⁴ Section 11(1)(a)

¹⁵ Section 11(1)(b)

¹⁶ Section 11(1)(c)

- (i) **Section 12:** Consultation is discussed above (at paragraphs 16 to 18).
- (j) **Section 297:** Regulations made under s 297 of the Fisheries Act may prohibit the taking of a species of fish from an area for any period.
- (k) **Section 13 of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005:** The Fiordland Marine Guardians (the Guardians) have a statutory role which includes facilitating and promoting the integrated management of the Fiordland Marine Area. Their functions also include advising and making recommendations to the management agencies, including MFish.
- (l) **Section 26 of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005:** All persons exercising powers or carrying out functions in the Fiordland Marine Area must take into account any advice or recommendations provided by the Guardians. Therefore, in deciding whether to extend the closures, and for how long, the Minister of Fisheries is required to take into account the fact that the Guardians support an extension to the closures with no specified end date.
- (m) **Regulation 3 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986:** This prohibits commercial fishing in Milford Sound and the internal waters of Fiordland. Although this was introduced at the same time as the amateur closures, it is independent of them. No change will be needed in this regard whether or not the amateur blue cod fisheries remain closed.
- (n) **Regulation 3A of the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991:** This established the existing closures to amateur fishers of the blue cod fishery in Milford and Doubtful Sounds. The closures began on 30 June 2005 and will expire under this regulation on 29 June 2009. The closures could be extended by amending this regulation under s 297 of the Fisheries Act 1996 (the Act). An alternative would be to implement an extension of the closures as a sustainability measure under s 11 of the Act which can be done either by regulation made under s 298 of the Act or by notice in the *Gazette*. The latter option is recommended by MFish as it avoids the delay which would be caused by the process of amending the Regulations, which could result in the areas being reopened for approximately three months.