

12<sup>th</sup> February 2022

## **Submission to the Inquiry into the Treaty: Underwater Heritage**

This Inquiry is held to review Australia becoming a signatory to the Treaty: *Convention on the Protection of the Underwater Cultural Heritage* (UNESCO 2001).

This is an important Convention to appreciate and preserve underwater cultural heritage in Australian waters and around the world. With the Convention, each state commits to preserving underwater cultural heritage within their maritime territory. It also encourages cooperation between states, scientific organisations, archaeologists and others in the sharing of knowledge and expertise in how best to preserve and benefit from these sites. I support the ratification of this Convention. Moreover, I encourage Australia to take full advantage of the opportunity of this Convention, to give our expertise and knowledge to others, and to receive their assistance, to best protect underwater cultural heritage in Australia and around the world.

There is a tremendous number of human artefacts and sites that are currently underwater and provide a rich heritage. The Convention describes Underwater cultural heritage as “traces of human existence having a cultural, historical or archaeological character” that have been underwater for over 100 years. The range of heritage includes prehistoric artefacts to shipwrecks or vehicles to buildings and any other cargo or objects (Article 1a). Underwater artefacts and sites are a significant part of the history and culture of many people around the world, including in Australia.

They can also have a profound educational value. Many sites that are underwater can provide a window into the past, to the time when these artefacts became underwater. This can include shipwrecks, buildings that have become underwater or artefacts and other items that ended up underwater. Some sites are notable for possessing rare items. Frost notes that underwater cultural heritage serve as “time-capsules” which provide historical insights to their original context. This is particularly since deep sea wrecks tend to be “exceptionally well-preserved” (Frost 2004, 26). These sites deserve to be protected, including for their own sake but also what we can gain

from them as a society. Properly protected, we can better appreciate and learn from them. Australia has a great interest in underwater cultural heritage, preservation and education, including organisations such as the Western Australian Maritime Museum. With our expertise and interest in underwater cultural heritage, Australia has a great opportunity to contribute Article 21 of the Convention emphasises sharing of techniques and “training in underwater archaeology” (Article 21).

There are concerns for the preservation of underwater cultural heritage. While there have been great advancements in technology that enables finding these sites and practicing underwater archaeology, these also come with concerns about the misuse of this technology. This includes the activities of sport or commercial divers, visiting the heritage and potentially taking items away or damaging the site. There are concerning examples of commercial salvage damaging wrecks. The modus of commercial salvage in extracting as much value as possible is antithetical to heritage preservation, with various examples of destruction and heritage loss (Frost 2004, 25-31). Hence It is appropriate for the Convention to state that underwater cultural heritage "shall not be commercially exploited” (Convention 2.7). There are also concerns from “land-based marine pollution” from construction or industrial activities impacting on coastal areas (Frost 27). It is important to consider how we can protect and preserve this heritage, including managing how people access and use underwater cultural heritage sites, and what activities occur nearby that can impact on the sites.

In Australia, we also have tremendous Indigenous heritage, which includes coastal and underwater cultural heritage. Indigenous heritage can go back many hundreds or thousands of years, providing a rich insight into the past of our country. Heritage sites and artefacts can naturally have a significant cultural, historical and spiritual value to Australian Indigenous people, but it is also something that all Australians should take pride and an interest in. With the lamentable example of the destruction of the Juukan Gorge caves in 2020 (which received a dedicated Inquiry), Australia can do much better about protecting and valuing Indigenous heritage – especially in the legal system – including with Indigenous underwater cultural heritage (see Birch 2021; Benjamin 2021).

By signing, Australia can encourage other countries not yet signatories to join the Convention and to cooperate on protecting underwater cultural heritage in our respective territories. Australia has significant underwater cultural heritage around the world, including shipwrecks and personnel lost, for example, during the world wars and other conflicts. Through this Convention and the cooperation and preservation work that can be done, Australia can contribute to a system that better preserves our underwater cultural heritage and what we can learn and appreciate from it.

Thank you for considering my submission.

Kind Regards,

Benjamin Cronshaw.

#### References

Robyn Frost. 2004. Underwater Cultural Heritage Protection. *Australian Year Book of International Law Vol 23*.

<<http://classic.austlii.edu.au/au/journals/AUYrBkIntLaw/2004/2.html>>.

Laura Birch. 31<sup>st</sup> August 2021. "Pilbara discoveries see archaeologists call for greater protection of submerged heritage." *ABC News*.

<https://www.abc.net.au/news/2021-08-31/archaeologist-call-for-greater-protection-submerged-heritage/100419636>

Jonathan Benjamin et al. 31<sup>st</sup> August 2021. "Australia's coastal waters are rich in Indigenous cultural heritage, but it remains hidden and under threat." *The Conversation*.

<https://theconversation.com/australias-coastal-waters-are-rich-in-indigenous-cultural-heritage-but-it-remains-hidden-and-under-threat-166564>