

JOINT NAUTICAL ARCHAEOLOGY POLICY COMMITTEE

Silver Birches
Bashurst Hill
Itchingfield
Horsham
West Sussex
RH13 0NY

Tel 01403 790500
Fax 01403 790029

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Marine Licensing Team
Department for Environment, Food and Rural Affairs
Area 2C Nobel House
17 Smith Square
London SW1P 3JR

marinelicensing.consultation@defra.gsi.gov.uk

Dear Sir / Madam

Consultation on secondary legislation for England and Wales under the Marine and Coastal Access Bill: Part 4 Marine Licensing.

Response by the Joint Nautical Archaeology Policy Committee

The JNAPC has pleasure in responding to Defra's consultation document on marine licensing in Parts 2 and 4 of the Marine and Coastal Access Bill.

The JNAPC was formed in 1988 from individuals and representatives of institutions who wished to raise awareness of the United Kingdom's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land. Some summary information on the JNAPC and its membership is attached in Appendices 1 & 2 below.

Since the JNAPC is interested in the underwater cultural heritage we will not be responding to all the questions in your consultation document but will confine ourselves to making the main recommendation below and then responding to questions 40,42 and 43.

JNAPC recommends that a licence should be required for the excavation of historic wreck sites or submerged prehistoric land surfaces in, on or under the seabed within the UK marine licensing area. A licence should also be required for any intrusive survey of the seabed, or any survey where the seabed is disturbed, or any articles are removed from the seabed.

In part 4, a licence is required under paragraph 66 (1) 8, “To use a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the seabed within the UK marine licensing area” and under 66 (1) 9 “To carry out any form of dredging within the UK marine licensing area (whether or not involving the removal of any material from the sea or seabed).” Dredging is defined in 66 (2) (a) to “include using any device to move any material (whether or not suspended in water) from one part of the sea or seabed to another part.”

These definitions are consistent with the process of salvage or excavation of historic wreck sites and prehistoric land surfaces from the seabed surface or from under the seabed. During excavation historic artefacts will be removed from the seabed or from under the seabed and the excavation process involves dredging to remove material such as sand and sediment in order to gain access to parts of the site below the seabed.

Q40 Are there any other key considerations that should be taken into account when deciding whether to exempt or not exempt specific activities? Should factors be treated equally, or do some outweigh others?

The reference to “the environment” should not be restricted to the natural environment but should include the historic environment, which should be given a major weighting. If any activities are likely to damage the marine historic environment they should not be exempted.

Q42 Are there existing exemptions (or groups of exemptions) which need to be modified, simplified or deleted other than those we have already identified? Do you agree with what we have identified so far?

We do not believe that salvage or excavation of historic wreck sites or submerged prehistoric land surfaces (on or under the seabed including archaeological excavation or exploration) should ever be exempted from the Bill.

Q43 Are there any new key activities or groups of activities listed in the list above which you do not agree should be made exempt from the new licensing regime? Why?

A suggested exemption is the “deposit of sediment resulting from archaeological exploration”. We do not agree that this should be exempted because it would effectively permit all salvage and excavation of historic wreck sites and submerged prehistoric land surfaces, an activity that we have recommended above should be subject to licensing.

We would welcome the opportunity to participate in the future development of licensing requirements related to the marine historic environment.

Yours faithfully

R A Yorke
Chairman

Appendix 1

JOINT NAUTICAL ARCHAEOLOGY POLICY COMMITTEE

THE JNAPC - PAST, PRESENT AND FUTURE

The JNAPC was formed in 1988 from individuals and representatives of institutions who wished to raise awareness of Britain's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land.

The JNAPC launched *Heritage at Sea* in May 1989, which put forward proposals for the better protection of archaeological sites underwater. Recommendations covered improved legislation and better reporting of finds, a proposed inventory of underwater sites, the waiving of fees by the Receiver of Wreck, the encouragement of seabed operators to undertake pre-disturbance surveys, greater responsibility by the Ministry of Defence and the Foreign and Commonwealth Office for their historic wrecks, proper management by government agencies of underwater sites, and the education and the training of sports divers to respect and conserve the underwater historic environment.

Government responded to *Heritage at Sea* in its White Paper *This Common Inheritance* in December 1990 in which it was announced that the Receiver's fees would be waived, the Royal Commission on the Historical Monuments of England would be funded to prepare a Maritime Record of sites, and funding would be made available for the Nautical Archaeology Society to employ a full time training officer to develop its training programmes. Most importantly the responsibility for the administration of the 1973 Protection of Wrecks Act was also transferred from the Department of Transport, where it sat rather uncomfortably, to the then heritage ministry, the Department of the Environment. Subsequently responsibility passed to the Department of National Heritage, which has since become the Department for Culture Media and Sport.

The aim of the JNAPC has been to raise the profile of nautical archaeology in both government and diving circles and to present a consensus upon which government and other organisations can act. *Heritage at Sea* was followed up by *Still at Sea* in May 1993 which drew attention to outstanding issues, the *Code of Practice for Seabed Developers* was launched in January 1995, and an archaeological leaflet for divers, *Underwater Finds - What to Do*, was published in January 1998 in collaboration with the Sports Diving Associations BSAC, PADI and SAA. The more detailed explanatory brochure, *Underwater Finds - Guidance for Divers*, followed in May 2000 and *Wreck Diving - Don't Get Scuttled*, an educational brochure for divers, was published in October 2000.

The JNAPC continues its campaign for the education of all sea users about the importance of our nautical heritage. The JNAPC will be seeking better funding for nautical archaeology and improved legislation, a subject on which it has published initial proposals for change in *Heritage Law at Sea* in June 2000 and *An Interim Report on The*

Valletta Convention & Heritage Law at Sea in 2003. The latter made detailed recommendations for legal and administrative changes to improve protection of the UK's underwater cultural heritage.

The JNAPC has played a major role in English Heritage's review of marine archaeological legislation and in DCMS's consultation exercise *Protecting our Marine Historic Environment: Making the System Work Better*, and was represented on the DCMS Salvage Working Group reviewing potential requirements for new legislation. The JNAPC has also been working towards the ratification of the UNESCO Convention with the preparation of the *Burlington House Declaration*, which was presented to Government in 2006.

Appendix 2

Joint Nautical Archaeology Policy Committee

Members

Chairman

Robert Yorke

Organisations

Association of Local Government Archaeological Officers
British Sub Aqua Club
Council for British Archaeology
Hampshire & Wight Trust for Maritime Archaeology
Institute of Conservation
Institute of Field Archaeologists, Maritime Affairs Group
ICOMOS
National Maritime Museum
National Museums & Galleries of Wales
National Trust
Nautical Archaeology Society
Professional Association of Diving Instructors
Shipwreck Heritage Centre
Society for Nautical Research
Sub Aqua Association
United Kingdom Maritime Collections Strategy
Wessex Archaeology
Wildlife and Countryside Link

Paul Gilman
Jane Maddocks
Gill Chitty
Garry Momber

Julie Satchell
Chris Dobbs
Gillian Hutchinson
Mark Redknap
David Thackray
George Lambrick
Suzanne Pleydell
Peter Marsden
Ray Sutcliffe
Stuart Bryan
Chris Dobbs
Antony Firth
Joanna Butler

Individual representation

Sarah Dromgoole
Michael Williams

Affiliation
University of Nottingham
Wolverhampton University

Observers

Advisory Committee on Historic Wreck Sites
Cadw
Department for Culture, Media and Sport
The Crown Estate
English Heritage
Environment Service, Northern Ireland
Foreign and Commonwealth Office
Historic Scotland
Maritime and Coastguard Agency, Receiver of Wreck
Ministry of Defence
Ministry of Defence
Royal Commission on the Ancient
and Historical Monuments of Scotland

Tom Hassall
Sian Rees
Annabel Houghton

Ian Oxley
Rhonda Robinson
Richard Koizumi
Philip Robertson
Alison Kentuck
Peter MacDonald
Bob Stewart

Robert Mowat