

Maritime Cultural Heritage & Seabed Development

JNAPC Code of Practice for Seabed Development

Joint Nautical Archaeology Policy Committee

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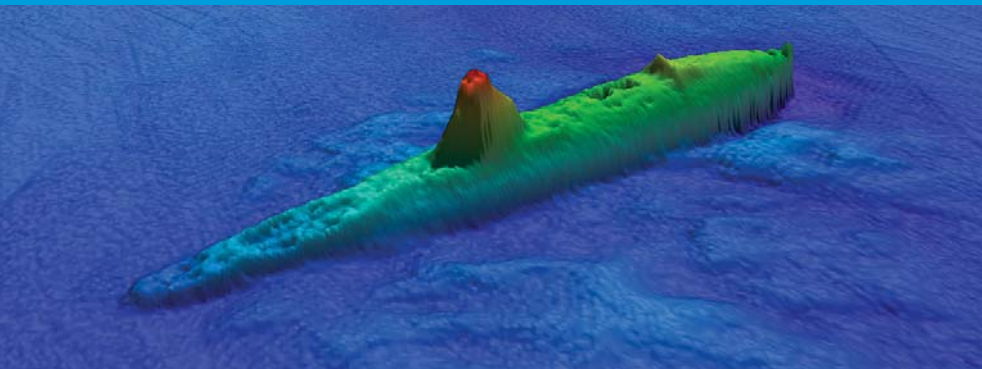


“At The Crown Estate we are enthusiastic about our maritime heritage and sustainable new uses of our seas. So we are delighted to support the publication of this new version of the JNAPC Code through our Marine Stewardship Programme. It will be an essential guide for all those who, like us, are committed to reconciling the past, the present and the future of the marine environment.”

**Roger Bright, Chief Executive,
The Crown Estate**

“The generic guidance provided in this updated version of the JNAPC Code represents an excellent starting point for all potential developers looking to undertake activities on the seabed. The marine aggregate sector is aware of the potential impacts its activities may have on our maritime heritage and the importance of increasing our understanding of this important cultural resource. BMAPA has already developed a specific Guidance Note for marine aggregate extraction and the marine historic environment in association with English Heritage. We have also recently introduced a protocol for the reporting of archaeological finds on ships and wharves. We would strongly encourage other sectors to adhere to the Code and follow the example set by the marine aggregates industry.”

**Mark Russell,
British Marine Aggregate
Producers Association**



The objective of the Code is to present an overview of procedures for consultation and co-operation between seabed developers and marine archaeologists.



Purpose of the Code

The objective of the Code is to present an overview of procedures for consultation and co-operation between seabed developers and marine archaeologists. It is designed to help facilitate a smooth and cost effective process. It describes the top-level relationships that will ensure a best practice model for development both within and beyond the remit of the formal Environmental Impact Assessment (EIA) process. Where more detailed sources of information on standards and guidance for specific operations are sought, signposts are provided. While the general principles can be applied throughout the UK, specific arrangements for consultation may vary between England, Northern Ireland, Scotland, Wales, the Isle of Man and the Channel Islands.

Significance of the Maritime Cultural Heritage

The sea, seabed and foreshore of northern Europe and the British Isles has been exploited by humans for over half a million years. Lands extending across the continental shelf were

witness to recurring occupation by ancient peoples before rising waters repeatedly inundated the landscape. Watercraft from prehistory to the present day enabled travel across these evolving waterways but many thousands of vessels never completed their journeys.

Investigation of submerged and buried land surfaces, settlements, boats, aircraft, ships, harbours and quays can open windows to a past that would be lost if their archaeological remains go unrecorded. Increased understanding of cultural material from both the intertidal zone and deep water can feed directly into heritage and education initiatives and plays an important role within the planning system. Once destroyed, these important archaeological remains are lost forever and the nation has a responsibility to preserve these intact, or by record, for current and future generations.

The Government is committed to sustainable development in which archaeology is given appropriate assessment and consideration. Within this context there is a responsibility upon the developer to protect the UK's coastal and marine historic assets which may remain as archaeological material. This Code, jointly developed by marine archaeologists and industry, provides a framework within which the protection of these assets as part of our cultural heritage, and the legitimate interests of maritime development can be reconciled.

Maritime Cultural Heritage

International

"It is important to acknowledge the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations, and their relations with each other concerning their common heritage" (UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001)

Europe

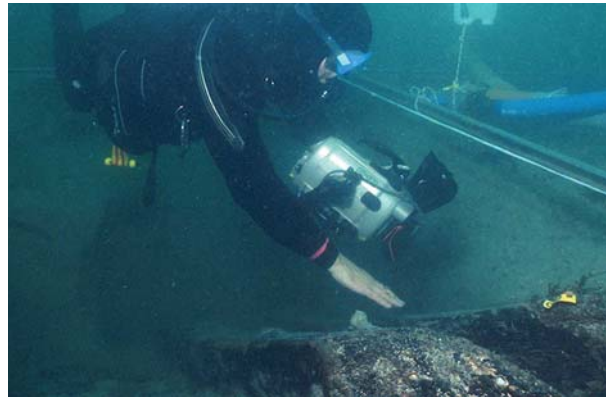
Cultural heritage comprises "all remains and objects and any other traces of mankind from past epochs... The archaeological heritage shall include structures, constructions, groups of buildings, developed sites, moveable objects, monuments of other kinds as well as their context, whether situated on land or under water" (European Convention on the Protection of the Archaeological Heritage (Valletta Convention) 1992)

National

The National Heritage Act 2002 enabled English Heritage to assume responsibility for maritime archaeology in English coastal waters, modifying its 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.



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The Code

1 Cultural and Financial Risk Management

Due consideration for archaeological remains must be given at the outset of any proposed marine development. This can be both cost-effective and good for public relations. It has the potential to bring cultural rewards both nationally and internationally because of the special, trans-national nature of maritime heritage. It can also have a cost benefit to the developer by identifying the potential for encountering archaeological remains and associated responsibilities at an early stage. This can reduce the risk of duplication of effort, delays and unforeseen costs.

On a national or regional level, the Strategic Environmental Assessment framework should set the context for the plan or programme and identify archaeological mitigation requirements to be addressed by an Environmental Impact Assessment. Such information will then provide the basis for determining a planning consent by a local authority or other statutory consent by a government department. Other legislation may apply if cultural heritage is to be affected by a development. This will need to be reviewed on a case-by-case basis.



2 Legislative Considerations

A responsible approach to management of the cultural heritage is required under the European Convention on the Protection of the Archaeological Heritage (Valletta Convention) 1992. The Convention, which applies to European States, stipulates that the protection of the cultural heritage must form an integrated component of the planning process from its

3 Consultation and Seeking Advice

Advice should be sought by the developer at the earliest opportunity to assess the potential of proposed developments to disturb the cultural heritage. This will include consultation with local archaeological curators who work with the Historic Environment Records (HER), have access to appropriate expertise and who advise the local regulatory body. In the intertidal



Relevant Legislation, Directives and Guiding Documents

International

UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001 (not ratified by United Kingdom at time of publication, but the Annex is accepted by the Government as 'best practice').

Europe

European Convention on the Protection of the Archaeological Heritage (Valletta Convention) 1992
 European Environmental Impact Assessment Directive 97/11/EC
 European Strategic Environmental Assessment Directive 2000/42/EC

United Kingdom

Protection of Wrecks Act 1973
 Ancient Monuments & Archaeological Areas Act 1979
 Merchant Shipping Act 1995
 Protection of Military Remains Act 1986
 Food and Environment Protection Act 1985
 Dealing in Cultural Objects (Offences) Act 2003

England

National Heritage Act 2002
 Planning Policy Guidance 16 - Archaeology and Planning
 Planning Policy Guidance 20 - Coastal Planning
 Taking to the Water: English Heritage's Initial Policy for the Management of Maritime Archaeology in England, English Heritage 2002

Due consideration for archaeological remains must be given at the outset of any proposed marine development. This can be both cost-effective and good for public relations.

zone, below mean low water and beyond the jurisdiction of local planning authorities, advice will need to be obtained from a national heritage body, such as English Heritage, Historic Scotland, CADW or DOE Northern Ireland. This is a vital part of planning a cost effective and integrated approach to assessing the effects of the development, while identifying ways of avoiding and mitigating damage.

4 Scoping Studies

Scoping studies should be carried out by the developer as an essential step to identify all necessary requirements for efficient appraisal of both the maritime and terrestrial cultural heritage that may be affected by seabed development and their associated works. Professional archaeological advice should be sought to ensure that all legal requirements and those of regulators are met. This will mitigate against and/or forewarn of possible financial implications at a later stage. It is important that all aspects of the development that could affect the cultural heritage are understood by archaeological curators and consultants offering advice. A list of archaeological bodies that are able to offer advice is provided on www.jnadc.org.uk



5 Archaeological Consultancy and Contracting Services

Organisations providing maritime archaeological consultancy and contracting services must be competent, thereby ensuring that archaeological work is carried out in line with established standards. Where archaeological investigations are conducted, the archaeologists will be aware of the potential public relations benefits to developers of publishing their work. Financial or other support from the developer will be recognised in any publicity.



Scotland

National Planning Policy Guideline 5
- Archaeology and Planning
National Planning Policy Guideline 13
- Coastal Planning

Wales

Planning Guidance (Wales): Planning Policy Section 5 - Conserving and Improving Natural Heritage and the Coast
Planning Guidance (Wales): Planning Policy Section 6 - Conserving the Historic Environment
Welsh Office Guidance 60/96 'Planning and the Historic Environment: Archaeology'

Northern Ireland

Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage

Isle of Man

Wreck and Salvage (Ships and Aircraft) Act 1979

Guidance documents

Marine Aggregate Dredging and the Historic Environment: Guidance Note, BMAPA & English Heritage 2003
Coastal Defence and the Historic Environment: English Heritage Guidance 2003
Military Aircraft Crash Sites: Archaeological Guidance, English Heritage 2002
Benchmarks for Field Archaeology Projects, Association of Local Government Archaeological Officers 2005

It is in the interests of all parties that the financial and other risks of unexpected discoveries of archaeological remains/deposits/material are minimised.



6 Assessment of Cultural Heritage

Following a scoping study, a desk-based assessment is the next stage a developer will need to commission to assess archaeological potential. This involves the study of available records and information sources on the known or potential cultural heritage in the area of development. This includes early consultation with the appropriate HER and the National Monuments Record (NMR), and all parties whose activities during the development may inform understanding of the potential for archaeological assets. Information gathered during field investigations should be fed into the desk based assessment. This will result in an evaluation of all information to assess the potential of the cultural heritage in the area of development. This process will inform potential mitigation strategies and any need for further investigations.

7 Field Investigations

It is in the interests of all parties that the financial and other risks of unexpected discoveries of archaeological remains/deposits/material are minimised.



Where developers are undertaking marine surveys as part of their development, using for example geo-physical, geo-technical or visual techniques, it is advantageous for the methodologies and techniques employed to be approved by a curator (or consultant) as being appropriate for an archaeological investigation. The potential for additional survey cost that this might entail is likely to be offset by reduction in the risk of having to re-survey areas where archaeological potential, as revealed by inappropriate techniques, cannot be determined. It is advantageous for fieldwork and desk based assessments to be conducted and reviewed concurrently.

Important Roles in the Development Process

Developer - an organisation proposing or engaged in activities directed to the construction, alteration or renewal of any works in, on or under the seabed and associated activities on dry land, and in the excavation, removal, movement or deposit of materials, substances or articles in, on or under the seabed.

Archaeological Consultant / Contractor - provider of independent archaeological advice or professional archaeological services to guide the developer through, and satisfy the archaeological requirements of, the development process. Curators may be able to provide a list of archaeological consultants and contractors. Developers can obtain details of consultants and contractors from the Institute of Field Archaeologists, English Heritage and local authorities.

Curator - An archaeologist or heritage professional advising a statutory or other formal consultee, who provides advice to regulators on archaeological matters relating to development. They provide general guidance to developers and regulators. The UK heritage bodies provide the function of Curator.

Regulator - an organisation, usually National or Local Government Department or agency, acting to ensure compliance with legislation, directives and established guidance when issuing consents in relation to development.



Where important remains are identified, physical preservation in situ, is required wherever possible, in line with Government policies and international conventions.

causes cumulative effects on archaeological deposits the national curator may advise that the consent includes conditions that require a commitment to monitor the site or area. If changes (e.g. erosion) caused by the development prove to be detrimental to archaeological material, remedial measures need to be undertaken to minimise any loss.

8 Archaeological Mitigation

Where important remains are identified, physical preservation in situ, is required wherever possible, in line with Government policies and international conventions. Mitigation, as detailed in an agreed protocol between developer and curator, may involve the introduction of avoidance zones and/or adapting the area or method of development, which may have few or no financial implications for the developer. Appropriate mitigation may be dictated by conditions imposed within the consents procedure, which the developer would then have to fund. Underwater fieldwork, post-excavation analysis, reporting and conservation of recovered remains need to be properly resourced and can be expensive. However, physical intervention is only required if other options to avoid damage are not possible.



9 Monitoring Disturbance

The responsibility for archaeological material that has been impacted by development does not stop once construction has been permitted and is under way. If a development

10 Retrieved Archaeological Material

Issues of ownership and reporting can be complex so developers may need to seek advice prior to disturbing any artefacts on the seabed. Where archaeological material is disturbed and recovered as a result of development activities, agreements must be put in place for its long-term conservation and management. Developers and any archaeological consultants have a legal responsibility to report discoveries to the Receiver of Wreck, and must seek to deposit any artefacts and records in an appropriate museum as a complete permanent archive for future study. Specialist advice on the conservation of objects is essential and discussions with a suitable museum service should be part of the early planning of any investigation. Copies of all reports and publications must be sent to the relevant local Historic Environment Record and National Monuments Record. Deposition of records allows public use of information relating to their heritage and can help develop education and public understanding, and provide practical demonstration of co-operation between private and public sectors.

Unexpected Discoveries

Discoveries of archaeological material, which can be encountered at any stage in the development process, must be reported promptly to the Receiver of Wreck (of the Maritime and Coastguard Agency) and the national curatorial body responsible to enable appropriate action to be taken. To avoid uncertainty during operations the developer will need to agree contingency plans with the Curator for dealing with unexpected discoveries of objects that have archaeological significance.

Prompt reporting is the constructive course of action and can be of widespread value and interest. However, it is not an end in itself and does not negate the requirement for other processes.

The potential costs and delays of dealing properly with important unexpected discoveries makes it highly desirable for all concerned that any significant remains should as far as possible be identified in advance and left securely in situ.

The British and Marine Aggregate Producers Association and English Heritage have produced a protocol for the reporting of unexpected finds. This is aimed at the marine aggregate industry but offers valuable guidance to all those looking to undertake seabed development; details can be found at: www.wessexarch.co.uk/projects/marine/bmapa/index.html



Credits

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D. Still

Trustees of The British Museum

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Members of the JNAPC

Association of Local Government Archaeological Officers (ALGAO), British Sub Aqua Club (BSAC), Council for British Archaeology (CBA), Hampshire and Wight Trust for Maritime Archaeology (HWTMA), Institute of Field Archaeologists (IFA), ICOMOS (UK), Marine Conservation Society (MCS), National Maritime Museum, National Museum and Galleries of Wales, The National Trust, Nautical Archaeology Society (NAS), Professional Association of Diving Instructors (PADI), Shipwreck Heritage Centre, Society for Nautical Research (SNR), Sub-Aqua Association (SAA), Institute of Conservation, Wessex Archaeology, Sarah Dromgoole, Steve Waring, Michael Williams, Robert Yorke.

Observers at the JNAPC

Advisory Committee on Historic Wreck Sites (ACHWS), Welsh Historic Monuments (CADW), The Crown Estate, English Heritage, Environment & Heritage Service (Northern Ireland), Historic Scotland, Maritime & Coastguard Agency (Receiver of Wreck), Ministry of Defence, Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS).

Supporting Organisations

Association of British Ports (ABP), British Marine Aggregate Producers Association (BMAPA), British Ports Association (BPA), British Wind Energy Association (BWEA), Countryside Council for Wales (CCW), DCMS, DEFRA, English Nature, Joint Nature Conservation Committee (JNCC), National Federation of Fishermen's Organisations (NFFO), Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW), Renewable Power Association, Salvage Association, Scottish Trust for Underwater Archaeology, United Kingdom Cable Protection Committee (UKCPC).

This Code is a revision of the JNAPC Code of Practice for Seabed Developers first produced in 1995 and updated in 1998.

This publication has been made possible by The Crown Estate's Marine Stewardship Programme. The fund was established in 1999 to provide support to initiatives and programmes which contribute to the development of best practice, and make a significant contribution to the good management and stewardship of the marine environment.

A copy of this code along with an up to date list of contacts for advice can be found on The Crown Estate website www.thecrownestate.co.uk and the JNAPC website www.jnapc.org.uk.

The sites also contain additional information which may prove useful to potential developers and links to websites of key organisations.

Further copies of this code are available from the JNAPC

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www.jnapc.org.uk

www.thecrownestate.co.uk