Before the Hearing Panel

Under:	Resource Management Act 1991
In the matter of:	Proposed Plan Change 1 – Regional Coastal Plan Kermadec and Subantarctic Islands

Statement of advice Greer Whiting

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Biosecurity New Zealand - Ministry for Primary Industries

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Department of Conservation
Te Papa Atawhai

Te Kāwanatanga o Aotearoa
New Zealand Government

Introduction

1. My full name is Greer Charlotte Whiting

Instruction

2. I have been asked to provide expert advice on behalf of the Department of Conservation (DOC) on the Proposed Plan Change 1 – Regional Coastal Plan Kermadec and Subantarctic Islands.

Qualification and Experience

3. I am a Senior Adviser, Aquatic & Environment Approvals and Advice team. This sits inside the Biosecurity Imports and Exports Standards directorate of Biosecurity New Zealand and the Ministry for Primary Industries (MPI). I have held this role for 5.5 years. I hold a Masters Degree in Marine Conservation obtained from Te Herenga Waka – Victoria University of Wellington. My portfolio includes writing, updating, implementing and advising on the Craft Risk Management Standard for Vessels (2023). This is the document that contains biosecurity requirements (including biofouling) for international vessels arriving to New Zealand. I have worked closely with the Department of Conservation over the last 5.5 years on matters relating to the Regional Coastal Plan Kermadec and Subantarctic Islands.

4. In December of 2023 I was a government observer onboard a cruise vessel visiting the Subantarctic Islands. My role involved observing and reporting on whether biosecurity processes were sufficiently followed on board that vessel and on the islands the passengers visited.

Code of conduct

5. Whilst it is acknowledged this is not an Environment Court proceeding, I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in the preparation of this advice. Unless I state otherwise, this assessment is within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Material considered

6. In preparing this advice I have reviewed:

    i. The submissions received by DOC related to the proposed changes on the vessel hull biofouling inspections

7. The Section 32 Report, specifically the drivers for change related to the management of vessel hull biofouling

    ii. The Proposed Plan change showing the proposed changes to the vessel hull biofouling inspections

8. I have also read the advice prepared by my colleague Dr Daniel Kluza.

9. I have undertaken a site visit to New Zealand's Subantarctic Islands in December 2023 while onboard an expedition cruise vessel. I visited and spent time on Campbell Island and Enderby Island (Auckland Islands) and sailed by the coastal areas of the Snares Islands, Antipodes Islands and the Bounty Islands.

Scope of advice and expert opinion

10. My expert advice will address the following matters:
    i. General background information about the Craft Risk Management Standard – Vessels 2023 and its application.
    ii. Matters raised through submissions in relation to proposed changes to vessel hull biofouling inspection requirements, as relevant to my expertise.

The Craft Risk Management Standard Vessels 2023 – Requirements and Implementation

11. The Craft Risk Management Standard for Vessels (2023) (CRMS-Vessels, see reference 1) is a document issued by the Ministry for Primary Industries (MPI) under the Biosecurity Act 1993. It applies to all vessels that enter New Zealand territory after a voyage outside New Zealand's territory. The requirements in the CRMS- Vessels are implemented by MPI and all vessels must submit the required biosecurity related documentation for each arrival to New Zealand.

12. Vessels are split into three categories – short-stay, long-stay and cruise vessels. Short-stay vessels are the majority group – remaining in New Zealand for 28 days or less and only visiting 'Places of First Arrival' (PoFA) - these are New Zealand's main ports and marinas. Most commercial vessels fall under short-stay. MPI monitors short-stay vessels during their visits, especially if they have any sort of non-compliance associated with them.

13. Any vessel visiting areas not considered 'Places of First Arrival' or remaining in New Zealand for 29 days or longer must achieve full biosecurity (long-stay) clearance or manage risk in a way that is equivalent to the long-stay requirements. Vessels with full biosecurity clearance are treated as domestic vessels once they receive clearance and are no longer monitored by MPI.

14. The CRMS-Vessels has a separate category for cruise vessels due to their unusual operating profiles. Each cruise operator has a tailored MPI Approved System outlining how they will manage biosecurity risk to an acceptable level. MPI works in close collaboration with the Department of Conservation regarding any cruise vessels with plans to visit the Subantarctic Islands.

15. The CRMS-Vessels applies to a range of biosecurity risks, including but not limited to biofouling. As I have been providing advice to the Department of Conservation based on biofouling, I will therefore focus the rest of my general comments on biofouling.

16. The CRMS-Vessels sets different biofouling thresholds for short-stay and long-stay. For long-stay vessels, only a slime layer and gooseneck barnacles are permitted. The short-stay threshold allows small amounts of early stage biofouling species (algae, barnacles, tubeworms and bryozoans). This is 1% coverage on flat hull areas and 5% in niche areas. These must be isolated individuals or small clusters with no algal overgrowth. Anything outside of this would not meet the biofouling thresholds.

17. MPI has legal tools available under the Biosecurity Act 1993 to manage varying levels of biofouling non-compliances. Notices of Direction (NOD) can be issued under Sections 19, 32 or 33 and allow MPI to obtain further information about or control the movement and/or presence of a vessel in New Zealand waters. The directions are issued in proportion to the risk of the individual vessel. Directions can vary but may include providing further information (usually in the form of a hull inspection report), restricting movement or time spent in New Zealand and, in extreme cases, a direction to depart New Zealand territory. MPI will monitor vessels under Notices of Direction as they move around New Zealand to ensure they remain compliant with the conditions of the notice. The Notice of Direction tool gives MPI discretion to manage vessels in proportion to the risk they actually pose to New Zealand

18. Although MPI continue to monitor short-stay vessels, particularly those with NODs, the movement of vessels inside and between individual domestic regions within New Zealand is usually managed and regulated within those regions by the regional councils themselves, although MPI is always available to provide guidance. It is important to note that councils and other government departments are unable to apply or enforce the CRMS-Vessels.

19. MPI requires all vessels coming into New Zealand waters, regardless of size and itinerary, to meet the biofouling requirements set out in the CRMS-Vessels. After implementing these requirements for eight years we have observed biofouling accumulation occurring on vessels with extremely varied itineraries. The distribution of marine species varies greatly across New Zealand's coastal environments (refer reference 2). Related to this – the distribution of marine pests also varies greatly. Due to this, I do not agree (as has been suggested by some submitters, discussed further below), that in the context of vessels visiting the Subantarctic Islands, the biosecurity risk from domestic vessels is lower than the risk of international vessels. Domestic vessels are capable of transferring biofouling organisms (both invasive pests and native mainland organisms which may or may not also be present in the Subantarctic Islands) from the areas they have been operating in around mainland New Zealand down to the Subantarctic Islands. A transfer of any organism would be of concern as the impact of any given organism establishing on any given Subantarctic Island is almost impossible to quantify. Due to this, it is important that focus remains on preventing the risk of these environments being exposed to any vessel biofouling. In my opinion, DOCs proposed changes to the Regional Coastal Plan for biofouling management are a necessary and important part of managing biofouling risk at the islands, align with core principles laid out in the CRMS-Vessels and IMO biofouling guidelines, as well as contribute to the overall management of biofouling risks in New

Zealand waters. I agree with my colleague Dr Kluza (Point 14 of his advice), in that the proposed changed closes a gap in the RCP's biofouling management via the strengthening of evidence requirements and improving assurance that biofouling risks are effectively managed.

Submissions on the proposed changes to vessel hull biofouling inspection requirements

Heritage Expeditions (2018) Limited (submission 3, paragraphs 13 -16) – opposed to all proposed changes to the vessel biofouling inspection requirements and requests they should be replaced with a requirement that vessels comply with MPI's requirements for long-stay vessels in the Craft Risk Management Standard for Vessels 2023.

20. MPI and DOC continuously work together to ensure these requirements are as cohesive as possible. As the two agencies requirements sit under separate legislation (RMA and Biosecurity Act respectively) with different tools, then some processes must remain different. It is also important to note that the coastal plan covers vessels recently arrived from overseas as well as vessels that spend most of their service lives moving domestically around New Zealand. For cruise vessels specifically, MPI works closely with DOC prior to every cruise season to ensure that all cruise vessels visiting the Subantarctic Islands undertake the correct biosecurity measures prior to arrival to New Zealand to ensure they will be safe to visit both mainland New Zealand and the Subantarctic Islands. This removes the risk of surprise issues at the transition between mainland and Subantarctic itineraries.

21. MPI requires any hull biofouling inspection report submitted to meet minimum evidence requirements. In summary, this means that the evidence must be of a quality that allows MPI staff to sufficiently assess the condition of the vessels entire hull and niche areas. However, unlike DOC, MPI has no required template that must be used to present this information. Due to this there would be no clash of requirements. Any vessel operator would be welcome to submit MPI evidence using a DOC template provided the information on that template gave MPI enough information to sufficiently assess compliance of that vessel. The inspection evidence requirements for DOC and MPI both have the same desired outcome – good quality evidence that is sufficient for assessing biofouling risk.

Ponant (submission 2, point 4.3.) glossary terms - change BRB to BFRB to be consistent with the IMO Guidelines 2023

22. I agree with the suggestion included in this submission. Biofouling record book (BFRB) is in line with the acronym used in all MPI documentation and correspondence. This would further boost cohesion between DOC and MPI and also maintains consistency with the IMO's terminology in their guidance.

New Zealand Defence Force (NZDF) - submission no.2, point 2.2, Appendix 4, forms 1 and 2 – ensure the imagery reporting requirement is for one representative image to be provided per area in the PDF report

23. This submitters request is in line with current MPI processes. Although MPI requires 3 photographs and 1 video to be taken of each area, MPI does not request that all of these are submitted in the inspection report as this would require assessment and storage of an excessive number of files. MPI instead requires that images representative of each area are provided in an inspection report and extra evidence is kept on hand in case that original report is not sufficient for determining biosecurity risk. Receiving all images and videos is likely to make it more difficult for DOC staff to efficiently assess vessel biofouling risk.

Sanford Limited – submission 5, Point 5.11 – opposed in part or opposed to the proposed changes to the vessel biofouling inspection requirements and requests the scampi fleet remain subject to the Plan's existing provisions and the proposed changes apply only to international vessels.

24. The marine environment presents a unique set of challenges when it comes to pest eradication. The terrestrial environment can be accessed relatively easily, for extended periods of time and without specialised equipment. On land, areas can also be easily contained or fenced off to prevent further spread. The marine environment is the opposite. The water column means pests can easily spread via ocean currents and other organisms moving through the environment. Even detecting an incursion is difficult due to the low ease of accessibility to the environment. Once detected, limitations still include significant restriction on the length of time at which an area can be accessed by biosecurity experts during each session and a need for expensive specialised equipment. MPI has been and is involved in numerous marine incursion responses and has extensive data on the specifics of the difficulty and cost of these management processes (refer reference 3).

25. As I mentioned earlier in my general comments (see above at paragraph 19), I do not believe the biosecurity risk of domestic vessels visiting the Subantarctic Islands to be lower than that of international vessels. I reiterate my opinion set out above in paragraph 19.

26. There are an array of factors that influence the marine biosecurity risk of a vessel and measures that can be applied to reduce these risks. For example, to reduce risk as best as possible, vessels should;

    - Apply an antifouling coating that is appropriate for the usual operating profile of the vessel and replace it once it reaches the end of its service life or is deemed to be no longer functioning effectively
    - Undertake inspection (and if required, cleaning) to maintain continuous knowledge of the hull condition. This helps to maintain a clean hull and avoid significant biofouling growth.
    - Where possible, avoid stationary periods or operations outside a vessel's usual profile. If this is not possible, apply contingency measures in these situations (i.e. extra hull inspections)

27. While it is possible that some operators may perceive an increased effort and cost due to the expansion of detail required in hull inspections, it is of the utmost importance that DOC are receiving sufficient hull inspection documentation to provide confidence that hull biofouling of any vessel visiting the Subantarctic Islands does not exceed the allowable threshold. It is also important to note that the current inspection requirements already expect evidence that hull and niche areas comply with Performance Standard 1.1. Performance Standard 1.1 states that biofouling must not exceed microfouling (slime layer) and/or gooseneck barnacles. The proposed changes aim to give DOC more certainty that they are receiving enough documentation to be representative of the overall cleanliness of any whole vessel. To reiterate, the current coastal plan already requires vessel hull and niche area management. It may require hull cleaning, in order to comply biofouling controls, and compliance is demonstrated by inspection of the vessel. So an extreme increase in cost and effort for individual operators under the proposed changes should be unlikely.

28. I also note that this change in approach to vessel hull and niche area inspection and information provision is relative to vessel size, and the number of niche areas a vessel has. For example, for a small vessel such as the scampi fleet vessels, the implications of the proposed changes will be minimal compared to a larger vessel such as a cruise ship or NZ Navy vessel.

29. My comments in response to Sanford's submission point 5.11 apply to the following submitters who make the same points as Sanford:

    - Seaeagle Fishing Limited (submission 8, point 8.16)
    - Barine Development (submission 10, point 10.17)
    - Seafood New Zealand / Deepwater Council (submission 11, point 11.7)

Submissions on the removal of Appendix 5 – approval of hull inspectors

Seaeagle Fishing Limited (submission 8, point 8.17), Barine Developments Limited (submission 10, point 10.18), Seafood New Zealand / Deepwater Council (submission 11, point 11.18) and Heritage New Zealand Limited further submission (*which opposes NZ Sea Lion Trust and Southland Conservation Board's support of this proposed change*).

30. I understand that it's DOCs view that the proposed improvements to information collection, so that DOC can be confident they are receiving sufficient information demonstrate compliance with the biofouling controls, removes the need to have approved inspectors. I agree with this approach, which aligns with MPIs approach - we do not require approved inspectors.

References

1. MPI (2023) *Craft Risk Management Standard: Vessels*. Ministry for Primary Industries; Wellington, NZ https://www.mpi.govt.nz/dmsdocument/19757-Vessels-Craft-Risk-Management-Standard
2. DOC (2026). New Zealand's marine biodiversity. Retrieved from https://www.doc.govt.nz/nature/habitats/marine/new-zealands-marine-biodiversity/
3. MPI (2021). Economic costs of pests to New Zealand. https://www.mpi.govt.nz/dmsdocument/48496-Economic-costs-of-pests-to-New-Zealand-Technical-report