

SHEP on the Marine Historic Environment

Historic Scotland

Response by The Joint Nautical Archaeology Policy Committee

May 2008

The Joint Nautical Archaeology Policy Committee (JNAPC) welcomes the opportunity to respond to the SHEP on the Marine Historic Environment.

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.

Question 1

Do you agree with Scottish Ministers' proposed policies for the marine historic environments?

The JNAPC welcomes the proposed policies for the Scottish marine historic environment.

Question 2

Is anything missing?

See question 7 below and the issue of the reform of salvage law in relation to marine historic assets.

Question 3

Is 'national importance' as defined in Annex A the appropriate criterion for designating marine historic assets?

National importance should not be limited to Scotland. Assets could be of importance both a UK and international context and this should be recognised.

Question 4

Are the guidance and criteria for determining national importance set out in Annex A those which should be applied? If not, what would you suggest?

The guidance criteria are clearly laid out and these are welcomed. Where possible, we would hope that there would be consistency in the criteria used for designation of marine historic assets in Scotland, England, Wales and Northern Ireland for the benefit of sea users, developers, divers and all stakeholders.

Question 5

Do you agree with proposals for new legislation in this area?

JNAPC agrees in principle with the proposals for new legislation and welcomes the broad range of marine historic assets to be covered, including submerged paleo-landscapes.

JNAPC recommends that there should be an unambiguous statutory requirement for the Receiver of Wreck to report all finds of marine historic assets to Heritage Agencies including Historic Scotland (5.2e). This would overcome the recognised problem of information on important finds being withheld on the basis of “commercial in confidence”.

Since so little is currently known about the marine historic environment we recommend that Historic Scotland should undertake a programme to identify sites of marine historic assets for potential designation and that the future number of sites should therefore be determined by what is appropriate rather than saying at this stage that there is no intention significantly to increase their number (5.3).

JNAPC welcomes the proposal that the heritage legislation should be part of the Scottish Marine Bill thereby ensuring that there will be seamless protection and management for both the historic and the natural marine environments. Amongst other aspects, this could have beneficial implications for combined marine protected areas as well as giving a strong heritage role to any future Marine Management Organisation

Question 6

Do you have any views as to how duties in relation to the marine historic environment might be split between Historic Scotland and any Marine Management Organisation?

JNAPC recommends that the links between the two organisations should be very close. Whereas we would expect to see Historic Scotland leading on all curatorial and designation aspects, we would expect an MMO to lead on spatial planning, marine mapping, licensing, policing and enforcement, thereby ensuring that many of the overall management issues are covered by one organisation.

Question 7

Do you consider that anything is missing? In your response, please note that matters relating to salvage are the concern of international maritime law and regulation of shipping. Such matters are reserved to the Westminster Parliament under the terms of the Scotland Act 1998.

JNAPC believes that the exclusion of the reform of salvage law in relation to marine historic assets in the draft Heritage Protection Bill for England and Wales is a serious mistake. Whilst we realise that Historic Scotland cannot therefore address the issue of salvage on its own, we would suggest that Historic Scotland should make strong representations to the Westminster Parliament that they reconsider salvage either in the Heritage Protection Bill or in other legislation in the very near future.

Question 8

What do you think might be the role of the local authorities and their historic environment advisors in relation to the marine historic environment and what are the key issues that need to be overcome?

There should be a greater involvement of local authorities in their marine historic environment. The issues that need to be addressed are: the need for statutory Marine Historic Environment Records; access to staff with the appropriate expertise; division of responsibility for marine historic assets in the inter-tidal zone and territorial waters.

Question 9

What new mechanisms and procedures might be required to provide for the management of change in relation to planning matters in connection with Scotland's marine historic environment?

The appropriate mechanism should be the use of Environmental Impact Assessment for managing and mitigating the effect of development on the marine historic environment. It is most important that in any EIA the specification of geophysical survey is appropriate to locating and understanding archaeological features.

Question 10

Given that science and recording has a major role to play in improving knowledge about sites and monuments on the seabed, how can Scottish Ministers and agencies charged with relevant responsibilities best assist in progressing knowledge about Scotland's marine historic environment?

Our knowledge of the location and nature of the marine historic assets on the seabed and in the inter-tidal zone is extremely limited. Even where the records indicate the existence of historic wrecks or submerged land surfaces their exact location on the seabed is seldom known. In order for any future spatial planning exercise to have any validity it will be essential to undertake a programme of seabed mapping and ground-truthing of the records. This would form part of the programme to identify marine historic assets for potential designation (see question 5).

R. A Yorke (Chair)
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May 2008

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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
Steve Waring
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
Carolyn Heeps
Ian Oxley
Rhonda Robinson
Andrew Tate
Philip Robertson
Alison Kentuck
Peter MacDonald
Bob Stewart

Robert Mowat