

## **Review of the Commonwealth's heritage legislation**

### **Shipwrecks and maritime heritage initiatives**

This paper is presented by the Australian Institute for Maritime Archaeology (AIMA) and raises some implications of the Commonwealth's review of its heritage legislation on historic shipwrecks.

### **Background to AIMA**

AIMA is an organisation dedicated to the promotion of maritime archaeology. Based in Australia it has sponsored work throughout Australia, Asia and the Pacific. Its objectives are to support and undertake research in the field of maritime archaeology within a defined Code of Ethics and to publish the results of this work. It publishes a newsletter, bulletins and special reports and offers an annual scholarship. It runs an annual conference, sometimes in conjunction with other groups, such as in 2000 with the Australasian Society for Historical Research on the theme of Archaeology Heritage and Tourism held in Adelaide in late November. AIMA employs on a part time basis a National Training Officer to implement training courses on the research and management of shipwrecks and maritime heritage sites.

AIMA's membership comes from individuals and organisations that have an interest, and in some instances an involvement in the profession of maritime archaeology, maritime archaeological conservation and maritime history. It is not an exclusive group and boasts members from all sections of the community as well as the professional ranks, from around Australia and the world. AIMA is a voluntary organisation and it receives some support from the Commonwealth and State governments in the work it implements.

AIMA is well known internationally through its involvement in projects and training courses in several countries as well as through its annual bulletins and conferences. In about 1990, a past president of AIMA, Graeme Henderson (now Director of the Western Australian Maritime Museum) was appointed President of the ICOMOS International Committee on the Underwater Cultural Heritage.

AIMA's perspective and therefore its agenda on maritime archaeology is from both a community and professional point of view. It is primarily interested in seeing the ongoing preservation and research of Australia's maritime heritage, with shipwrecks being a significant part of this subject, although not the only aspect. It has, and will continue to lobby Australian State and Commonwealth governments as well as other Nation's governments and organisations on these issues.

### **Background on maritime heritage / shipwreck management in Australia**

#### **Legislation**

The preservation and research of Australia's maritime heritage is largely controlled by State and Commonwealth governments, primarily through legislation and programs. The Commonwealth's *Historic Shipwrecks Act 1976* applies to shipwrecks lying in Australian territorial waters which includes waters adjacent to all the States and Territories, from the low water mark out to the edge of the continental shelf (200 nautical miles), but does not include waters within the limits of a State. For instance, in South Australia, the two gulfs - St. Vincent and Spencer, are State waters, as well as some historic bays, and some other States have State waters. However, the vast majority of the waters around Australia are Australian territorial waters and therefore Commonwealth legislation is required to protect shipwrecks.

AIMA is concerned that the present review of the Commonwealth Heritage Legislation does not include the Historic Shipwrecks Legislation. This implies that shipwrecks are not part of Australia's heritage and AIMA is concerned that this will further marginalise shipwrecks as part of our heritage, particularly in the eyes of the Australian public and government agencies. AIMA believes that this could have a number of implications on the future management of shipwrecks, namely the resourcing of the shipwrecks program. And yet it is AIMA's understanding that the new heritage regime will include a list of places owned by the Australian government, and therefore manage them—which includes many shipwrecks!

AIMA is also unsure of the implications of the *Environment Protection and Biodiversity Conservation Act 1999* on historic shipwrecks as this Act relates to land under the control of the Australian government, and as stated many of Australia's shipwrecks are found in Australia's territorial waters.

The last review of the Commonwealth's *Historic Shipwrecks Act 1976* was in 1990 at which time some amendments were recommended, namely the establishment of a National Historic Shipwrecks Advisory Committee; inclusion of the selection criteria in the legislation; and a significant increase in the funding, but they were not acted upon.

A National Database of Australian Shipwrecks encompasses over 6,500 shipwrecks. This number could easily be in excess of 10,000 through the results of current and future research. The number of shipwrecks sites protected under the legislation has gone from 153 in 1993 to over 5000 at the present time. This came about from the proclamation in 1993 of a new section in the legislation (amended in 1985) to protect all shipwrecks over 75 years old. Before this, only shipwrecks that were specifically nominated were protected.

Currently, Australia has legislation which was proclaimed to apply to only a handful of shipwrecks and therefore contained complementary provisions, and after only being slightly modified, the legislation is being used 25 years later to apply to over 3000% more.

In a recent development, it is unsure if the 75 year blanket protection provision applies to either ships that are 75 years old when wrecked, or ships wrecked at least 75 years ago, or both. This issue has implications on amongst other things, the number of shipwrecks protected and therefore the amount of resources to be spread around.

Most other State heritage legislation around Australia, including legislation applying to shipwrecks, has been constantly reviewed and upgraded.

### **Operations of the Commonwealth Historic Shipwrecks Program**

The manner in which the program operates in Australia is that the Commonwealth government agency, the Department for Environment and Heritage delegates much of the day to day management to State government agencies which employ on average one to two permanent State funded employees. The Commonwealth provides funding to each State to implement 'Commonwealth activities/projects' on shipwrecks located in Australian territorial waters and this money is used to employ maritime archaeologists on a short and long term, temporary basis.

However there is a vast discrepancy between the level of Commonwealth funding and the number of Commonwealth shipwrecks, compared to what the States' fund and the number of shipwrecks covered by State legislation. For instance the Commonwealth grant to South Australia during 2000/2001 was c. \$53, 000 and there are approximately 350 shipwrecks located in Australian territorial waters adjacent to South Australia. The State agency funds the maritime heritage program to the tune of c. \$160, 000 (in addition to supplying capital equipment) and there are about 450 shipwrecks located in waters within the limits of this state. In New South Wales the comparison is \$56, 700 funding from the Commonwealth; 1465 (86%) of its shipwrecks lying in Australian territorial waters; \$ 217, 000 funding from the State government; 247 shipwrecks within the limits of the State.

The extent and nature of historic shipwreck sites funding to date for the national program has been far from adequate. To make matters worse, Commonwealth funding has been reducing significantly over the last 5-6 years both by virtue of not keeping up with inflation and secondly with a reduction in actual dollars.

The current state of annual funding for the Historic Shipwrecks Program around Australia is \$330,000. This needs to be shared between the six states, the Northern Territory, Norfolk Island and any other external territories and AIMA to implement many of the functions required under the Commonwealth *Historic Shipwrecks Act 1976*.

To put this in context, the Commonwealth Historic Shipwrecks Program budget is less than 20% of the annual budget for Heritage SA to manage all its heritage programs in South Australia alone, where they protect and manage about 2000 land-based sites and places, with a staff of 20.

The Commonwealth National Shipwrecks Program budget is slightly more than 20% of what the Commonwealth government is considering to invest in the preservation of one vessel, the *City of Adelaide*, located in Scotland and where it is estimated that another \$13.5 million is required to fully restore the vessel.

It is less than what is available in two rounds of the Commonwealth government's Cultural Heritage Projects Program for South Australia alone.

### **General implications of not reviewing the shipwrecks legislation and program**

The maritime heritage profession and the preservation of maritime heritage is not the same as other heritage interests. If we could compare the amount of the resources put into the general heritage field it would outweigh maritime heritage by an immense factor. Maritime archaeology—or shipwrecks, are only funded by governments. There are no owners that put money into them, as in the built heritage, there are only a scant number of community groups that do anything with regard to maritime heritage—a handful of government and community museums, compared to the hundreds of general heritage museums and groups.

Two of Australia's universities—Flinders University in South Australia and James Cook University in Queensland—provide much-needed additional stimulus in maritime archaeology as well as a number of very keen students to further the profession.

At the same time, recreational diving and both recreational and professional fishing have a considerable impact on historic shipwrecks. Much of this impact is due to a lack of awareness of the impact of their activities. With fishing activity, anchors and trawl nets often cause severe damage and dispersal of shipwrecks without the owner being aware of its presence in the first place. In other cases, fishing is being carried out illegally on historic shipwrecks intentionally but due to a lack of resources to monitor this activity, it continues undisturbed. This loss of the historic record will continue unless adequate levels of funding for survey, documentation and promotion of public awareness.

The potential to earn money on an ongoing basis from the effective management, research and interpretation is immense. One shipwreck alone, the *Yongala* wrecked on the Great Barrier Reef, earns the charter operators who takes the 10 000 divers annually to the site, in excess of \$2 million. Under the present legislation and program the Commonwealth government can't charge these operators one cent toward the management of this site.

Many of the 10 000 shipwrecks in Australia could be similar to the *Yongala* if the program was effective, and utilised up to date legislation. The diving industries around Australia are growth industries. In the 1980s it was estimated that there were 45,000 licensed scuba divers in Victoria alone. There were over one million registered dives on the Great Barrier Reef in Queensland in 1999. In New South Wales it is estimated that there are 70 000 trained scuba divers, and over 130 dive shops and clubs.

Local communities, businesses and councils consider that the shipwreck and maritime heritage trails provide a lasting economic legacy for regional communities, not just for the tourism operators. In some regions this economic benefit is a major boom for their region.

It is known that Australian marine tourism and recreation is worth \$13.2b (domestic) and \$2b (international) annually (Australian Bureau of Statistics).

Of course, the interpretation of shipwrecks and the other remains of our maritime heritage are not restricted to the in-situ interpretation, but also within the many maritime museums located around the country.

Eleven of Victoria's Maritime Museums and historic ships attract 244, 000 visitors annually. The Western Australian Maritime Museum gets 200,000 visitors annually and its web site gets 17,000 visitors per month. New South Wales's major maritime related museums have over 650 000 visitors annually. Many of the main attractions at these museums are shipwrecks because of the fascination they hold for the general public.

When the Historic Shipwrecks Bill was debated in the Upper and Lower Houses of the Australian Parliament, Senator Whithers had the foresight to see that "...it [historic shipwrecks] will be part of our tourist attractions in the future." I wonder what he would say about our progress?

In AIMA's opinion, the current state of maritime heritage / shipwreck management in Australia is in a state of despair.

### **Recommendations**

AIMA recommends that the *Historic Shipwrecks Act 1976* and the associated National Historic Shipwrecks Program be reviewed in context with the review of the Commonwealth's Heritage Regime and its other Heritage Legislation.

**Attachments**

A paper on the legal protection of the Australia's underwater cultural heritage, as published in an international publication is attached.