

Appendix a

Topic 7 – Summary of recommended proposed changes (by issue)

Issue	Operative Plan	PC 1	Recommendation	Rationale
Approved inspector regime	Appendix 5 – established approved inspector regime	Removes approved inspector regime. Increased information requirements, including increase in listed hull inspection areas for which inspection results need to be recorded.	Re-instate approved inspector regime (Appendix 5) with the following changes: 1. Clause 9 removed (requirement for approved inspectors to be independent of the vessel owner/operator). 2. Removing requirement in Clause 3 for the two references to be independent. 3. Addition of Clause 4 (c) to Appendix 5 (the inspector must confirm that they are competent in the use of the Level of Fouling ranking system). Information requirements reduced, in particular number of listed hull inspection areas (discussed further below).	Submitters prefer to rely on approved inspectors with fewer information requirements. Having considered the points raised by submitters, I recommend retaining the approved inspectors regime but still requiring some of the additional information required by PC1 to enable DOC to monitor the inspection/ certification process and compliance with Performance Standard 1.2. I have reviewed Appendix 5 to confirm drafting remains appropriate. My recommendations to remove Clause 9 and the requirement in Clause 3 for the two references to be independent is to address the NZDF submission (point 2.1) to enable navy dive units to become approved inspectors. I recommend the addition of Clause 4(c) to Appendix 5 to require approved inspector candidates to confirm they are competent in the use of the Level of Fouling (LOF) ranking system. This change is intended to provide further assurance to the Minister that approved inspectors will be able to carry out their function in accordance with Appendix 4. Other modifications are minor.
Hull inspection areas	Forms 1 and 2 list hull areas to be inspected: • 2 x vertical stern transects (port and starboard) approx 5m from stern, at a width of 1m. • Horizontal transects (port and starboard) –	Forms 1 and 2 list hull areas to be inspected: • Stern 2 x vertical stern transects at 1m intervals down each side (each 1m interval being a different 'area'). Separate areas listed for vertical deep and flat bottom (port and starboard)	Forms 1 and 2 list hull areas to be inspected: Continuous horizontal transect at water/plimsoll line Reinstate continuous horizontal transect for entire length of each side (port and starboard) to depth of at least 1m from water/plimsoll line and	Submitters concerned about cost of additional inspection requirements given number of listed hull areas. I have recommended a reduction in listed hull inspection areas. The changes will mean: • at stern, amidship and bow, there will be 3 listed areas – water/plimsoll line (as part of the continuous horizontal transect), vertical deep and flat bottom (port and starboard).

Issue	Operative Plan	PC 1	Recommendation	Rationale
	for entire length to a depth of at least 1m from the water line (in-water inspection) or plimsoll line (out of water inspection). Results recorded for stern, amidship and bow. No requirements for transom. Clauses 2.2 and 2.3 of Appendix 4 set out requirements for horizontal transects and vertical transects.	Midship, Bow, Transom Vertical transects at midship and bow (at port and starboard), and transom (at port, starboard and mid) at 1m intervals to 3m below water/plimsoll line (each 1m interval being a separate 'area'). For midship and bow (but not transom), separate areas listed for vertical deep and flat bottom. Clauses 2.2 and 2.3 of Appendix 4 are deleted.	also add transom so the transect continues right around vessel. Results recorded: - For port and starboard: at stern, amidship and bow - For transom: at port, mid and starboard Other hull areas For stern, bow and amidship (port and starboard): - Remove 1m intervals. - List hull inspection areas at vertical deep and flat bottom. For transom: - Remove 1m intervals. Reinstate requirements in Appendix 4 Clauses 2.2 and 2.3 with modifications to match proposal (now included at Appendix 4, Clause 3). Figure A4 added to show hull areas.	for the transom it will just be the water/plimsoll line, recorded at port, mid and starboard. All requirements for 1m vertical intervals will be removed. My recommendations are supported by the technical advice of Dr Kluza who has reviewed the proposed changes and considers that the proposed changes to hull areas remains an appropriate method of inspecting a vessel for the presence of biofouling. The proposed changes continue to appropriately manage biofouling risk on the hull areas while reducing the administrative burden and associated cost through the reduction in the number of listed hull areas.
Niche inspection areas	All niche areas must be inspected but Plan provides (Appendix 4, 2.4): <i>"Where it is not practicable to access a niche area to inspect part or all of that niche area then for the purpose of this inspection process there is no requirement to inspect the niche area concerned."</i> Sea chests are specifically excluded for in water inspections (Form 1)	All niche areas, including sea chests, must be inspected if they are present on the vessel. This is achieved by specifying a much more extensive list of niche areas (including sea chests) in Forms 1 and 2, and requiring the forms to be completed in full. Clause 2.4 of Appendix 4, which provides that there is no requirement to inspect a niche area if they <i>"are not practicable to access"</i>, is deleted. The forms include a requirement to record the reason for not inspecting any of the specified areas (hull areas or niche areas). Examples of reasons are provided in Appendix 4, Clause	No change in intended approach of PC1 but Appendix 4 amended to make clearer that: - All niche areas are to be identified (Appendix 4, Clause 2.1(aa); - If they can be inspected, they must be inspected (Appendix 4, Clause 2.1(b); - If the inspector determines that it would be unsafe, would risk damage to equipment or is otherwise not practicable to inspect the niche area, that niche area is not required to be inspected (Appendix 4, Clause 2,1(c).	Submitters were concerned that the ability to not inspect where "not practicable" was removed from PC1, especially in relation to sea chests. I have recommended changes to more clearly capture the intended approach of PC1 and to address the concerns raised by submitters. Niche areas are a high-risk area in terms of biofouling management (see technical advice of Dr Kluza, Appendix K, paragraph 12). In my opinion, the intention of PC1 is that all niche areas should be identified. They should also all be inspected where they can be, including sea chests, having regard to available technology. Where a niche area has not been inspected, specific reasons should be given. Inspectors

Issue	Operative Plan	PC 1	Recommendation	Rationale
		2.1(b) and in Form 1. These examples are referred to as “valid reasons” but are framed as a non-exclusive list.	If a niche area is not inspected, the specific reason must be recorded in Form 1 (Appendix 4, Clause 2.1(c), Form 1).	should turn their mind to all niche areas and only exclude them when there is a good reason not to inspect them. PC1 should not in practice be a change from the Operative Plan which provides niche areas do not need to be inspected ‘if not practicable’, but under PC1 the expectation is that the specific reason for the impracticability is explained – i.e. it would not be sufficient to simply state ‘not practical’. The reason this is important is that inspectors should consider improvements in technology that would enable niche areas to be inspected where they would otherwise be difficult to access. PC1 does not introduce a threshold of “validity” in terms of the recorded reasons for not inspecting a niche area – i.e. as long as the reason for not inspecting is recorded, that will be sufficient for the purposes of completing the forms. However DOC needs to retain oversight of what the niche areas are and the specific reasons that they are not being inspected to enable dialogue between DOC and inspectors around available inspection methods. This allows the higher risks posed by these areas to be appropriately managed. Dr Kluza has reviewed the proposed amendments and considers the amendments do not alter the effectiveness of PC1 in managing niche area biofouling risk.
Form length	Hull areas: - Lists 2 x vertical stern transects (port and starboard) - Lists 3 x areas (stern, amidship, bow) for recording horizontal transect (port and starboard) Niche areas - Lists selected niche areas (port and starboard)	Hull areas - Lists every hull area to be inspected, including the 1m intervals described above - For the stern vertical transects, anticipates more rows will be added to inspect at depths greater than 4m Niche areas - Lists all the niche areas identified in MPI's CRMS list (Schedule 3) - Divides into niche areas by part of ship and then a	Hull areas - As above, hull area inspection areas will be reduced Niche areas - Rather than Forms 1 and 2 themselves listing all niche areas currently included in the forms, a list of common niche areas will be included in the Plan (as Appendix 4A) – i.e. the list will sit outside the forms - The forms will have a niche areas section, divided into the relevant areas of a vessel (i.e.	Submitters were concerned about length/complexity of forms. Form length will be reduced due to reduction of listed hull areas. The suggested approach to niche areas will significantly shorten the form and will essentially provide a means of creating a tailored form. The obligation will remain on the inspector to identify all niche areas on the particular vessel. The list in Appendix 4A will ensure inspectors turn their mind to identifying the common niche areas present but any niche areas not listed in Appendix 4A will also need to be included on the forms (and

Issue	Operative Plan	PC 1	Recommendation	Rationale
	Forms anticipate rows would be added or deleted as appropriate for the vessel (see left hand column "Area Inspected")	separate section for "all niche areas (not covered above) - Lists multiple inspection locations for large niche areas, - Forms 1 and 2 identify "Miscellaneous" category of niche areas and explains that because they are small areas, only one photo and one video is required for each Forms anticipate areas would be added or deleted as appropriate for the vessel (see left hand column "Area Inspected"). Form anticipates that additional niche areas may need to be added if identified (i.e. additional to those listed in the forms)	bow –hull starboard – vertical deep) - For each area of the vessel, there will be an obligation for the inspector to add all relevant niche areas from list that are present in that area of the vessel, and then either carry out the inspection or provide the reason for not inspecting (Appendix 4, Clause 2.1(aa). Clause 2.1(c) - There will also be an obligation to include any niche area not listed in the list that is present on the individual vessel and inspect that area unless the exception in Clause 2.1(c) applies (Appendix 4, Clause 2.1(aa), Clause 2.1(c). - Niche areas currently listed in "Miscellaneous" in Forms 1 and 2 will be identified in the list, so that the requirement for only one photo/video can be retained (if they are present on a vessel) (Appendix 4A, Appendix 4, Clause 2.1(e)(i).	inspected unless the exception in Clause 2.1(c) applies) - this is appropriate given the higher risk posed by these areas.
Photo/video requirements	Requirement to take photographs that are representative of what is seen along each transect and at each niche area. Number of photographs not specified. No video required.	Requirement to take minimum of 3 photos and a video for each location listed on the form (hull areas and niche areas) except: "Miscellaneous" category of niche areas – because they are small areas, only one photo and one video is required for each	Retain requirement to take minimum of 3 photos for each inspected area (Appendix 4, Clause 2.1(e)(i)) but: - only require 1 photo for niche areas identified but not inspected (Appendix 4, Clause 2.1(e)(i). - Only require one photograph for niche areas listed as "Miscellaneous" due to small size (Appendix 4, Clause 2.1(e)(i) . - Clarify that photographs and videos must be representative of what is seen in the area	Submitters were concerned about the administrative burden and cost associated with the number of photographs and video required. The number of photos required to be taken will be reduced via reduction of listed hull areas and number of photos for niche areas identified but not inspected (reduced from 3 to 1). The requirement to take a minimum of 3 photos of each hull area and niche area inspected provides DOC with increased confidence that photos will be sufficient to show potential biofouling which allows DOC to appropriately monitor inspection/ certification process and compliance with performance standard 1.2.

Issue	Operative Plan	PC 1	Recommendation	Rationale
			inspected (Appendix 4, Clause 2.1(e)(i)). Retain video requirements	The requirement to take 1 photo for each niche area identified but not inspected provides DOC with some oversight as to the reasons why niche areas cannot be inspected, and allows for dialogue with inspectors about available techniques. The intent of PC1 was to increase the minimum evidence requirements to be collected during hull and niche areas inspections. Video remains an appropriate means of capturing the extent of any biofouling within the inspection areas and allows DOC to appropriately monitor the inspection/ certification process and compliance with performance standard 1.2
	No specific requirements for how representative photographs are taken	Specific requirements as to how photos and videos are taken (Appendix 4, Clause 2.1) and repeated at the beginning of Appendix 4 Form 2.	Retain specific requirements but drafting in Appendix 4 amended for clarity and certainty of requirements/compliance (Appendix 4, Clause 2.1(e)).	The requirements for videos and photographs provide DOC with confidence regarding the quality of footage and that the area being inspected is being adequately captured in footage (photographs and video). These requirements are appropriate to enable DOC's role to monitor the inspection/ certification process and compliance with performance standard 1.2 The drafting changes I have recommended in Appendix 4 ensure requirements for photos and videos are clear and certain so plan users can be certain they are complying with requirements.
	No requirement for a PDF report – requirement is for 'representative photographs' (in addition to Forms 1 and 2)	Photos to be provided in PDF report – limited direction on what the PDF report is and what it must contain. (Noting that NZDF submission, which was accepted in the reporting officer's section 42A report, clarifies that the PDF report is to include "representative" photos – not all photos)	Drafting changes to Appendix 4 to clarify requirements: • Photos that are taken must be representative of what is seen at the hull or niche area inspected (Appendix 4, Clause 2.1(e)(i)). • While Appendix 4 requires a minimum of 3 photographs to be taken of most listed areas (with some exceptions), a lesser number can be provided to DOC if that is	Submitters had raised concerns about the additional administrative burden of preparing a report/separate PDF document. The recommended changes avoids the additional administration of preparing a report/ separate PDF document. In addition, I have recommended allowing for a lesser number of photographs to be provided if those photographs are sufficient to be representative. This addresses the change sought

Issue	Operative Plan	PC 1	Recommendation	Rationale
			sufficient to be representative of what is seen in the area listed (Appendix 4, Clause 1.3(c)). All photographs taken must be labelled and cross referenced in Form 2, but photographs provided do not need to be in a PDF report. (Appendix 4, Clause 1.3(d)). References to "PDF report are deleted. Proposed changes do not preclude the option of providing representative photographs in a PDF report (i.e. as long as the requirement for labelled representative photographs is met, these can be provided in a PDF report)	by NZDF and also reduces the administrative burden. The requirement for labelling and cross-referencing enables DOC to easily identify what areas the photos relate to, when reviewing the forms and photos together. PDF report remains optional if required by MPI for international vessels.
Storage requirements	No specific requirements about how long footage taken needs to be stored for by operators.	No specific requirements about how long footage taken needs to be stored for by operators.	Photos and videos taken need to be stored for 5 years and provided on request (Appendix 4, Clause 1.3(e).	Submitters raised concerns that there was no limit placed on how long footage needs to be retained. My recommended change addresses this concern. 5 years provides sufficient time to facilitate any audit process and assist with any risk assessment that may be required under Rule 31.
Reference to LOF "Mode" and "Range" in Forms 2	Appendix 4: Form 2 did not contain specific LOF mode and range fields.	Added LOF mode and range fields. The mode and range provide additional information about the distribution of fouling observations within an area. The Mode indicates the LOF rank occurring most frequently among the observations recorded for that area, while the Range captures the spread between the lowest and highest LOF ranks observed.	Delete the mode and range fields but include one column for recording LOF rank for each photograph.	While the Mode and Range provide additional information about the distribution of fouling observations within an area they are required to determine whether an inspection has passed or failed and are not otherwise necessary to enable DOC to review the performance of the inspector. Removing these fields therefore reduces unnecessary reporting complexity while retaining the core information required for inspections.