

**Wreck processes (under MTA 1994 section 33J)
(includes “Notice to Improve Vessel” and “Declaration of Wreck”)**

Amendment Record Sheet moved to rear of the document

Page intentionally left blank

Inform Coastal Team re consideration for removal under RMA. Wreck actioned (in terms of nav safety).

'Wreck' to be dealt with

- Refer to Section 33B of MTA for definition of wreck
- vessel stranded/sunk
- vessel that is abandoned or in distress
- vessel broken free of moorings and become wrecked

Verify vessel in state of 'wreck'

The decision on whether the vessel is a wreck and a navigation safety hazard, should ordinarily be considered by a minimum of 2 Harbourmaster warrant holders

Hazard = Actual or potential cause or source of harm

Declare the vessel a wreck

Is the vessel considered to be a 'wreck' due to being derelict?

Attempt to find owner – reasonable effort in relation to value of vessel. MTA section 33J(2)(b)

- Yachting NZ
- Previous mooring
- Mooring register
- Marina register
- Google search
- Lloyds register
- Trademe sales
- Local boating clubs
- On board evidence: Log book, phone numbers etc
- VHF register
- Private investigator (for high value)
- MNZ registry
- Other vessel owners
- Port of registry info
- Yachting forums

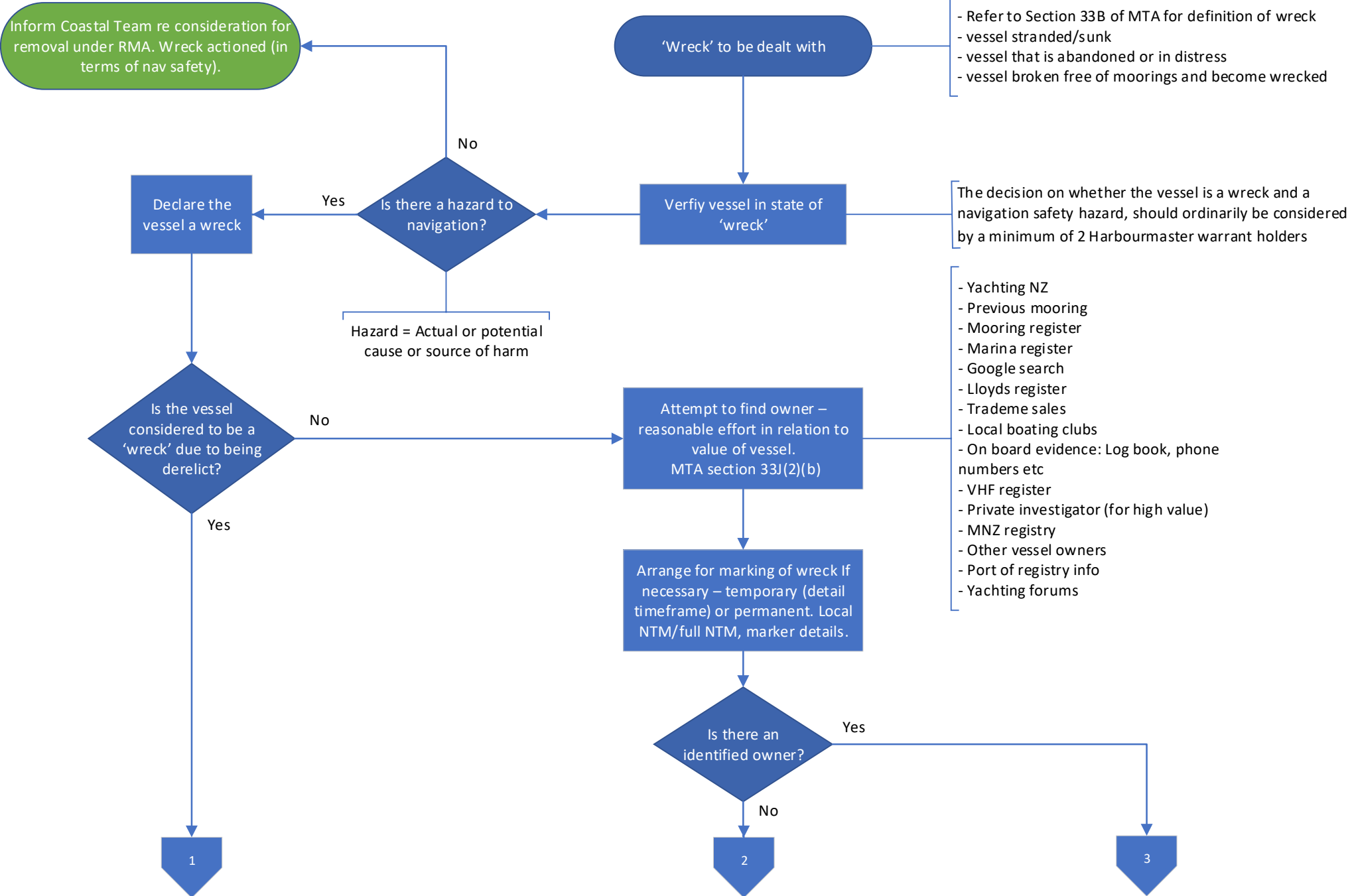
Arrange for marking of wreck If necessary – temporary (detail timeframe) or permanent. Local NTM/full NTM, marker details.

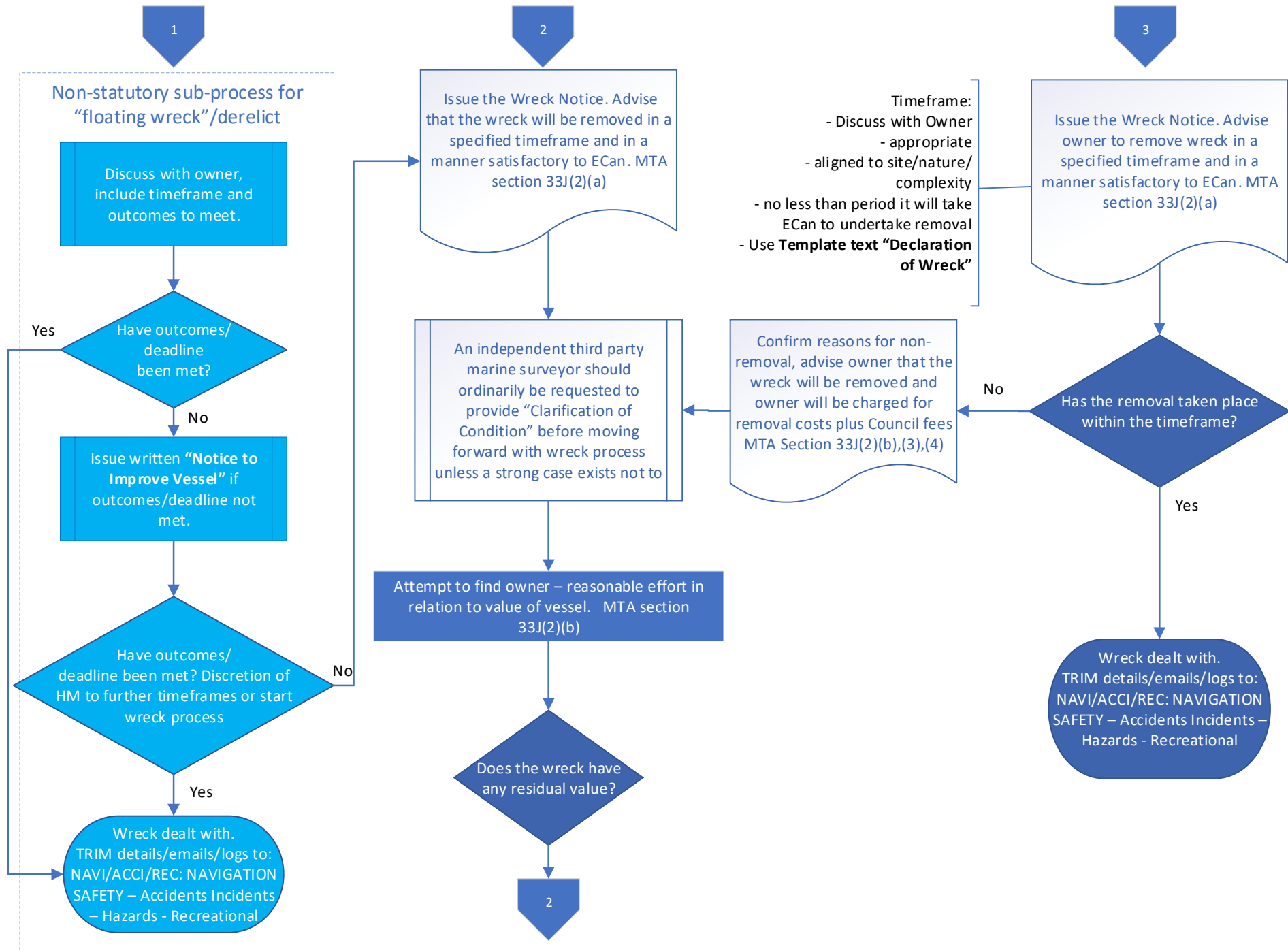
Is there an identified owner?

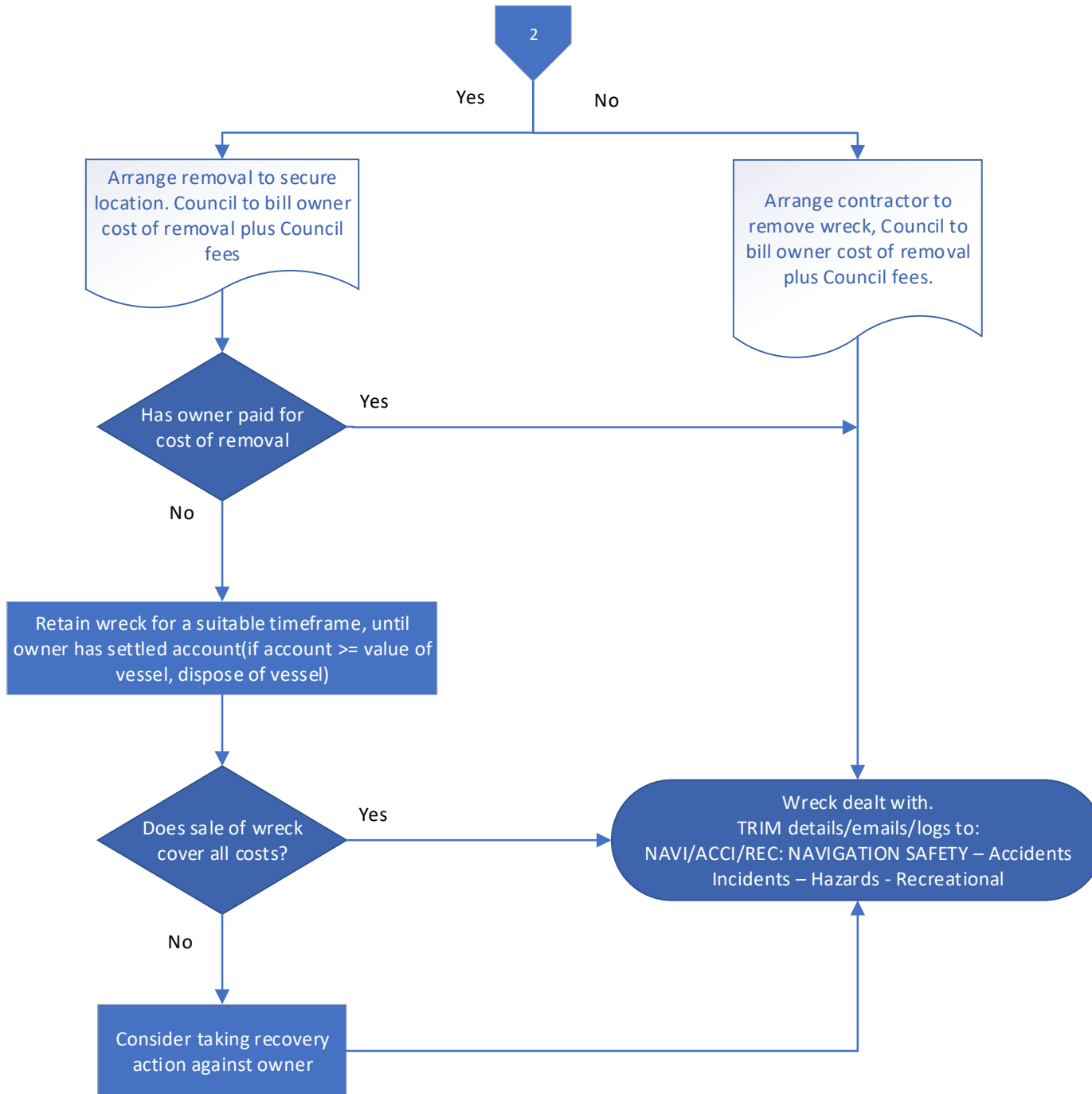
1

2

3







Notes on determining “wreck” where the vessel is/potentially is derelict

MTA 1994 33B (Interpretation) gives definitions of “ship” and “wreck”. S33J covers wreck removal powers of regional councils. Also note that NS Bylaw 2016, clauses 35, 36, 41, 42, may come into play here.

A [Google search for \[derelict\]](#) produces several results, all on a similar theme, such as this from Oxford Languages (the OED):

derelict

adjective

1.in a very poor condition as a result of disuse and neglect.

"a derelict Georgian mansion"

The above OED definition would lead to “a derelict ship” being “a vessel which is in a very poor condition as a result of disuse and neglect” which seems a reasonable match for common usage.

Factors to be considered before declaring a vessel a wreck due to it being derelict.

The list is not exhaustive, nor will any one factor, nor any particular combination of them, necessarily definitively determine a vessel to be derelict.

Overall, where does it sit on the spectrum of total rubbish <-----> pristine?

-Is it watertight/weathertight?

- Hull holed
- Weather deck holed
- Openings/hatches, securable or not
- Means of pumping out available, operational, monitorable, reliable
- Fittings in a state that could cause damage leading to water ingress (e.g.: stays or stanchions that could tear out in bad conditions leading to holes in the deck)
- Hull or deck material in unsound condition (e.g.: soft or brittle deck that could easily hole)

-Secure means of remaining on mooring or alongside?

-Buoyancy reduced by excessive marine growth or waterlogged hull or other material?

-Stability compromised?

-Material (hazardous or not)/cargo/other items on board which due to their inherent nature or manner of stowage/restraint aboard create a risk of the vessel sinking or it being/becoming a hazard to other vessels?

-Beyond economic repair to a state of the vessel not being unseaworthy? May require an external appraisal.

N.B.: Using the broader, proposed by NSG to Part 91 review, definition of unseaworthy (rather than current Bylaw one) which is “unseaworthy means, in the opinion of the Director or a Harbourmaster either or both of the following: Not being in a fit condition or readiness to safely navigate or remain on the water; not being in a fit condition or readiness to safely undertake a voyage within its design capabilities.”

Notice to Improve

If a vessel is determined to be a potential wreck through being a derelict vessel but could reasonably be expected to be repaired to a satisfactory state such that formally declaring it a wreck could be avoided, then consider the interim step of issuing a "Notice to Improve". This letter would be the formal notice following a conversation with the vessel owner, and it would be highlighted in the conversation that the notice is necessarily blunt and formal but that the HMO would be working with the owner to maintain a watch on the process of improvement.

Template text follows – to be inserted into most current ECan letter template, with MTA extract on page following letter.

=====

DD Month YYYY

[Name]

[Address]

[Email]

Dear [NAME]

Notice to Improve Vessel

Name of vessel:

Location of vessel:

[Insert photograph if available]

As per our conversation, this letter is written notification that your vessel is considered by the Harbourmaster's Office to be a in a state of repair such that it could become a hazard to navigation.

You are required to achieve, as a minimum, the following outcomes by [tttt DD Month YYYY] in a manner satisfactory to the Harbourmaster's Office:

- [LIST OUTCOMES TO BE MET]

As discussed, the Harbourmaster's Office will remain in touch with you regarding the work programme so we can continue to discuss progress and any difficulties in work completion you may encounter. However, if the outcomes above are not met to the satisfaction of the Harbourmaster's Office, your vessel may be declared a wreck under section 33J of the Maritime Transport Act 1994 (details on next page) and subsequently removed and disposed of should you not take the required action yourself. You will be liable for expenses incurred.

Yours sincerely,

[NAME]

Title (RHM, HM, DHM(S), DHM(O), NSO, MAO)

Declaration of wreck notice template

If the vessel is deemed a wreck and owner identified forward the 'Declaration of Wreck'

Template text follows - to be inserted into most current ECan letter template, with MTA extract on page following letter.

=====

DD Month YYYY

[Name]

[Address]

[Email]

Dear [NAME]

Declaration of Wreck

Name of vessel:

Location of vessel:

[Insert photograph if available]

This letter is written notification that your vessel has been declared a wreck pursuant to section 33J of the Maritime Transport Act 1994.

You are required to remove the vessel from [the waters of the Canterbury region]/[its present location to XXX] by tttt DD Month YYYY in a manner satisfactory to the Harbourmaster's Office.

If the vessel is not removed as above, arrangements will be made by the Harbourmaster's Office for the removal of the vessel. You will be liable for expenses incurred.

Yours sincerely,

[NAME]

Title (RHM, HM, DHM(S), DHM(O), NSO)

Acting under delegation

Maritime Transport Act 1994

33J Removal of wrecks by regional council

- (1) A regional council may take steps in accordance with this section to remove and deal with any wreck within its region that is a hazard to navigation.
- (2) The regional council may—
- (a) require the owner of the wreck, or an agent of the owner, to remove the wreck within a time and in a manner satisfactory to the regional council;
 - (b) destroy, dispose of, remove, take possession of, or sell a wreck (or any part of it) if—
 - (i) the regional council has made reasonable efforts to find the owner or agent; and
 - (ii) the owner or agent cannot be found or fails to remove the whole of the wreck within the time specified or in a manner satisfactory to the regional council.
- (3) The regional council may reimburse itself from the proceeds of any sale of the wreck for any actual expenses incurred in removing the wreck (but must pay any balance owing to the owner of the wreck).
- (4) The regional council may recover the expenses incurred in removing a wreck as a debt owed by the owner of the wreck in any court of competent jurisdiction.

33B Interpretation

In this Part, unless the context otherwise requires,—

wreck includes—

- (a) a ship or an aircraft that is abandoned, stranded, or in distress, or any equipment, cargo, or other articles belonging to or separated from such a ship or aircraft;
- (b) shipping containers and property lost overboard or similarly separated from a ship other than cargo lost in the course of unloading or discharge from the ship while the ship is in a port;
- (c) a derelict ship.

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

ship means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes—

- (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

AMENDMENT RECORD

<i>Date</i>	<i>Reason for Amendment</i>	<i>Person Amending</i>	<i>New version No.</i>
11/09/21	<i>Visio diagram has now been embedded into the Word document</i>	<i>GH</i>	<i>4.3</i>
24/02/22	<i>Tweaked the arrows so that if we have dealt with the wreck, we should afterwards check that the owner has paid the costs we incurred.</i>	<i>GH</i>	<i>4.4</i>
28Sep22	<i>Added notes on determining wreck; added notes and template text for "Notice to Improve Vessel"; amended flowchart to account for changes and addition of "Notice to Improve..." step; added non-statutory sub-process to flowchart.</i>	<i>IF</i>	<i>5.0</i>
1 Jan 2023	<i>Moved amendment table to the rear of the document. Removed the two templates from the document and created separate templates in the templates folder</i>	<i>TJ</i>	<i>5.1</i>
21Apr23	<i>New embedded visio diagram, with inclusion of two people making the decision on the wreck and also an independent third party marine surveyor to provide clarification on condition. Also an explanation on the factors/considerations before providing a timeline for removal</i>	<i>TJ</i>	<i>6</i>
8May23	<i>Two templates returned to the document after further discussion that easier to find when kept together</i>	<i>TJ, IF</i>	<i>6.1</i>
8Jun23	<i>After following the process, during a live incident, it was felt that the instruction of the Marine Surveyor needs to be after confirming a Navigation Safety Issue. There are other possible amendments to be discussed and a new draft will be drawn up, but this process will remain until completed and approved</i>	<i>TJ</i>	<i>6.1</i>
13Jun23	<i>Adjusted the process to reflect the recent incident responses.</i>	<i>TJ</i>	<i>7</i>
16Jun23	<i>Adjusted the 'wreck' due to being derelict section, changed position of Navigation Safety issue. Added a note for discretion with regards to the non-statutory procedure for timelines. Process replaced the current process in SP</i>	<i>TJ, IF, GH, EM, GM</i>	<i>7.1</i>
08Sep23	<i>New document created with a new visio diagram, the original process document is now in Archive and accessible there. Amendments arose following review – See TRIM</i>	<i>TJ, IF, GH, EM, EM, JK, RE</i>	<i>8</i>
3Mar24	<i>Added an interpretation from the MTA for hazard to clarify – Actual or potential cause or source of harm</i>	<i>TJ, GH</i>	<i>8.1</i>