

Appendix I

Feedback from submitters on the recommended changes

Proposed Plan Change 1 - Regional Coastal Plan

- Kermadec and Subantarctic Islands

Memorandum

Date 18 September 2026
Matter no. 174759-0001
To Jen Vella and Alice McCubbin-Howell
From Ben Williams and Conor Meredith
Subject Fishing Industry Interests – response to without prejudice material

Introduction

- 1 This memorandum is provided on behalf of Sanford Limited and Seafood New Zealand Limited (**Deepwater Council**) (together **Fishing Industry Interests**) in response to the amended without prejudice material received from the Department of Conservation (**DOC**) on Friday, 4 September 2026.
- 2 The Fishing Industry Interests consider that positive progress has been made through the course of these without prejudice negotiations and appreciate the efforts to date towards reaching a resolution. It considers that there is now substantial agreement between the parties in relation to several matters.
- 3 For completeness, the Fishing Industry Interests are supportive of several of DOC's earlier proposed amendments, including, among other matters, the clarification as to the inspection requirements for niche areas, the simplification of the forms, the reintroduction of the approved inspector regime, removal of the PDF reporting requirement, and clarification as to the storage requirements for photographs.
- 4 Notwithstanding that progress, some further amendments are required to the front end of Appendix 4, with some consequential changes to Form 2 and the Table 1 Performance Standards. In particular, the Fishing Industry Interests consider that:
 - (a) the requirements for video footage should be removed, as the additional inspection and storage costs associated with additional video footage cannot be justified with photographs providing the more reliable basis for the LOF assessment required by the forms;
 - (b) a lesser number than three photographs should be permitted where the approved inspector using their skill and experience considers that fewer photographs are sufficient to be representative of what is seen in the listed area (in short the obligation should be to ensure representative photos are obtained – not potentially triplicate photos of the same thing); and
 - (c) clarify that it is the vessel operator that is to provide Forms 1 and 2 to DOC, not the approved inspector.
- 5 The Fishing Industry Interests also consider that the references to the 'Mode' and "Range" LOF ranking in Appendix 4: Form 2 (**Form 2**) should be deleted. LOF rankings should be recorded for each listed area by reference to each individual photograph and its corresponding LOF rank, rather than as a separate minimum-maximum range of LOF ranks across multiple images or within a single image (again noting the appropriateness of a 'representative' rather than triplicate photos to keep the ranking process straightforward).

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6 To assist with progressing this matter, **attached** as **Appendix A** is the Fishing Industry Interests' proposed amended drafting to the without prejudice material. The further amendments proposed are marked in [blue](#).

7 The points are expanded on below.

Removal of video requirements

8 The Fishing Industry Interests consider that the video requirements in Appendix 4 should be removed. The Cawthron LOFeR Institute material (referred to by DOC in the amended Appendix 4 front end)¹ does not require, or explain, how a Level of Fouling (LOF) ranking is to be applied to video footage. If an LOF ranking were to be assessed from a video, we assume the practical process would be to pause the footage at selected points, extract or identify still frames, and then assess those images in the same way as photographs.

9 We note the reference to a video camera in the NIWA material is within the explanation that the utility of the LOF rankings as an indicator of overall fouling intensity was tested by taking five video transects, then randomly capturing one still image from each transect and then subsequently calculating the average fouling cover across the hull from those five images (i.e., it was not undertaken by reference to the video itself).²

10 Against that context, the proposed requirement assumes that LOF can be meaningfully and consistently assessed from video footage. In practice, that is difficult. LOF is a visual assessment of biofouling coverage at a particular location and is applied by reference to a fixed image. Video footage is continuous and variable, and is dependent on factors such as camera speed, distance from the hull, lighting, water clarity, diver movement, and the angle at which the relevant area is captured. While some of these variables can be conditioned to provide a degree of consistency, overall, they make it difficult to identify a consistent assessment point, or to ensure that different inspectors would apply the LOF scale to video footage in the same way.

11 On this basis, a requirement to provide video footage duplicates the proposed photographic requirements, without providing any clear additional benefit for determining compliance with the relevant performance standards.

12 The proposed video requirements would therefore add unnecessary time, cost, and complexity for approved inspectors and vessel operators, both during the inspection itself and in relation to the associated reporting and storage of video footage, without improving the reliability of the inspection. The requirement for video footage should therefore be removed.

Amendments to required number of photographs

13 The Fishing Industry Interests' further amendments set out at Appendix A introduce an express exception to the default requirement that three photographs be taken of each listed area in Forms 1 and 2. This change is made in two places in Appendix 4: clause 1.3(c), which addresses the material to be provided to DOC, and clause 2.1(e)(i), which

¹ See clause 2.1(f) and footnotes 3 and 4.

² Floerl, O.; Inglis, GJ, Haydon, B, 2005: A risk-based predictive tool to prevent accidental introduction of nonindigenous marine species. Environmental Management 35(6) at page 767.

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sets out the photograph requirements for each listed area, as well as associated amendments to Form 2.

- 14 Under those amendments, three photographs remain the starting point for most listed areas. However, a lesser number of photographs may be taken where the approved inspector considers that fewer photographs are sufficient to be representative of what is seen in the relevant listed area.
- 15 That approach is appropriate because the discretion is exercised by an approved inspector, who is required to have the relevant skill and competence to undertake the inspection and assess what photographic evidence is necessary. The amendment therefore preserves DOC's ability to receive representative photographic evidence, while avoiding an overly rigid and onerous requirement to provide three photographs where the approved inspector has determined that fewer images are sufficient.
- 16 No further change is proposed to the existing drafting for areas listed in Appendix 4A under "miscellaneous", or other niche areas not inspected under clause 2.1(c), where one photograph remains required for each area.

Appendix 4: Form 2 – removal of reference to Range (min-max)

- 17 The references to "Mode of LOF Rank" and "Range (min-max) of LOF rank" in Form 2 should be removed. Appendix 4 requires LOF rankings from 0–5 to be cross-referenced to each photograph and recorded in Form 2 by applying the criteria in Figure A4.3. That should be adequately achieved by recording a single LOF ranking for each photograph. The proposed references to 'Mode' and "Range" appear unnecessary because LOF is intended to be recorded as the ranking attributed to each individual photograph, rather than as a separate range across multiple images or within a single image. Neither the Operative Plan nor PC1's performance standards require Mode or Range to be assessed during a biofouling inspection. The without prejudice 'PC1 Appendix 4 front end' proposed wording also does not introduce those concepts: it refers only to applying the criteria in Figure A4.3, with the related note referring to the Cawthron Institute LOFeR material for training and guidance on using the LOF scale. Those references support the use of the LOF scale itself, not the addition of the proposed Mode or Range fields.
- 18 Retaining these references may also create uncertainty as to whether inspectors are expected to undertake an additional calculation or assessment that is not required by Appendix 4 and is not explained in the Cawthron LOFeR guidance referred to in Appendix 4.
- 19 We assume that the reference to "Range" and "Mode" has been imported from the IMO biofouling reporting guidance adopted by MEPC Resolution 378(80), and/or from the Craft Risk Management Standard for Vessels 2023 (**CRMS-Vessels**). However, those sources do not justify the proposed additions in this context. Additionally, the CRMS-Vessels appears to adopt the MEPC guidance only in relation to the range of LOF Ranks, and not Mode. No justification has been provided as to why these terms have been imported into Form 2 or how they should be applied in this context.
- 20 If there is a justification or explanation for retaining the reference to "Mode" or "Range" in Form 2, the Fishing Industry Interests remain open to considering that further information. However, in the absence of such an explanation, the Fishing Industry Interests consider that Form 2 should require only a single LOF ranking for each photograph, and the references to LOF "Range" and "Mode" should be deleted.

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Other amendments

- 21 The remaining amendments to Appendix 4 may be summarised as clarifying that the approved inspector must provide the completed Forms 1 and 2, and the required photographs, to the vessel operator as soon as practicable after the inspection; confirming that the vessel operator is then responsible for providing the completed forms and photographs to DOC; correcting some cross-referencing errors; and making other consequential amendments related to the proposed changes to the video and photograph requirements.

Conclusion

- 22 For the reasons set out above, the Fishing Industry Interests seeks amendments be made to the without prejudice material in the manner set out in Appendix A, so that amongst other matters, the reporting requirements are workable for approved inspectors and vessel operators, avoid unnecessary duplication or uncertainty, and remain focused on the reliable photographic evidence needed to support an LOF assessment.

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Appendix A – amended without prejudice material

Appendix 4

Vessel hull and niche area inspection - requirements, method and forms

Note: All references in this Appendix to Performance Standards are references to the Performance Standards in Table 1.

This Appendix sets out the inspection process to be followed in Performance Standard 2 to satisfy the requirements of Performance Standard 1.1¹

1. Inspection Overview

1.1 General provisions

- (a) Inspections can be undertaken either out-of-water or in-water.
- (b) Inspections must be undertaken ~~by a person approved by the Minister of Conservation~~ by an inspector approved by the Minister of Conservation (“approved inspector” see Appendix 5) in accordance with Performance Standard ~~2.2 to conduct the type of inspection being undertaken (see Appendix 5).~~
- (c) Inspections must follow the process set out in this Appendix.

Note: It is recommended that the relevant Department of Conservation Director is advised [via email to coastalplan@doc.govt.nz](mailto:coastalplan@doc.govt.nz) in advance of any inspection to avoid the risk of delay, particularly where the inspection may be complex or the vessel is at particular risk.

1.2 Inspection results

- (a) An inspection is a *passed inspection* when that inspection follows the methodology set out in this Appendix and demonstrates compliance with Performance Standard 1.1.
- (b) An inspection is a *failed inspection* when that inspection follows the methodology set out in this Appendix and Performance Standard 1.1 is not complied with.
- (c) Where a failed inspection occurs, *re-inspection(s)* may be undertaken over a 7 day period from the date of the original failed inspection. Re-inspection(s) shall be confined to the area(s) of the hull, including any niche areas, that failed the original inspection.
- (d) Hull cleaning may be undertaken during an inspection and/or during or prior to any re-inspection(s).⁴¹

¹ The inspection, sampling and reporting protocols included in this appendix are based on recommendations from Floerl, O.; Wilkens, S.; Inglis, G. 2010: Development of a template for vessel hull inspections and assessment of biosecurity risks to the Kermadec and sub-Antarctic Islands regions. NIWA.

⁴¹ Note that any in-water cleaning can only be undertaken in compliance with the relevant regional coastal plan for the region.

- (e) Where any re-inspection occurs more than 7 days after the original failed inspection, a new inspection of the entire vessel shall be undertaken.
- (f) ~~Notwithstanding Performance Standard 1, where a vessel operator is undertaking an activity lawfully established prior to notification of this plan and the vessel fails an inspection prior to 1 April 2018, that vessel operator may access within 0.54nm~~

~~(1000m) of MHWS of any of the islands, provided that the vessel operator takes all reasonable steps to remove any identified macro fouling and having regard to the provisions of section 17 of the RMA, minimises any actual or potential adverse effects of that macro fouling on the island environments addressed by this plan. For the avoidance of doubt, the inspection process otherwise required by rule 29B must still be carried out, Forms 1 and 2 completed and provided in accordance with Performance Standard 2.3.~~

1.3 Record of inspection

- (a) Inspection results, including re-inspection results, are to be recorded in Forms 1 and 2 ~~and in PDF format~~, and ~~representative photographs taken video and~~ photographs taken provided as set out in this Appendix.

Note: Form 1 records whether a vessel has passed or failed the inspection or re-inspection(s). Form 2 records additional information about the vessel and any biofouling that is found. The information in Form 2 is not used to determine whether the inspection is passed or failed.

- (b) ~~Where an approved~~ The person approved inspector who undertakes an inspection, ~~that person is to~~ must provide complete the completed inspection forms, and videos and photographs Forms 1 and 2 in full and provide the completed Forms, and photographs as required by this Appendix to the vessel operator as soon as practicable after completion of the inspection required by this Appendix to the vessel operator as soon as practicable after completion of the inspection.
- (c) Completed Forms 1 and 2 and photographs that are representative of what is seen in each listed area must be provided by the vessel operator to DOC via email to coastalplan@doc.govt.nz. Subject to the exceptions at clause 2.1(e)(i). While this Appendix requires a minimum of 3 photos to be taken of most listed areas (with some exceptions),. A lesser number may be provided to DOC if that is sufficient to be representative of what is seen in the area listed.
- (d) All photos and videos taken must be clearly labelled and cross referenced to Form 2.
- (e) All photos and videos taken must be stored for a minimum of 5 years and must be provided on request at any time within this period.

2. Inspection process

2.1 General provisions

(a) Prior to the inspection the vessel operator must provide the approved inspector with ~~a copy~~^{iesy} of ~~the General Arrangement~~ vessel schematics² ~~that to~~ identify the location and number of all niche areas on the vessel. If the vessel has a docking plan showing the arrangement and the number of dry dock support strips, that must also be provided. If for any reason those documents cannot be obtained or are invalid, the vessel operator must document a description of the arrangement to clarify presence or absence and general locations of all niche areas, and discuss this with the approved inspector. A record of all such documentation must be kept and provided on request.

(aa) The approved inspector must identify, and list on Forms 1 and 2, all niche areas on the vessel that:

(i) for an in-water inspection, are below the waterline; or

(ii) for an out-of-water inspection, are below the plimsoll line.

Appendix 4A lists common niche areas in order to assist the approved inspector to comply with this requirement. All niche areas listed in Appendix 4A that are present on the vessel must be listed on Forms 1 and 2. Where Appendix 4A lists component parts of a niche area, each component part constitutes a 'niche area' that must be listed on Forms 1 and 2. Appendix 4A is not an exhaustive list - any other niche areas on the vessel that are not in that list must be identified and listed on Forms 1 and 2.

(b) An inspection of a vessel must include all the hull areas and niche areas listed in Forms 1 and 2 (except as provided for in (ca) below). Figure A4 provides a visual representation of the hull areas listed in Forms 1 and 2. Specific requirements for inspections of these areas are set out in 3.1 and 3.2. of Appendix 4, and those forms must be completed in full. This means all niche areas on a vessel's hull that are below the waterline for an in-water inspection, or the plimsoll line for an out-of-water inspection, must be inspected as part of any inspection. If an area listed in Forms 1 and 2 is not inspected, the reason must be recorded.

Valid reasons for excluding locations on the hull that are listed in the forms could be, for example, concerns for human health and safety, risk of damage to equipment, the location not being present on the hull, or the vessel being too small for the number of locations identified in the form.

along vertical and horizontal transects of the vessel's hull and inspections of hull niche areas as set out in 2.2, 2.3 and 2.4 of this Appendix. (These areas are illustrated in Figures A4.1 and A4.2 in this Appendix.)

~~(c) — A record of the inspection results for each hull transect and for each niche area present on the hull are to be recorded on Completed Forms 1 and 2, including a record of any fouling that is removed during the inspection or re-inspection(s), are to be provided in PDF format.~~

(d) — To provide a permanent record, during any inspection or re-inspection(s) videos and photographs must be taken that are representative of what is seen along each transect of the hull and at each niche area in accordance with requirements set out in Form 2. Where any biofouling is removed during an inspection or re-inspection(s), videos and photographs must be taken that are representative of the fouled area before and after the removal of the fouling. Photographs are to be provided as a PDF report with Form 1 and Form 2.

² Indicating niche area locations and docking plan (i.e. placement of dry-docking blocks).

Photographs and videos are to be provided on request. Photographs of the hull transects must be taken at a constant distance of approximately 30 cm from the hull surface for in-water inspections, or as near to this as is practicable. Where the inspection is out-of-water, the photograph must be taken at a distance which ensures the clear depiction of what is observed. Each photograph must include a label identifying the location on the hull that the photograph depicts and a scale bar.

- (c) All reasonable attempts must be made to access and inspect all niche areas on the vessel. If the inspector determines that it is unsafe, would risk damage to equipment or is otherwise not practicable to inspect a niche area, that niche area is not required to be inspected. However, the inspector must describe the specific reason that the niche area is not being inspected on Forms 1.
- (d) Where any biofouling is removed during an inspection or reinspection(s), videos and photographs must be taken that are representative of the fouled area before and after the removal of the fouling. Photographs are to be provided as a PDF report with Form 1 and Form 2. Photographs and videos are to be provided on request. Photographs of the hull transects must be taken at a constant distance of approximately 30 cm from the hull surface for in-water inspections, or as near to this as is practicable. Where the inspection is out-of-water, the photograph must be taken at a distance which ensures the clear depiction of what is observed. Each photograph must include a label identifying the location on the hull that the photograph depicts and a scale bar.
- (e) High quality digital video footage and still photographs of all locations areas on the hull listed in Forms 1 and 2 the forms must be taken, regardless of the presence or absence of biofouling, during inspection and re-inspection if one is required. High quality means a level that allows the viewer to identify biofouling to broad taxonomic groups (e.g. barnacles, tube worms, macroalgae). Video and Pphotograph requirements are as follows:
 - i. Photographs and videos must be representative of what is seen within each listed area. Subject to the exceptions below, aA minimum of Tthree photos and a video must be taken no more than 0.5m from the hull, of each location area listed in this Forms 1 and 2 forms. A lesser number of photographs may be taken where the approved inspector determines that fewer photographs are sufficient to be representative of what is seen in that listed area. except for the For the location areas listed in Appendix 4A under "miscellaneous" or other niche areas not inspected under (c) above, where one photograph and one video are is required for each location area.
 - ii. Photographs and videos must be taken no more than 0.5m from the hull.
 - iii. The digital cameras used for gathering the evidence must be capable of time and date stamping footage or photos (i.e. the correct date and time must be on the photos). Alternatively, the time and date must be saved as properties associated with the file.
 - iv. Each photo image or video must be labelled to identify the its image's location in relation to the hull during the inspection, e.g. labels on a quadrat frame.

- v. ~~Each video must be taken at a speed slow enough for the camera to operate in low light conditions without blurring images in individual frames.~~
- v. ~~In low-visibility environments, the vessel hull approved inspector must use adequate lighting and take additional photographs and footage of targeted areas to ensure photographs and video footage are high quality.~~ ~~negate impacts on the quality of evidence.~~

Note: This may mean the approved inspector needs to take additional photographs and footage to ensure the required number of high-quality photographs and video are taken. Multiple bulb LED lights are advised to achieve the required quality.

- vi. All reasonable attempts must be made to access and survey all submerged areas as thoroughly as possible.
 - vii. Any locations on the hull listed in the forms that are not surveyed must be identified in the forms, along with the reason they were not inspected. (Valid reasons for excluding locations on the hull listed could be concerns for human health and safety, or risk of damage to equipment). If an area listed in the forms as required is not present on the hull, evidence of this should be provided in the report.)
- (f) Level of Fouling (LOF) rankings from 0-5 and cross referenced to each photograph and video are to must be provided in Form 2 by applying the criteria in Figure A4.3 below³.

Note: For practical guidance and training on how to use the LOF scale go to the Cawthron Institute "LOFeR"

³ Floerl, O.; Inglis, GJ, Haydon, B. 2005: A risk-based predictive tool to prevent accidental introduction of nonindigenous marine species. Environmental Management 35(6): 765-778. A copy is available on the relevant Department of Conservation website.

⁴ <https://cawthron.shinyapps.io/LOFeR/>

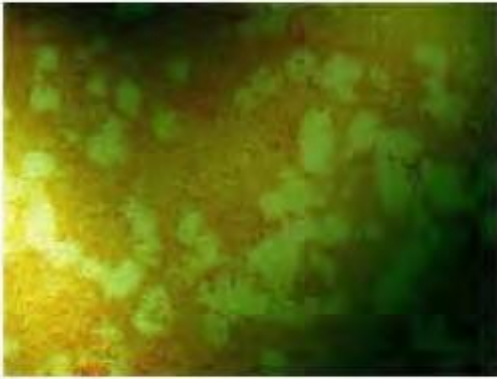
LOF rank	Criteria
0	No visible biofouling. Hull entirely clean, no slime fouling (biofilm) on any visible submerged parts of the hull.
	 
1	Hull partially or completely covered in slime fouling (biofilm). Absence of any macrofouling.
	 
2	Light biofouling. 1–5% of visible surface covered by very patchy macrofouling. Remaining area often covered in slime. Examples below show presence vs. absence of fouling in two adjacent areas of a vessel hull.
	 

Figure A4.3. Definition of the LOF ranks (ranging from 0 to 5) and example images of vessel hull surfaces of each of the different ranks (continued on next page).

LOF rank	Criteria
3	Moderate biofouling. Macrofouling clearly visible (usually > 1 species) but still patchy. 6–15% of visible hull surface covered by macrofouling. Remaining area often covered in slime.  
4	Extensive fouling. 16–40% of visible hull surface covered by macrofouling, generally with several distinct types of organisms. Remaining area often covered in slime.  
5	Very heavy fouling. 41–100% of visible hull surface covered by macrofouling, often with many distinct types of organisms. Remaining area often covered in slime.  

Figure A4.3—continued.

3. Specific Requirements for Hull Areas

3.1 Water line/plimsoll horizontal transect

- (a) A continuous horizontal transect must be inspected in general accordance with Figure A4 and this Appendix:
 - (i) for an in-water inspection, at the waterline; and
 - (ii) for an out-of-water inspection, at the plimsoll line.
- (b) The inspection must cover a width of at least 1m below the water line or plimsoll line (whichever is relevant).
- (c) Inspection results are to be recorded and photographs ~~and~~ videos taken for the corresponding hull areas listed in Forms 1 and 2 as follows:
 - (i) for the transom - each of the port, starboard and mid areas; and
 - (ii) for the port and starboard – each of the stern, amidship and bow areas.

3.2 Vertical deep and flat bottom

- (a) The vertical deep and flat bottom areas of the hull must be inspected in general accordance with Figure A4 and this Appendix.
- (b) Inspections results are to be recorded and photographs ~~and~~ videos taken for the corresponding hull areas listed in Forms 1 and 2 as follows:
 - (i) for the port and starboard - each of the stern, amidship and bow areas.

~~2.2 Vertical stern transects~~

- ~~(a) Two vertical transects are to be inspected at the stern: one on the port and one on the starboard side.~~
- ~~(b) The vertical transects should generally be situated approximately 5m from the stern, where the hull curves inwards.~~
- ~~(c) The width of observation along each transect shall be at least 1 metre.~~

~~2.3 Horizontal transects~~

- ~~(a) Two horizontal transects are to be inspected along the entire length of the vessel: one on the port and one on the starboard side.~~
- ~~(b) The width of observation along each transect shall be from the waterline for an in-~~
~~water inspection, or the Plimsoll line for an out-of-water inspection, to at least 1 metre below those lines.~~
- ~~(c) Inspection results are to be recorded for the horizontal transect in three separate parts (the stern, amidship and bow), for each side of the vessel.~~

~~2.4 Niche areas~~

~~(a) — All niche areas that are below the waterline for an in-water inspection, or the plimsoll line for an out-of-water inspection, on a vessel's hull must be inspected as part of any inspection.~~

~~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.~~

~~2.523.3~~ 2.523.3 Opportunistic observations - biofouling in other areas

- (a) During an inspection or re-inspection(s) if the inspector observes any biofouling in any location other than the required hull areas ~~transects~~ and niche areas, this must be recorded on Forms 1 and 2 and photographs ~~and video~~ must be taken that are representative of the fouled area in the manner described in 2.1(~~ee~~) ~~and 2.1(d)~~.

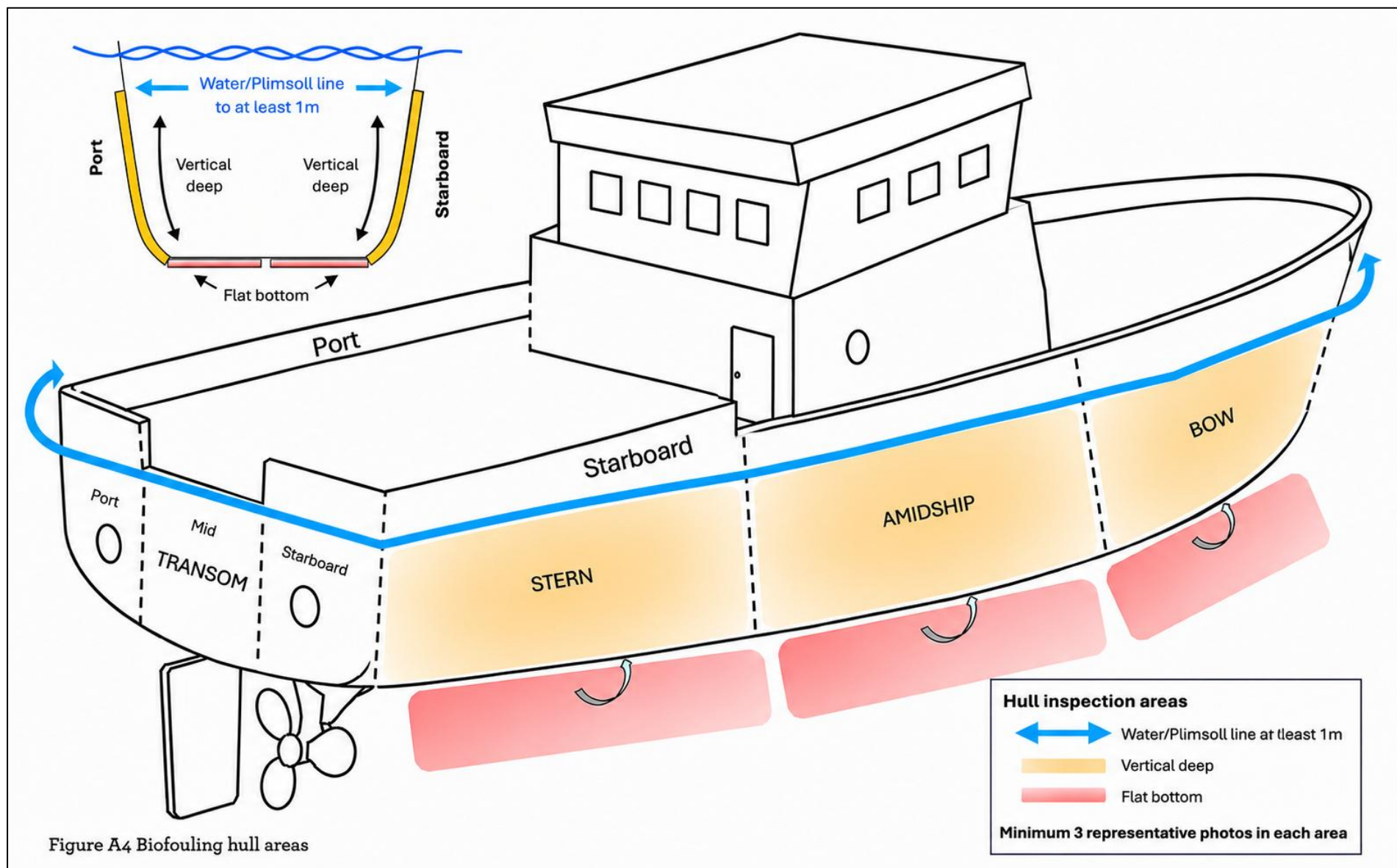


Figure A4 Biofouling hull areas

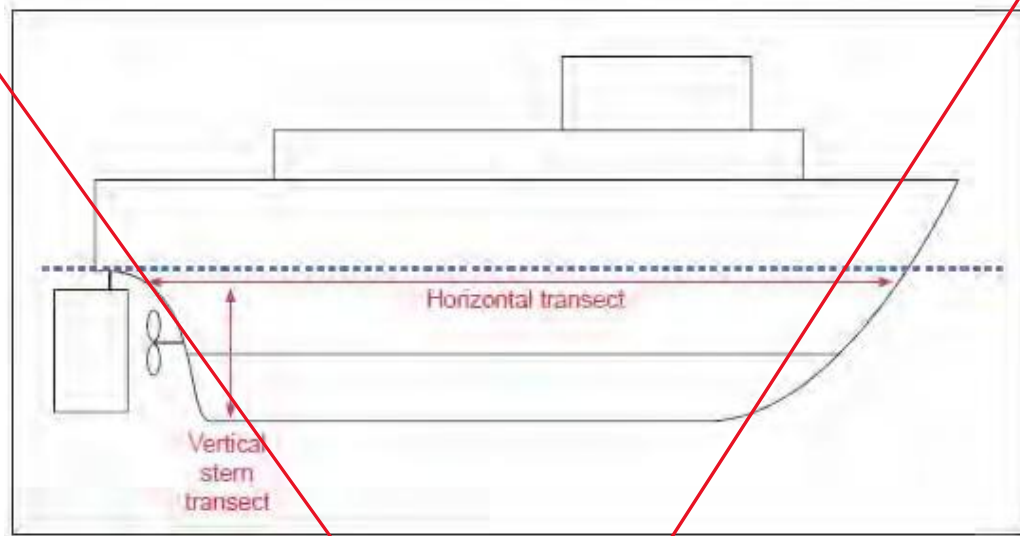


Figure A4.1. Biofouling inspection of general hull areas using vertical stern transects and horizontal transects of both port and starboard areas.

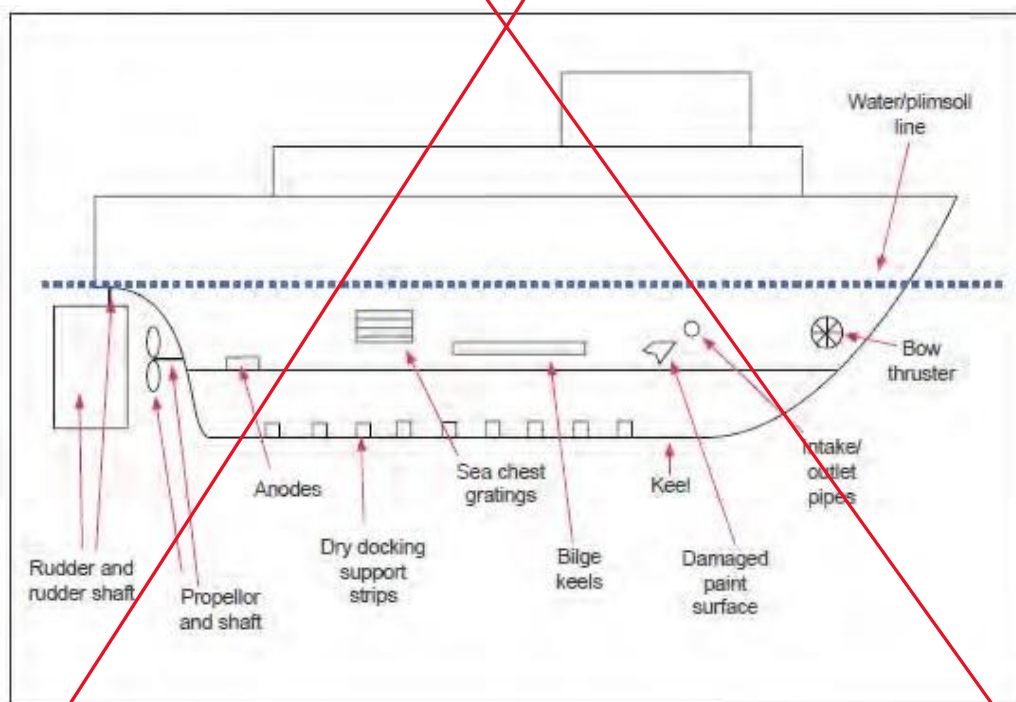


Figure A4.2. Biofouling inspection of niche areas.

Appendix 4: FORM 2

Purpose

This Form is not to be used to determine whether the inspection is a *passed inspection* or a *failed inspection*, but it must be supplied at the same time as Form 1. Both Forms 1 and 2 and representative photographs as provided for in Appendix 4 are to be sent to coastalplan@doc.govt.nz. Other photographs [and videos](#) that have been taken in accordance with Appendix 4 are to be provided on request.

The purpose of Form 2 is to record information at the time of inspection to assist vessel operators to comply with Performance Standards 1.2 and 1.3 (in particular). It will also assist any vessel operator who fails an inspection to undertake a risk assessment for an application as a controlled activity, or to make an application as a discretionary activity.

Appendix 4: FORM 2						
Total number of photos taken		Total number of videos taken		Explanation of reference system used for photos and videos		
LOCATION ON VESSEL	AREA (hull or niche area)	Photo/video references Minimum of 3 photos required per area inspected Video required	Mode-LOF rank (0–5)	Range (min-max) LOF rank (0–5)	DESCRIPTION OF BIOFOULING – i.e., algae, barnacles, encrusting, etc. (Note this is a generic description only – it does not require a precise scientific description by taxa) <i>If an area listed in this form has not been inspected the specific reasons why must be recorded in Form 1.</i>	Condition of anti-fouling coating (good, fair, damaged, depleted)
Hull Waterline /Plimsoll - horizontal transect						

Transom	Port water/plimsoll line – to at least 1m below					
Transom	Mid water/plimsoll line – to at least 1m below					
Transom	Stbd water/plimsoll line – to at least 1m below					
Stern	Hull stbd water/plimsoll line – to at least 1m below					
Amidship	Hull stbd water/plimsoll line – to at least 1m below					
Bow	Hull stbd water/plimsoll line – to at least 1m below					
Bow	Hull port water/plimsoll line – to at least 1m below					
Amidship	Hull port water/plimsoll line – to at least 1m below					
Stern	Hull port water/plimsoll line – to at least 1m below					
Other Hull Areas						

Stern	Hull stbd vertical deep					
Stern	Hull stbd flat-bottom					
Stern	Hull port flat-bottom					
Stern	Hull port vertical deep					
Amidship	Hull stbd vertical deep					
Amidship	Hull stbd flat-bottom					
Amidship	Hull port flat-bottom					
Amidship	Hull port vertical deep					
Bow	Hull stbd vertical deep					
Bow	Hull stbd flat-bottom					
Bow	Hull port flat-bottom					
Bow	Hull port vertical deep					
All Niche Areas List: (a) each niche area from Appendix 4A that is relevant to this vessel; and (b) all other niche areas on the vessel not listed in Appendix 4A. For the purposes of listing niche areas below, “stern” includes the transom.						
Stern - Port						
Stern - Stbd						

Amidship - Port						
Amidship - Stbd						
Bow - Port						
Bow - Stbd						
Opportunistic observations						
<i>Add rows as required</i>						

Table 1 Performance Standards referred to in Rules 29 to 32 - from PC 1

Standard number	Performance Standards referred to in Rules 29 to 32						
1	FOULING THRESHOLDS 1.1 Fouling threshold for inspections For any inspection conducted in accordance with Performance Standard 2 the degree of vessel biofouling must not exceed micro-fouling (slime layer) and/or goose barnacles. 1.2 Fouling threshold at other times Prior to each departure from port to the Kermadec or Subantarctic Islands the vessel operator must be satisfied on the basis of all the available information required by Performance Standards 1.3 and 2.3, that for the areas included in the table in this performance standard, the biofouling will not exceed the following threshold while that vessel is within 0.54nm (1000m) of MHWS of any of the Islands: <table border="1" data-bbox="369 726 2049 1257"> <thead> <tr> <th data-bbox="369 726 542 817">Area of vessel</th><th data-bbox="542 726 2049 817">Biofouling threshold</th></tr> </thead> <tbody> <tr> <td data-bbox="369 817 542 981">Hull area</td><td data-bbox="542 817 2049 981"> (a) Micro-fouling (slime layer) and/or goose barnacles (b) Incidental (maximum of 1%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: (i) isolated individuals or small clusters that have no algal overgrowth; and (ii) a single species, or what appears to be the same species. </td></tr> <tr> <td data-bbox="369 981 542 1257">Niche areas (as identified on Figure A4.2 in Appendix 4)</td><td data-bbox="542 981 2049 1257"> (a) Micro-fouling (slime layer) and/or goose barnacles (b) Scattered (maximum of 5%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: i. widely spaced individuals and/or infrequent, patchy clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species; and (c) Incidental (maximum of 1%) coverage of a second organism type of either tubeworms, bryozoans or barnacles, occurring as: i. isolated individuals or small clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species. </td></tr> </tbody> </table> Note 1: Where it is not practicable to access a niche area, the assessment for the purpose of Performance Standard 1.2 is to be done on the basis of information that is available for that niche area, without requiring any access beyond what is practicable.	Area of vessel	Biofouling threshold	Hull area	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Incidental (maximum of 1%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: (i) isolated individuals or small clusters that have no algal overgrowth; and (ii) a single species, or what appears to be the same species.	Niche areas (as identified on Figure A4.2 in Appendix 4)	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Scattered (maximum of 5%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: i. widely spaced individuals and/or infrequent, patchy clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species; and (c) Incidental (maximum of 1%) coverage of a second organism type of either tubeworms, bryozoans or barnacles, occurring as: i. isolated individuals or small clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species.
Area of vessel	Biofouling threshold						
Hull area	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Incidental (maximum of 1%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: (i) isolated individuals or small clusters that have no algal overgrowth; and (ii) a single species, or what appears to be the same species.						
Niche areas (as identified on Figure A4.2 in Appendix 4)	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Scattered (maximum of 5%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: i. widely spaced individuals and/or infrequent, patchy clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species; and (c) Incidental (maximum of 1%) coverage of a second organism type of either tubeworms, bryozoans or barnacles, occurring as: i. isolated individuals or small clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species.						

	Note 2: For the purpose of Performance Standard 1.2, the information which the vessel operator will consider is that previously obtained pursuant to Performance Standard 2.3, following completed inspections which have been required by Rule 29B. This information does not require any inspections in addition to those previously undertaken pursuant to Rule 29B. 1.3 Record keeping (for Performance Standard 1.2) (a) The vessel operator must maintain records of measures undertaken and information on which they have relied when determining compliance with Performance Standard 1.2. Where requested, the record is to be provided to the relevant Department of Conservation Director as soon as practicable but no later than 7 days after the date(s) requested. (b) Where a vessel is operating pursuant to Rule 29B(b) with a BEFMP and a BRB, provision of the BEFMP and BRB will constitute compliance with Performance Standard 1.3.
2	<i>INSPECTION REQUIREMENTS</i> (relating to Performance Standard 1.1) 2.1 Appendix 4 All inspections of vessels which are undertaken to demonstrate compliance with Performance Standard 1.1 must be undertaken in accordance with Appendix 4. 2.2 Approved Persons <u>Approved Inspector inspection requirements</u> Inspections must be undertaken by a person approved by the Minister of Conservation pursuant to Appendix 5. Inspections must be undertaken by an inspector approved by the Minister of Conservation pursuant to Appendix 5. Both Forms 1 and 2 from Appendix 4 (available to be downloaded from the DOC webpage for this Regional Coastal Plan) must be fully completed and videos and photographs as required by Appendix 4 taken by the approved inspector and provided with video and photographs. 2.3 Reporting Where an approved person undertakes an inspection, <u>The vessel operator is to provide the completed inspection forms and information required by Appendix 4 to the relevant Department of Conservation Director via email to coastalplan@doc.govt.nz as soon as practicable after completion of the inspection, but in all circumstances at least 48 hours</u> before access within 0.54nm (1000m) of MHWS of any of the Islands.
3	<i>ANTI-FOULING SYSTEM</i> 3.1 Anti-fouling system Vessels must have <u>a valid IMO Anti-fouling Certificate</u> an anti-fouling system applied in accordance with the manufacturer's instructions, and the anti-fouling system must be within the manufacturer's timeframe of effectiveness at all times the vessel is within 0.54nm (1000m) of MHWS of any of the Islands.

	3.2 Evidence of an anti-fouling system less than 6 months old Where a vessel's anti-fouling system is less than 6 months old, evidence of that the vessel's <u>valid IMO Anti-fouling Certificate</u>, anti-fouling system and date of application must be provided to the relevant Department of Conservation Director <u>via email to coastalplan@doc.govt.nz at least 48 hours</u> before that vessel accesses within 0.54nm (1000m) of MHWS of any of the Islands. <u>3.3 Vessels that are not required to have an IMO Anti-fouling Certificate</u> <u>For the purposes of Performance Standards 3.1 and 3.2, vessels that are not required to have an IMO Anti-fouling Certificate must provide evidence of an anti-fouling system and its date of application.</u>
4	BERTHING, ANCHORING OR MOORING (MORE THAN 7 DAYS) 4.1 Berthing, anchoring or mooring for more than 7 consecutive days Where any vessel's anti-fouling system is more than 3 months old and that vessel berths, anchors or moors in any locality, domestic or international, other than any of the islands, for more than 7 consecutive days: (a) for the 56 days following departure from that locality, that vessel may access within 0.54nm (1000m) of MHWS of any of the islands; AND (b) after the expiration of that 56 day period, that vessel must demonstrate compliance with Performance Standard 1.1 by inspection in accordance with Performance Standard 2 before that vessel next accesses within 0.54nm (1000m) of MHWS of any of the islands. Note: For the avoidance of doubt, notwithstanding this Performance Standard, Performance Standards 1.2, 1.3 and Rule 1 continue to apply.

Before the Independent Hearings Panel
At Department of Conservation

Under the Resource Management Act 1991 (**RMA** or **Act**)

In the matter of Proposed Plan Change 1 to the Regional Coastal Plan:
Kermadec and Subantarctic

**Memorandum of Counsel on behalf of Seaeagle Fishing Limited –
response to without prejudice material**

18 September 2026

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**anderson
lloyd.**

Introduction

- 1 This memorandum of Counsel is provided on behalf of Seaeagle Fishing Limited (**Seaeagle**) in response to the amended without prejudice material received from the Department of Conservation (**DOC**) on Friday, 4 September 2026.
- 2 Seaeagle considers that positive progress has been made through the without prejudice negotiations and appreciates DOC's efforts towards reaching a resolution.
- 3 Seaeagle supports several of DOC's proposed amendments, including clarification of the inspection requirements for niche areas, simplification of the forms, reintroduction of the approved inspector regime, removal of the PDF reporting requirement, and clarification of photograph storage requirements.
- 4 Notwithstanding this progress, Seaeagle considers that some further amendments are required to Appendix 4. In particular:
 - (a) the requirements for video footage should be removed, as they would be onerous and costly, would create significant reporting and storage obligations, and would not improve biosecurity outcomes where the information required by the forms can be adequately addressed through photographs; and
 - (b) a lesser number than three photographs should be permitted where the approved inspector using their skill and experience considers that fewer photographs are sufficient to be representative of what is seen in the listed area.
- 5 To assist with progressing this matter, **attached** as **Appendix A** is Seaeagle's proposed amendments to the without prejudice material. For clarity, the further amendments proposed by Seaeagle are marked in [blue](#).

Removal of video requirements

- 6 Seaeagle considers that the video requirements in Appendix 4 should be removed. The requirement would be onerous and costly for approved inspectors and vessel operators, both during the inspection itself and in relation to the associated reporting and storage of video footage. Seaeagle has indicated that each inspection could generate approximately 1.2 to 1.5 hours of video footage, equating to approximately 25 GB of storage. Those additional requirements are not justified where the proposed forms already require photographic evidence of the relevant listed areas.

- 7 It is also unclear how video footage is intended to be applied against Forms 1 and 2. The forms require the relevant locations to be assessed and documented by reference to photographs, including photographs that identify the Level of Fouling (**LOF**) rankings for the relevant areas. No additional information will be required beyond what is contained in those photographs. In that context, video footage would duplicate the proposed photographic record, without providing any clear additional benefit for assessing compliance with the relevant biosecurity performance standards.
- 8 It would also be difficult to use the video footage to assess the condition of each listed area. Forms 1 and 2 are area-based and require LOF rankings to be cross-referenced to photographs. It is unclear how continuous video footage would be used for that purpose, including whether DOC would review the full footage, selected segments, or still frames. Video is also less readily reviewable than labelled photographs, given potential variation in angle, distance and speed. Photographs provide a fixed, labelled record that can be directly cross-referenced to the relevant listed area and LOF ranking.
- 9 The requirement for video footage is therefore not supported by any clear biosecurity outcome. If DOC's purpose is to ensure that the condition of the relevant areas is adequately recorded, that purpose is met by the photographic requirements. Photographs provide the relevant evidence required by the forms and enable the condition of each listed area to be assessed in a fixed and readily reviewable format. Requiring additional video footage would add materially to the inspection and compliance burden, without improving the reliability or usefulness of the information provided to DOC.
- 10 For those reasons, the proposed video requirements would add unnecessary time, cost, complexity, and storage obligations for approved inspectors and vessel operators, without improving biosecurity outcomes. The requirement for video footage should therefore be removed.

Amendments to required number of photographs

- 11 Seaeagle's further amendments set out at Appendix A introduce an express exception to the default requirement that three photographs be taken of each listed area in Forms 1 and 2. This change is made in two places in Appendix 4: clause 1.3(c), which addresses the material to be provided to DOC, and clause 2.1(e)(i), which sets out the number of photographs required for each listed area, with consequential changes made to Form 2.
- 12 Under those amendments, three photographs remain appropriate as the default requirement for most listed areas. However, there should be

flexibility for fewer photographs where, using their skill and experience, the approved inspector determines that a lesser number is sufficient to be representative of the relevant listed area.

- 13 That approach is appropriate because the discretion is exercised by an approved inspector, who is required to have the relevant skill and competence to undertake the inspection and assess what photographic evidence is necessary. It preserves DOC's ability to receive representative photographic evidence, while avoiding an overly rigid requirement to take three photographs in circumstances where the approved inspector has determined that a lesser number will be representative of the listed area.
- 14 It would also reduce unnecessary duplication, shorten the time required to complete and document inspections, reduce storage and review burdens, and help DOC, approved inspectors and vessel operators focus on the photographs most relevant to assessing the condition of each listed area.
- 15 In relation to the number of required photographs, no further changes are proposed to the existing drafting for areas listed in Appendix 4A under "miscellaneous", or other niche areas not inspected under clause 2.1(c), where one photograph remains required for each area.

Conclusion

- 16 Seaeagle's further amendments are targeted, practical and remain consistent with the purpose of the inspection and reporting regime. They remove the proposed video requirements because they would impose unnecessary time, cost and storage obligations, are unclear in how they would be applied against Forms 1 and 2, and would not improve biosecurity outcomes. They also provide appropriate flexibility for fewer than three photographs to be supplied where the approved inspector determines, using their skill and experience, that a lesser number is sufficient to be representative of the applicable listed area.

Dated this 18th day of September 2026



Maree Baker-Galloway / Conor Meredith
Counsel for Seaeagle Fishing Limited

Appendix A – amended without prejudice material

Appendix 4

Vessel hull and niche area inspection - requirements, method and forms

Note: All references in this Appendix to Performance Standards are references to the Performance Standards in Table 1.

This Appendix sets out the inspection process to be followed in Performance Standard 2 to satisfy the requirements of Performance Standard 1.1¹

1. Inspection Overview

1.1 General provisions

- (a) Inspections can be undertaken either out-of-water or in-water.
- (b) Inspections must be undertaken ~~by a person approved by the Minister of Conservation~~ by an inspector approved by the Minister of Conservation (“approved inspector” see Appendix 5) in accordance with Performance Standard 2. ~~2 to conduct the type of inspection being undertaken (see Appendix 5).~~
- (c) Inspections must follow the process set out in this Appendix.

Note: It is recommended that the relevant Department of Conservation Director is advised [via email to coastalplan@doc.govt.nz](mailto:coastalplan@doc.govt.nz) in advance of any inspection to avoid the risk of delay, particularly where the inspection may be complex or the vessel is at particular risk.

1.2 Inspection results

- (a) An inspection is a *passed inspection* when that inspection follows the methodology set out in this Appendix and demonstrates compliance with Performance Standard 1.1.
- (b) An inspection is a *failed inspection* when that inspection follows the methodology set out in this Appendix and Performance Standard 1.1 is not complied with.
- (c) Where a failed inspection occurs, *re-inspection(s)* may be undertaken over a 7 day period from the date of the original failed inspection. Re-inspection(s) shall be confined to the area(s) of the hull, including any niche areas, that failed the original inspection.
- (d) Hull cleaning may be undertaken during an inspection and/or during or prior to any re-inspection(s).⁴¹

¹ The inspection, sampling and reporting protocols included in this appendix are based on recommendations from Floerl, O.; Wilkens, S.; Inglis, G. 2010: Development of a template for vessel hull inspections and assessment of biosecurity risks to the Kermadec and sub-Antarctic Islands regions. NIWA.

⁴¹ Note that any in-water cleaning can only be undertaken in compliance with the relevant regional coastal plan for the region.

- (e) Where any re-inspection occurs more than 7 days after the original failed inspection, a new inspection of the entire vessel shall be undertaken.
- (f) ~~Notwithstanding Performance Standard 1, where a vessel operator is undertaking an activity lawfully established prior to notification of this plan and the vessel fails an inspection prior to 1 April 2018, that vessel operator may access within 0.54nm~~

~~(1000m) of MHWS of any of the islands, provided that the vessel operator takes all reasonable steps to remove any identified macro fouling and having regard to the provisions of section 17 of the RMA, minimises any actual or potential adverse effects of that macro fouling on the island environments addressed by this plan. For the avoidance of doubt, the inspection process otherwise required by rule 29B must still be carried out, Forms 1 and 2 completed and provided in accordance with Performance Standard 2.3.~~

1.3 Record of inspection

- (a) Inspection results, including re-inspection results, are to be recorded in Forms 1 and 2 ~~and in PDF format~~, and ~~representative photographs taken video and~~ photographs taken provided as set out in this Appendix.

Note: Form 1 records whether a vessel has passed or failed the inspection or re-inspection(s). Form 2 records additional information about the vessel and any biofouling that is found. The information in Form 2 is not used to determine whether the inspection is passed or failed.

- (b) ~~Where an approved~~ The person approved inspector who undertakes an inspection, ~~that person is to~~ must provide complete the completed inspection forms, and videos and photographs Forms 1 and 2 in full, required by this Appendix to the vessel operator as soon as practicable after completion of the inspection.
- (c) Completed Forms 1 and 2 and photographs that are representative of what is seen in each listed area must be provided to DOC via email to coastalplan@doc.govt.nz. Subject to the exceptions at clause 2.1(e)(i). While this Appendix requires a minimum of 3 photos to be taken of most listed areas (with some exceptions). A lesser number may be provided to DOC if that is sufficient to be representative of what is seen in the area listed.
- (d) All photos and videos taken must be clearly labelled and cross referenced to Form 2.
- (e) All photos and videos taken must be stored for a minimum of 5 years and must be provided on request at any time within this period.

2. Inspection process

2.1 General provisions

- (a) Prior to the inspection the vessel operator must provide the approved inspector with ~~a copy~~² iesy of ~~the General Arrangement vessel schematics~~² that to identify the location and number of all niche areas on the vessel. If the vessel has a docking plan showing the arrangement and the number of dry dock support strips, that must also be provided. ~~If for any reason those~~

² Indicating niche area locations and docking plan (i.e. placement of dry-docking blocks).

documents cannot be obtained or are invalid, the vessel operator must document a description of the arrangement to clarify presence or absence and general locations of all niche areas, and discuss this with the approved inspector. A record of all such documentation must be kept and provided on request.

(aa) The approved inspector must identify, and list on Forms 1 and 2, all niche areas on the vessel that:

(i) for an in-water inspection, are below the waterline; or

(ii) for an out-of-water inspection, are below the plimsoll line.

Appendix 4A lists common niche areas in order to assist the approved inspector to comply with this requirement. All niche areas listed in Appendix 4A that are present on the vessel must be listed on Forms 1 and 2. Where Appendix 4A lists component parts of a niche area, each component part constitutes a 'niche area' that must be listed on Forms 1 and 2. Appendix 4A is not an exhaustive list - any other niche areas on the vessel that are not in that list must be identified and listed on Forms 1 and 2.

(b) An inspection of a vessel must include **all the hull areas and niche areas listed in Forms 1 and 2 (except as provided for in (ca) below).** Figure A4 provides a visual representation of the hull areas listed in Forms 1 and 2. Specific requirements for inspections of these areas are set out in 3.1 and 3.2. of Appendix 4, and those forms must be completed in full. This means all niche areas on a vessel's hull that are below the waterline for an in-water inspection, or the plimsoll line for an out-of-water inspection, must be inspected as part of any inspection. If an area listed in Forms 1 and 2 is not inspected, the reason must be recorded.

Valid reasons for excluding locations on the hull that are listed in the forms could be, for example, concerns for human health and safety, risk of damage to equipment, the location not being present on the hull, or the vessel being too small for the number of locations identified in the form.

along vertical and horizontal transects of the vessel's hull and inspections of hull niche areas as set out in 2.2, 2.3 and 2.4 of this Appendix. (These areas are illustrated in Figures A4.1 and A4.2 in this Appendix.)

~~(c) — A record of the inspection results for each hull transect and for each niche area present on the hull are to be recorded on Completed Forms 1 and 2, including a record of any fouling that is removed during the inspection or re-inspection(s), are to be provided in PDF format.~~

~~(d) — To provide a permanent record, during any inspection or re-inspection(s) videos and photographs must be taken that are representative of what is seen along each transect of the hull and at each niche area in accordance with requirements set out in Form 2. Where any biofouling is removed during an inspection or re-inspection(s), videos and photographs must be taken that are representative of the fouled area before and after the removal of the fouling. Photographs are to be provided as a PDF report with Form 1 and Form 2. Photographs and videos are to be provided on request. Photographs of the hull transects must be taken at a constant distance of approximately 30 cm from the hull surface for in-water inspections, or as near to this as is practicable. Where the inspection is out of water, the photograph must be taken at a distance which ensures the clear depiction of what is observed. Each photograph must include a label identifying the location on the hull that the photograph depicts and a scale bar.~~

- (c) All reasonable attempts must be made to access and inspect all niche areas on the vessel. If the inspector determines that it is unsafe, would risk damage to equipment or is otherwise not practicable to inspect a niche area, that niche area is not required to be inspected. However, the inspector must describe the specific reason that the niche area is not being inspected on Forms 1.
- (d) Where any biofouling is removed during an inspection or reinspection(s), videos and photographs must be taken that are representative of the fouled area before and after the removal of the fouling. Photographs are to be provided as a PDF report with Form 1 and Form 2. Photographs and videos are to be provided on request. Photographs of the hull transects must be taken at a constant distance of approximately 30 cm from the hull surface for in-water inspections, or as near to this as is practicable. Where the inspection is out-of-water, the photograph must be taken at a distance which ensures the clear depiction of what is observed. Each photograph must include a label identifying the location on the hull that the photograph depicts and a scale bar.
- (e) High quality digital video footage and still photographs of all locations areas on the hull listed in Forms 1 and 2 the forms must be taken, regardless of the presence or absence of biofouling, during inspection and re-inspection if one is required. High quality means a level that allows the viewer to identify biofouling to broad taxonomic groups (e.g. barnacles, tube worms, macroalgae). Video and Pphotograph requirements are as follows:
- i. Photographs and videos must be representative of what is seen within each listed area. Subject to the exceptions below, aA minimum of Tthree photos and a video must be taken no more than 0.5m from the hull, of each location area listed in this Forms 1 and 2 forms. A lesser number of photographs may be taken where the approved inspector determines that fewer photographs are sufficient to be representative of what is seen in that listed area. except for the For the location areas listed in Appendix 4A under "miscellaneous" or other niche areas not inspected under (c) above, where one photograph and one video are is required for each location-area.
 - ii. Photographs and videos must be taken no more than 0.5m from the hull.
 - iii. The digital cameras used for gathering the evidence must be capable of time and date stamping footage or photos (i.e. the correct date and time must be on the photos). Alternatively, the time and date must be saved as properties associated with the file.
 - iv. Each photo image or video must be labelled to identify the its image's location in relation to the hull during the inspection, e.g. labels on a quadrat frame.
 - v. Each video must be taken at a speed slow enough for the camera to operate in low-light conditions without blurring images in individual frames.
 - v. In low-visibility environments, the vessel hull approved inspector must use adequate lighting and take additional photographs and footage of targeted areas to ensure photographs and video footage are high quality negate impacts on the quality of evidence.

Note: This may mean the approved inspector needs to take additional photographs ~~and~~ footage to ensure the required number of high-quality photographs ~~and video~~ are taken. Multiple bulb LED lights are advised to achieve the required quality.

- ~~vi.~~ All reasonable attempts must be made to access and survey all submerged areas as thoroughly as possible.
- ~~vii.~~ Any locations on the hull listed in the forms that are not surveyed must be identified in the forms, along with the reason they were not inspected. (Valid reasons for excluding locations on the hull listed could be concerns for human health and safety, or risk of damage to equipment). If an area listed in the forms as required is not present on the hull, evidence of this should be provided in the report.)

- (f) Level of Fouling (LOF) rankings from 0-5 and cross referenced to each photograph and video are to must be provided in Form 2 by applying the criteria in Figure A4.3 below³.

Note: For practical guidance and training on how to use the LOF scale go to the Cawthron Institute "LOFeR"⁴.

³ Floerl, O.; Inglis, GJ, Haydon, B. 2005: A risk-based predictive tool to prevent accidental introduction of nonindigenous marine species. *Environmental Management* 35(6): 765-778. A copy is available on the relevant Department of Conservation website.

⁴ <https://cawthron.shinyapps.io/LOFeR/>

LOF rank	Criteria
0	No visible biofouling. Hull entirely clean, no slime fouling (biofilm) on any visible submerged parts of the hull.
	 
1	Hull partially or completely covered in slime fouling (biofilm). Absence of any macrofouling.
	 
2	Light biofouling. 1–5% of visible surface covered by very patchy macrofouling. Remaining area often covered in slime. Examples below show presence vs. absence of fouling in two adjacent areas of a vessel hull.
	 

Figure A4.3. Definition of the LOF ranks (ranging from 0 to 5) and example images of vessel hull surfaces of each of the different ranks (continued on next page).

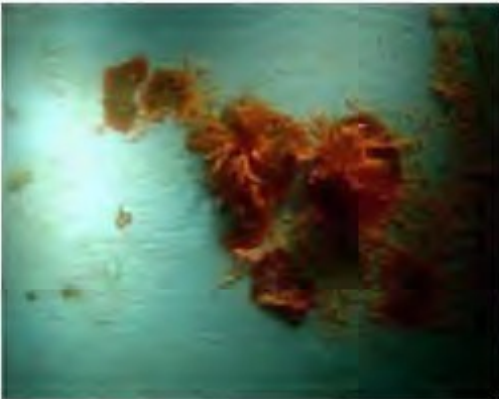
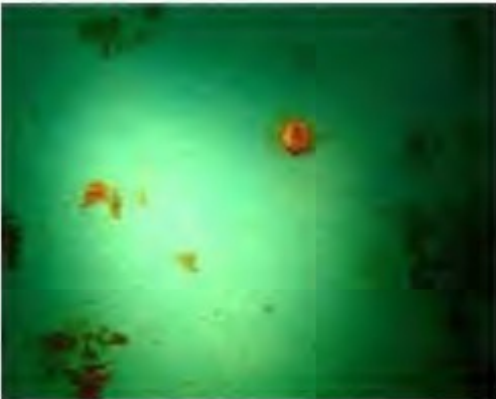
LOF rank	Criteria
3	Moderate biofouling. Macrofouling clearly visible (usually > 1 species) but still patchy. 6–15% of visible hull surface covered by macrofouling. Remaining area often covered in slime.
	
4	Extensive fouling. 16–40% of visible hull surface covered by macrofouling, generally with several distinct types of organisms. Remaining area often covered in slime.
	
5	Very heavy fouling. 41–100% of visible hull surface covered by macrofouling, often with many distinct types of organisms. Remaining area often covered in slime.
	

Figure A4.3—continued.

3. Specific Requirements for Hull Areas

3.1 Water line/plimsoll horizontal transect

- (a) A continuous horizontal transect must be inspected in general accordance with Figure A4 and this Appendix:
 - (i) for an in-water inspection, at the waterline; and
 - (ii) for an out-of-water inspection, at the plimsoll line.
- (b) The inspection must cover a width of at least 1m below the water line or plimsoll line (whichever is relevant).
- (c) Inspection results are to be recorded and photographs ~~and~~ videos taken for the corresponding hull areas listed in Forms 1 and 2 as follows:
 - (i) for the transom - each of the port, starboard and mid areas; and
 - (ii) for the port and starboard – each of the stern, amidship and bow areas.

3.2 Vertical deep and flat bottom

- (a) The vertical deep and flat bottom areas of the hull must be inspected in general accordance with Figure A4 and this Appendix.
- (b) Inspections results are to be recorded and photographs ~~and~~ videos taken for the corresponding hull areas listed in Forms 1 and 2 as follows:
 - (i) for the port and starboard - each of the stern, amidship and bow areas.

~~2.2 Vertical stern transects~~

- ~~(a) Two vertical transects are to be inspected at the stern: one on the port and one on the starboard side.~~
- ~~(b) The vertical transects should generally be situated approximately 5m from the stern, where the hull curves inwards.~~
- ~~(c) The width of observation along each transect shall be at least 1 metre.~~

~~2.3 Horizontal transects~~

- ~~(a) Two horizontal transects are to be inspected along the entire length of the vessel: one on the port and one on the starboard side.~~
- ~~(b) The width of observation along each transect shall be from the waterline for an in-~~
~~water inspection, or the Plimsoll line for an out-of-water inspection, to at least 1 metre below those lines.~~
- ~~(c) Inspection results are to be recorded for the horizontal transect in three separate parts (the stern, amidship and bow), for each side of the vessel.~~

~~2.4 Niche areas~~

~~(a) — All niche areas that are below the waterline for an in-water inspection, or the plimsoll line for an out-of-water inspection, on a vessel's hull must be inspected as part of any inspection.~~

~~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.~~

~~2.523.3~~ 2.523.3 Opportunistic observations - biofouling in other areas

- (a) During an inspection or re-inspection(s) if the inspector observes any biofouling in any location other than the required hull areas ~~transects~~ and niche areas, this must be recorded on Forms 1 and 2 and photographs ~~and video~~ must be taken that are representative of the fouled area in the manner described in 2.1(~~ee~~) ~~and 2.1(d)~~.

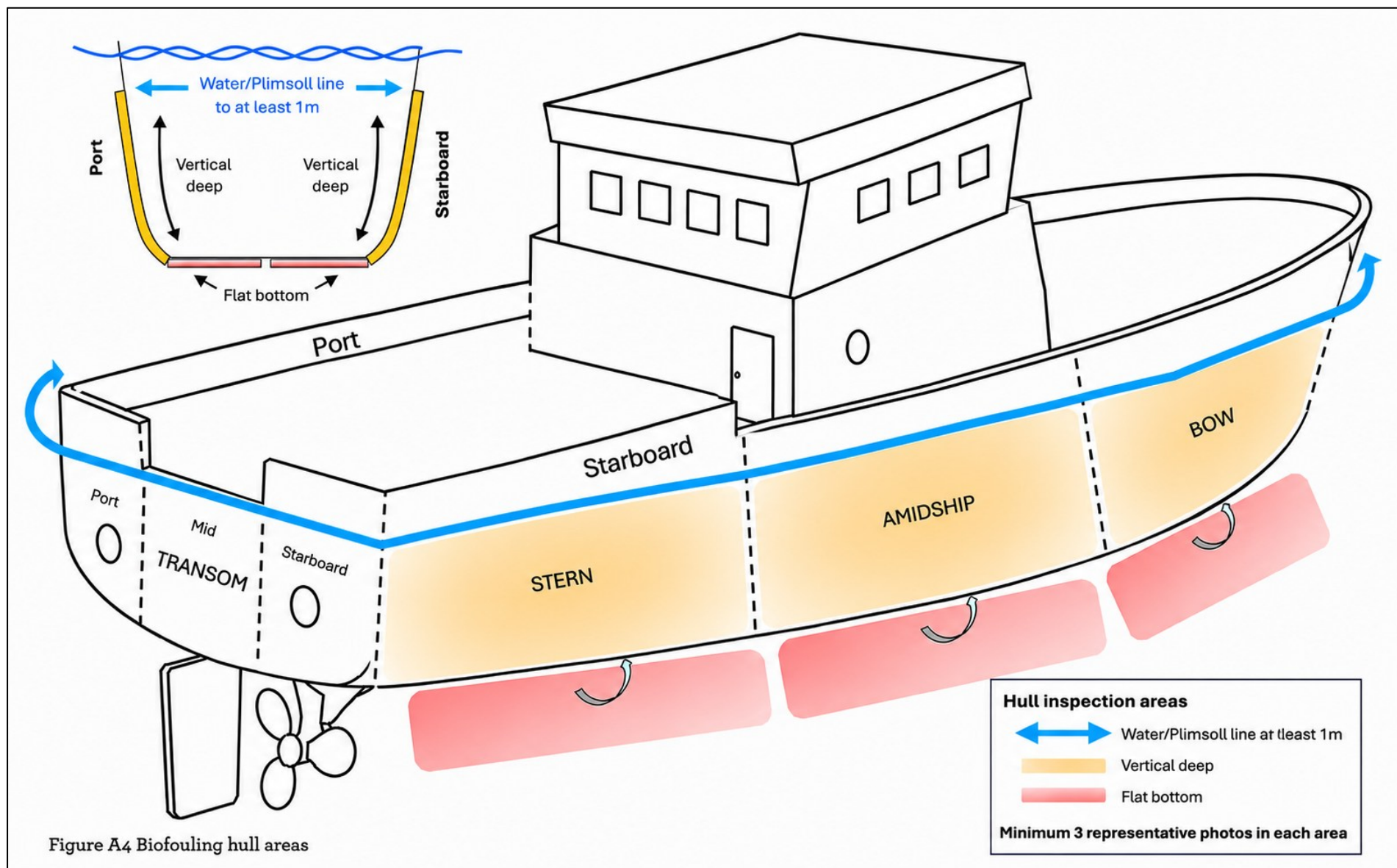


Figure A4 Biofouling hull areas

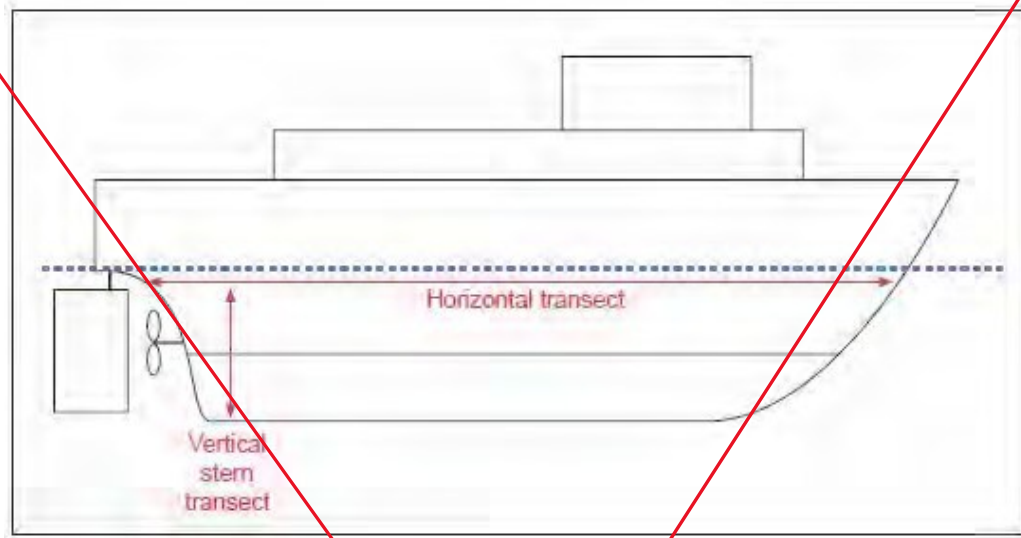


Figure A4.1. Biofouling inspection of general hull areas using vertical stern transects and horizontal transects of both port and starboard areas.

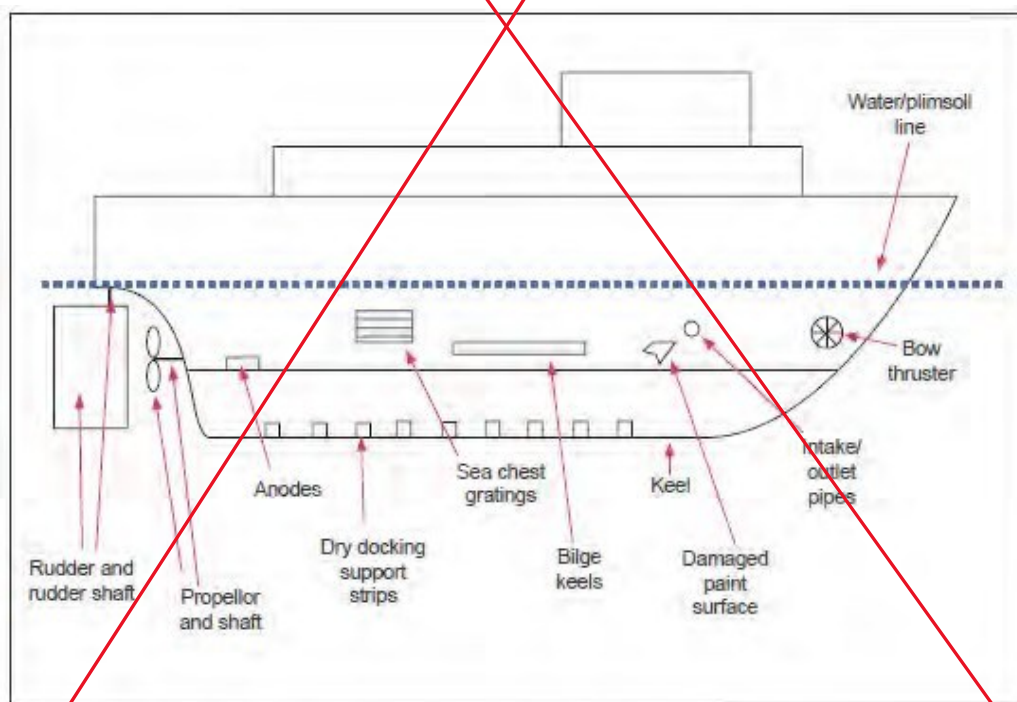


Figure A4.2. Biofouling inspection of niche areas.

Appendix 4: FORM 2

Purpose

This Form is not to be used to determine whether the inspection is a *passed inspection* or a *failed inspection*, but it must be supplied at the same time as Form 1. Both Forms 1 and 2 and representative photographs as provided for in Appendix 4 are to be sent to coastalplan@doc.govt.nz. Other photographs [and videos](#) that have been taken in accordance with Appendix 4 are to be provided on request.

The purpose of Form 2 is to record information at the time of inspection to assist vessel operators to comply with Performance Standards 1.2 and 1.3 (in particular). It will also assist any vessel operator who fails an inspection to undertake a risk assessment for an application as a controlled activity, or to make an application as a discretionary activity.

Appendix 4: FORM 2						
Total number of photos taken		Total number of videos taken		Explanation of reference system used for photos and videos		
LOCATION ON VESSEL	AREA (hull or niche area)	Photo/video references Minimum of 3 photos required per area inspected Video required	Mode-LOF rank (0–5)	Range (min-max) LOF rank (0–5)	DESCRIPTION OF BIOFOULING – i.e., algae, barnacles, encrusting, etc. (Note this is a generic description only – it does not require a precise scientific description by taxa) <i>If an area listed in this form has not been inspected the specific reasons why must be recorded in Form 1.</i>	Condition of anti-fouling coating (good, fair, damaged, depleted)
Hull Waterline /Plimsoll - horizontal transect						

Stern	Hull stbd vertical deep					
Stern	Hull stbd flat-bottom					
Stern	Hull port flat-bottom					
Stern	Hull port vertical deep					
Amidship	Hull stbd vertical deep					
Amidship	Hull stbd flat-bottom					
Amidship	Hull port flat-bottom					
Amidship	Hull port vertical deep					
Bow	Hull stbd vertical deep					
Bow	Hull stbd flat-bottom					
Bow	Hull port flat-bottom					
Bow	Hull port vertical deep					
All Niche Areas List: (a) each niche area from Appendix 4A that is relevant to this vessel; and (b) all other niche areas on the vessel not listed in Appendix 4A. For the purposes of listing niche areas below, “stern” includes the transom.						
Stern - Port						
Stern - Stbd						

Amidship - Port						
Amidship - Stbd						
Bow - Port						
Bow - Stbd						
Opportunistic observations						
<i>Add rows as required</i>						

Table 1 Performance Standards referred to in Rules 29 to 32 - from PC 1

Standard number	Performance Standards referred to in Rules 29 to 32						
1	FOULING THRESHOLDS 1.1 Fouling threshold for inspections For any inspection conducted in accordance with Performance Standard 2 the degree of vessel biofouling must not exceed micro-fouling (slime layer) and/or goose barnacles. 1.2 Fouling threshold at other times Prior to each departure from port to the Kermadec or Subantarctic Islands the vessel operator must be satisfied on the basis of all the available information required by Performance Standards 1.3 and 2.3, that for the areas included in the table in this performance standard, the biofouling will not exceed the following threshold while that vessel is within 0.54nm (1000m) of MHWS of any of the Islands: <table border="1" data-bbox="369 726 2049 1257"> <thead> <tr> <th data-bbox="369 726 542 817">Area of vessel</th><th data-bbox="542 726 2049 817">Biofouling threshold</th></tr> </thead> <tbody> <tr> <td data-bbox="369 817 542 981">Hull area</td><td data-bbox="542 817 2049 981"> (a) Micro-fouling (slime layer) and/or goose barnacles (b) Incidental (maximum of 1%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: (i) isolated individuals or small clusters that have no algal overgrowth; and (ii) a single species, or what appears to be the same species. </td></tr> <tr> <td data-bbox="369 981 542 1257">Niche areas (as identified on Figure A4.2 in Appendix 4)</td><td data-bbox="542 981 2049 1257"> (a) Micro-fouling (slime layer) and/or goose barnacles (b) Scattered (maximum of 5%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: i. widely spaced individuals and/or infrequent, patchy clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species; and (c) Incidental (maximum of 1%) coverage of a second organism type of either tubeworms, bryozoans or barnacles, occurring as: i. isolated individuals or small clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species. </td></tr> </tbody> </table> Note 1: Where it is not practicable to access a niche area, the assessment for the purpose of Performance Standard 1.2 is to be done on the basis of information that is available for that niche area, without requiring any access beyond what is practicable.	Area of vessel	Biofouling threshold	Hull area	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Incidental (maximum of 1%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: (i) isolated individuals or small clusters that have no algal overgrowth; and (ii) a single species, or what appears to be the same species.	Niche areas (as identified on Figure A4.2 in Appendix 4)	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Scattered (maximum of 5%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: i. widely spaced individuals and/or infrequent, patchy clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species; and (c) Incidental (maximum of 1%) coverage of a second organism type of either tubeworms, bryozoans or barnacles, occurring as: i. isolated individuals or small clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species.
Area of vessel	Biofouling threshold						
Hull area	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Incidental (maximum of 1%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: (i) isolated individuals or small clusters that have no algal overgrowth; and (ii) a single species, or what appears to be the same species.						
Niche areas (as identified on Figure A4.2 in Appendix 4)	(a) Micro-fouling (slime layer) and/or goose barnacles (b) Scattered (maximum of 5%) coverage of one organism type of either tubeworms, bryozoans or barnacles, occurring as: i. widely spaced individuals and/or infrequent, patchy clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species; and (c) Incidental (maximum of 1%) coverage of a second organism type of either tubeworms, bryozoans or barnacles, occurring as: i. isolated individuals or small clusters that have no algal overgrowth; and ii. a single species, or what appears to be the same species.						

	Note 2: For the purpose of Performance Standard 1.2, the information which the vessel operator will consider is that previously obtained pursuant to Performance Standard 2.3, following completed inspections which have been required by Rule 29B. This information does not require any inspections in addition to those previously undertaken pursuant to Rule 29B. 1.3 Record keeping (for Performance Standard 1.2) (a) The vessel operator must maintain records of measures undertaken and information on which they have relied when determining compliance with Performance Standard 1.2. Where requested, the record is to be provided to the relevant Department of Conservation Director as soon as practicable but no later than 7 days after the date(s) requested. (b) Where a vessel is operating pursuant to Rule 29B(b) with a BEFMP and a BRB, provision of the BEFMP and BRB will constitute compliance with Performance Standard 1.3.
2	<i>INSPECTION REQUIREMENTS</i> (relating to Performance Standard 1.1) 2.1 Appendix 4 All inspections of vessels which are undertaken to demonstrate compliance with Performance Standard 1.1 must be undertaken in accordance with Appendix 4. 2.2 Approved Persons <u>Approved Inspector inspection requirements</u> Inspections must be undertaken by a person approved by the Minister of Conservation pursuant to Appendix 5. Inspections must be undertaken by an inspector approved by the Minister of Conservation pursuant to Appendix 5. Both Forms 1 and 2 from Appendix 4 (available to be downloaded from the DOC webpage for this Regional Coastal Plan) must be fully completed and videos and photographs as required by Appendix 4 taken by the approved inspector and provided with video and photographs. 2.3 Reporting Where an approved person undertakes an inspection, The vessel operator is to provide the completed inspection forms and information required by Appendix 4 to the relevant Department of Conservation Director <u>via email to coastalplan@doc.govt.nz</u> as soon as practicable after completion of the inspection, but in all circumstances <u>at least 48 hours</u> before access within 0.54nm (1000m) of MHWS of any of the Islands.
3	<i>ANTI-FOULING SYSTEM</i> 3.1 Anti-fouling system Vessels must have <u>a valid IMO Anti-fouling Certificate</u> an anti-fouling system applied in accordance with the manufacturer's instructions, and the anti-fouling system must be within the manufacturer's timeframe of effectiveness at all times the vessel is within 0.54nm (1000m) of MHWS of any of the Islands.

	3.2 Evidence of an anti-fouling system less than 6 months old Where a vessel's anti-fouling system is less than 6 months old, evidence of that the vessel's <u>valid IMO Anti-fouling Certificate</u>, anti-fouling system and date of application must be provided to the relevant Department of Conservation Director <u>via email to coastalplan@doc.govt.nz at least 48 hours</u> before that vessel accesses within 0.54nm (1000m) of MHWS of any of the Islands. <u>3.3 Vessels that are not required to have an IMO Anti-fouling Certificate</u> <u>For the purposes of Performance Standards 3.1 and 3.2, vessels that are not required to have an IMO Anti-fouling Certificate must provide evidence of an anti-fouling system and its date of application.</u>
4	BERTHING, ANCHORING OR MOORING (MORE THAN 7 DAYS) 4.1 Berthing, anchoring or mooring for more than 7 consecutive days Where any vessel's anti-fouling system is more than 3 months old and that vessel berths, anchors or moors in any locality, domestic or international, other than any of the islands, for more than 7 consecutive days: (a) for the 56 days following departure from that locality, that vessel may access within 0.54nm (1000m) of MHWS of any of the islands; AND (b) after the expiration of that 56 day period, that vessel must demonstrate compliance with Performance Standard 1.1 by inspection in accordance with Performance Standard 2 before that vessel next accesses within 0.54nm (1000m) of MHWS of any of the islands. Note: For the avoidance of doubt, notwithstanding this Performance Standard, Performance Standards 1.2, 1.3 and Rule 1 continue to apply.

SOUTHLAND CONSERVATION BOARD

TE ROOPU ATAWHAI O MURIHIKU

11 September 2026

To

Jesse Gooding

Senior Resource Management Planner

Department of Conservation

Re: Proposed Plan Change 1 (PC1) – Regional Coastal Plan: Kermadec and Subantarctic Islands

Tēnā koe Jesse,

Thank you for providing the Southland Conservation Board with the proposed amendments to the biofouling provisions associated with Proposed Plan Change 1 and for the work undertaken by the planning team in developing these refinements.

The Southland Conservation Board is generally supportive of the changes outlined in the summary table and appreciates the efforts made to work with industry representatives to simplify the biofouling requirements while retaining the core environmental safeguards intended by the plan.

The Board acknowledges that the proposed amendments appear to maintain the key biosecurity protections for the Kermadec and Subantarctic Islands, including:

- The retention and strengthening of the approved inspector regime.
- The ongoing requirement to identify and inspect relevant hull and niche areas, except where legitimate reasons prevent inspection.
- The continued use of photographic and video evidence to support oversight, certification, and compliance activities.
- A reduced administrative burden on operators while maintaining environmental outcomes.

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Based on the information provided, the Board considers that these amendments are a pragmatic refinement of the provisions and support their inclusion in the final recommendations.

The Board does, however, have one matter it wishes to raise regarding the proposed changes to Appendix 5. We note that the following provision has been deleted:

"An approved inspector must be independent from the vessel owner/operator/company when undertaking a vessel hull and niche area inspection in accordance with Appendix 4 to demonstrate compliance with Performance Standard 1.1."

The Board has not been able to identify the rationale for the removal of this requirement from the material provided. While we acknowledge there may be practical implementation challenges, particularly given the specialised and limited pool of suitably qualified inspectors available to service parts of the maritime industry, the removal of the independence requirement could potentially create a perception of conflict of interest or reduce confidence in the objectivity of inspections and certification outcomes.

Accordingly, while the Board remains supportive of the overall package of amendments, we encourage further explanation in the final reporting as to why this provision is no longer considered necessary and how any potential risks associated with inspector independence will continue to be managed under the revised framework.

Subject to this observation, the Southland Conservation Board supports the proposed amendments and thanks the planning team for its constructive engagement and work on developing a practical and environmentally robust solution.

Nāku noa, nā



Keith McRobie
Southland Conservation Board
Chairperson

New Zealand Sea Lion Trust feedback on vessel hull and niche area biofouling inspection requirements

From:	Science NZSLT <science@sealiontrust.org.nz>
To:	Jesse Gooding <jgooding@doc.govt.nz>
Date:	13 September 2026
Subject:	Submission on Proposed Plan Change 1: Regional Coastal Plan: Kermadec and Subantarctic Islands - changes to vessel hull and niche area biofouling provisions

Hi Jesse.

Thanks for the opportunity to comment on the proposed changes to the Regional Coastal Plan: Kermadec and Subantarctic Islands - changes to vessel hull and niche area biofouling provisions.

The Trust has concerns about the removal of Clause 9 in Appendix 5. We feel that the pressure to rule in favour of the owner/operator of the vessel may be too great unless the inspector is independent. This includes NZ Defence Force personnel.

We also feel that any niche areas that may contain biofouling and therefore pose a risk to the spread of unwanted flora and fauna should be inspected and if they cannot be inspected for any reason it should be considered a failed inspection.

Thanks again for this opportunity

Regards

Shaun McConkey

Chair

NZ Sea Lion Trust