

Marine pests

Recommendations in response to submissions on the Proposed Regional Plan for Northland - Section 42A hearing report

Date: 3/07/2018
Author: James Griffin
Version: Final

Table of contents

Purpose and format of the report.....	3
Report author	4
About the Marine pest provisions	5
Overview of submissions.....	5
Relationship - Northland Regional Pest and Marine Pathway Management Plan 2017-2027	6
Background	6
Submissions	6
Analysis	7
Recommendation	7
Evaluation of recommended changes.....	7
Alignment with the Australian/New Zealand Anti-fouling and in-water cleaning guidelines	7
Submissions	7
Analysis	8
Recommendation	13
Evaluation of recommended changes.....	13
Alignment with the Craft Risk Management Standard	14
Background	14
Submissions and analysis	14
Recommendation	15
Evaluation of recommended changes.....	15
Other matters	15
Appendix A - Response to other matters raised in submissions	16

Purpose and format of the report

1. This report provides the hearing panel the rationale for the recommended changes to the marine pest provisions in the Proposed Regional Plan for Northland (the Proposed Plan) in response to submissions. The recommended changes are set out in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
2. The recommendations made in this report are my opinion and are not binding on the hearing panel. It should not be assumed that the hearing panel will reach the same conclusions.
3. My recommendations may change as a result of presentations and evidence provided to the hearing panel. It's expected the hearing panel will ask authors to report any changes to their recommendations at the end of the hearing.
4. My recommendations focus on changes to the Proposed Plan provisions. If there is no recommendation, then it's to be assumed that the recommendation is to retain the wording as notified.
5. Generally, the specific recommended changes to the provisions are *not* set out word-for-word in this report. The specific changes (including scope for changes) are shown in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
6. This report is structured with a focus on the key matters for the marine pest provisions raised in submissions. The key matters are:
 - Relationship with the Northland Regional Pest and Marine Pathway Management Plan 2017-2027
 - Alignment with the Australian/New Zealand Anti-fouling and in-water cleaning guidelines April 2015
 - Alignment with the Craft Risk Management Standard: Biofouling on Vessels Arriving to New Zealand
7. Matters covered by submissions that fall outside the key matters are addressed in the "Other matters" section in less detail.
8. Further submitters are generally not referred to as they are in support or opposition of original submissions (they cannot go beyond the scope of the original submissions). The exception is where a further submission raises reasons that have not been raised in the submissions and are material to the analyses.

9. The approach of addressing matters raised in submissions (rather than addressing submissions and/or and submission points individually) is consistent with Clause 10 of Schedule 1 to the RMA.
10. This report should be read in conjunction with section 8.10 Marine pests in the Section 32 report.

Report author

11. My name is James Griffin and I have overall responsibility for this report. I work as a Policy Analyst for the Northland Regional Council (regional council). For further details about my qualifications and experience, refer to the S42 report: General approach.
12. The following council staff and consultants have assisted me with the preparation of this report:
 - Sophia Clark, Biosecurity Manager – Marine & Strategy, Northland Regional Council
 - Irene Middleton, Biosecurity Specialist, Northland Regional Council
 - Ricky Eyre, Coastal Monitoring Manager
13. Although this is a council hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. I have complied with that Code when preparing this report and I agree to comply with it when giving oral presentations.

About the Marine pest provisions

14. The relevant provisions in the Proposed Regional Plan for the Marine Pests topic addressed in this report are:

Definitions

- Algal growth
- Biofouling
- Hull
- Light fouling
- Niche areas
- Vessel (or sea-craft)

Rules

- C.1.2.3 General structures – permitted activity
- C.1.7.1 Hull biofouling – permitted activity
- C.1.7.2 In-water vessel hull and niche area cleaning (development zones) – permitted activity
- C.1.7.3 In-water vessel hull and niche area cleaning of local barges and large vessels– controlled activity
- C.1.7.4 Vessel anti-fouling maintenance on the foreshore – discretionary activity
- C.1.7.5 In-water vessel hull and niche area cleaning – discretionary activity
- C.1.7.6 Passive release of biofouling from vessels – discretionary activity
- C.1.7.7 Introduction of marine pests - non-complying activity

Policies

- New Policy – Pest management

Overview of submissions

15. A total of 21 submitters made submissions on Marine Pest provisions, and these were broken up into 61 submission points.
16. Approximately half the submitters represented maritime / boating interests generally requesting less stringent controls (Yachting NZ, Far North Holdings Limited, Marsden Maritime Holdings, Riverside Drive Marina, Mangonui Cruising Club, Russell Boating Club, Refining New Zealand and the NZ Defence Force).
17. The Minister of Conservation provided detailed requests seeking numerous new rules and changes to align more with the Australian/New Zealand Anti-fouling and in-water cleaning guidelines April 2015. The Ministry of Primary Industries requested greater alignment with the Craft Risk Management Standard: Biofouling on Vessels Arriving to New Zealand May 2014. Requests from these ministries represented approximately a third of the submission points.

18. Remaining submitters can be grouped as:
- *Interest groups* (Mangawhai Harbour Restoration Society Inc, Bay of Islands Maritime Park Inc)
 - *Local government* (Auckland Council)
 - *Tangata whenua group(s)* (Tinopai RMU Limited)
 - *Various* (CEP Services Matauwhi Limited, Durham G, Kurmann A, Rusell A, Upperton T, La Bonte' A & R, Miru M).

Relationship with the Northland Regional Pest and Marine Pathway Management Plan 2017-2027

Background

19. As outlined in the Section 32 report (Section 8.10 Marine pests), controls on the level of fouling and movement between designated pathways places are replicated between the Proposed Plan (under the RMA) and the Northland Regional Pest and Marine Pathway Management Plan 2017-2027 (under the Biosecurity Act 1993). The primary reason for this was to give council the ability to issue infringement notices (fines) under sections 343A-D, RMA. Infringement notices or fines are not available under The Biosecurity Act 1993, which is limited to notices of direction (section 122) or prosecution (section 154).

Submissions

20. Far North Holdings Limited, Yachting NZ, New Zealand Defence Force and Durham G requested the removal of any duplication with the Northland Regional Marine Pathways Management Plan 2017-2027 and controls on the level of hull fouling and movement restrictions between Marine Pathways Places (mapped) as referred to in Rule C.1.7.1 and C.1.7.6. Submissions generally referred to the Biosecurity Act 1993 as being a more appropriate mechanism than the RMA for controlling marine pests. Also, concern was raised that duplication at this stage, might over the course of the RMA process, lead to divergence of requirements and additional complexity for compliance.
21. Similarly Refining New Zealand sought an additional note to clarify the role of Biosecurity Act 1993 biofouling provisions.
22. The Minister of Conservation requested a new method requiring compliance with the Northland Regional Pest and Pathway Management Plan Chapter 10.

Analysis

23. Since notification of the Proposed Plan, Biosecurity staff have reconsidered the situations when an infringement notice would in practice be used. I have now been advised by Biosecurity staff that infringement notices are likely to only be used when a marine pest is found or suspected on a hull. Therefore, I am recommending removal of movement controls between pathways places relating to level of hull fouling, as the Marine Pathway Management Plan is a more appropriate regulatory tool for addressing this via a notice of direction or prosecution under the Biosecurity Act.

Recommendation

24. Amend rule C.1.7.1 and C.1.7.6 by removing reference to level of fouling and movement controls between pathways places and deleting the associated 'Marine Pathways Place' maps.

Evaluation of recommended changes

25. As the provisions recommended for deletion are a duplication of existing provisions in the pest plan, the recommended changes will have a no more than minor impact on resource users or the environment. As explained the duplication was intended only to give council greater enforcement options.

Alignment with the Australian/New Zealand Anti-fouling and in-water cleaning guidelines

Submissions

26. The Minister of Conservation requests numerous amendments and additional provisions to provide greater alignment with the Australian/New Zealand Anti-fouling and in-water cleaning guidelines April 2015¹, including:
- a new rule permitting manual sample collection and patch cleaning (<5% of the hull).

¹ <http://www.agriculture.gov.au/SiteCollectionDocuments/animal-plant/pests-diseases/marine-pests/antifouling-consultation/antifouling-guidelines.docx>

- permitting in-water cleaning, regardless of the source of vessel biofouling, when biofouling is slime layer and/or goose barnacles only.
- requiring capture technology when in-water cleaning includes macrofouling.
- permitting discharges from in-water treatment methods to render biofouling organisms non-viable, while not including contaminant discharges restricted in other rules in this plan.
- provisions that apply to fixed and movable structures (as well as vessels).
- requiring vessels to have an anti-fouling system that conforms with the manufacturer's recommended application methods, maintenance, cleaning and service life.
- exempting small vessels from needing an anti-fouling system.

Analysis

27. The Australian/New Zealand Anti-fouling and in-water cleaning guidelines April 2015² highlight best-practice approaches to minimising the risk of vessels and movable structures spreading or introducing marine pests. The guidelines do this through providing a range of anti-fouling and in-water cleaning management options. When assessing proposals or devising an approach to managing marine pest risks (from biofouling) the guidelines are a useful tool.
28. The view of regional council biosecurity specialists and myself, is that detailed provisions reflecting these guidelines (as requested by the Minister of Conservation) do not translate well into easily understood and enforceable rules.

A new rule permitting manual sample collection and patch cleaning (<5% of the hull)

29. The Minister of Conservation and CEP Services Matauwhi Limited requested a rule to permit two activities: collection of samples, and hull 'patch' cleaning up to 5% of the hull area. The New Zealand Defence Force also requested small-scale in-water cleaning.
30. Regarding the first activity, the Proposed Plan is silent on sample collection, as I believe good sample collection methods do not involve discharge and therefore can be undertaken without resource consent i.e. a rule is not needed because if undertaken correctly (with no discharges) it wouldn't trigger RMA s.12 or s15. Also, if the presence of

² For the purpose of this S42 report, the 2015 guideline is essentially a reformatted version of the previous (June 2013) guideline edition.

pest species is suspected, it is more appropriate to direct people to the Biosecurity Act 1993 and council biosecurity advice. Our biosecurity team would be likely to either require an exemption or delegated authority to take samples if marine pests are suspected..

31. Regarding the second activity of 'patch cleaning' of up to 5% of a hull, this is effectively in-water cleaning of light fouling, and so is permitted under rules C.1.7.2 and 3.

Permit in-water cleaning, regardless of the source of vessel biofouling, when biofouling is slime layer and/or goose barnacles only

32. The Minister of Conservation suggested that permitted in-water hull cleaning should be extended to all but high value areas and appropriate exclusion zones, provided fouling is limited to slime layer and/or goose barnacles, regardless of biofouling origin (and with no need to use capture technology).
33. Similarly, CEP Services Matauwhi Limited requested amendment to allow in-water cleaning of any vessel with a hard antifoul, whether ablative or not (outside Significant Ecological Areas or areas of high or outstanding natural character).
34. The Proposed Plan (as discussed in section 32 Section 8.10 Marine pests) manages in-water hull cleaning risks quite differently from what was requested by the above two submitters, mainly by the following measures:
 - Permitting cleaning of 'light fouling' that includes up to 5% macro-fouling (as opposed the submitter requested slime layer only).
 - Not distinguishing between goose barnacles (referred to by the Minister of Conservation) and the many other ubiquitous barnacle species, as this is consistent with the approach taken by the Marine Pathways Management Plan 2017-2027.
 - Limiting permitted in-water cleaning to 'development zones'³ in recognition that these areas are easier to monitor and already modified to some extent and less sensitive to adverse effects from the activity e.g. hazardous substances discharged associated ablative paints containing biocides.
 - Recognising the difficulty in monitoring for hazardous substances or marine pests associated with in-water cleaning if it involved any other coastal zone (including

³ Mooring zones and Coastal commercial zone. It should be noted that Significant Ecological Areas form part of some mooring zones. The Proposed Plan excludes permitted in-water cleaning from Significant Ecological Areas.

the General Marine Zone, Significant Ecological Areas or Areas of High or Outstanding Natural Character).

- Recognising that international vessels clearing border controls with micro-fouling (slime layer) continue to pose a greater risk of marine pest introduction than domestic vessels.

35. Council Biosecurity specialists and I are of the view the above measures are likely to effectively control the risk of marine pest introduction or spread. Key to our assessment are the effects of:

- the level of fouling and movement controls in the Northland Regional Pest and Marine Pathway Management Plan 2017-2027, and
- setting a high, but reasonable bar for in-water cleaning in the Proposed Regional Plan, that is more capable of achieving the high level of compliance required, than limiting in water cleaning (without capture controls) to slime and barnacles only
- the higher degree of regulation and more detailed approach requested by the Minister of Conservation, promotes a similar standard of marine pest management but is likely to require considerably greater compliance costs and resources to regulate. Also, the Minister of Conservation approach is likely to be very unpopular with the boating community, and be harder to achieve the high compliance rate necessary for any marine pest management to be effective.

Require capture technology when in-water cleaning includes macrofouling

36. The Minister of Conservation requested a requirement for capture technology when in-water cleaning biofouling is more than just slime or goose barnacles, i.e. requested new rules for in-water cleaning (outside exclusion zones), sample collection and patch cleaning.

37. Rule C.1.7.2 allows as a permitted activity in water cleaning of biofouling up to light fouling, which is a greater level of biofouling than just slime or goose barnacles, and does not require the use of capture technology.

38. The Minister of Conservation's capture technology requirement includes preventing discharge of macrofouling debris greater than 50 micrometres. This size threshold reflects the ability of the debris to contain viable marine pests and is referred to in the Australian/New Zealand Anti-fouling and in-water cleaning guidelines.

39. At odds with setting a 50 micrometre requirements, the Ministry of Primary industries request rules that provide flexibility over the size of fouling able to be captured.
40. Council biosecurity specialists advise me that the level of risk of marine pest introduction or spread is minimal, in relation to in-water cleaning hulls with 'light fouling' in development zones. Regarding controlled activity rule C.1.7.3, I do recommend including 'capture technology' as a matter of control, as requested by the Minister of Conservation and that way, where appropriate it can be required.

Permitting discharges from in-water treatment methods to render biofouling organisms non-viable, while not including contaminant discharges restricted in other rules in this plan

41. The Minister of Conservation requested a rule permitting the discharge associated with in-water treatment methods that render biofouling un-viable. It is not clear what types of treatment are anticipated as a range of chemicals, biocides and physical measures could potentially apply.
42. The rule proposed by the Minister of Conservation includes the following condition: '*The treatment method does not include contaminants restricted in other rules in this plan.*' The Proposed Plan already includes a rule that permits discharges not regulated by other rules in the plan – rule C.6.9.5. In other words, all contaminants are restricted by rules in the Proposed Plan. This would mean the rule could not be applied – unless the in-water treatment does not result in the discharge of a contaminant which is extremely unlikely. Obviously there needs to be some controls on the discharge of the in-water treatment, and I do not see a way that this could be achieved by a permitted activity. Accordingly, I do not support the proposed rule. In my view, a case by case assessment (through a consent process) is more appropriate for activities proposing in-water treatment to be able to consider the appropriateness of the methods used and ability to include treatment of marine pests. There are emerging technologies that in time, have potential to provide an acceptable solution for a permitted activity, but there is currently insufficient information to assess these. Therefore, I do not recommend the requested new rule be included in the Proposed Plan.

Provisions that apply to fixed and movable structures (as well as vessels)

43. The Minister of Conservation suggested that to give effect to Policy 12 of the New Zealand Coastal Policy Statement, rules are needed that control the risk of introducing marine pests from fixed and moveable structures.

44. I do not agree with requiring structures to maintain biofouling to a particular standard because:
- structures represent very low risk of introduction or spread of marine pests
 - they effectively become part of the surrounding habitat, that may include marine pests and it would be unreasonable to expect a higher standard than the surrounding habitat
 - potential costs have not been assessed but are likely to be high.

45. I accept that there should be controls on relocating and placing structures to better give effect to Policy 12 of the New Zealand Coastal Policy Statement. I recommend the inclusion of text referring to the 'relocation or placement of a structure' and allowing in-water cleaning of structures in rules C.1.7.1 and C.1.7.6.

Require vessels to have an anti-fouling system that conforms with the manufacturer's recommended: application methods, maintenance, cleaning and service life.

46. The Minister of Conservation suggested that it should be a requirement in all the rules for a vessel to:
- have an anti-fouling system that is applied in accordance with the manufacturer's instructions and within the manufacturer's timeframe of effectiveness, and
 - only allow cleaning methods that will not compromise the existing antifouling system.
47. On a related matter, Durham G requested the in-water cleaning was limited to anti-fouling without biocides.
48. The Proposed Plan rules do not require manufacturer's instructions or suggested timeframe of effectiveness to be met, and I do not think this requirement should be added because:
- The rules (C.1.7.1 and C.1.7.2) already have condition limiting biofouling to 'light fouling'. The extent of biofouling is the best gauge of how well the anti-fouling has been applied and how effective it is.
 - There are many factors other than whether antifoul has been applied according to instructions that can affect the performance of antifoul e.g. water temperature, salinity and biological activity.

- Such requirements would be too hard to enforce. It would be extremely difficult to prove that anti-fouling has not been applied in accordance with the manufacturer's instructions and it would require some effort to determine when the antifouling was applied. It is much easier to just assess the level of fouling.
- Small craft should be excluded from such a requirement (as suggested by the Minister of Conservation), but it would be very difficult to come up with a fair definition that would not capture vessels that do not require antifouling. For example, the obvious option would be for such a definition to be linked to whether the vessel is able to be put on a trailer. However, some reasonably large vessels can (and are trailered) – for example those stored on land at Parua Bay. Conversely, there are many vessels that can go on to a trailer but remain in the water.

Exempt small vessels from needing an anti-fouling system

49. The Minister of Conservation suggested a definition to separate out the small recreational craft that do not require an anti-fouling system, i.e. jet skis, so that a condition requiring an anti-fouling system of other vessels can be imposed on other craft. The Minister of Conservation has not provided a clear definition for 'small recreational craft'
50. I've already discussed the difficulty I can see with coming up with such a definition. Also, as I'm recommending that the Proposed Plan does not require an anti-fouling system, there is no need to include a small recreational craft exemption.

Recommendation

51. No change to the overall approach, but some minor text as amendments to the rules are recommended.

Evaluation of recommended changes

52. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 8.10 of the Section 32 report and therefore do not require further evaluation.

Alignment with the Craft Risk Management Standard

Background

53. The Craft Risk Management Standard: Biofouling specifies the requirements for management of biofouling risk associated with vessels entering New Zealand territorial waters i.e. international vessels. It aims to minimise the entry into New Zealand of marine pests associated with vessel biofouling through requiring a clean hull. According to the standard, what classifies as a 'clean hull' for vessels staying longer than 21 days (long-stay vessels), is a slime layer and/or goose barnacles on all hull surfaces – which is more stringent than the 'light fouling' definition used in the Proposed Plan. The standard for short stay vessels (less than 21 days) is similar to the 'Light fouling' in the Proposed Plan, however it should be noted that such vessels do not have unfettered access to the coastal marine area, and stops are limited to specific destinations that are subject to Ministry of Primary Industries biosecurity monitoring.
54. As discussed above, I recommend the biofouling standard for vessels be removed from rule C.1.7.1. The only other reference to a biofouling standard is the in-water cleaning permitted activity rule (C.4.7.2), that requires the vessel to have 'light fouling' or less.
55. The Marine Pathway Plan for Northland limits biofouling to light fouling on vessels entering Northland or moving between Marine Pathways Places (e.g. between harbours), unless authorised by an exemption under the Biosecurity Act 1993.

Submissions and analysis

56. MPI request that that that level of fouling standard in the Proposed Plan is consistent with the Craft Risk Management Standard: Biofouling long-stay threshold for those originating outside the region (for domestic and international vessels). MPI do not provide any rationale for why the more stringent standard should apply to 'out of region' vessels nor provide any analysis of the costs and benefits of doing so. An immediate concern I have with the proposal is that it would add another layer of complexity.
57. The Minister of Conservation suggested a stricter threshold for biofouling for vessels coming from outside New Zealand waters and outside of the Northland region - consistent with the Craft Risk Management Standard: Biofouling. The suggestion seems to relate to the standard not being mandatory at the time of their submission. However, the standard is now operative as of 18 May 2018. Otherwise it is a valid point that vessels with

biofouling from out of region represent increased risk. However, I believe enforcement of the suggested changes would be too difficult and would impede compliance through increased complexity, and therefore I do not support this requested change.

58. The Minister of Conservation and MPI also requested alignment with definitions in the above Craft Risk Management Standard (the standard). The standard is focussed on international vessels while the Proposed Plan is focused on recreational vessels. This means the definitions from the standard in some case are not suited to the Plan context, and hence why the difference in definitions for some terms.

Recommendation

59. No change to the overall approach, but some minor text as amendments to the rules are recommended.

Evaluation of recommended changes

60. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 8.10 of the Section 32 report and therefore do not require further evaluation.

Other matters

61. Refer to Appendix A for the summary of submission points, analysis and recommendations made on the Marine pests provisions not addressed in the key matters sections of this report.

Appendix A - Response to other matters raised in submissions

Note – this table does not include the summary of submission points, analysis and recommendations made on the marine pest provisions addressed in the key matters sections of the report.

Provision	Summary of main submission points	Discussion	Recommendation
Additional introduction to section C.1.7	The Minister of Conservation and Ministry for Primary Industries, request the inclusion of introductory text like that in Chapter 10 of the Northland Regional Pest and Pathway Plan.	The Proposed Plan marine pest provisions replicate Northland Regional Pathway Plan (Biosecurity Act 1993) rules that limit movement of vessels between designated places when the level of hull fouling exceeds light fouling. My recommended changes remove much of this duplication and some of the justification for additional introductory text. Also, Rules C.1.7.1 and C.1.7.6 already include a note referring the reader to the Northland Marine Pathway Plan. The approach in the Proposed Plan has been to avoid unnecessary explanatory text.	No change.
New permitted activity rule	Mangawhai Harbour Restoration Society Inc. and La Bonte' A & R requested a new rule to permit removal of marine pests or exotic species (such as pacific oysters) in areas where the marine pests are not commercially farmed as of the date the Proposed Plan becomes operative, provided that the activity complies with C.1.8 'Coastal works general conditions'.	The requested amendment could include a wide range of exotic and marine pests (including Pacific Oyster). The extent and nature of removal activities covered by the requested rule, is also unclear. Therefore, I'm unable to assess this request, as the scale of adverse effects is not immediately apparent.	No change.
Assumed new method	Mangonui Cruising Club request that poles and grids are provided throughout the region to enhance access in unison with the Proposed Plan marine pest provisions.	I assume that the submitter is requesting that these be permitted activities. It is not immediately apparent what wording the submitter is requesting, therefore I'm unable to assess this request.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
'Vessel' definition	<p>Yachting NZ request the definition of "Vessel" is deleted, and instead adopt a definition of "Ship" Section 2 of the Maritime Transport Act 1994" which states: ship means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes—</p> <p>(a) a barge, lighter, or other like vessel: (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates: (c) a submarine or other submersible</p>	<p>The Proposed Plan definition for 'vessel' is based on and the same as the definition requested by Yachting NZ, with the addition of reference to 'personal watercraft, paddle craft, or a sea plane'.</p> <p>Council maritime staff considered that the additions were worthwhile and provide some additional clarification and I agree. Therefore, I do not recommend changing this definition.</p>	No change.
Various	New Zealand Defence Force requested amendments to provide for deep water cleaning.	The New Zealand Defence Force can undertake deep water cleaning beyond the 12-nautical mile regional boundary. There is insufficient evidence to demonstrate the risks of spreading or introducing marine pests associated with deep water cleaning within Northland's CMA, therefore I'm unable to assess this request.	No change.
Various	Various submitters recommended minor text amendments for clarification, (e.g. Ministry of Primary Industries request to clarify the marine pest trigger for C.1.7.1.1) and additional text in C.1.7.6 (and consequently C.1.7.1) referencing Biosecurity Act 1993 exemptions.	I recommend several minor text amendments to provide for the requested clarification.	Include recommended minor text amendments.
C.1.7.1 and C.1.7.6	Various submitters either provided support for level of fouling movement controls or requested amendment to these provisions, e.g. Auckland Council	As discussed in the main body of the report, I recommend removing level of fouling movement controls that mirror the Northland Regional Pest and Marine Pathway Management Plan 2017-2027.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	request to clarify movement controls within Kaipara Harbour, between Northland and Auckland regions.		
C.1.7.1	Insert a new clause 3) to read the biofouling does not occur within an Area of Significance (to tangata whenua)	The submitter provides no reasons for the proposed change, and nor is it immediately apparent, therefore I'm unable to assess this request.	No change.
C.1.7.2	Durham G requested that permitted cleaning biofouling off vessel hulls is limited to vessels that contain no biocides (antifoul).	I do not believe it is necessary to limit in-water cleaning to vessels without biocides as that would unnecessarily restrict the ability of vessel owners to maintain low levels of biofouling and defeat the purpose of the rule.	No change.
C.1.7.2	The Minister of Conservation suggests re-ordering the conditions of Rule C1.7.2 so that those conditions stating what is not allowed are grouped, and what is allowed are grouped. Also additional text stating "The cleaning method will not compromise the existing anti-fouling system"	I believe the Minister of Conservation highlights opportunity for clarification and better accounts for antifouling coatings able to withstand abrasive cleaning.	Include recommended text amendments.
C.1.7.2 and C.1.7.3	Minister of Conservation requested clarification over which vessels are captured by these rules.	<p>Rule C.1.7.2 was written to both:</p> <ul style="list-style-type: none"> • exclude all barges regardless of size (due to barges in Northland having a track record of high levels of fouling). • exclude vessels longer than 25m with ablative biocidal anti-fouling (because there is likely to be increased hazardous substance discharge and council staff were concerned over potential effects from larger vessels). <p>Rule C.1.7.3 covers vessels excluded from the permitted activity. I do not believe clarification text is necessary.</p>	No change.
C.1.7.2 and C.1.7.3	Minister of Conservation requested clarification over what is meant by 'development zones' and that they are considered already modified	I do not believe an explanation of 'development zones' is necessary, as this term was used for brevity in the rule heading and each zone is specifically referred to in the rule.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.1.7.2	Insert a new clause 9) to read “the discharge does not occur within an Area of Significance (to tangata whenua)”	Miru M and Tinopai RMU Limited provide no reasons for the proposed change, and nor is it immediately apparent, therefore I’m unable to assess this request.	No change.
C.1.7.2 and C.1.7.6	Bay of Islands Maritime Park Inc would like to discuss potential refinements to help ensure that the provisions are practical and achieve the desired outcomes.	The ‘potential refinements’ are not readily apparent, therefore I’m unable to assess this request.	No change.
C.1.7.2	Durham G requested that in-water cleaning was limited to mooring and marina berths to which the boat owner holder a licence, to limit discharge of biocides and exclude the ability of visiting vessels to in-water clean in mooring zones due to potential for congestion.	I believe this unnecessarily restricts in-water cleaning.	No change.
C.1.7.2	Kurmann A and Mangonui Cruising Club request the use of poles, grids and jetties for cleaning vessel hulls and request setting a specific sediment contamination level.	The Proposed Plan limits in-water cleaning to Commercial Coastal Zones, Marina Zones, and within 50 metres of a Mooring Zone, in recognition that: <ul style="list-style-type: none"> • activities in these zones have been authorised and • the zones are already modified and • to allow monitoring of sediment contamination levels in a limited number of locations. Advice I have received from council’s coastal monitoring team, is that the limits proposed by submitters are not appropriate for coastal sediment and I believe it is not necessary to set levels in the Proposed Plan. Therefore, I do not support the proposed contamination standard or opening up hull cleaning to all poles, grids and jetties.	No change.
C.1.7.2	Yachting NZ considered this rule is too restrictive and costly for recreational vessel owners, and therefore request	Advice from council biosecurity specialists is that ‘light fouling’ is the appropriate limit for in-water cleaning, in that it sets an achievable standard and provides an improvement on the	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	<p>amendment to enable in-water vessel hull and niche area cleaning as a permitted activity in the General Coastal Zone provided the biofouling does not exceed Level 3, and conditions 1), 4), 5), 6) and 7) from this rule apply.</p>	<p>status quo. Local monitoring of vessel biofouling levels has found 'light fouling' to be a practical threshold when observed from above water i.e. if fouling is visible, it is likely to be above 'light fouling' and if not, it is likely to be below.</p>	
C.1.7.3	<p>Minister of Conservation requested inclusion of additional matters of control: 8) the vessels travel, cleaning and anti-fouling history 9) capture and removal of fouling and anti-fouling debris</p>	<p>As discussed earlier under 'Alignment with the Australian/New Zealand Anti-fouling and in-water cleaning guidelines' I agree that the requested matter of control 9, provides greater detail and is relevant. Regarding requested matter of control 8, this is not something that can be controlled in the consent.</p>	<p>Include additional requested matters of control.</p>
C.1.7.3	<p>Bay of Islands Amend Maritime Park Inc requests amending this rule to discretionary activity, so that council can decline consent for heavily fouled vessels. Also include a discretionary activity for other structures that can be moved.</p>	<p>Proposed matters of control and the recommended additional matter that enables requirement of capture technology, are intended to avoid the introduction or spread of marine pests and limit biocide discharge, therefore I do not believe ability to decline consent is necessary.</p>	<p>No change.</p>
C.1.7.4	<p>I believe there is need to clarify rule C.1.7.5.</p> <ul style="list-style-type: none"> - the defined term "<i>vessel hull anti-fouling maintenance</i>" is only referenced in this rule. It would improve clarity to pull the definition into the rule. - Maintenance activities this rule covers are broad i.e. cleaning, scraping, sanding, blasting, painting or anti-fouling; and deleting 'anti-fouling' from the title would improve clarity. 	<p>I recommend amendments to the rule to clarify what hull maintenance activities are covered by the rule and remove reference to anti-fouling from the rule, as it is implicit in the activities described.</p>	<p>Include recommended amendments.</p>

Provision	Summary of main submission points	Discussion	Recommendation
C.1.7.6	The Minister of Conservation requests text to clarify that this rule covers RMA s15(1)(a) and s15 <u>B</u> (1)(a).	I agree that it is necessary to clarify that this rule covers discharge activities.	Include requested text.
C.1.7.7	The Minister of Conservation requests this activity be amended to 'prohibited' due to it being an offence under the Biosecurity Act 1993 to knowingly transport or introduce an unwanted organism.	The Proposed Plan definition for 'marine pest' extends beyond species listed as 'unwanted organisms'. The definition is intended to capture a wider range of species with potential to cause adverse effects on the environment. I can therefore not predict the opportunity costs associated with changing this to a prohibited activity. An alternative, would be to limit the 'marine pest' definition e.g. to just 'unwanted organisms' however, that would then prevent management of other 'undesirable' species.	Maintain an activity status of non-complying.