




# FIJI PORTS CORPORATION

## DERELICT VESSEL MANAGEMENT POLICY

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	<b>FIJI PORTS CORPORATION PTE LIMITED</b>
	<b>HARBOR MASTER'S OFFICE</b>
	<b>POLICY AND PROCEDURE</b>
<b>DOCUMENT TITLE:</b>	<b>DERELICT VESSEL MANAGEMENT</b>

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## 1.0 Purpose

The purpose of this policy is to outline the requirements and responsibilities on the management of derelict vessels within the Fiji Ports Corporation Pte Ltd declared ports and port boundaries in Fiji and to establish best practices on the management of derelict vessels.

## 2.0 Scope

Derelict Vessels typically include harbour and coastal working vessels such as tugs, fishing vessels, and pleasure craft that have been abandoned within the port boundary due to repair costs, economic conditions, or the decline of fishing industries and scrap metal values. The Derelict Vessel Management Policy involves the prevention, management, control and disposal of derelict vessels.

Given the importance of having the presence of derelict vessels within Fiji's harbour effectively controlled, this policy will outline the objectives of the company on derelict vessels. In instances where an event occurs but not covered by the Policy outlined in this manual, staff are to apply best practices or consult and discuss with the Legal, Risk and Compliance Unit (LRC Unit) and the Harbour Master.

## 3.0 References

Fiji Ports Development Masterplan Study on Wreck Removals by ADB

Maritime (STCW Convention) Regulations 2014

Sea Ports Management Act 2005

Sea Ports Management Regulations 2008

Section 9330 Derelict Vessel Best Management Practices

## 4.0 Definition and Abbreviations


### 4.1 Definitions

**"Dangerous Vessel"**- means any vessel that is disabled either wholly or partly or is in a leaking condition, on fire or the cargo of which is on fire, likely to pollute the waters of the port, carrying cargo which includes oils or chemicals or any substance of a flammable or combustible nature where fire has occurred in or in proximity to that cargo within 24 hours prior to the proposed arrival of the vessel. *[Ref: SPMR]*.

**"Derelict Vessel"** – means any vessel that is abandoned within the port harbour for a period of 21 days and does not have the minimum manning requirement to operate. *[Ref: SPMR]*.

**"Harmful Substances"**- means any substance which, if introduced into the sea is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea and includes any substance subject to control under the

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Convention (International Convention for the Prevention of Pollution from Ships 1973 as modified and added to by the Protocol of 1978 and as amended from time to time). [Ref: SPMR].

**“Removal”**- the act of removing and cleaning up a Derelict Vessel or a Wreck.

**“Ship breaking”**- means any breaking down of a vessel’s structure for the purpose of scrapping the vessel, including the removal of gear, equipment, or any component part of the vessel.

**“Wreck”** – means a sunken or standard ship or any part of a sunken or standard ship, including any object that is or has been on board such a ship or any object that is lost at sea from a ship and that is standard, sunken or adrift at sea or a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken. [Ref: Fiji Ports Development Masterplan Study on Wreck Removals by ADB].

**“Vessel of Concern”** – a vessel identified that will likely become a Derelict /Dangerous Vessel because either because of its physical condition, there is minimum or no manning and or being abandoned.

**“Vessel Under Exemption from Manning”**- Vessels that have been given temporary exemption to have minimum per section 21 of the Maritime (STCW Convention) Regulations 2014.

#### 4.2 Abbreviations

**DV** – Derelict Vessel

**DOE** - Department of Environment

**EA** – Enforcement Assistant

**FPCL** - Fiji Ports Corporation Pte Limited

**HM** – Harbour Master, FPCL.

**LRC Unit** – Legal, Risk and Compliance Unit, FPCL.

**MPSI** – Manager Projects and Strategy Implementation.

**MSAF** – Maritime Safety Authority of Fiji

**SPMA** - Sea Ports Management Act 2005


**SPMR** - Sea Ports Management Regulations 2008

**RCA** – Risk and Compliance Analyst, FPCL.

**VO** – Vessel Owner

**VOC** – Vessel of Concern

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## 5.0 Inter-agency Co-ordination

An interagency partnership and coordination involving relevant government departments is an effective way of managing and controlling Derelict Vessels.

### 5.1 MSAF Responsibilities

5.1.1 The Maritime Safety Authority of Fiji as the sole regulatory authority in Fiji that monitors and ensures that all vessels registered in Fiji comply with all International Maritime Organisation Instruments.

5.1.2 MSAF is responsible for the administration of the Ships Registration Act (2013) and Maritime Transport Act (2013).

5.1.3 In the management of derelict vessels MSAF is responsible for:

- a) Safe shipping- Ensuring that all Fiji Registered vessels are seaworthy and safely managed.
- b) Compliance: Ensure that all seafarers and maritime users comply with the laws that MSAF administers.
- c) Providing assistance on vessel registration information for VOC.
- d) Providing authorisation at its discretion to board any vessel within a port or the approaches to a port.
- e) Providing clearance for DV/Dangerous Vessels intended for scuttling.
- f) Issuing of letters to vessel owners and vessel operators.

### 5.2 DOE Responsibilities


5.2.1 The Department of Environment through the Ministry of Environment is responsible for the clean, healthy environment and waterways management for a sustainable and resilient Fiji.

5.2.2 In the management of derelict vessels DOE is responsible for:

- a) Monitoring and enforcing environmental standards,
- b) Providing technical advice on pollution control and abatement methods
- c) Examining and assessing environmental hazards posed by DV/Dangerous Vessels.
- d) Making comments and recommendation on management plan to protect the environment from hazardous substances
- e) Monitoring and enforcing any environmental management conditions
- f) Issuing permits for the discharge of waste or pollutants.
- g) Invoke legal action as necessary under the Environment Management Act and Regulations for any risk of environmental pollution from vessel owners

### 5.3 WATER POLICE Responsibilities

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5.3.1 The Fiji Police Force Water Police Division based at Draunibota Bay are responsible for conducting investigations on reports that occur within ports and approaches to ports.

5.3.2 In the management of DV/Dangerous Vessels the Water Police is responsible for:

- a) Preventing crime on DV/Dangerous vessels
- b) Enforcing laws relating to prevention on crime
- c) Conducting investigations on reports lodged and matters that require Police attention.
- d) Providing a Police Report on the conduct of investigations and findings.

## 5.4 FIJI PORTS CORPORATION PTE LIMITED Responsibilities

5.4.1 The Harbour Master's Office, Suva and the LRC through the Enforcement Assistant is responsible for the management of DVs within FPCL's declared port boundaries. This includes and is not limited to:


- a) Inventory of DVs/Dangerous Vessels within the declared port boundaries;
- b) Determine DVs/Dangerous Vessels that pose actual or potential pollution threats and hazard to navigation and ensure reporting relevant agencies;
- c) Work with vessel owners/agents to remove all pollution, Harmful Substances and navigational threats from identified DVs.
- d) Work with vessel owners/agents to remove the DV from the declared port boundary.
- e) Recommending to Executive Management vessels to be issued Removal Orders in accordance with the SPMA.

5.4.2 The Harbour Master's Office through the Harbour Master Coordinator is responsible for providing oversight to the Enforcement Unit in executing its responsibilities and to verify inventories and reports before it is released to LRC, MPSI and/or Executive Management.

## 5.5 RESOURCES

5.5.1 In ensuring that Derelict/Dangerous Vessels are efficiently managed, the resources available to FPCL include:

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- a) Patrol/Pollution Boat
- b) Laptop
- c) Mobile Phone
- d) Personal Protective Equipment (PPE)
- e) Intranet facilities

## 6.0PART 1: POLICY

### 6.1 Prevention

- a) The most effective way of preventing vessels from becoming DVs/Dangerous Vessels in the future is early identification.
- b) The EA must on a weekly basis conduct harbour patrols to identify any Vessel of Concern, the harbour patrols must be logged into the Daily Voyage Log Book as per the **Procedure for Pollution Boat Operations.**
- c) For Harbour Patrols outside of the Suva Port, the EA must coordinate with the HM office on harbour patrols to be conducted in the ports outside of the Suva Harbour e.g. Lautoka Port, Levuka Port etc.
- d) The EA must have early communication both with the VO and or agent on identification of a Vessel of Concern.
- e) Recognizing the signs of a vessel that is soon to be Derelict/Dangerous/Wreck and taking preventative measures can save a great deal of time, money and effort. If a vessel is determined to be a VOC, it is likely to become a Derelict/Dangerous Vessel and or Wreck in the future.
- f) A notice should be posted on a clear and visible section of the vessel that recognizes it as a VOC and a letter of concern should be sent to the last known owner of the vessel within 72 hours. The letter of concern should state the vessel's make and model and registration number, why the vessel is considered a vessel of concern, that immediate attention is required of the owner, what will happen if the owner fails to comply and the EA's contact information.
- g) **Appendix 1** has the sample letter of concern to the owner and notice to be placed on the vessel.

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- h) The EA must also report a vessel to MSAF as soon as it becomes a VOC (*Refer to paragraph 6.2.8 and 6.2.9*).
- i) The EA must seek assistance from MSAF during discussions with the VO/agent in bringing the vessel to compliance.
- j) In instances where the VOC concerns an environmental threat, the Department of Environment is to be notified and included in discussions in bringing the vessel to compliance.

## 6.2 Assessments

### 6.2.1 Identification


- a) The EA may conduct assessments without boarding a vessel if there is no authority to board the vessel or if safety concerns prohibit a boarding. A Site Safety Plan specific to DVs boarding is provided in **Appendix 3** to assist EA in identifying hazards and risks prior to boarding a vessel.
- b) Should it be necessary for EA to board a vessel, the officer must not board alone there must at least be another qualified officer appointed by the Harbour Master to board with the officer and another officer on standby on the pollution/patrol boat.
- c) The EA or any other officer of FPCL must ensure that they have the authority to board a vessel from the Port Master (*section 26(2) of the SPMA*). The only exemption is in the event a fire has broken out where authorization is to be obtained from the CEA (*section 26(5) of the SPMA*) and
- d) Consultation with partner agencies is essential, and multi-agency boarding and assessments are encouraged; these agencies could be MSAF, the Navy, Police and the DOE.
- e) A Site Safety Plan briefing must be held, and the form filled before the boarding of any vessel.
- f) The Security and Enforcement Unit must ensure that they have the appropriate training on pre-boarding and boarding procedures and also on emergency procedures handling of Dangerous Substances and dangerous situations. Refresher trainings to be held at least once annually.

### 6.2.2 Derelict Vessel Reporting Form and Evaluation Matrix

- a) The VOC Reporting Form and Vessel Ranking Form in **Appendix 4** is to be used to assist in assessing a VOC. At a minimum, the EA should determine the following information about the

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vessel and the Harbour Master Coordinator must verify that such information is correct and true:

*6.2.2.1 Vessel Information*

- a) Characteristics of the vessel should be noted and documented to assist in determining owner/operator information, vessel history and other amplifying descriptions. These include vessel name, registration number, flagship, hull type, vessel type, fuel or hazardous materials on board, fuel capacity, activity on the vessel.

*6.2.2.2 Location*

- a) Obtain a latitude/longitude for the vessel, accurate depth (if sunk) and a general geographic description of the area the vessel is in.
- b) Identify navigational concerns and proximity to navigational channels/by ways, mooring fields, marinas, fishing co-piers, fish pens and any other higher traffic areas. This may affect the urgency of the response.
- c) In the case of a grounded vessel, ascertain whether it needs to be secured to shore to keep it from drifting away on the next tide.

*6.2.2.3 Owner/Operator Information*

- a) EA is to get the name, address and phone number for the VO/agent and any relevant operators if possible.
- b) EA is to have a detailed discussion with the VO/agent and note any plans the owner may have to remove or clean up the vessel. This can either be done before or after issuing a vessel of concern notice.
- c) If a VO cannot be located or is unknown, this must be noted in the form.


*6.2.2.4 Physical Condition*

- a) The EA must assess and document the physical condition of the vessel, such as:
- Vessel sunk or listing,
  - Major damage to structure,
  - Visible holes in the hull or deck,
  - Numerous soft patches or failing patches, and popped or missing planks.

*6.2.2.5 Navigational/Environmental Hazard*

- a) Co-ordinate with HMO to identify Navigational Hazard and co-ordinate with DOE and MSAF to identify navigational hazard.

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- b) Identify and document the capacity of the fuel tanks, fuel vent location and other cargo aboard that may be considered oil or hazardous materials (e.g. batteries, paint, hydraulic fluid in gear or stored, engine/generator crank case oil, propane tanks, packaged cleaners, etc.).
- c) Where the VO's/agents are known and contactable, they are to provide a declaration to FPCL that there is no oil, fuel or harmful substance stored on the Vessel.
- d) The EA must in the Vessel Ranking Form identify whether there is a Hazard to Navigable waterway.

*6.2.2.6 Public Safety*

- a) The EA must identify and document accessibility to the vessel to determine potential for illicit activity on board or possibility of illegal dumping. If there is a potential for criminal activity, the EA is to:
  - Contact the police for any information they have regarding the vessel prior to boarding.
  - Co-ordinate with MSAF to find out if there is any vessel history for past criminal activity or other violations.
- b) The EA must also co-ordinate with navy and police and also MSAF to board the vessel with the EA for inspection if there is suspicion of illicit activity on board.


*6.2.2.7 Current or Previous Response Actions*

- a) EA must enquire and take note of any previous, current or planned actions to clean up or remove the vessel.

*6.2.2.8 Minimum Manning Requirement and Abandonment of Vessel*

- a) Under the SPMR, a DV is one that that has been abandoned within the port harbour for a period of 21 days and does not have the minimum manning requirement to operate.
- b) For the element of "abandoned" to be met, the literal meaning of the term will apply and also whether port dues and charges are being paid.
- c) EA will have to enquire with the Finance Department on the payment status of the vessel.
- d) On inspection, the EA can ascertain whether the minimum manning requirement is being met.

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- e) For further due diligence and to provide solid evidence should there be a contest, EA must also conduct a search with MSAF to ascertain whether the Safe Manning Certificate is valid or otherwise – this applies to vessels registered in Fiji.
- f) A vessel may not have any deteriorating physical condition and not pose as an environmental threat but may still be categorized as a DV pursuant to the definition in the SPMR. As long as the elements of the DV definition are met, EA can move to discussion with the VO or agent, give notice of concern to bring vessel to compliance and then eventually issue a removal order (if need be).
- k) VOs/ agents are to be notified that should there be a vessel unmanned or does not meet the minimum manning requirement in the port boundary, they are to notify and seek exemption from MSAF as per section 21 of the Maritime (STCW Convention) Regulations 2014.
- l) The Harbour Master must then also impose conditions such as (but not limited to):
  - Remove any potential environmental threat and or Harmful Substances
  - Vessel to be moored and anchored securely
  - Remove bilge water
  - Have the vessel monitored and inspected regularly.
- m) Vessels granted an exemption from manning and further upon meeting conditions set by the Harbour Master will be termed **Vessels Under Exemption From Manning**.
- n) *In **Appendix 2*** is a sample circular to be circulated to VOs/agents.
- o) Should the EA find from his/her harbour patrols that the Vessel is likely to be become a DV/Dangerous Vessel, it should issue a VOC notice and inform MSAF within 72 hours.

*6.2.2.9 Issuing of Vessel of Concern Notice and Removal Orders*

- a) Reports should be made as completely as possible using the Vessel of Concern reporting form and evaluation matrix in **Appendix 4**.
- b) The form is to be annexed to the memo to CEO/Executive Management in requesting to declare a vessel DV.
- c) Once a form is filled it will determine whether to issue a notice of VOC or Declare a Vessel DV/Dangerous Vessel straight away. In most situations, a notice of VOC is to be issued first

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before a Removal Order is issued. To be clear, a Removal order is issued once the elements of a DV are met and all discussions with the VO/agent have proven futile.

- d) Further to the VOC form is the vessel ranking form to also be filled by the EA while on harbour patrol, the ranking form may be filled once a month or upon a sudden change in the condition of the vessel warranting a change in rank.
- e) The EA must aim to bring with the vessel ranking down to a non-critical level.
- f) The EA need only obtain approval from the Harbour Master to issue a VOC Notice. Approval must be sought with the Vessel of Concern Reporting Form and Ranking Form as support. Approval must be well documented and filed.
- g) The Derelict Vessel file must then document the date the VOC Notice was served to the Owner (if known). For notices filed to the owner, service must be effected only to the registered office of business. To ascertain this, EA must consult the RCA to conduct a company search at the Fiji Registrar of Companies. If the VO is a company not registered locally, sending the notice by email or delivering by hand or mail is sufficient. Email records must be filed in the Vessel file.
- h) MSAF is to be notified that a vessel is now a VOC with reasons stated to seek their attention to conduct inspections to bring the vessel to compliance under their laws.

*6.2.2.10 Record Keeping & Derelict Vessel Database*

- a) Vessels Under Exemption from Manning, Vessels of Concern or Derelict Vessels must each have an electronic file and a hard copy maintained by the Security and Enforcement Unit.
- b) Each file must have a registration certificate and Vessel of Concern form and all correspondences filed.
- c) For Vessels Under Exemption from Manning, the exemption document must be filed with the conditions set by the Harbour Master.
- d) Vessels of Concern must have a copy of the notice that was sent to the VO/agent and a copy of the notice that was pasted on the vessel filed in file with company and MSAF search results, date and time service of notice was effected. All ranking forms must also be filed with the incident reports.

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- e) Derelict Vessel files are to have documents from when the vessel was a Vessel of Concern (if applicable), incident reports, memo to Management requesting for a removal order, the removal order and documentation of all other actions taken thereafter.
- f) A Derelict Vessel Database is to be maintained by the Security and Enforcement Unit and submitted as a report by the 24<sup>th</sup> of every month to Management. Should a ranking rating trigger apply, Management is to be notified immediately.
- g) The Derelict Vessel Database and Dashboard must be accurately maintained as this may be shared with other organisations who are a part of the multiagency. The Harbour Master Coordinator must provide oversight and verification to the accuracy of the database.
- h) Each must be given a Vessel ID# for ease of reference.
- i) Further to the database is the Derelict & Wrecks Action Spreadsheet which monitors the action status of each vessel in the database, a report of which is to be submitted to the Board Technical Infrastructure and Sustainability Subcommittee on each sitting.
- j) The Derelict and Wrecks Spreadsheet is to be actively updated and the EA must ensure that consistent action is being taken, this is to also be part of the monthly report to Management.

### 6.3 Declaring a Derelict Vessel, Issuing a Removal Order and Action Afterwards

- a) According to section 27(1) of the SPMA, FPCL may order the removal of any derelict or dangerous vessel from a port or approaches to a port.
- b) The time of removal to be placed on the vessel is to range from within 4 hours, 24 hours, 7 days and 14 days depending on the ranking given in the vessel ranking form.
- c) The removal order is to be in the format as stated in **Appendix 5** and served to the VO's/agents registered address.
- d) Removal of dangerous vessel is to be removed within 4 hours to 24 hours depending on the circumstances.
- e) If no action is taken within the timeframe given the Harbour Master must make a recommendation with reasons to Management on whether to arrange for the removal of the vessel, sale by auction or destruction.

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	<b>POLICY AND PROCEDURE</b>
<b>DOCUMENT TITLE:</b>	<b>DERELICT VESSEL MANAGEMENT</b>

- f) Where feasible and it is determined that the VO is financially sound, civil proceedings may be taken against the VO to recover costs of removing the vessel.
- g) Where the VO or master is known and can be located, criminal proceedings is to be taken for non – compliance.
- h) Money recovered through civil proceedings is for purposes of recovering costs for FPCL, however, fines paid from a criminal proceeding is to be paid into the Fijian Government Consolidated Account.
- i) Upon notification to Management, an application is to be made to the FPCL Board seeking that all services to the VO company be suspended until removal of the vessel or until the vessel is brought to compliance.

#### 6.4 Other Breaches under the SPMA and SPMR

- a) The EA and Harbour Master must be well versed with the SPMA and the SPMR.
- b) Any breach of the SPMA and SPMR must have an incident report made immediately and referred to the LRC unit for prosecution.

#### 6.5 Suspected Breaches of Other Laws to be reported

- a) In the event of a suspected breach or any potential criminal activity that is within the knowledge of the EA or reported to the EA a report must be lodged at the nearest Police Station.
- b) An incident report must be compiled detailing the suspected breach and inserted as part of file records.

### 7.0 Records

7.1 All records must be stored in hard copy in the Derelict Vessel Management file and on the Intranet on the Security and Enforcement page.

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