

Taking to the Water: English Heritage's Initial Policy for The Management of Maritime Archaeology in England

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Hoo Fort, Kent.

Hulk vessels placed around Hoo Fort to provide
Defence against erosion of salt marshes.

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Preface

With Royal Assent to the *National Heritage Act* (2002) English Heritage's remit is to be extended to include archaeological sites of all types from the low-water-line out to the 12-mile limit around England. The Act also allows the Secretary of State for Culture, Media, and Sport to direct us to also undertake functions relating to the Advisory Committee for Historic Wreck Sites and the archaeological diving contract.

English Heritage has been offered some additional funding by Government to undertake these extra duties, but only enough to allow us to undertake functions relating to the *Protection of Wrecks Act*, to employ a full time maritime archaeologist and to undertake a few small projects. However, the wider responsibilities that we have assumed could incur considerable additional costs arising from the rescue recording of archaeological sites at risk, measures for the in-situ management of sites and landscapes, research and development, work to encourage public access and interpretation and the publication of excavations carried out under licence from the DCMS but never disseminated. Therefore, the objectives set out in this document are aspirations, albeit ones that we will work very hard to realise, that can only be implemented as funding allows.

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Summary

Taking to the Water discusses the broad characteristics of the maritime archaeological resource in English territorial waters, the character of inventories of marine archaeological sites and the role and relationships of professional maritime archaeologists, amateur maritime archaeologists and recreational divers. It also discusses the legislative framework pertaining to maritime archaeology and the future role of English Heritage and Local Authority archaeological officers. Furthermore, it considers how English Heritage can fulfil its new obligations to better understand and manage the maritime archaeological resource.

The document:

- endorses the central role played by the National Monuments Record in the management of maritime archaeology in England;
- identifies the need to stimulate and support the development of an enhanced body of professional maritime archaeologists, through appropriate training and support;
- confirms the desirability of working closely with amateur maritime archaeologists, offering them opportunities, assistance, training and guidance;
- identifies a need to engage with the recreational diving community and the non-diving public to instil an enthusiasm for the maritime historic environment and its conservation;
- proposes a review of the role of the archaeological diving contractor;
- identifies areas potentially in need of legislative change, and makes broad proposals for a new legislative framework for England;
- summarises how English Heritage will initially meet its new responsibilities;
- proposes the promotion of greater local accountability in decision making on maritime archaeology through the involvement of local government archaeological officers and the establishment and enhancement of locally based marine Sites and Monuments Records;
- describes the areas of research that will be accorded highest priority by English Heritage.

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1. Introduction

1.1 This paper represents the first detailed expression by English Heritage of its policy for the management of marine archaeology in English territorial waters. The paper is primarily aimed at an audience of archaeologists, heritage managers and divers – those most directly involved in dealing with matters pertaining to maritime archaeology – and is weighted accordingly. It does, however, also have relevance to departments, agencies and other bodies with an interest in the sea, its resources and its environmental protection.

1.2 Unfortunately the paper has had to be developed without the benefit of direct involvement in marine archaeological casework and English Heritage therefore accepts that, as its expertise in this particularly technically and legally challenging area of heritage management increases, it will need to continue to adapt its approach. Nevertheless, the development of this policy has not taken place in a vacuum. During the extended period since the transfer was first formally proposed in 1996, we have been able to refine our thinking by seeking the views of many amateur and professional individuals and groups actively involved in the discipline of maritime archaeology, either through direct contact or through the many constructive comments submitted to us in response to our consultation document *Towards a Policy for Marine Archaeology* (Trow 1999).

1.3 As a result of these deliberations, the paper contains a variety of proposals pertaining to the management of maritime archaeology that range from proposed adjustments to the internal structure of English Heritage, to outline proposals for future statutory change. It is anticipated that these proposed changes be introduced as opportunity and resources permit and in response to developing thinking, not only about maritime archaeology, but also about the management of the historic environment as a whole.

1.4 Where legislative changes are proposed, it must be stressed that the document represents the view of English Heritage rather than Government. Should Government be persuaded of the need to introduce or amend legislation, these changes will be subject to the normal process of formal consultation and there remains, therefore, ample opportunity for all those with an interest in maritime archaeology in England to contribute to the debate. English Heritage wishes to see the widest possible discussion of the options and, wherever possible, the adoption of an inclusive and consensual approach to the management of our shared maritime heritage.

2. Background

2.1 The seas around Britain contain an immense wealth of archaeological sites and remains, potentially without equal elsewhere in the world in terms of their number and diversity. These remains include extensive submerged landscapes, primarily relating to the earlier prehistoric period during which Britain was divorced from mainland Europe by rising sea levels, as well as remains deriving from the subsequent history of the British Isles and its inhabitants' exploitation of the sea. As an island that has experienced successive waves of settlement over many centuries and as a major naval, mercantile, industrial and imperial power, the history of Britain – and the everyday experience of many of its inhabitants – has been inextricably linked to its surrounding seas.

2.2 Despite this rich maritime history – and in contrast to the situation in the devolved administrations of Scotland, Wales and Northern Ireland – English Heritage, the lead agency responsible for managing the physical remains of the historic environment in England, has not had responsibility for marine archaeology within its territorial sea. However this has been remedied by the *National Heritage Act* (2002), which extends English Heritage's remit to include ancient monuments in, on or under the seabed to the 12-mile limit around England.

2.3 This paper sets out the views of English Heritage on a number of issues pertaining to the management of the maritime archaeological resource as well as focussing on the development of future policy for maritime archaeology in England. In doing so it draws on a consultation paper *Towards a Policy for Marine Archaeology: An English Heritage and RCHME Discussion Paper* (Trow 1999), and on the responses provided by consultees to whom the paper was sent. The consultation paper, which had received prior endorsement by the Advisory Committee on Historic Wreck Sites (ACHWS) and English Heritage's Ancient Monuments Advisory Committee (AMAC), was sent to a wide variety of interest groups and individuals. Consultees were encouraged to respond both through their representative organisations and individually, and the consultation process also included a round of meetings to discuss the contents of the paper in detail (*see* Appendix).

2.4 A total of thirty-eight formal responses to the paper were received by September 1999, comprising 128 pages of detailed commentary and 110 pages of supporting papers or articles. It is estimated that the consultation meetings involved some fifty individuals, including representatives of The British Sub-Aqua Club (BSAC), The Professional Association of Diving Instructors (PADI), and the Sub-Aqua Association (SAA), but excluding AMAC and ACHWS. The majority of the responses (thirty-three) were favourably or extremely favourably disposed towards the proposals contained within the paper. Some respondents, however, were worried that the paper proposed increased regulation of their activities and others suggested that it should have been circulated more widely using the internet. The comments of all respondents and the feedback from consultation meetings have been carefully considered in the drafting of this follow-up paper.

2.5 Maritime archaeology was also a consideration in the production of the first stage of the Government's review of policies relating to the historic environment, *Power of Place* (The Power of Place Steering Group 2000). Marine and coastal archaeological interests were represented on two of the review's working groups and were included amongst consultees on

its proposals. The Government statement that concluded the review, *The Historic Environment: A Force for Our Future* (DCMS 2001), declared an intention to examine the marine archaeology legislation as part of a wider review of the case for integrating the present array of heritage controls into a single regime. The tasks identified in *The Historic Environment: A Force for Our Future* were:

- to respond to public interest in the historic environment with firm leadership, effective partnerships and a sound knowledge base from which to develop policies;
- to realise the full potential of the historic environment as a learning resource;
- to make the historic environment accessible to everyone and ensure that it is seen as something with which the whole of society can identify and engage;
- to protect and sustain the historic environment for the benefit of our own and future generations; and
- to ensure that the historic environment's importance as an economic asset is skilfully harnessed.

These tasks are as applicable to the maritime historic environment as they are to that of the land and they form a framework within which to develop a new approach to maritime archaeology in England.

3. The character of the resource

3.1 Although the principal focus of maritime archaeological endeavour in the past has been on the remains of ships and boats, the character of maritime archaeological resource is far more complex and diverse. It also includes sites and landscapes that were submerged by sea-level rise; the remains of other types of vessel, such as aircraft; scattered material relating to ships and shipping (e.g. lost cargoes, anchors, and debris fields); debris related to coastal activity (e.g. projectiles from coastal batteries and dumped rubbish); the sub-tidal elements of coastal features (usually relating to exploitation of, or defence from, the sea); and sea-bed emplacements (such as trans-oceanic communication cables and pipelines).

3.2 Despite their radically different environmental circumstances, marine and terrestrial archaeological remains provide a seamless physical and intellectual continuum. As a result of coastal change, some originally terrestrial sites are now submerged and some marine sites are now on land; some sites have ambivalent settings, being situated in the inter-tidal zone and enjoying marine and dry land environments sequentially; and others extend from dry land into the sea. Even wholly submerged and discrete sites, such as shipwrecks, can be considered to be part of wider maritime cultural landscapes that also embrace the yards where they were constructed, the ports they served and the defences erected against them.

3.3 In terms of their historical significance, their information potential and their contribution to our cultural identity, it is clear that marine archaeological sites should enjoy parity of esteem and treatment with their terrestrial counterparts. Nevertheless, it must be recognised that due to the physical environment in which they are situated, dealing with them poses significant practical challenges that cannot be ignored when shaping policy. In particular, marine archaeological sites have the following characteristics:

- they cannot be easily accessed and managed without specialist skills, techniques and equipment, and consequently, access to the resource is comparatively expensive;
- they are situated in a hazardous environment, subject to continuous and sometimes rapid change;
- in general terms they are poorly understood and, as a result, have poorly developed research frameworks; and
- they can be located outside the territory of their state of origin or beyond the territory of any nation state (ie in international waters), and can be unattributable to any single state (ie built, flagged, crewed, victualled or cargoes by more than one country).

3.4 In England there are additional characteristics which need to be recognised and accommodated within any new policy framework:

- England is fortunate to have an inventory of maritime archaeological sites within its National Monuments Record (NMR);

- due to the combination of historically high volumes of shipping traffic, a long history of seafaring and a high energy coast, the density of shipwreck remains in English territorial waters is likely to be amongst the highest in the world – the NMR contains records of over 40,000 marine sites, whereas Northern Ireland has 3,000, South Africa has 2,500, Australia has 6,000 and Canada has 9,000;
- the professional framework for maritime archaeology – in terms of survey, excavation, site management and finds conservation expertise – is very poorly developed and supported, and amateur archaeologists have a more central role than they do in terrestrial archaeology;
- the number of sports dives taking place off the English coast is among the highest in the world; and
- the management of marine archaeological remains and the dispersal of portable antiquities takes place within a wholly different legislative framework to that within which terrestrial remains and artefacts are managed.

4. Inventories of maritime archaeological sites

4.1 The record of maritime archaeological sites comprises the maritime section of the NMR database and a number of local databases that are part of or complement the Sites and Monuments Records (SMR) held by local authorities. However, in contrast to the terrestrial situation, only a small number of coastal SMR extend into the marine zone. The NMR, therefore, not only provides a unique national archaeological record of maritime sites, but also represents the only systematically compiled record for the English coast. It is the aim of English Heritage to see all coastal local authorities develop a marine aspect to their SMR and for data to be regularly exchanged between SMR and the NMR.

4.2 The creation of the NMR maritime record followed publication of the Government White Paper *This Common Inheritance* in 1990. The White Paper charged the Royal Commission on the Historical Monuments of England (RCHME) with creating and maintaining a record of archaeological material in coastal waters, principally to facilitate better management and preservation of underwater sites. English Heritage is now responsible for the NMR and employs three specialist staff to maintain the maritime record.

4.3 Since its inception, records of archaeological material in the marine zone have been fully integrated with the NMR data-sets that relate to the terrestrial historic environment. This allows the NMR to serve as a single point of access to a comprehensive range of information about the maritime and terrestrial environment, and for studies of sites, such as shipwrecks, to be thoroughly integrated with studies of the shore-based installations and the communities that supported them. To date, records for 26,500 historic losses and 13,500 known wreck sites, seabed obstructions and isolated finds have been compiled.

4.4 The NMR maritime record is widely regarded as an essential tool in the effective management and protection of the marine archaeological resource and as a key source of information for the pursuit of general maritime interests. Many, including Government departments, environmental consultants, academics and the general public, make frequent use of it. Nevertheless, much enhancement work remains to be done on the record in order to provide a robust heritage management tool. A review, *The National Inventory of Maritime Archaeology for England* (RCHME 1996), highlighted a number of areas of concern:

- although the NMR now contains over 40,000 records, this represents only a small percentage of the potential number of sites;
- some geographic areas and periods are under-represented, due to bias in the primary sources; and
- the remit has now expanded from a focus on shipwrecks to include submerged terrestrial sites and landscapes but these aspects are still under represented.

4.5 We must prioritise the under-represented parts of the record so that we can address them in a way that maximises our understanding of the maritime archaeological resource and ensures its effective management. Further consideration is given to how this might be achieved in Section 13 on research and development.

5. Professional archaeologists, amateur archaeologists and recreational divers

Professional archaeologists

5.1 Developer-funded marine archaeology is already a reality in England and the likelihood is that this sector will expand steadily in the short to medium term, creating a demand for professional maritime archaeologists that outweighs supply. It is also becoming clear that the systematic survey of the archaeological resource, often creating archaeological fieldwork opportunities for archaeologists and recreational divers alike, requires the input of professional divers and archaeologists to get projects off the ground and facilitate their progress. In the short term, therefore, it will be essential to create a critical mass of professional practitioners, to lay the foundations of a career structure and to service the growing requirements of developers and the voluntary sector.

5.2 English Heritage believes it is in the interest of the profession as a whole that professional capacity is expanded and a diversity and flexibility of approach is supported in the future through the creative and cost-effective use of public grants. In considering the means by which the professional body could be enhanced it is instructive to consider models for providing professional archaeological services that already exist in the UK:

- The Archaeological Diving Unit of the University of St Andrews is a professional archaeological unit that is contracted to undertake work specifically related to the administration of the *Protection of Wrecks Act (1973)*.
- The Hampshire and Wight Trust for Maritime Archaeology is a charitable trust that is contracted to advise local authorities in the Solent area about maritime archaeology. It has close links with Southampton University and works closely with the Nautical Archaeology Society (NAS) to provide fieldwork opportunities for NAS trainees.
- Wessex Archaeology is a professional archaeological unit that has the capability to undertake marine fieldwork in addition to its terrestrial work. Its maritime archaeological staff also undertake terrestrial fieldwork and consultancy work, providing continuity of employment and the chance to apply developing terrestrial best practice to maritime projects.

5.3 In the responses to our consultation, our attention was drawn to the poor quality of professional training opportunities in the UK, with young professionals having to go abroad to seek professionally run, adequately resourced, progressive fieldwork training. This stands in marked contrast to the situation in the 1970's, when work on the *Mary Rose* provided the training ground for many of today's professionals and made the UK a centre of excellence in terms of training opportunity and technological innovation. In the view of English Heritage, therefore, there is a good argument for the public support of at least one high quality fieldwork training opportunity in the UK at any given time. Such a project should be aimed at enhancing the skills of amateurs, students and professionals, and should encourage partnership and the exchange of expertise. Wherever possible, it should also address other objectives such as the emergency recording of sites threatened with imminent damage or loss, the development of techniques designed to improve the methodology of *in situ* preservation and the provision of opportunities for public involvement, education and enjoyment.

5.4 The expansion of the number of active professionals will inevitably be gradual and as the demand from developers increases it seems likely that the profession will experience a skills shortage until training opportunities and market forces provided the necessary correction. In these circumstances, the first priorities for professional maritime archaeologists must be to provide high quality advice and services for developer-funded work and to provide advice, support and practical assistance to amateur colleagues.

Amateur archaeologists

5.5 Maritime archaeology in England is predominated by work carried out by the voluntary sector. This high level of amateur (in the sense of non-vocational) involvement should be regarded as an asset to the discipline, as there is demonstrably a greater requirement for survey and recording than can possibly be accomplished by professional archaeologists. Responses to our consultation document from amateur groups stressed the level of resources currently being expended, usually with little external financial support, and expressed a willingness and a desire to be involved in the development of the discipline. English Heritage agrees with those who said that amateurs (who may be professional divers or divers of long standing) can bring a greater level of diving ability to marine fieldwork than some professional archaeologists, and can also offer other advantages, such as skill in surveying and photography, which they routinely deploy in their own professional and recreational activities.

5.6 Although some amateur work is carried out to an extremely high standard, quality varies. This is hardly surprising given the technically demanding nature of the work and environmental conditions that can be a major impediment to normal methodological approaches. Rather than concentrating on professional or amateur status, the discipline should now focus on competence, on the need to enhance it for both groups and on the need to define pragmatic and attainable standards towards which all practitioners can aspire. Opportunities must be created that allow amateur archaeologists to undertake work that is rewarding, enhances their competence and utilises the skills that they bring to the discipline.

5.7 The NAS training course received praise from practically all those responding to the consultation document. English Heritage agrees that continued access to appropriate education and training should be a central plank of our policy and therefore will continue to support the NAS outreach programme with public grant funds in the foreseeable future.

5.8 Regardless of professional or amateur status, the challenge for all practitioners committed to the advancement of maritime archaeology in this country will be to undertake work that they are capable of delivering successfully in the field and in the post-excavation phase, and to strive to ensure that their work effectively contributes towards an improved understanding of, and the conservation of, the archaeological resource as a whole.

Recreational divers

5.9 Recreational divers form a constituency whose interests and effect must be taken into account in the management of the underwater archaeological resource. The uncritical disturbance of wreck sites by divers certainly presents a problem in terms of heritage management, but its magnitude cannot be fully appreciated because of the absence of reliable data about the extent and condition of the resource as a whole and on the level of disturbance by divers. Furthermore, there is virtually no data on the impact caused by other seabed processes – such as marine aggregate extraction, navigational dredging, trawl fishing, and natural processes – that would allow the comparative seriousness of diver disturbance to be properly assessed. English Heritage recognises that diver activity also brings benefits to the management of the archaeological resource through reconnaissance and the reporting of finds and sites, but ironically, it may be that the close association of divers and shipwreck sites has highlighted instances of irresponsible disturbance and exaggerated the importance of diver disturbance compared to other processes. In order to formulate an appropriate policy with regard to recreational diving English Heritage will seek a dialogue with the diving community and promote research into the whole range of detrimental impacts on archaeological sites.

5.10 England, of course, is not the only country to experience problems of damage and looting. Some countries have adopted legislation that confers blanket protection to all sites; others, such as Greece, have taken even more extreme measures and banned diving altogether over extensive stretches of coastal waters. There is little evidence, however, to indicate that such measures are effective or practicably enforceable and it is the view of English Heritage that to seek to prevent diving on anything more than the most sensitive of archaeological sites is incompatible with our duty to encourage access and understanding of the historic environment.

5.11 English Heritage believes that a fundamental requirement in seeking to prevent damaging disturbance of important historic wrecks, while protecting the legitimate interests of recreational divers, will be gaining the understanding and support of the responsible majority of divers. We also believe that our stewardship of the historic resource, in its widest sense, will be far more effective if it commands the respect and enthusiasm of this constituency. There is evidence that attitudes are changing and some diving groups adhere to the voluntary code of practice ‘Respect our Wrecks’, but continuing commitment will be required on the part of divers and English Heritage, building on the work already carried out by the NAS, the Receiver of Wreck and the Joint Nautical Archaeology Policy Committee.

5.12 While it should not be difficult to convince most divers of the intrinsic interest and importance of historic remains, it will be a greater challenge to persuade them of the benefits of preservation *in situ* and active site management as an effective approach to conservation. There remains a widespread misconception amongst divers that seabed material is not owned, that it is intrinsically under threat while it remains on the seabed and that it can be rescued by bringing it ashore. That this should be the case is hardly surprising given the celebrated triumph of British maritime archaeology in recovering the *Mary Rose* from the sea and the central role played by recovered artefacts in every maritime museum. However, if the merits of preservation *in situ* are to become more widely accepted beyond the archaeological community, it will be necessary for archaeologists not only actively promote and explain this concept, but also to honestly acknowledge the limitations to their understanding of sea-bed

processes and their impact on archaeological sites. English Heritage expects to fund research to address these limitations and, as understanding of these processes improves, recreational divers should expect to take account of it and act responsibly on maritime archaeological sites.

5.13 In some coastal communities diving tourism is an important and growing contributor to the local economy through dive schools, dive shops and charter boats. Research by the National Trust has demonstrated that the well-preserved historic and ecologically rich landscape of the South West is a major contributor to employment and the economy in the region, and the same can probably be said about the historic seascape. It is clear that indiscriminate disturbance of wreck sites by treasure hunters will damage the environmental capital on which the tourism industry depends and diminish the visitor experience. Therefore, marine-tourism operators are a key target audience for the 'look, don't touch' message and must also expect to share the responsibility for conserving the maritime historic environment.

6. The archaeological diving contract

6.1 Since 1986 the Department of Culture, Media and Sport (DCMS) and its predecessors have contracted a professional archaeological organisation for the provision of a diving and advisory service to facilitate its functions under the terms of the *Protection of Wrecks Act*. The duties of the contractor, under the current contract, involves the monitoring of protected wreck sites and the work of licensees, and the assessment of non-designated sites in order to inform decisions about designation. The contract is currently awarded to the Archaeological Diving Unit of St Andrews University. English Heritage now expects to manage the contract in consultation with Historic Scotland, Cadw and the Environment and Heritage Service of Northern Ireland.

6.2 In *Towards a Policy for Marine Archaeology* we suggested that the current diving contract arrangements impose limitations on the effectiveness of the diving contractor and serve to discourage innovation and development of the role, we questioned whether the passive monitoring of a few protected wrecks is the best use of the limited public resources available for maritime archaeology and we suggested that the scope of the work undertaken by the contractor could be changed and its priorities reassessed. The responses to the consultation emphasised the importance of the diving contractor for both professional maritime archaeologists and those amateur groups who are advised by the contractor. While some concern about future monitoring arrangements was voiced, the majority of responses welcomed a review of the contractor's role.

6.3 Therefore, in concert with the other heritage agencies, the DCMS and the ACHWS, we will re-evaluate the role of the diving contractor over the next few months and re-tender the contract, which expires at the end of March 2003.

7. The current legislative framework

7.1 The only legislation relating specifically to the maritime historic environment in English territorial waters is the *Protection of Wrecks Act* (1973), although the *Merchant Shipping Act* (1995) plays a significant role in the reporting of recovered marine archaeological material and the *Protection of Military Remains Act* (1986) has implications for military maritime graves of historic interest. The *Ancient Monuments and Archaeological Areas Act* (1979) can be used to protect monuments on the seabed, but has not been used to this effect in England yet. The *National Heritage Act* (2002) amends the *National Heritage Act* (1983) and the *Ancient Monuments and Archaeological Areas Act* (1979) to extend English Heritage's remit into the territorial sea.

7.2 Although there is little in the way of cross-sectoral legislation at present an holistic approach is enshrined in the concept of Integrated Coastal Zone Management (ICZM), which will be central to coastal planning in the future. ICZM brings together everyone involved in the management and use of a particular stretch of coast within a framework that works to achieve common goals (DEFRA 2002). Development control – such as Planning and Policy Guidance, Environmental Impact Assessment and Government View procedures for aggregate extraction – and non-statutory management plans – such as Coastal, Estuary and Shoreline Management Plans and Heritage Coasts – have the potential to play a significant role in the investigation and conservation of the maritime historic environment within such a framework (*see* Section 8.1).

7.3 The UNESCO Convention on Underwater Cultural Heritage was approved at the plenary of the General Conference in 2001 (UNESCO 2001), although the UK abstained from the vote. English Heritage approves of virtually all of the Convention but has concerns about the requirement for authorization of all activities directed at underwater archaeological sites, regardless of their importance. We hope that the UK government will consider its position on the UNESCO Convention as part of its review of the statutory and management framework for the historic environment (*see* Section 8.1).

The Protection of Wrecks Act (1973)

7.4 The Act was introduced as a private member's bill following the high profile looting of several wreck sites, but was not intended to provide a long-term method of statutory protection of the maritime historic environment. During its parliamentary passage, its interim nature and deficiencies were acknowledged and Ministers undertook to introduce more detailed legislation that would adequately reconcile the competing interests of salvage and heritage protection. However, no further legislation was ever introduced to address these particular deficiencies and the Act is now outdated and limited in its usefulness.

7.5 The drafting of the Act and its application have a number of shortcomings:

- it relates to wreck sites, but not to other types of archaeological sites;
- it seeks only to apply archaeological standards in salvaging wreck and does not explicitly recognise the desirability of conserving sites *in situ*;

- it makes no provision for expenditure on the active care and management of sites;
- it is concerned only with the problems likely to arise from unregulated diving and not from other activities that can effect wrecks, such as dredging, development and fishing;
- at the time of writing, only thirty-eight sites have been designated in England; and
- it constrains diving on some sites that, although important in historic terms, may be robust enough to accommodate conscientious visitors.

7.6 However, the Act does confer some protection. In particular:

- it allows for each designated site to have one or more licensees, who have an interest in investigating the site and often undertake a monitoring role; and
- it regulates the act of diving on a site, rather than just disturbance of a site, and therefore makes it easier for the authorities or other sea users to monitor compliance, particularly where the site lies close to the shore or in commonly visited waters.

The Ancient Monuments and Archaeological Areas Act (1979)

7.7 Sites on the seabed can be scheduled under this Act if they comprise a building, structure or work, or any vehicle, vessel, aircraft or movable structure that is of public interest by virtue of its historic, architectural, traditional, artistic or archaeological interest, providing it is not already designated under the *Protection of Wrecks Act*. Scheduling under the 1979 Act regulates work on sites and damage to sites but it does not regulate the acts of visiting sites and therefore it may be difficult for the authorities or other sea users to monitor compliance.

7.8 Historic Scotland have made it their policy to use the 1979 Act in preference to the 1973 Act where marine sites are established diver attractions providing local economic benefits or where the 1973 Act would be restrictive in a way counter-productive to the long term well being of the site.

7.9 English Heritage will monitor the success of the application of the Act in Scotland and will consider its use as part any review of the statutory and management framework.

The Merchant Shipping Act (1995)

7.10 Among other things, this Act was designed to regulate the salvage of ships or cargoes. Under the Act, finders of wreck, which includes archaeological material, are obliged to declare it to the Maritime and Coastguard Agency's (MCA) Receiver of Wreck and are subsequently entitled to a reward. In recent years the Receiver of Wreck has operated a system that is as sympathetic as possible to heritage interests, within the limitations of the legal regime, and has made it her policy to try to avoid the dispersal of significant collections of archaeological material, seeking to place them in publicly accessible repositories.

7.11 The current salvage regime, insofar as it applies to archaeological material, has one

important benefit:

- the system of rewards for divers encourages the reporting of material from previously unknown sites. Thus, the marine environment is, arguably, better served than the terrestrial in this respect, as the declaration of non-treasure material on land is voluntary rather than statutory.

However, it also has a number of significant defects:

- the current arrangements for the identification, declaration and treatment of marine artefacts falls far short of those provided by the system of Local Authority Portable Antiquity Officers on land;
- diving groups have often financed their efforts to record archaeological sites at risk through salvage awards, in the absence of state financial support; and
- the Receiver of Wreck's archaeological policy relies on museums purchasing collections to order to be successful, but in the absence of a buyer the policy may not be sustainable.

The Protection of Military Remains Act (1986)

7.12 This Act followed the high-profile disturbance of a number of naval vessels during the 1980's. It applies to all World War I and later aircraft that have crashed on military service, and to specified World War I and later military vessels lost in British or international waters. Following a public consultation in 2001, the Secretary of State for Defence announced:

- criteria that would be considered in determining whether to designate vessels under the Act;
- that sixteen vessels, within UK jurisdiction, would be designated as Controlled Sites;
- that five vessels, in international waters, would be designated as Protected Places; and
- that a rolling programme of identification and assessment would be established to designate all other British vessels meeting the necessary criteria (MoD 2001).

7.13 While the principal concern of the legislation is to safeguard the sanctity of vessels and aircraft that are military maritime graves and to secure sites that are potentially dangerous, some have suggested that designation could provide collateral heritage protection as well. English Heritage believes that the 1986 Act should not be used to designate sites in order to protect their historic or archaeological interest, however, we hope that the MoD and the DCMS will liaise closely where licensed activity effects military maritime graves that are also archaeologically important.

The National Heritage Act (2002)

7.14 Among other things, this Act harmonises the roles of the UK heritage agencies by extending English Heritage's remit into the marine zone below the low-water line. In particular it:

- extends English Heritage's remit by amending the definition of "ancient monuments" in the *National Heritage Act* (1983) and the *Ancient Monuments and Archaeological Areas Act* to include sites in, on or under the seabed (including those comprising the remains of vehicles, vessels, aircraft or movable structures) within the seaward limits of the UK territorial waters adjacent to England;
- enables the Secretary of State to direct English Heritage to exercise functions relating to ancient monuments in, on or under the seabed on his behalf; and
- enables English Heritage to defray or contribute to the cost of investigations and maintenance of wrecks protected under the *Protection of Wrecks Act*.

8. Improving the legislative framework

8.1 The current legislative and planning regime for marine archaeology in England is out of date and does not adequately permit the adoption of approaches and standards that are regarded as routine in terrestrial heritage management. During the early 1990's Government considered the case for extending the planning and development control system to the coast and the territorial sea, but chose instead a sectoral system of controls administered by a variety of departments and agencies (DoE 1993). More recently though, the Government declared an intention to examine the marine archaeology legislation as part of a wider review of heritage controls (DCMS 2001) and to review the regulatory framework affecting development in the coastal area and improve co-ordination between government departments in relation to the granting of consents for activities that affect the seabed (DEFRA 2002). English Heritage believes that Government should take this opportunity for *joined-up thinking* by undertaking a cross-departmental review of the legislative framework relating to maritime archaeology with a view to ensuring that the conservation of the maritime archaeological resource is given appropriate weight in law and ICZM (*see* Section 10.2).

8.2 We can offer some initial thoughts on the form that a new management regime may take, although these ideas require further discussion with Government and other interested parties and changes requiring legislation must be preceded by the normal processes of formal consultation. It is our view that any new arrangements must:

- have as wide a common basis with terrestrial legislation as possible, while recognising the special circumstances of the maritime historic environment;
- have regard to other coastal and maritime resource management interests;
- not be constrained by existing legislative devices;
- attempt to reconcile the mismatch between heritage and salvage procedures and law;
- cease to apply salvage law to known sites that are recognised as archaeologically important;
- make allowance for the provision of locally-based professional archaeological advice;
- continue to encourage divers to report wreck from previously unknown sites, to sustain the flow of information to the archaeological record;
- have regard to the full range of processes that are degrading the maritime historic environment, including sea-bed development, aggregate extraction, and trawl-fishing;
- make provision for the emergency recording and active management of the maritime historic environment;
- retain powers that regulate diving on wreck sites and permit these powers to be extended to other sites that are regarded as being of the utmost sensitivity and therefore vulnerable

to unrestricted access;

- include provision for preventing the inappropriate treatment of human remains found on archaeological sites at sea;
- command the understanding and respect of the majority of responsible recreational divers and others with an interest in the sea; and
- be enforceable.

8.3 We also believe that any new system should include a *Register of Archaeologically Important Maritime Sites* that, whether it has a statutory or non-statutory basis, influences the drafting of strategic plans across all relevant sectors and is a material consideration in development control and other sectoral casework. This Register should:

- include all types of archaeological site;
- include wreck sites of known location, whose identity is unknown;
- include well documented, potentially important wrecks, whose location is unknown; and
- not impose limits on public access other than for those sites that are regarded as the most vulnerable to damage.

9. The role of English Heritage

9.1 The *National Heritage Act* (2002) modified English Heritage's functions to include:

- securing the preservation of ancient monuments in, on, or under the seabed; and
- promoting the public's enjoyment of, and advancing their knowledge of ancient monuments in, on, or under the seabed.

9.2 The 2002 Act also enables the Secretary of State to transfer administrative functions relating to the *Protection of Wrecks Act* to English Heritage. It is anticipated that English Heritage's specialised secretariat will support the Advisory Committee on Historic Wreck Sites – although the Committee will continue to advise all of the national heritage agencies on a UK-wide basis – and English Heritage will become responsible for commissioning and managing the contract with the archaeological diving contractor on a UK-wide basis – although we will put arrangements in place to ensure that decisions pertaining to the work of the contractor are taken in consultation with the other heritage agencies.

9.3 English Heritage will develop in-house expertise and this will be achieved in a number of ways:

- by continuing to maintain and enhance the maritime element of the NMR and ensuring its support by specialised staff;
- by employing a maritime archaeologist, to manage the archaeological diving contract, to take the lead on all matters pertaining to the management of the maritime resource and to provide advice and support for our staff;
- by extending training in maritime issues to regional English Heritage staff – such as our Ancient Monument Inspectors and our Archaeological Science Advisers – to ensure the growth of expertise in maritime archaeology in all parts of the country and to our Education Service to ensure that maritime archaeology is fully integrated within our educational remit; and
- by extending training in maritime issues to other English Heritage staff, such as those involved in remote sensing or artefact conservation.

9.4 That the public retains a fascination with the subject of maritime archaeology is witnessed by its popularity in the media and the popularity of maritime museums. However, there is often little differentiation in the public mind between *bona fide* archaeological work and treasure hunting or commercial salvage, and virtually no appreciation of the merits of preserving marine archaeological sites *in situ*. To redress these perceptions and to assure future public support for maritime archaeology it is essential that we address the non-diving public. English Heritage manages 409 historic properties, many of which are situated at the coast and were constructed in response to the need for coastal defence or maritime navigation and trade. These sites represent a terrestrial manifestation of the maritime cultural landscape and therefore offer an opportunity to illustrate to the public the seamless nature of the historic environment across the land and sea. In some cases, there may be a close spatial, temporal or

cultural relationships between our own sites and archaeological sites: for example, the Yarmouth Roads wreck, possibly a sixteenth-century Spanish merchant called the *Santa Lucia*, was lost in the anchorage guarded by Yarmouth Castle, Isle of Wight; the *Stirling Castle*, *Restoration* and *Northumberland* were lost off Deal Castle, Kent, in the Great Storm of 1703 and the castle garrison must have seen the rescue boats launched from Deal beach; and for the whole of its history Hurst Castle, Hampshire, has overlooked the prehistoric sites preserved in the salt marshes in the lee of Hurst Spit, while its garrison could have witnessed the *Pomone*'s distress rockets fired when she was wrecked on the Needles in 1811. Interpretation of related aspects of the maritime cultural landscapes whether it be by traditional means or by live video feeds or video or virtual tours, will be provided at appropriate historic properties managed by English Heritage, and we will encourage it at other sites that are open to the public, where we have influence.

9.5 Where public financial support is sought for underwater archaeological work, the potential for public access, either by traditional methods or via live links to shore facilities, such as interpretation centres, maritime museums and coastal archaeological sites, should be considered in the project proposal.

10. The role of Local Authority archaeologists

SMR and curatorial advice

10.1 During the 1980's and 1990's the establishment and support of a network of local authority archaeological officers was fundamental to English Heritage's strategy for improving the management of terrestrial archaeological remains. Almost 100 local authorities in England now have archaeological officers who provide curatorial advice based on local SMR. The principal function of these archaeologists was to offer strategic planning and development control advice, but their role has extended into a wide range of other activities, including site management, the provision of advice on agri-environment and forestry schemes, education and outreach, and the identification and recording of portable antiquities.

10.2 A recent report by the Association of Local Government Archaeological Officers (ALGAO 2001) notes the need to apply similar protection, policies and resources to maritime archaeology as are applied to terrestrial archaeology. However, with the exception of certain limited stretches of enclosed waters, the powers of Local Authorities do not extend to the territorial sea and, in contrast to terrestrial sites therefore, the management of marine archaeological remains has generally not benefited from locally based professional archaeological advice. Where local government archaeologists do engage with coastal and marine issues their involvement is characterised by responsibility without adequate planning powers or resources. It is difficult to see how Government can meet its objectives of sustainable development, integrated management, the application of a precautionary principle in development and stakeholder involvement (DEFRA 2002) without making allowance for the provision of locally-based professional archaeological advice.

10.3 In *The Historic Environment: A Force for Our Future* (DCMS 2001) the Government accepted that the service offered by SMR should be enhanced, that their scope should be more comprehensive and that access should be facilitated through use of electronic media. Therefore, subject to the results of the Government's forthcoming consultation on the subject, it will be an important medium-term objective of English Heritage to assist local authorities in developing capacity in this respect, and a key aspect of this involvement will be the development of locally based marine SMR. A few forward looking coastal local authorities have already developed a marine SMR capability, following the pioneering example set by the Isle of Wight Council, and others should be encouraged to follow their lead. A programme of maritime data exchange between local authorities and the NMR will also be given a high priority by English Heritage.

10.4 In order to enable the increased involvement of local authority archaeological officers in offering front-line advice on marine archaeology, English Heritage will offer to assist in the provision of desk-based training of ALGAO members in maritime law relating to the historic environment, procedures and techniques. In some cases we might also be willing to support basic practical training. However, because of the specialist nature of this area of heritage management, the provision of basic training to land-based archaeologists is not a substitute for the procurement of advice from an appropriately experienced practitioner. In the longer term, therefore, local authorities should give careful consideration to the means by which they could procure specialist advice in this field. One cost-effective model is the arrangement adopted by the group of authorities around the Solent who contribute to the Hampshire and Wight Trust

for Maritime Archaeology in exchange for archaeological advice.

Portable antiquities

10.5 Policy on portable antiquities is another area where there is considerable scope for the increased involvement of local authority archaeologists – both in SMR and in museums – in the management of maritime archaeology. At present, the *Merchant Shipping Act* requires the reporting of salvaged wreck to the Receiver of Wreck and the Receiver retains wreck for a year to permit ownership to be determined before disposing of it. Much of the reported material is of historic interest and, if carried out in accordance with best practice, the reporting system serves a valuable function by enhancing the record of historic marine sites. Nevertheless there are drawbacks with the scheme, in particular the lack of provision for the local identification and conservation of reported wreck, and the lack of a formal protocol for information derived from declared wreck to be entered into SMR.

10.6 There is no general obligation to report portable antiquities found on land, unless it is Treasure, however, Government has sponsored a scheme to encourage the finders of portable antiquities, primarily metal detectorists, to voluntarily make finds available for reporting. Finds Liaison Officers have been appointed to local authorities and procedures put into place for the recording of finds, for entering them into SMR, and for the provision of advice on basic conservation. As a result, the Portable Antiquities Scheme web site (www.finds.org.uk) now contains information on over 18,000 archaeological finds. In our view, there is a good case for adopting a similar system for marine finds, with finders of wreck encouraged to report it to Finds Liaison Officers, and through them to the Receiver. This would facilitate the recording and identification of significant marine material, its integration within SMR, and its early appraisal for conservation need.

11. Partnerships

11.1 To actively protect the maritime historic environment, to raise the standard of archaeological survey and recording and to enhance public understanding and enjoyment are major undertakings that cannot be achieved by English Heritage alone, and the establishment of partnerships will be critical.

11.2 Co-operation with and support for the voluntary sector, in particular licensees, amateur groups and recreational divers, will be of central importance in enhancing the skill base and capacity of the discipline (*see* Section 5).

11.3 Increased Local Authority involvement will be a key factor in the effective management of the resource (*see* Section 10).

11.4 Active engagement with university departments will be crucial to our research and development activity. An English collaboration, similar to the Scottish Universities Coastal Archaeology Research Group, which could develop a research strategy for the coast and launch collaborative funding bids, could greatly increase the value of our partnership with the university sector (*see* Section 12).

11.5 Collaboration with the heritage agencies for Scotland, Wales and Northern Ireland, will be essential if English Heritage is to discharge its responsibilities pertaining to the archaeological diving contract and the ACHWS. In addition, English Heritage can clearly benefit from the experience that the other heritage agencies have gained in undertaking their duties relating to the marine zone (*see* Sections 6 and 9).

11.6 We will maintain close links with the DCMS, our sponsoring government department, but we will also foster good relations with the Ministry of Defence (MoD), the Crown Estate Commissioners, the Department for Transport, Local Government and the Regions (DTLR) and the MCA and we would hope to define and strengthen best practice arrangements by means of formal memoranda of understanding where appropriate.

11.7 We expect to engage with other legitimate users of the sea, such as fishermen, developers, port and harbour authorities, salvors and marine-tourism operators, in a pragmatic and constructive way in the discharge of our duties pertaining to offshore consents, and in the pursuit of our strategic aim to better understand and conserve the maritime historic environment.

11.8 Among others, partners could also include: individuals, groups and institutions, such as English Heritage customers, local communities, schools and museums; funding bodies such as the Heritage Lottery Fund, the Arts and Humanities Research Board, Natural Environment Research Council and the European Commission; land- and wreck-owners; and agencies and bodies with an interest in the marine and coastal zones, such as English Nature, the Environment Agency and the National Trust.

12. Research and development

Background

12.1 Since its inception, maritime archaeology in England has been effectively divorced from the mainstream of the archaeological discipline and, consequently, the value of the maritime historic environment has not been recognised to the degree that it has on land since the 1970's, nor has it been integrated within the spatial planning and landscape management sectors to the same extent. As a result, maritime archaeology has not shared in the considerable increases in state and private sector funding for the historic environment that were secured in the 1980's and 1990's.

12.2 Starved of funding, the development of maritime archaeology has tended to rely on *ad hoc* discoveries rather than on data gathered through structured research programmes. In addition, until the recent development of the Maritime Record of the NMR, systematically collected data on the distribution and character of the resource was not available to researchers. Consequently, research frameworks for maritime archaeology remain poorly developed for the study of shipwrecks and maritime landscapes. It is notable that of the 121 national and 268 regional research framework documents submitted to English Heritage in response to *Frameworks for Our Past* (Olivier 1996), only one national and two regional documents were specifically dedicated to maritime archaeology and reference to maritime archaeology was omitted from virtually all of the remainder.

12.3 The limitations on the powers of English Heritage have also resulted in the exclusion of maritime archaeology from a number of key studies undertaken during the 1990's, that have informed a change in the emphasis of our archaeological work from site-specific to strategic initiatives. Most notably, maritime interests have been excluded from the Monuments at Risk Survey (Darvill and Fulton 1998), the Monuments Protection Programme (English Heritage 2000), and the England's Coastal Heritage survey (Fulford, Champion and Long 1997), all of which have been, and will continue to be, influential in framing future national research priorities.

12.4 As a result, there is little understanding of the character of the maritime archaeological resource, its distribution, its state of preservation or the threats to its continued survival. Even amongst those wreck sites that have been located, only a fraction has been subjected to desk-based or field assessments of significance. Without access to this type of data, legislative protection and management strategies for the maritime resource remain primitive and assessments of the importance of specific sites continue to rely on *ad hoc* judgements, rather than an understanding of their place within the wider archaeological resource.

Priorities

12.5 Subject to the provision of adequate resources, English Heritage will undertake a programme of research designed to provide a more robust basis for the understanding and management of the maritime historic environment. In doing so we will place greatest emphasis on work designed to strengthen the national record of maritime sites and landscapes, and work designed to enhance the practical and theoretical basis for site management. The following types of project are seen as a high priority:

- projects designed to enhance the Maritime Record of the NMR through continuing documentary research;
- projects designed to enhance and validate the Maritime Record through field survey, often in partnership with voluntary groups;
- remote sensing projects, including aerial photography, geophysical, geo-technical and bathymetric survey. English Heritage believes that remote sensing techniques, which are a rapid and comparatively inexpensive survey tools, will play a fundamentally important role in the future management of the marine historic environment;
- a strategic study of the particular survey, recording, management and conservation needs of maritime archaeology, building on the England's Coastal Heritage survey (Fulford, Champion and Long 1997) and designed to raise awareness of the key issues, both amongst the archaeological profession and those involved in the management and exploitation of the seabed;
- the inclusion of the maritime landscape in regional research frameworks that are sponsored by English Heritage. *An Archaeological Research Framework for the Greater Thames Estuary* (Williams and Brown 1999), part-sponsored by English Heritage and produced in association with Essex and Kent County Councils and the Thames Estuary Partnership, provides a good example of an integrated research framework;
- studies designed to improve our understanding of marine site environments and to enhance our ability to assess and predict site stability. An understanding of a site's environment is a fundamental requirement for assessing threats and implementing mitigation strategies;
- national evaluation studies to characterise poorly recorded or little understood elements of the seamless maritime cultural landscape. Such studies are a proactive way of identifying sites and site types or related activities and industries likely to merit protection and management, including sites and landscapes not currently represented in the record;
- studies designed to improve understanding of drowned coastal landscapes and palaeo-environments. Such landscapes have tremendous potential for the preservation of archaeological evidence of the exploitation of coastal and marine resources and for use in predicting the nature, scale and pace of coastal change; and
- studies designed to develop methodologies that can help seabed developers meet their obligation under Environmental Impact Regulations to identify underwater cultural heritage and mitigate damage incurred in the course of their activities. These could include: desk-based assessment and predictive modelling; archaeological analysis of existing survey data; methods of field evaluation of potential sites and landscapes; protocols for mitigating the impact of operations on archaeological remains; protocols for monitoring sites during and after operations; and dissemination.

The protected wreck site post-excavation backlog

12.6 Over the last twenty-five years many licenses have been issued for survey and excavation work within areas designated under the *Protection of Wrecks Act*. Few of the licenses issued required the academic reporting of fieldwork results and, as the vast majority of this work took place on a voluntary basis, lacking adequate financial support for subsequent analysis and dissemination of the results, very little of this work has been formally published.

12.7 Inevitably, the standard of this work is variable. Some of the projects were carried out to an extremely high standard, and have resulted in accessible archives, while others have resulted in less coherent records. The data from this work represents the only record for the small group of wreck sites that Government has considered sufficiently important to merit designation and, therefore, is itself an irreplaceable resource.

12.8 While English Heritage does not accept that the dissemination of the backlog of unpublished work – the creation of which we had no part in – should be financed from our core funding, we are persuaded, by the responses to our consultation, of the need to seek resolution of the backlog. We have applied to the DCMS for the necessary funding as a one-off measure and, should this bid be successful, we will oversee a programme to achieve an appropriate level of analysis, conservation and dissemination.

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Appendix: List of consultees on *Towards a Policy for Marine Archaeology*

Adams, Jonathan	Martin, Colin (St Andrews University)
Advisory Committee on Historic Wreck Sites (DCMS)	Martin, Colin (Hydrasalve International)
Ancient Monuments Advisory Committee (English Heritage)	Mary Rose Trust
Archaeological Diving Unit	McGrail, Sean
Association of Local Government Archaeological Officers	Mead, D
Bainbridge, John	Moat, Alan
Bingeman, John	Momber, Gary (ppTomalin, David)
British Sub-Aqua Club	National Maritime Museum
Bryan, Stuart	National Trust
Burton, Simon	Nautical Archaeology Society
Cadw	Nautical Archaeology Society (South West)
Council for British Archaeology	Oldham, Neville
Croome, Angela	Oxley, Ian
Daniels, Robin	PADI International Ltd.
Dart, Paul	Palmer, Michael
Department of Culture Media and Sport	Peacock, Robert
Department of the Environment, Northern Ireland	Potten, C
Dix, Justin	Randall, Anthony
Dobbs, Chris	Saunders, Andrew
Dromgoole, Sarah	Sherratt, Robert
Fenwick, Valerie	Society of Antiquaries
Ferrari, Ben	Stammers, Mike
Firth, Anthony	Sub-Aqua Association
Gale, Alison	Sutherland, Amanda
Grant, Iain	Tomalin, David
Green, Gary	Tyson, Jim
Hall, Michael	Underwood, Chris
Hampshire and Wight Trust for Maritime Archaeology	United Kingdom Institute for Conservation
Harrington, Les	Wessex Archaeology
Heath, John	Williams, Michael
Hildred, Alexandra	Witheridge, Robin
Holt, Peter	Yorkshire and North-East England
Hopkins, David	Maritime Archaeology Forum
Institute of Field Archaeologists	
Institute of Field Archaeologists: Maritime Affairs Group	
Joint Nautical Archaeology Policy Committee	
Maritime and Coastguard Agency (Receiver of Wreck)	
Marsden, Peter	