

# Heritage today, gone tomorrow: *in situ* preservation of underwater cultural heritage in law and practice

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For my father,

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# Abstract

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Reflecting current trends in practice and research toward a universally recognised best practice for underwater cultural heritage (UCH) management, international guidelines encourage the utilisation of *in situ* preservation as the ‘first option’ in securing these non-renewable resources. *In situ* UCH management is identified as the prime standard by both the 2001 United Nations Educational, Scientific and Cultural Organization’s (UNESCO) *Convention on the Protection of the Underwater Cultural Heritage* and the 1996 International Council on Monuments and Sites’ (ICOMOS) *Charter on the Protection and Management of Underwater Cultural Heritage*. At present, however, neither UNESCO nor ICOMOS explicitly define the suggested ‘first option’. As such, the scope and context of *in situ* preservation is open to interpretation, and can be construed to exclude a number of *in situ* management techniques currently employed by heritage practitioners – including relocation and underwater repositories. As many practitioners rely on the 2001 Convention and its Annex to support domestic legislation, or as the stand-alone reference in lieu of domestic law, it is imperative that the interpretation of the ‘first option’ is not at once inclusive and unequivocally defined. This study therefore examines whether an assessment of international conventions and guidelines, domestic laws inclusive of heritage materials and practitioners’ publications relating to UCH, with a specific focus on *in situ* preservation, can identify discordance between practitioners interpretation of the law and applied practice. The analysis occurs with the examination of three genres of literature forming the basis of UCH management (international and domestic laws enacted as of July 2012 and practitioner publications) and an assessment of five case studies applying various *in situ* preservation techniques within site management. The data and discussion of results will demonstrate if and how managerial terminology requires clarification within the assessed literature. More specifically, conclusions will aid in the development of a more robust and well-supported definition of *in situ* preservation, which can be applied as a global best practice for UCH management.

## **DECLARATION**

I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

Debra G. Shefi

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# Abbreviations

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|        |                                                                         |
|--------|-------------------------------------------------------------------------|
| AHSPP  | Australian Historic Shipwreck Preservation Project                      |
| CAME   | Conference of Allied Ministers of Education                             |
| CCS    | Convention on the Continental Shelf                                     |
| Ch     | Chapter                                                                 |
| CHS    | Convention of the High Seas                                             |
| CISMAS | Cornwall and Isle of Scilly Maritime Archaeology Society                |
| CTSCZ  | Convention on the Territorial Sea and the Contiguous Zone               |
| DOALOS | United Nations Division for Ocean Affairs and the Law of the Sea        |
| EEZ    | Exclusive Economic Zone                                                 |
| EU     | European Union                                                          |
| fHPL   | former Hovell Pile Light                                                |
| GPS    | Global Positioning System                                               |
| ICOMOS | International Council of Monuments and Sites                            |
| ICUCH  | International Committee on Underwater Cultural Heritage                 |
| ILA    | International Law Association                                           |
| ISA    | International Seabed Authority                                          |
| MAAV   | Maritime Archaeology Association of Victoria                            |
| MAU    | Victorian Archaeological Survey, Maritime Archaeology Unit              |
| MoSS   | Monitoring, Safeguarding and Visualising North-European Shipwreck Sites |
| NOAA   | National Oceanic and Atmospheric Administration                         |
| NSW    | New South Wales                                                         |
| OLOS   | 'A Historic Perspective' on Oceans and Law of the Sea                   |
| RAAR   | The Reburial and Analyses of Archaeological Remains project             |
| SCUBA  | Self-Contained Underwater Breathing Apparatus                           |
| Sec    | Section                                                                 |
| SP     | State Party                                                             |
| Sub-s  | Sub-section                                                             |
| TBTO   | Tri-butyl-tin oxide                                                     |
| UCH    | Underwater cultural heritage                                            |

|            |                                                                  |
|------------|------------------------------------------------------------------|
| UK         | United Kingdom                                                   |
| UN         | United Nations Organisation                                      |
| UNCLOS I   | 1958 United Nations Convention on the Law of the Sea             |
| UNCLOS II  | 1960 United Nations Convention on the Law of the Sea             |
| UNCLOS III | 1982 United Nations Convention on the Law of the Sea             |
| UNESCO     | United Nations Educational, Scientific and Cultural Organization |
| US         | United States of America                                         |
| USOCS      | United States Office of Coast Survey                             |
| VOC        | Dutch Vereenigde Oost-Indische Compagnie                         |
| WAM        | Western Australian Museum                                        |
| WWI        | First World War                                                  |
| WWII       | Second World War                                                 |
| YILC       | Yearbook of the International Law Commission                     |