

AUSTRALIAN UNDERWATER CULTURAL HERITAGE INTERGOVERNMENTAL AGREEMENT

**An agreement that establishes roles and responsibilities for the
Identification, Protection, Management, Conservation and
Interpretation of Australia's Underwater Cultural Heritage**

31 May 2010

Preamble

The intent of this Intergovernmental Agreement is to:

- clarify the roles and responsibilities the Commonwealth, States and the Northern Territory jurisdictions in relation to the management of Australia's underwater cultural heritage; and
- meet international best practice management of Australia's underwater cultural heritage as outlined in the Rules in the Annex to the UNESCO 2001 *Convention on the Protection of the Underwater Cultural Heritage*.

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SCHEDULE 1 AUSTRALIAN UNDERWATER CULTURAL HERITAGE ADVISORY COMMITTEE

1. PARTIES TO THE AGREEMENT

An Agreement made the _5th_ day of _July_ two thousand and _ten_,
between:

THE COMMONWEALTH OF AUSTRALIA;
THE STATE OF NEW SOUTH WALES;
THE STATE OF VICTORIA;
THE STATE OF QUEENSLAND;
THE STATE OF WESTERN AUSTRALIA;
THE STATE OF SOUTH AUSTRALIA;
THE STATE OF TASMANIA; and
THE NORTHERN TERRITORY OF AUSTRALIA.

The roles and responsibilities of the Parties outlined in this Intergovernmental Agreement (the Agreement) are consistent with the 1997 *Heads of Agreement on Commonwealth/States Roles and Responsibilities for the Environment*, the 2004 *National Heritage Protocol* and the Commonwealth's *Historic Shipwrecks Act 1976*.

This Agreement reiterates the founding principles in the above listed agreements and acknowledges that a national partnership between all levels of government on heritage issues must be based on:

co-operation	the setting and achievement of goals will be enhanced by increased co-operative efforts between different levels of government and with relevant stakeholders;
effectiveness	policy and program development and implementation should be undertaken in a way that achieves improved results;
efficiency	unnecessary duplication and overlap between governments should be minimised;
leadership	is to be provided by the Commonwealth through a cooperative national approach
seamlessness	policies and programs, within and between governments, should be designed and administered to ensure that clients experience integrated processes and interfaces;
simplicity	administrative and legislative systems should be simple to understand and designed to minimise compliance costs; and
transparency	decision-making processes, accountability for decisions and delivery of policy and program outcomes should be clear, logical and transparent, and readily available to the public.

This Agreement does not override any existing Intergovernmental Agreements between the Commonwealth and the States and the Northern Territory, or between the States and the Northern Territory, unless alterations or amendments to those

agreements are proposed and agreed by all Parties in accordance with existing review processes and/or any review process arising as a result of this Agreement.

The Parties to the Agreement:

RECOGNISE the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity;

ACKNOWLEDGE the important roles of the Commonwealth and the States and the Northern Territory in the identification, protection, management, conservation and interpretation of Australia's underwater cultural heritage and the contribution each can make in the development of international and national policies, for which the Commonwealth has lead responsibility;

ACKNOWLEDGE that policy development, program delivery and decision-making should be the responsibility of the level of government best placed to deliver agreed outcomes; and

ACKNOWLEDGE that the efficiency and effectiveness of administrative and political processes and systems for the management and protection of Australia's underwater cultural heritage will require that:

- the roles and responsibilities of the different levels of government are clearly and unambiguously defined;
- duplication of functions between different levels of government are avoided;
- the benefits and costs of decisions to the community are explicit and transparent; and
- the different levels of governments cooperate on underwater cultural heritage issues.

2. KEY OBJECTIVES AND PURPOSE

2.1 The primary purpose of the Agreement is to articulate the roles and responsibilities of the Commonwealth and the States and the Northern Territory to enable Parties to meet their obligations for the identification, protection, management, conservation and interpretation of Australia's underwater cultural heritage.

2.2 This Agreement aims to:

- ensure a cooperative national approach to the management of Australia's underwater cultural heritage; and
- provide greater certainty in decision making.

2.3 For the avoidance of any doubt, it is the intention of the Parties that this agreement should not be a legally binding contract.

3 INTERNATIONAL UNDERWATER CULTURAL HERITAGE

On 2 January 2009 the UNESCO 2001 *Convention on the Protection of the Underwater Cultural Heritage* (Underwater Cultural Heritage Convention) came into force. Australia supported its drafting and final form. Australia supports the principles as stated in the Annex to the Convention.

All Parties agree to undertake all necessary activities to enable the Commonwealth to determine whether it could ratify the Underwater Cultural Heritage Convention.

4 ROLES AND RESPONSIBILITIES OF THE COMMONWEALTH

The Commonwealth acknowledges its responsibility to ensure the identification, protection, management, conservation and interpretation of Australia's underwater cultural heritage in its area of jurisdiction, in consultation and with the cooperation of the States and the Northern Territory.

4.1 General

The Commonwealth will:

- a) meet international best practice as set out in the Annex of the Underwater Cultural Heritage Convention that came into force on 2 January 2009;
- b) administer Commonwealth legislation and processes, including coordinating the Australian Historic Shipwreck Program and the *Historic Shipwrecks Act 1976*, to identify, protect, manage, conserve and interpret historic shipwrecks and other underwater cultural heritage that it is responsible for;
- c) jointly with the States and the Northern Territory, use the best scientific, technical and community advice available to identify, protect, manage, conserve and interpret Australia's underwater cultural heritage; and
- d) provide secretariat and other appropriate support to the Australian Underwater Cultural Heritage Advisory Committee (Schedule 1) and any other relevant advisory committee established by the Environment Protection and Heritage Council.

4.2 Waters for which the Commonwealth has responsibility

4.2.1 The Commonwealth has responsibility for the identification, protection, management, conservation and interpretation of all declared historic shipwrecks under the Historic Shipwrecks Act found in waters from adjacent to the Australian coast to the outer edge of the continental shelf.

4.2.2 The Commonwealth has responsibility for the protection, management, conservation and interpretation for all other underwater cultural heritage from the seaward limit of State and Northern Territory coastal waters to the outer edge of the continental shelf.

4.3 Flagged shipwrecks and aircraft

4.3.1 The Commonwealth will notify foreign States of the location of any flagged shipwrecks or aircraft in waters from adjacent to the Australian coast to the outer edge of the continental shelf, and endeavour to ensure that the foreign State is in agreement with the management of such vessels or aircraft by Australia.

4.4 Legislative protection

4.4.1 The Commonwealth will review its regime for protection of underwater cultural heritage to ensure that it meets the requirements as a State Party to the meet

international best practice management of Australia's underwater cultural heritage as outlined in the Rules in the Annex to the Underwater Cultural Heritage Convention.

5. ROLES AND RESPONSIBILITIES OF THE STATES AND THE NORTHERN TERRITORY

The States and the Northern Territory play a critical role in working in conjunction with the Commonwealth in identifying, protecting, managing, conserving and interpreting Australia's underwater cultural heritage.

5.1 General

The States and the Northern Territory will:

- a) meet international best practice, as stated in the Annex of the Underwater Cultural Heritage Convention;
- b) administer State and Northern Territory legislation to identify, protect, manage, conserve and interpret historic shipwrecks and other underwater cultural heritage that they are responsible for;
- c) subject to agreed financial arrangements, in conjunction with the Commonwealth, administer Commonwealth underwater cultural heritage legislation and processes to identify, protect, manage, conserve and interpret historic shipwrecks and other underwater cultural heritage;
- d) jointly with the Commonwealth, use the best scientific, technical and community advice to identify, protect, manage, conserve and interpret Australia's underwater cultural heritage; and
- e) support the activities of the Australian Underwater Cultural Heritage Advisory Committee (Schedule 1) and any relevant advisory committee established by the Environment Protection and Heritage Council.

5.2 Waters for which the States have responsibility

5.2.1 The States have responsibility for the identification, protection, management conservation and interpretation of shipwrecks found in waters within the limits of the State (harbours, bays, bodies of water within the jaws of the land and inland waters).

5.2.2 The States have the responsibility for the identification, protection, conservation and interpretation for all other underwater cultural heritage (except shipwrecks) within State coastal waters and within the limits of the State (harbours, bays, bodies of water within the jaws of the land and inland waters).

5.2 Waters for which the Northern Territory has responsibility

5.3.1 The Northern Territory has responsibility for the identification, protection, management, conservation and interpretation of shipwrecks found in inland waters (i.e. waters not subject to the Historic Shipwrecks Act).

5.3.2 The Northern Territory has the responsibility for the identification, protection, management, conservation and interpretation for all other underwater cultural heritage (except shipwrecks) within Northern Territory coastal waters and within the limits of the Northern Territory (harbours, bays, bodies of water within the jaws of the land and inland waters).

5.4 Legislative protection

5.4 The States and the Northern Territory will review their regimes for protection of shipwrecks and other underwater cultural heritage to ensure that they are compatible with Commonwealth legislation and meet the requirements of the Underwater Cultural Heritage Convention.

6. THE ENVIRONMENT PROTECTION AND HERITAGE COUNCIL

6.1 The Parties recognise that the Environment Protection and Heritage Council (EPHC), or its successor, is the national body responsible for decisions relating to underwater cultural heritage.

6.2 The EPHC's underwater cultural heritage roles and responsibilities include:

- a) to develop policies and strategies for national approaches to the management of Australia's underwater cultural heritage;
- b) to monitor, evaluate, audit and provide advice on the outcomes of these approaches;
- c) to develop agreed approaches to emerging international underwater cultural heritage issues;
- d) to establish national cooperative mechanisms to ensure efficient and effective management of the underwater cultural heritage resource including the Australian Underwater Cultural Heritage Advisory Committee (Schedule 1); and
- e) any other underwater cultural heritage related activity it considers appropriate from time to time.

7. TERM OF THIS AGREEMENT

7.1 This Agreement will be subject to a periodic review and may be varied by mutual agreement in writing, signed by all parties.

8. INTERPRETATION

8.1 'Agreement' means the Australian Underwater Cultural Heritage Intergovernmental Agreement.

8.2 'Commonwealth' means the Commonwealth of Australia.

8.3 'Underwater Cultural Heritage Convention' means the United Nations Educational, Scientific and Cultural Organisation (UNESCO) 2001 *Convention on the Protection of the Underwater Cultural Heritage*.

8.4 'Parties' to the Agreement means the Commonwealth, State and Territory governments which have signed the Agreement.

8.5 'State Party' means the Commonwealth as a signatory of the Underwater Cultural Heritage Convention.

SIGNED BY:

...[Signed].....

The Hon. Tony Burke MP

Minister for the Sustainability, Environment, Water, Population and Communities
(Commonwealth)

...[Signed].....

The Hon. Tony Kelly MLC

Minister for Planning (New South Wales)

...[Signed].....

The Hon. Justin Madden MLC

Minister for Planning (Victoria)

...[Signed].....

The Hon Kate Jones MP

Minister for Climate Change and Sustainability (Queensland)

...[Signed].....

The Hon. John Day MLA

Minister for Planning; Culture and the Arts (Western Australia)

...[Signed].....

The Hon. Paul Caica

Minister for Environment and Conservation (South Australia)

...[Signed].....

The Hon. David O'Byrne

Minister for the Environment, Parks and Heritage (Tasmania)

...[Signed].....

The Hon. Karl Hampton MLA

Minister for Natural Resources, Environment and Heritage (Northern Territory)

AUSTRALIAN UNDERWATER CULTURAL HERITAGE ADVISORY COMMITTEE

The Commonwealth, the States and the Northern Territory have been meeting regularly to coordinate matters of historic shipwreck policy and administration of the *Historic Shipwrecks Act 1976* since 1985.

The Environment Protection and Heritage Council (EPHC) agrees that a national-level advisory body, be formalised and called the Australian Underwater Cultural Heritage Advisory Committee (AUCHAC). AUCHAC will provide national leadership and expert advice to EPHC and other relevant Ministerial forums on underwater cultural heritage issues of an international and national importance.

Terms of Reference

The AUCHAC terms of reference outlined below will facilitate the partnership between the Commonwealth, the States and the Northern Territory identifying, protecting, managing, conserving and interpreting Australia's underwater cultural heritage to meet best international practice.

AUCHAC's functions are to:

- i) advise EPHC through the EPH Standing Committee, on policies and programs which benefit underwater cultural heritage in areas of common interest and on national or cross-cutting issues;
- ii) advise on research, monitoring and other information requirements for underwater cultural heritage;
- iii) identify and consider matters that require agreement or a common approach between multiple jurisdictions;
- iv) facilitate the sharing of knowledge and experience in the development and implementation of underwater cultural heritage management;
- v) identify priorities and provide advice in relation to the management of underwater cultural heritage;
- vi) advise on the promotion of Australia's underwater cultural heritage at the local, national and international levels; and
- vii) report annually to EPHC, through the EPH Standing Committee, on its activities.

Membership of AUCHAC

AUCHAC will comprise one representative from the Commonwealth and each State and the Northern Territory.

AUCHAC will meet biannually, four to six weeks prior to EPH Standing Committee meetings.

AUCHAC will be chaired by a representative of the Commonwealth Government.

Where an AUCHAC member is not able to attend the annual meeting, they may nominate an alternative representative who shall be from that jurisdiction.