

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE**

**U.S. DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
NATIONAL OCEAN SERVICE  
OFFICE OF NATIONAL MARINE SANCTUARIES**

**AND THE**

**AUSTRALIAN  
DEPARTMENT OF THE ENVIRONMENT, WATER, HERITAGE AND  
THE ARTS  
HERITAGE DIVISION  
MARITIME HERITAGE SECTION**

**FOR THE PURPOSE OF COOPERATION  
IN UNDERWATER CULTURAL HERITAGE RESOURCE  
MANAGEMENT ACTIVITIES IN THE PACIFIC REGION**

**NOS Agreement Code: MOA-2010-016/8044  
DEWHA HD HHB MHS Agreement Code: \_\_\_\_\_**

## I. PARTICIPANTS AND PURPOSE

- A. The participants to this Memorandum of Understanding (MOU) are the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of National Marine Sanctuaries (ONMS), and the Australian Department of the Environment, Water, Heritage and the Arts (DEWHA), Heritage Division (HD), Historic Heritage Branch (HHB), Maritime Heritage Section (MHS).
- B. The purpose of this MOU is to facilitate cooperative underwater cultural heritage resource management activities, maritime archaeological research, education, and resource protection efforts between the participants consistent with their respective legal authorities and programmatic missions.
- C. [The ONMS which administers NOAA's Maritime Heritage Program (MHP) and the HD's MHS which administers the Commonwealth Historic Shipwreck Program. This MOU will support the ONMS mission to increase public awareness of the nation's maritime heritage; undertake scientific research, monitoring, and exploration; and provide educational programs for the public and the objectives of the Historic Shipwreck Program to ascertain and locate historic shipwrecks and relics in Australian waters, conserve and protect historic shipwreck sites and associated material as a cultural resource and to inform the public of the results of research. Additionally, this MOU will support skill sharing and professional development opportunities, hands-on marine educational opportunities for learning and participating in maritime archaeology, maritime history, and maritime heritage preservation efforts with ONMS in Australia and the Pacific Region.]
- D. The participants intend to cooperate on activities of mutual interest consistent with their respective domestic laws and without creating any international law or obligations.

## II. BACKGROUND

- A. The National Marine Sanctuary System was established pursuant to the National Marine Sanctuaries Act (NMSA) 16 U.S.C. 1431 *et seq.*, which provides a process to identify and to designate as national marine sanctuaries areas of the marine environment that are of special national significance. Among the purposes and policies of the NMSA are to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archaeological resources of the National Marine Sanctuary System.
- B. The category of maritime heritage resources includes sites and features of cultural, archaeological, or historical significance, such as shipwrecks, submerged aircraft, inundated prehistoric landscapes and locations of indigenous maritime technology. NOAA recognizes a need for further marine research and outreach to encourage and assist coastal and Great Lakes states in developing and sustaining

underwater cultural heritage resources management programs. Failure to implement such programs may result in the loss of significant elements of maritime heritage and negative impacts on marine habitats. The Abandoned Shipwreck Act (1987), the Sunken Military Craft Act (2005) and other laws have given states the opportunity to manage resources within their jurisdiction, but many states are unable to fulfill the obligation because of limited resources or other priorities.

- C. NOAA's Maritime Heritage Program was initiated by the Office of National Marine Sanctuaries in 2002. The Maritime Heritage Program supports maritime archaeology and heritage preservation efforts throughout the sanctuary system, focusing on the strategic goals of: 1) Developing a comprehensive inventory of our nation's maritime heritage resources; 2) Becoming an international leader in maritime heritage research and science; 3) Serving as a responsible steward for maritime heritage resources; and 4) Increasing public awareness and understanding of our nation's maritime heritage, and encouraging responsible stewardship through education and outreach.
- D. DEWHA's MHS administers the Commonwealth *Historic Shipwrecks Act 1976*, that protects shipwrecks and their associated relics that are older than 75 years. The Historic Shipwrecks Act applies to Australian waters that extend from the low tide mark to the end of the continental shelf and is administered in collaboration between the Commonwealth the States, Northern Territory and Norfolk Island. The Commonwealth also administers historic shipwrecks in certain territories, which include the Coral Sea Islands Territories, Norfolk Island and Lord Howe Island, in the Pacific Region
- E. The Historic Shipwrecks Act is delivered through the Historic Shipwrecks Program. Its objectives are to research, explore, document and protect Australia's historic shipwreck heritage. Each State or Territory program offers different opportunities for the public to encourage community participation in heritage management and protection.
- F. The objectives of the Historic Shipwreck Program since 1992 are to: conserve and protect historic shipwreck sites and associated material as a cultural resource of the nation; develop a comprehensive register of historic shipwrecks and associated material; obtain the support of an informed public for historic shipwrecks as a cultural resource; and to promote the commitment by government authorities to the protection and preservation of historic shipwrecks and associated material.
- G. A key direction of DEWHA MHS is to develop policies and programs to support Australia's national maritime heritage, to provide national leadership and to contribute internationally, particularly to capacity building in the Asia-Pacific Region. Linking with ONMS through this MOU provides a platform for collaborative work of an international character in the Pacific Region.

### III. AUTHORITIES

- A. The primary authority for ONMS to enter into this MOU is the National Marine Sanctuaries Act (NMSA), and specifically 1435(c) which encourages, in consultation with the Secretary of State and other appropriate Federal agencies and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas, cooperation with other governments and international organizations in the furtherance of the purposes and policies of the NMSA.
- B. The authority for the DEWHA to enter into this MOU is by signature of the First Assistant Secretary Heritage Division, Department of Environment, Water, Heritage and the Arts.

### IV. TERMS AND CONDITIONS

- A. ONMS plans to:
  - 1. Assist, when practical, with support and placement of MHS staff, Historic Shipwreck Program Practitioners and Australian based university masters and doctoral researchers at ONMS Pacific Islands region sites for the study and preservation of maritime heritage resources and underwater cultural heritage management;
  - 2. Encourage its staff to work with the MHS and Historic Shipwreck Program Practitioners on mutually agreed upon projects, subject to the availability of funds;
  - 3. Facilitate access to NOAA resources, when practical;
  - 4. Work with the MHS to seek financial and other support for jointly sponsored projects.
- B. HD MHS plans to:
  - 1. Assist, when practical, with support and placement of ONMS staff at DEWHA or Delegated agencies under the HSP for the study and preservation of maritime heritage resources and underwater cultural heritage management particularly in the Pacific Region;
  - 2. Encourage its staff, Historic Shipwreck Program Practitioners and Australian based maritime archaeology masters and doctoral students to work with ONMS on mutually agreed upon projects, subject to the availability of funds;
  - 3. Facilitate access to DEWHA and Historic Shipwreck Delegate resources, when practical.

4. Work with ONMS to seek financial and other support for jointly sponsored projects;

C. Both Participants plan to:

1. Cooperate to establish and implement mutually agreed upon joint research and education programs to enhance public understanding and appreciation of Pacific maritime archaeology, history, heritage, resource preservation and underwater cultural heritage management, in support of ONMS and MHS mutual goals, consistent with NMSA and the *Historic Shipwrecks Act 1976* and any other applicable laws, regulations, policies, standards and procedures. In particular, any activities directed at underwater cultural heritage will be conducted consistent with the Annex Rules.
2. Enter into written cooperative agreements, grants, other arrangements or contracts, subject to the availability of funds, and pursuant to DOC and other applicable procedures and requirements, as are necessary for the purpose of carrying out projects that will benefit the resources of the ONMS, DEWHA and/or other States in the Pacific Region.
3. Promote awareness and understanding of underwater cultural heritage in the Pacific Region, fostering the development of underwater cultural heritage management capacity in Pacific States.

**V. FUNDING, PROGRAMMING, PAYMENT, AND REIMBURSEMENT ARRANGEMENTS**

- A. This MOU defines in general terms the basis on which the participants plan to cooperate, and as such, does not constitute a financial obligation to serve as the basis for expenditures. Any activities involving reimbursement or transfer of funds between the participants to this MOU will be handled in accordance with applicable laws, regulations, and procedures. Such activities will be documented in a separate instrument.
- B. Expenditures of funds, human resources, equipment, supplies, facilities, training, public information, and technical expertise will be provided by each participant to the extent of their participation as appropriate.
- C. This MOU does not restrict the participants from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.
- D. This MOU does not obligate the participants to expend funds or to enter into any other agreements, contracts or other obligations.

**VI. CONTACTS**

- A. The points of contact for activities under this MOU are:



ONMS

Timothy J. Runyan  
Manager (Acting) MHP  
NOAA ONMS  
100 Museum Drive  
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DEWHA HD

Theo Hooy  
Assistant Secretary  
Historic Heritage Branch  
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Australia  
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theo.hooy@environment.gov.au

- B. The participants intend to notify each other in writing if there is a change regarding the information in this section.

**VIII. DURATION AND MODIFICATION OF MOU**

- A. This MOU becomes effective upon signature by both participants, and expires on December 31, 2013.
- B. The participants may review and modify or extend their cooperation under this MOU prior to the expiration date, and intend to do so at least once every three years.
- C. The participants intend to endeavor to provide 60 days advance notice in writing of an intent to discontinue cooperation under this MOU.

**IX. OTHER PROVISIONS**

The participants intend to discuss any differences of interpretation of this MOU after presentation of such differences in writing.

**X. APPROVALS**

ACCEPTED AND APPROVED FOR THE  
U.S. DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND  
ATMOSPHERIC ADMINISTRATION  
NATIONAL OCEAN SERVICE

BY:



Daniel J. Basta  
Director  
Office of National Marine Sanctuaries

ACCEPTED AND APPROVED FOR THE  
DEPARTMENT OF ENVIRONMENT  
WATER, HERITAGE AND THE ARTS  
HERITAGE DIVISION  
HISTORIC HERITAGE BRANCH

BY:



James Shevlin  
First Assistant Secretary  
Heritage Division

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

1/6/10