



Protection of Wrecks Act 50th Anniversary:

Protecting Wrecks: the next 50 years

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1. Executive Summary

1.1. This project set out to reflect upon the successes, challenges and future potential of the Protection of Wrecks Act 1973 (PWA 1973) in England. The context and the findings of the project are summarised in outline below, before the main report offers a full account.

- i. The PWA 1973 was an innovative response to a novel problem and has served a vital function in the protection of the most valuable, known, underwater heritage assets (UHA) as manifested in wrecked vessels. The Act was initially implemented across the whole of the UK. Scotland has had its own protective legislative framework since 2010 and Wales has, since 2016, diverged from the PWA 1973. This report focusses on the current English application of the Act, although various elements of the analysis may be applicable elsewhere in the UK, as sites remain designated as Protected Wrecks in Northern Ireland, and Wales.
- ii. The basis of the operation of the legislation is to restrict access to the wrecks to anyone supervised by a person named on a licence (a wreck licensee) with their details passed to HE for monitoring purposes.
- iii. In its 50 years of operation, the PWA 1973 has created the conditions to enable many thousands of avocational divers the ability to be involved in citizen science, underpinning ongoing site management, promoting underwater archaeology, and cementing the perception of value in subsea heritage assets.
- iv. The PWA 1973 has also provided the basis to ensure the protection of some wrecks from interference likely, or intended, to cause harm.
- v. The PWA 1973 drafting is imperfect, and many of the offences are both unclear as to scope and difficult to prove.
- vi. Its continued utility should reflect the contemporary challenges of marine archaeological management and a far more contested marine space; and one which has been the subject of considerable contemporary regulation in respect of the natural environment.
- vii. Since 2019 there has been an increase in the use of the Ancient Monuments and Archaeological Areas Act 1979 (AMAAA 1979) to apply protection to permanently submerged items by including them on the list of Scheduled Ancient Monuments.¹ Information for how Historic England decides on designation type has not been publicly shared and thus the designation strategy remains opaque.
- viii. There remains a role for more restrictive access controls on particularly vulnerable sites, and particularly for the continuation of the use of licensees or site champions as a key tool in protection, monitoring, and investigation of sites.
- ix. Multiple statuses applied to different categories of UHA may be confusing to the lay person and non-specialist enforcement bodies.
- x. Whichever means of site/asset protection is made available there is an exceptionally dedicated constituency of stakeholders advocating for UHA.

¹ The term 'scheduling' is used throughout this report to indicate those wrecks so listed under the AMAAA 1979. In this connection see for example, Lowther J, Parham D, Williams, M, 'All at Sea: When Duty meets Austerity in Scheduling Monuments in English Waters', *Journal of Planning and Environmental Law* [2017] Issue 3 pp2-21.

2. Introduction

- 2.1. The project was conceived as a means to work with key stakeholders to enable a critical evaluation of the Protection of Wrecks Act 1973 (PWA 1973) to inform and facilitate discussion of its effectiveness and the potential for improvement going forward. The project contributed to a suite commissioned by Historic England as part of celebrations for the 50th Anniversary of the PWA 1973. At its inception, the PWA 1973 represented a novel – albeit rapid and limited– response to a specific and growing threat to maritime cultural heritage through unregulated exploration, disturbance and recovery.
- 2.2. At its most straightforward, the PWA 1973 confers a power upon the Secretary of State (DCMS) to designate a restricted area around a wreck to prevent uncontrolled interference. In respect of heritage concerns, Section 1 of the Act contemplates designation on account of the wreck's historical, archaeological, or artistic importance.² There is no *duty* to designate, which has both benefits in terms of flexibility and disbenefits in respect of the necessity to make judgment calls on the cultural value of a wreck. It could be inferred that – with only 57 wrecks designated over the 50-year lifespan of the PWA 1973, as of March 2023 – that the process for designating a wreck under the Act is subject to a high bar (eg due to the requirement to secure parliamentary time, unlike other designation types), arguably reducing the efficacy of the designation.³
- 2.3. The PWA 1973 – and the way in which it has subsequently been operated – changed the conservation model in respect of underwater heritage. When introduced the PWA 1973 was in many ways world leading, especially in its community engagement with voluntary avocational divers and many would argue that this has been one of its greatest achievements. The Anniversary provided an opportunity to examine perceptions of the Act's performance over the last 50 years and to identify opportunities for potential amendments which would either strengthen its provisions or extend its framework to address any omissions. Whether or not legislative changes are politically feasible in the short term, the outcomes of the project provide a valuable basis for future reform, and a more tangible basis for sector advocacy to promote this argument in the short and medium term.
- 2.4. The aim of the project was to use the celebration of the 50th anniversary of the PWA 1973 to put a spotlight on the potential to bring the Act up to date with modern understandings of heritage management and public benefit and advance the sector and policymakers' understanding of this potential.
- 2.5. The objectives for the project were:
- i. To gain an understanding of up-to-date legislative challenges for protected wrecks and consider whether the legislation remains suitable to deal with these challenges in the future.
 - ii. To gather information and suggestions from a wide range of expert stakeholders about the potential for improvements to be made to the Act.
 - iii. To engage policymakers in the above discussions in the context of celebrations for the 50th Anniversary of the Act.

² See, for Example, *Ships and Boats: Prehistory to Present*, 2017, Historic England, available at <https://historicengland.org.uk/listing/selection-criteria/wreck-selection/> (last accessed May 2024).

³ The figure of 57 protected wrecks applies to those situated in English territorial waters. However, the PWA 1973 also applies to Wales (6 protected wrecks) and Northern Ireland (1 protected wreck) and until 2010 applied to 8 wrecks in Scottish waters.

- iv. To attract attention to the issue of the PWA 1973's shortcomings and discuss the potential for future updates to the Act with politicians.
- 2.6. At the heart of the project was an expert seminar hosted by ClfA and attended by 58 delegates at the Society of Antiquaries of London on 22nd November 2023. In addition, the seminar was live streamed on YouTube to broaden accessibility for delegates and has to date been viewed 228 times.⁴ Prior to the seminar work had been undertaken to identify the principal themes for investigation and discussion within the invited group of attendees.
- 2.7. The conclusion of the project's stakeholder evaluation is that the PWA 1973 remains an important piece of legislation in the protection of underwater cultural heritage. However, the legislation could be significantly improved, because, as originally enacted, it was never intended to last as long as it has. In addition, there is scope for clarification on the differentiation of, and relationship between, the PWA 1973 and the AMAAA 1979 to communicate Historic England's strategic approach to the designation of UHA recognising the specific operational characteristics of the two Acts. Further, attitudes towards both heritage management and the marine environment in the UK have changed considerably over the decades, as have various contexts of wider legislation, policy, seabed development and threat.
- 2.8. This project report is arranged to provide a report on the project tasks, discussion of the PWA 1973, and analysis of the stakeholder engagement leading to recommendations to inform advocacy directed towards addressing identified shortcomings and capitalising on successes.

3. Project tasks report

- 3.1. The majority of the tasks were undertaken in preparation for the November seminar. A web page was set up to promote the event, which included a link to a survey. The survey was designed to help frame the content of the event and to facilitate discussion and invited the views of all relevant stakeholders in the marine historic environment, from licensees and their teams, and other recreational users of wreck sites, to professional archaeologists and those involved with marine development.⁵ The survey itself, reproduced in Appendix 4, was designed to interrogate at a relatively high level, the experience of a variety of groups with experience of or recourse to the PWA 1973. A mix of question types included those related to the utility of the legislation, its ease of understanding, its continued relevance, as well as invitation to offer qualitative judgments on its operation in both free comment sections and through certain questions based on a Likert scale. The survey was circulated by email to the networks of ClfA, including the Marine Archaeology Special Interest Group (MASIG), the Protected Wreck Association (PWAssoc), the Nautical Archaeology Society (NAS), and Historic England and promoted on the social media accounts of these bodies.
- 3.2. A total of 27 survey responses were received, with the totality of the quantitative responses included at Appendix 4. Many of the respondents interacted with the PWA 1973 in more than one sense. Thirteen of the respondents were wreck licensees and mostly also recreational divers.

⁴ The seminar proceedings may be viewed at <https://www.youtube.com/watch?v=9jhsb1ky9Zw> (last accessed May 2024).

⁵ The survey questions are reproduced at Appendix 4 to this report.

- 3.3. The spread between professional and avocational archaeologists was similar.⁶ Two respondents' experience of the PWA 1973 was from the perspective of a heritage protection agency. Otherwise, there was a spread of other interactions, including consultants, educators, and researchers. It is perhaps noteworthy that no enforcement agency respondent was represented, although two, representing the Police, in both strategic and operational enforcement capacities, attended the seminar.
- 3.4. From the responses the following observations may be offered. Although given the survey size they may not be reliably representative of the constituencies of stakeholder envisaged, there are some discernible trends that can be gleaned from the data.
- More respondents had a positive view of the Act's effectiveness at protecting the UK's most significant shipwrecks in UK territorial waters than not.⁷
 - Across most metrics surveyed, most respondents felt that the Act was at least fairly successful. The limitations identified were principally in respect of its failure to prevent damaging interference, funding and resources, the deterrent effect of the offences, and the relationship with other protective schemes.⁸
 - The question as to whether the Act had stood the test of time was finely balanced.⁹
 - A slight majority of respondents felt that the Act had promoted/developed expertise in marine archaeology.¹⁰
 - A significant majority of respondents were in favour of greater public awareness of protected wrecks.¹¹
- 3.5. Free comments reflected a broad spectrum of views, some highly specific to a particular experience with an individual wreck, others offering insights into some higher-level considerations. It was noteworthy that all participants did offer perspectives which were reflected in the topics presented and discussed in the seminar. An original plan to canvass the views of identified individuals representing key stakeholder groups by way of semi-structured interviews by the project team, was not completed, as a result of availability issues with the team and the target group. Instead, a number of informal conversations were had, which was instrumental in informing both the form and content of the seminar.¹²
- 3.6. The seminar was held as planned, and opened by Lord Parkinson of Whitley Bay, Parliamentary Under Secretary of State for Arts and Heritage, and chaired by Peter Hinton, Chief Executive of ClfA. This scene-setting session was followed by three others focussing on perceived successes, challenges and the changing seascape. Each session was chaired with questions and other discussion points raised by the attendees, both in the room and attending online.¹³ The seminar was closed, with thoughts from Tim Loughton MP, the current chair of the All-Party Parliamentary Archaeology Group (APPAG). Feedback from the seminar was universally positive.
- 3.7. The resulting report and subsequent advocacy document offer a series of recommendations that reflect the multiplicity of views expressed at the event and form the basis of an analysis of the

⁶ A total of nine and ten respondents, respectively, self-categorised in this way.

⁷ Question 2 – see Appendix 4.

⁸ Question 4 – see Appendix 4.

⁹ Question 6 - see Appendix 4.

¹⁰ Question 8 – see Appendix 4.

¹¹ Question 11 – see Appendix 4.

¹² The proposed interview questions are reproduced at Annex 2 to this report.

¹³ Online questions were put to the speakers by way of Slido.

common ground reached. Organisations who participated in the workshop have been given opportunities to provide comments at various stages of this report's drafting to add comments and ensure that what the report contains is representative of what they have said. All comments from these participants have been addressed¹⁴. The 'advocacy document' produced to accompany this report and champion the spirit of its recommendations has been signed up to by the vast majority of members of the Joint Nautical Archaeology Policy Committee.

- 3.8. It should be noted that the views expressed in this report are those of the authors, based upon wider discussions held during the project. They are not necessarily views that are shared by Historic England. Various comments and proposals in this report may require further discussion, or evidence to secure agreement, and where specific disagreement has been raised in comment by Historic England advisors, this has been specifically noted.
- 3.9. Additionally, Historic England does not engage in advocacy activity and therefore it does not endorse or seek to influence the use of the advocacy document that may be used by the sector to champion recommendations from this report.
- 3.10. The report next, in section 4, provides an analysis of the PWA 1973 from its inception to now, highlighting its successes and limitations, and then presents a collated summary of the presentations and reflection upon the discussion they generated.

4. Analysis of the Protection of Wrecks Act

4.1. Genesis of the Protection of Wrecks 1973 Act

- 4.1.1. The genesis of the PWA 1973 lies in a combination of socio-economic factors, combined with existing maritime law and new underwater technology. This combination created unprecedented circumstances that led to a new and hitherto unencountered deficiency in law that the 1973 Act was designed to counter.¹⁵
- 4.1.2. SCUBA diving, which expanded significantly in the 1950s and 1960s,¹⁶ inevitably led to discoveries of hitherto unknown and / or unlocated Underwater Cultural Heritage (UCH), most notably exemplified in the United Kingdom (UK) by the discovery of the Tudor warship *Mary Rose*, the subsequent excavation of which was largely conducted by recreational divers.¹⁷ While the *Mary Rose* is a unique example of UCH investigation, it nevertheless exposed the pinnacle of what was possible in a world where there was much wider participation in recreational diving and heritage. With these increasing discoveries of UCH, particularly during the 1960s, an immediate problem

¹⁴ The authors recognise that it may have been useful to record and include specific comments of participants or attribute, anonymously or otherwise, views to certain participants.

¹⁵ For further detail on the development of the legislation, interested readers may wish to consult Anthony Firth, 'Managing Archaeology Underwater: A theoretical, historical and comparative perspective on society and its submerged past', 2002, BAR Publishing, available at <https://www.barpublishing.com/managing-archaeology-underwater.html> (last accessed May 2024).

¹⁶ The first reliable and commercially successful Self-Contained Underwater Breathing Apparatus (SCUBA) was designed in 1942, becoming more widely available post 1945. On the development of diving techniques more generally see, for example Thijs J. Maarleveld, the History of Diving available at https://www.researchgate.net/publication/257141278_History_of_diving (last accessed May 2024).

¹⁷ See further '*How we found the Mary Rose*' McKee, Alexander. (1991) Souvenir Press,

arose in relation to the prevailing regulatory framework surrounding treatment of historic wrecks, the salvage regime.

- 4.1.3. A salvage operation is defined as “... *any act or activity undertaken to assist a vessel or any other property in danger*...”.¹⁸ Any wreck on the seabed is regarded as axiomatically in danger for the purposes of salvage law, danger being given an extremely wide interpretation to include the property in question simply being out of the possession of its owner, or beyond economic use.¹⁹ Additionally, there was a public policy underlying the salvage regulatory regime that encouragement should be given to the recovery of such property in danger, restoring it to the mainstream of commerce and successful recovery bringing entitlement to a reward. To this end the law recognised that the owner’s consent to conduct salvage was not a precondition and their ability to prohibit salvage was limited. The result is salvage could be conducted voluntarily without the owner’s consent.²⁰
- 4.1.4. Given this wide interpretation, any property resting on or below the seabed thus may lawfully be recovered. This concept of danger contrasted starkly with the view archaeology takes of underwater sites. In many underwater sites the remains reach a state of equilibrium or near equilibrium with their surroundings and this is characterised by low or even zero rates of degradation.²¹ Indeed, where material is buried in seabed sediments, often in anaerobic conditions, even organic material will survive for centuries. To the archaeologist such sites are stable, and preservation is best achieved *in situ* by non-disturbance.²² Clearly, based on this traditional judicial approach, the archaeological concept of the stable site being in no physical danger had no basis in prevailing salvage law. Indeed, in the single case in which the United Kingdom courts have considered whether the recovery of historical wreck constituted salvage, the court appears to have treated the matter as axiomatic.²³
- 4.1.5. Certainly, in the absence of disturbance by seabed movement, excavation or wash from propellers, such sites cannot be said to be physically *in danger*. However, within the terms of salvage law, such remains were *in danger* and it is this legal justification which led directly to archaeologically inappropriate conduct by salvors, including recreational divers, in that it conferred upon them a freedom and an incentive to make recoveries, irrespective of the physical nature of the site.
- 4.1.6. As a consequence of this gap in the legal framework in respect of UCH there was growing concern about inappropriate activities, including excavation and recovery, directed at historic wrecks.²⁴ In particular concern centred upon risks that future inappropriate activities might be directed at

¹⁸ This definition is contained in Article 1 International Convention on Salvage 1989 but reflects contemporary caselaw.

¹⁹ *The Troilus* [1951] A.C. 820 at 824; *The Cythera* [1965] 2 Lloyd's Rep. 454 at 461.

²⁰ *Five Steel Barges* (1890) 15 P.D. 142 per Sir James Hannen at 146; *The Hestia* [1895] P.193 per Bruce J. at 199

²¹ See further ‘Archaeology Underwater The NAS Guide to Principles and Practice’ Dean (et al.) Nautical archaeology Society (1992): London pp.51-52.

²² A principle now enshrined in *European Convention on the Protection of the Archaeological Heritage (revised)* ETS no. 143, commonly known as the ‘Valletta Convention’ and the in the UNESCO *Convention on the Protection of the Underwater Cultural Heritage*. See further O’Keefe, P. J. ‘A Commentary on the UNESCO Convention on Underwater Cultural Heritage’ Institute of Art & Law (2002): Leicester.

²³ *Morris v. Lyonesse Salvage Co. (The Association and The Romney)* [1970] 2 Lloyd's Rep. 59

²⁴ As part of the 50th Anniversary celebrations of the 1973 Act Historic England have released a film about the origins and purposes of the Act. This includes interviews with individuals who were instrumental in campaigning for the Act and vividly describes the problems. See <https://youtu.be/bwrl-moJs20?si=MK9Uha73x3xwINGJ> (last accessed May 2024).

the sites of the wrecks of the *Girona*,²⁵ *HMS Association*,²⁶ the Amsterdam²⁷ and the Royal Yacht *The Mary*.²⁸ These concerns led directly to the enactment of the PWA 1973.

4.2. The PWA 1973: An Overview

- 4.2.1. The Act uses designation and licensing as mechanisms of control. The Secretary of State is authorised²⁹ to designate as a restricted area the site of a vessel of *historical, archaeological or artistic importance*³⁰ lying wrecked in or on the seabed.³¹ There is no further definition of these criteria in the PWA 1973 but non-statutory guidance has been issued.³² As its title suggests the Act is potentially restricted in its application due to the use of the term 'vessel'. The term is not defined, but the *Merchant Shipping Act 1995* defines the term as "... including any ship or boat or any other description of vessel used in navigation".³³
- 4.2.2. The PWA 1973's objective is to secure the protection of wrecks in territorial waters and the sites of such wrecks from interference by unauthorised persons. This is achieved by protecting a restricted area from unauthorised interference and not merely the vessel or its contents. It is an offence, within a restricted area, to tamper with, damage or remove any object or part of the vessel or to carry out any diving or salvage operation.³⁴ Further operations within the area are then controlled by the issuing of conditional licences, authorising only certain specified activities

²⁵ A galleas of the Spanish Armada sank off *Lacada Point*, Northern Ireland 26 October 1588. Located in 1967 numerous recoveries were made but the wreck was not designated until 22 April 1993. See the listing at <https://dfcgis.maps.arcgis.com/apps/webappviewer/index.html?id=6887ca0873b446e39d2f82c80c8a9337> (last accessed May 2024),

²⁶ A 90-gun second rate Royal Navy warship lost in 1707 off the Isles of Scilly, along with several other vessels wreck became the subject of competing salvage attempts and legal action brought by competing salvors (*Morris v. Lyonesse Salvage Co. (The Association and The Romney)* [1970] 2 Lloyd's Rep. 59). More than 2,000 coins and other artefacts were finally recovered from the wreck site and auctioned by Sotheby's in July 1969. The wreck was designated 18th March 2014 and in 2017 Cornwall and Isles of Scilly Maritime Archaeology Society (CISMAS) undertook a survey of the site. A draft Conservation and Management Plan is currently being prepared by CISMAS for Historic England. See the listing at <https://historicengland.org.uk/listing/the-list/list-entry/1419276> (last accessed May 2024).

²⁷ An 18th-century Dutch East India cargo shipwrecked on 26th January 1749 by beaching at *Bulverhythe*, near Hastings. The wreck is sometimes visible at low tide and was notoriously partially excavated by a mechanical digger in 1969. The vessel was designated under the 1973 Act on 12th January 1974. See the listing at <https://historicengland.org.uk/listing/the-list/list-entry/1000055> (last accessed May 2024).

²⁸ *HMY Mary* was the first Royal Yacht of the Royal Navy. It was built in 1660 by the Dutch East India Company, purchased by the City of Amsterdam and presented to King Charles on the restoration of the English monarchy. It struck rocks off Anglesey on 25 March 1675. The remains (bronze cannon) were independently discovered by two different diving groups in July 1971. After looters started to remove guns from the site, a rescue operation was organised and the remaining guns and other artifacts were taken to the Merseyside Museums for conservation and display. The wreck was designated on 20 January 1974. See the listing at <https://cadwpublic-api.azurewebsites.net/reports/wreck/FullReport?lang=en&id=DW3> (last accessed May 2024).

²⁹ For the purposes of the 1973 Act the term 'Secretary of State' now denotes, in England, the Secretary of State for Culture, Media and Sports, in Scotland the Scottish Ministers and in Wales the Welsh Assembly respectively.

³⁰ Section 1(1)(b).

³¹ Section 1(1); The Act has, as its title suggests, no application to submerged landscapes.

³² 'Ships and Boats: Prehistory to Present Selection Guide' Historic England (2012)

<https://www.historicengland.org.uk/images-books/publications/dsg-ships-boats> (last accessed May 2024).

³³ S.255(1). Clearly, this would encompass log boats and rafts but it is uncertain if flying boats or amphibious vehicles would be included. The remains of historic aircraft would undoubtedly be outside the definition, which is a significant omission³³, as would flooded landscapes.

³⁴ Section 1(3).

by the Secretary of State.³⁵ In determining whether to designate a vessel and/or grant a licence authorising diving or salvage operations,³⁶ the Secretary of State will receive advice from Historic England,³⁷ which advises on specialist issues of policy and practice related to complex, contentious and high-profile wreck sites in UK territorial waters adjacent to England.³⁸

4.2.3. The majority of licensees and their teams are avocational archaeologists operating under the supervision of a nominated archaeologist with appropriate qualifications and experience. Diving contractors are sometimes appointed, to visit potential sites to advise on their condition and nature, and to visit existing sites for the purpose of monitoring their condition and the activities of the licensee, if any.³⁹ In autumn 2015, the licensing process was amended to move from four different types of licence to just one, framed by conditions that are relevant to the proposed activities. This change does not alter the processes for approving and issuing licences but rather amends the type of licence issued, to make it fit for purpose with current archaeological techniques and to reflect the broad range of reasons for which people seek to access protected wreck sites. The change also introduced the term 'Principal Licensee', who is the main licence holder and, usually, the conditions will require that all divers are listed in a schedule kept by the Principal Licensee, that activities are kept to those authorised on the licence, that intrusive activities are carried out under the direction of the approved archaeologist, that recovered artefacts are given immediate preservation treatment as approved by the archaeologist and that an annual report is submitted and records are deposited with the relevant heritage bodies. The present policy is that only activities on the site will be authorised in accordance with the Rules to the Annex of the 2001 Convention

4.2.4. Finally, a licence may be varied or revoked by the Secretary of State at any time upon not less than one week's notice.⁴⁰ However, any such revocation would be subject to the constraints imposed by Administrative Law in that, e.g. the revocation should be reasonable, taking into account only material considerations and after the licensee has been consulted and been afforded an opportunity to make representations. A breach of any condition or restriction contained in the licence is treated as having been done without the authority of the licence, thereby making it a criminal offence.⁴¹

4.3. Effectiveness of the PWA 1973

4.3.1. The PWA 1973 provides designation to only a small number of wrecks, relative to the number of historic vessels lying in UK Territorial Waters, but the PWA 1973 has undoubtedly enjoyed a significant measure of success other than securing a degree of protection against disturbance of these 57 important historic wrecks.

4.3.2. The PWA 1973 was an important point of recognition for marine archaeological assets, modelling a form of designation on terrestrial legislation that began to provide the first basis for seeking

³⁵ Section 1(5).

³⁶ The licence does not necessarily authorise activities which are intended to lead to a salvage award.

³⁷ It is noted that Historic England's Expert Advisory Group does not contain marine archaeological specialists, and so the group is not consulted on UCH designations, unlike areas served by the architects and architectural historians that are the majority of the Group. There may be a possibility to examine the potential benefits of considering drawing upon representative expertise from the marine archaeology sector for this purpose.

³⁸ And in UK controlled waters adjacent to England and licensing in UK territorial waters adjacent to England, as appropriate.

³⁹ Current contractors are Wessex Archaeology, MSDS Marine and Maritime Archaeology.

⁴⁰ Section 1(5)(b).

⁴¹ Section 1(6).

equivalent recognition for marine sites. This eventually led to the creation of the Archaeological Diving Unit (ADU) in 1986, which later morphed into a system of diving contractors for Historic England. The ADU and its successors continue to provide free advice to recreational divers and avocational marine archaeologists, which did much to cement an archaeological mindset into their voluntary activities. The Act's implementation also helped to establish appropriate archaeological methodology for Designated Sites, while simultaneously providing a legal framework for significant voluntary public participation in marine archaeology. This continues to provide a very valuable 'force multiplier' for the heritage agencies, estimated in 2023 to have added a value of up to £209,920.⁴² The PWA 1973 has also facilitated the introduction of 'dive trails', where recreational divers are authorised to access a designated site and are provided with guiding information. Run by licensees and charter boat skippers, dive trails enable interested divers to get responsible access to protected wreck sites, while at the same time bringing significant tourist income into the local communities.⁴³ This has now been expanded to 'virtual' diver trails, where non diving members of the public can remotely access virtual dives on designated sites.⁴⁴ This has greatly widened public access and raised the profile of UCH beyond the UK diving community.⁴⁵ Finally, the PWA 1973 has generated a large data archive for designated sites and, given that some sites reflect the international character of shipping and sea faring, has also fostered international co-operation and knowledge sharing.⁴⁶ These are meaningful successes from an Act that, despite being designed as a short term fix, was at the leading edge of approaches to maritime heritage protection in 1973. Although the passage of time has revealed deficiencies within the Act these successes should not be overshadowed.

4.4. Limitations of the PWA 1973

- 4.4.1. Although the PWA 1973 has enjoyed these measures of success, it also has shortcomings. It is plausible that many of these may have been avoided had the Bill been intended as a mainstay for protecting UCH for 50 years and been subjected to more thorough public consultation and government-departmental development and refinement.⁴⁷ These shortcomings may be stated as:

⁴² A 2022 survey by the Protected Wrecks Association reported in 2023 £80,000 of volunteers own spend and 1,312 days of volunteer time. If one takes the 1,312 days as skilled volunteers time the Heritage Lottery sets a rate of £20 per hour, which for an 8-hour day is £209,920 for that year. That is a conservative estimate. <https://protectedwrecks.org.uk/news/new-survey-reveals-huge-contribution-made-by-volunteer-divers/> (last accessed May 2024).

⁴³ <https://historicengland.org.uk/campaigns/visit/protected-wrecks/dive-trails/> (last accessed May 2024).

⁴⁴ <https://historicengland.org.uk/campaigns/visit/protected-wrecks/virtual-dive-trails/> (last accessed May 2024).

⁴⁵ As noted in Historic England's 2018 report, available at <https://historicengland.org.uk/content/docs/get-involved/dive-trails-review-pdf/> (last accessed May 2024)..

⁴⁶ As exemplified by the co-operation between Historic England and the Dutch Cultural heritage Agency on the wreck of the Dutch warship *Klein Hollandia*, sunk in 1672 off the Isle of Wight Eastbourne and designated under the 1973 Act in 2019; see <https://english.cultureelerfgoed.nl/topics/m/maritime-heritage/international-projects/united-kingdom/article-klein-hollandia> (last accessed May 2024).

⁴⁷ In 1970 a committee was established by the Department of Trade and Industry to undertake a comprehensive review of wreck legislation. The Protection of Wrecks Act 1973 was designed simply as an interim measure to control diving activities during that summer season, further legislation to follow once the Committee had reported. In 1974 the Committee made its report, but the document was never published. Dromgoole, S. (1989). Protection of Historic Wreck: The UK Approach Part II: Towards Reform. *International Journal of Estuarine and Coastal Law*, 4(2), 95-116. <https://doi.org/10.1163/187529989X00101> (last accessed May 2024).

- i. There is inadequate coverage of UCH: the PWA 1973 only applies to ‘vessels’.⁴⁸ The consequence of this is that historic vehicles and aircraft from the Second World War, such as the amphibious tanks in Poole Bay,⁴⁹ the D-Day assault tanks sunk off Selsey Bill,⁵⁰ and the Lockheed P.38 Lightning fighter lying relatively intact on Harlech Beach,⁵¹ are all ineligible for designation under the 1973 Act. While these sites have been able to protected as scheduled monuments under the AMAAA 1979, the AMAAA 1979 cannot prohibit access and this may cause problems with certain sites for which scheduling may be considered in future.⁵² The P38 Lockheed Lightning, as a crashed military aircraft, is a Protected Place within the meaning of the Protection of Military Remains Act 1986,⁵³ (PMRA 1986) and as such it is a criminal offence to interfere with it⁵⁴ but again the 1986 Act does not prohibit public access, with the result that consideration has been given to hiring private security to protect it.⁵⁵ Similarly, the remains of a World War 2 Sunderland flying boat sunk in Pembroke Dock harbour are a Protected Place under the PMRA 1986 but public access could not be prohibited under that Act in a way that it is by designation under the PWA 1973.⁵⁶ Being located in a harbour, public access to the Sunderland could be prohibited under the local Harbour Act,⁵⁷ but this ‘work around’ underscores the gaps in the PWA 1973 which restricts its application to historic vessels only. While these examples are each sites which have been protected by means other than designation under the PWA 1973, they are used to illustrate potential types of asset which, if discovered in future, may not have access to the most suitable type of designation to secure protection.
- ii. Prehistoric submerged landscapes cannot be protected under the PWA 1973. This means that submerged prehistoric landscapes, such as prehistoric habitats, cannot be managed in ways that might benefit their conservation, as is possible for areas designated as MCZs for their geomorphological interest, which may include anthropogenically altered landscape features.⁵⁸ Neither can archaeological objects, per se, be protected in the absence of a wrecked vessel. Capacity to protect areas of archaeological interest, could usefully be considered, with the caveat that areas with structures could be included in such potential protection.
- iii. The ability of the PWA 1973 to protect UCH depends to a significant extent upon the efficacy of the offences prescribed under the Act. The offences are set out in S.1(3) and are:

(3) ... a person commits an offence if, in a restricted area, he does any of the following things otherwise than under the authority of a licence granted by the Secretary of State—

⁴⁸ As noted above the 1973 Act does not define a ‘vessel’ but s.255(1) Merchant Shipping Act 1995 provides a definition, to which a court would undoubtedly refer.

⁴⁹ <https://thisismast.org/projects/amphibious-tanks-and-world-war-two.html> (last accessed May 2024).

⁵⁰ <https://historicengland.org.uk/listing/the-list/list-entry/1459802> (last accessed May 2024).

⁵¹ <https://www.bbc.co.uk/news/uk-wales-50375275> (last accessed May 2024).

⁵² As noted in the analysis and recommendations below, the AMAAA 1979 may present advantages in its permissive approach to access, although there are wrecks, the nature of which demands a more restrictive approach due to their sensitivity (in both physical and cultural contexts).

⁵³ Section 1(1).

⁵⁴ Section 2(1)(b)&(2).

⁵⁵ http://news.bbc.co.uk/1/hi/wales/north_west/7098937.stm (last accessed May 2024).

⁵⁶ <https://www.itv.com/news/wales/2022-06-09/the-world-war-two-time-capsule-lying-at-the-bottom-of-the-sea> (last accessed May 2024).

⁵⁷ Milford Haven Conservancy Act 1983. <https://www.mhpa.co.uk/media/j4ybbpw2/milford-haven-conservancy-act-1983.pdf> (last accessed May 2024).

⁵⁸ See Marine and Coastal Access Act 2009, s.117(1)(c).

- *he tampers with, damages or removes any part of a vessel lying wrecked on or in the sea bed, or any object formerly contained in such a vessel; or*
- *he carries out diving or salvage operations directed to the exploration of any wreck or to removing objects from it or from the sea bed, or uses equipment constructed or adapted for any purpose of diving or salvage operations; or*
- *he deposits, so as to fall and lie abandoned on the sea bed, anything which, if it were to fall on the site of a wreck (whether it so falls or not), would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck;*

and also commits an offence if he causes or permits any of those things to be done by others in a restricted area, otherwise than under the authority of such a licence

4.4.2. The prohibition upon diving or salvage operations directed at the historic wreck is relatively enforceable and appears to have a deterrent effect. Enforceability has been constrained by a limited sea going presence by Police. However, the enhancement of enforcement for designated sites has been examined by a recent Historic England project, which made a number of recommendations.⁵⁹ Principally amongst these was the creation of a Common Enforcement Manual, and a follow-on project, funded by Historic England has developed the content for such. The introduction of such a manual should significantly enhance protection of designated sites in English Territorial Waters.

4.4.3. Unfortunately, the remainder of the offences are problematic in terms of enforceability and seem largely ineffective. This is primarily due to inadequacies in drafting and / or the fact that they target the outcome of an activity, rather than the conducting of the activity itself. This is especially well illustrated in relation to the offence of “...*he tampers with, damages or removes any part of a vessel lying wrecked on or in the sea bed, or any object formerly contained in such a vessel ...*”.

⁶⁰ In criminal law all the components of an offence must be proven beyond reasonable doubt.⁶¹ This means a successful prosecution would need to prove beyond reasonable doubt that the wreck or the relevant part of it, was undamaged before the activity, that damage was caused and it was the consequence the alleged activity. Given that designated wreck sites are not constantly monitored for their condition and only periodically visited by licensed divers on a seasonal basis, the reality of being able to do this is highly unlikely. In the case of the designated site of the *Klein Hollandia* damage to the site consistent with bottom trawling by a fishing vessel was found to have occurred and licensed divers observed a fishing vessel operating nearby. However, the requirement to prove that a particular vessel had caused that particular damage has apparently precluded any prosecution.⁶² Even the designated site of the Tudor warship *Mary Rose*, which is buoyed within a harbour authority area is reportedly having difficulties with intrusive fishing activity.⁶³ It would require the coincidence of a diver being present on the wreck witnessing the activity with damage being caused or perhaps a diving vessel witnessing parts of the historic wreck present with a hauled trawl net to establish the offence. Such occurrences are extremely

⁵⁹ ‘Enhancing Protection of Underwater Cultural Assets (Project 7146)’, University of Plymouth 2019; available at <https://historicengland.org.uk/images-books/publications/enhancing-protection-underwater-heritage-assets/enhancing-protection-of-underwater-heritage-assets/> (last accessed May 2024).

⁶⁰ Section 1(3)(a).

⁶¹ *Chan Kau v R* [1955] AC 206 at 211.

⁶² Historic England, pers comm.

⁶³ Christopher Dobbs, Mary Rose Museum, pers comm.

unlikely and this explains the complete absence of any attempted, yet alone successful prosecutions under S.1(3)(a).

- 4.4.4. Similar difficulties arise in respect of the offence of “... *he deposits, so as to fall and lie abandoned on the sea bed, anything which, if it were to fall on the site of a wreck (whether it so falls or not), would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck*”.⁶⁴ While this offence prohibits dumping of material or objects on a designated site, it fails to address the problem of depositing shellfish pots or anchors upon designated wreck sites, a far more probable activity. This is because the placing of shellfish pots or anchors on the seabed is done without any intention of abandonment. Indeed, the reverse is true, since pots and anchors are relatively expensive marine equipment and seldom put down with the intention of abandonment. While shellfish pots and anchors are perfectly capable of damaging a wreck site, especially during the recovery process, the difficulty of proving such damage and the inapplicability of this offence again in practice precludes any realistic possibility of prosecution. The extent of the problem is illustrated by the fact that In 2002 the designated Bronze Age wreck site off Salcombe had its survey lines tangled up and displaced by the placing and recovery of a string of shellfish pots. This displacement required months of rectification by volunteer licensed divers and delayed progress for much of that year’s diving season. Additionally damage caused by fishing has been reported to have occurred on the designated sites of *HMSub Holland 5*⁶⁵ and the *Klein Hollandia*.⁶⁶ In 2022, Devon & Cornwall Police investigated reports of the anchoring of a large vessel on the designated site of the *Cattewater Wreck* in Plymouth Sound,⁶⁷ the first wreck designated under the PWA 1973, but were unable to proceed with the matter as no damage was discernible on the wreck, which is covered by mud and obviously the anchor was not intended to be abandoned.⁶⁸
- 4.4.5. The conclusion is that the offences contained s.1(3)(a)&(c) are virtually incapable of enforcement. Regardless of the reasons for the deficiencies of the PWA 1973, amendments in the current legal context would be both achievable and beneficial to allowing the Act to deliver upon its aims more fully than it was able to 50 years ago.

4.5. Improving the PWA 1973

- 4.5.1. We believe that there are ways to begin addressing the above limitations and introducing additional improvements which are both achievable, practical and proportionate. The application of the PWA 1973 could be extended to all types of UCH as designated underwater heritage assets, based upon the definitions used in the UNESCO Convention on the Protection of Underwater Cultural Heritage 2001,⁶⁹ or the Convention for the Protection of the Archaeological Heritage of Europe (revised) (Valletta, 1992).⁷⁰ Both definitions are extremely broad and would afford considerable flexibility

⁶⁴ Section 1(3)(c).

⁶⁵ See here for example

<https://web.archive.org/web/20120302225933/http://www.nauticalarchaeologysociety.org/projects/holland5.php> (last accessed May 2024).

⁶⁶ See here for example <https://www.nauticalarchaeologysociety.org/klein-hollandia> (last accessed May 2024).

⁶⁷ See here for example <https://thewreckoftheweek.com/tag/cattewater-wreck/> (last accessed May 2024).

⁶⁸ Devon and Cornwall Police, pers comm. Anecdotally, HMS/m A1 has had significant instances of potting and related damage reported by divers, although the situation remains problematic and without resolution.

⁶⁹ <https://www.unesco.org/en/legal-affairs/convention-protection-underwater-cultural-heritage> (last accessed May 2024). The definition uses a threshold of 100 years of total or partial submergence but this could be reduced to, say, 50 years.

⁷⁰ <https://www.coe.int/en/web/culture-and-heritage/valletta-convention> (last accessed May 2024)

for the designation of a wide range of UCH as designated underwater heritage assets and constrain, where appropriate, unauthorised public access thereto, thus enhancing protection.⁷¹

- 4.5.2. While we believe that amendment of the PWA 1973 in this way would de-restrict designation for some current assets and provide options for future designation, other useful reforms may also be considered as having similar effect. For example, amending the AMAAA 1979 to enable the designation of 'sites without structure' would be a potentially useful way to protect certain underwater heritage sites. This change has already been secured in statute in Scotland, via the Planning (Scotland) Act 2010 and in Wales, via the Historic Environment (Wales) Act 2016. Additionally, the exemplar of Scottish MPA regulation, which includes the potential to designate Historic Marine Protected Areas (HMPAs) could be looked at as an option for providing protection for significant areas, such as the Goodwin Sands. Both of these proposals are out of scope for this project and, in the case of HMPAs, represent a potentially more complex legislative reform, but we recommend future discussions take place with Historic England to consider potential for these reforms.
- 4.5.3. Often, once discovered, the existence of underwater heritage assets is known, but their precise nature and significance is not immediately understood until further investigations and evaluations are conducted. Due to the nature of the marine environment this can take some time, during which the asset is unprotected from unlawful interference.⁷² In order to offer a degree of future proofing, a power to impose pre-designation/'interim' protection on a precautionary basis should be considered, as this would afford interim protection while the significance of the underwater heritage asset was evaluated and, if required, the designation process completed.⁷³ It may be sufficient to make clear in regulations that processes for 'emergency' designation can be made under specific circumstances where increased vulnerability of a newly discovered site is recognised, but a more flexible process for 'interim' protection would, in our view, be useful to minimise concern that emergency designations may be unwise where information confirming significance has not yet been obtained.
- 4.5.4. In relation to the offences contained in the PWA 1973 these could be amended to direct the prohibition against the activity being conducted per se, rather than the outcome, such as damage, while retaining the prohibition upon diving or salvage operations directed to the exploration of a designated heritage asset or the removal of objects from the sea bed.⁷⁴ Such regulation of activity likely to damage a designated underwater heritage asset would eliminate the almost impossible

⁷¹ The respective definitions of UCH used in these Conventions are set out in Appendix 5.

⁷² A classic example of this is the Salcombe Cannon site, where almost two years elapsed between location and appreciation of its high cultural significance, see listing <https://historicengland.org.uk/listing/the-list/list-entry/1000074> (last accessed May 2024). In the interim a claim of 'Salvor in Possession' can be asserted but voluntary groups often lack the financial resources to utilise this civil remedy to restrain salvage by third parties. <https://www.cambridge.org/core/journals/international-journal-of-cultural-property/article/abs/salvor-in-possession-friend-or-foe-to-marine-archaeology/984891BB7839B3399AA1335F679835FC> (last accessed May 2024).

⁷³ The precautionary principle is defined as applying in situations '[w]here there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing proportionate and cost-effective measures to prevent environmental degradation' is identified and applied in the UK Marine Area by 'Our seas - a shared resource High level marine objectives' (2011), HM Government, NI Executive, Scottish Government and Welsh Assembly Government. Available at <https://assets.publishing.service.gov.uk/media/5a7a0cdc40f0b66a2fbff885/ourseas-2009update.pdf>.

⁷⁴ Although a marine licence is required for removal of objects under s.65 & s.66(2) Marine & Coastal Act 2009 recoveries by hand do not require a marine licence. <https://www.legislation.gov.uk/ukpga/2009/23/contents> (last accessed May 2024).

evidentiary burden of proving damage or the requirement of abandonment. To this end consideration could be given to providing an offence of carrying out any activity likely to disturb or damage a designated underwater heritage asset or its designated location.

- 4.5.5. Additionally, since fishing and anchoring are the most likely non-diving activities that will damage such a heritage asset it could be advantageous to include a specific offence of anchoring or exploiting sea fisheries resources within a designated area of an underwater heritage asset.⁷⁵ Doing so would allow the offence to be directly enforceable as a fisheries offence by the MMO and/or IFCAs. Since remote sensing can often be a precursor to unauthorised access to a designated site (ie location being ascertained prior to unauthorised diving), equivalency to terrestrial protection could also be achieved by more active enforcement or deterrent activities around known wreck sites. Of course, it should be noted that the open access nature of terrestrial sites has prompted restriction on metal detecting.⁷⁶ Given the level of risk is significantly diminished in restricted access marine sites, a blanket prohibition may not necessarily provide the best means of targeting the minority of people accessing the site in an unauthorised fashion or for ulterior means. Nonetheless, there remains a hypothetical risk, although the means to address that should be proportionate to the threat even if such a prohibition would bring PWA 1973 sites in line with AMAAA 1979 sites – including UHA⁷⁷.
- 4.5.6. Similarly, while consideration was given to the possibility of restricting or prohibiting the use of other remote surveying activity, such as side scan sonar and multi-beaming, considerations of feasibility and operational uncertainty – particularly for other legitimate uses of the English marine area - would tend to outweigh any potential gain.
- 4.5.7. A parallel measure to sit alongside the criminal regime established by the PWA 1973 would be the extension of the Regulatory Enforcement and Sanctions Act 2008 (RESA 2008), which creates civil enforcement mechanisms, underpinned by criminal sanctions, to the PWA 1973.⁷⁸ The benefit of using the RESA 2008 is that the lower, civil standard of proof – that of a balance of probabilities – applies to offences, making enforcement less dependent upon the blunt instrument of a *winner takes all* criminal prosecution.
- 4.5.8. Consideration should also be given to the clarity over duties that the Secretary of State has, and those exercisable by the relevant heritage agency.⁷⁹ Historic England currently observes duties under the National Heritage Act 1983 relating to ‘Ancient Monuments’ in territorial waters. Operationally, this provision is interpreted as a duty towards wrecks protected under the PWA 1973, as well as wider marine heritage assets. It is, however, clear that this interpretation is not well understood within the sector. The authors of this report believe that it would be beneficial to use the PWA1973 to more clearly articulate the duties under law to these assets. By way of example these may extend to:

⁷⁵ As presently within the 1973 Act there would need to be a savings clause for contravention due to maritime emergency or stress of weather.

⁷⁶ Section 42 Ancient Monuments and Archaeological Areas Act 1979
<https://www.legislation.gov.uk/ukpga/1979/46/section/42> (last accessed May 2024).

⁷⁷ Note: The authors are aware that there is some disagreement over whether there is a need to extend licencing for metal detecting to PWA 1973 sites. We record this opinion here to make clear that this view is held by the authors and not by Historic England.

⁷⁸ Regulatory Enforcement and Sanctions Act 2008, Ch 13, available at
<https://www.legislation.gov.uk/ukpga/2008/13/contents> (last accessed May 2024).

⁷⁹ In Wales these would be given to Welsh Ministers.

- Promoting access both online/virtual and actual;
- Promoting conservation of designated underwater heritage assets;
- Promoting socio-economic benefits of designated underwater heritage assets;
- Promoting understanding of designated underwater heritage assets amongst marine environmental regulators;
- Duty to co-operate with marine environmental regulators;⁸⁰
- Publishing annual report on designated underwater heritage assets;

4.5.9. Finally, based upon conversations with stakeholders undertaken as part of this project, the authors recommend that consideration is given to the establishment of an expert advisory panel for marine heritage assets. While the possibility exists for marine experts to join the wider Historic England Advisory Committee, a specialist panel would be able to provide a more direct form of stakeholder engagement for maritime issues and provide a better critical mass of valuable advice on issues arising from Historic England's protection and conservation work relating to UCH.

5. Seminar presentation and debate summary

5.1. This section provides an overview of the presentation sessions and debate, where they introduced issues or opinions other than the background analysis of the PWA 1973 covered in previous sections of this report. The subsequent discussion points that arose offered significant insights into the operation of the PWA 1973. The sessions were contextualised by presentations by Christopher Dobbs and Michael Williams.⁸¹

Successes

- 5.2. It was noted by Historic England that sites designated under the PWA 1973 span the ages, although they do not form a representative sample of wrecks, be that chronologically, geographically nor thematically.⁸² Assemblages from bronze-age trading vessels through to metal ships, including submarines and first World War adapted fishing vessels and much in between are included on the list. Designation happens in two principal ways: first, it may come about as a result of proactive, thematic listing projects undertaken by Historic England;⁸³ or second, by external application to Historic England by third parties, such as recreational divers. The possibility exists for emergency designations in cases of urgency, permitting the Secretary of State to designate without having to consult.⁸⁴
- 5.3. It was noted that as of 2022 there were 200 licensees whose activities contributed a range of site benefits. These include being able to offer substantive reports on artefacts and condition,

⁸⁰ It should be noted that HE would be consulted by other bodies in the exercise of functions on a PWA site and s3(3) exempts them from criminal liability, provided the activity falls within the scope of the powers conferred. By way of Contrast s.125(2) of the MCAA 2009 imposed a duty to exercise its functions to further the conservation objectives that apply to protected features – and if not possible to adopt the path that least obstructs those objectives.

⁸¹ Respectively, curator emeritus, *Mary Rose*; and Visiting Professor, University of Plymouth.

⁸² Hefin Maera, National Listing Adviser (Marine), Historic England.

⁸³ Examples given included, wooden vessels from pre-history to 1840s, submarines, and currently early Iron wrecks and composite vessels.





⁸⁴ Section 1(4). Although such emergency measures may take weeks or months to become effective.

reporting on issues relating to deterioration or stability and where necessary recording, excavating and recovering material. Additionally, protected wreck licensees' and/or permitted others' presence offers an 'eyes-on' capability, providing a degree of practical deterrence against the threat of illegal interference, as noted through the development of the Site Security Champion scheme.

- 5.4. Dive trails are positive means to enable the promotion of wreck sites,⁸⁵ and virtual trails facilitate bringing these sites to the non-diving public– noting that there is a backlog in creating diver trails for designated sites and an insufficiency of physical and digital resources. Protected wreck assemblage is of international importance as many nationalities are represented in England's coastal shipwrecks – working with international partners on the wrecks of the *Rooswijk* and *Klein Hollandia* demonstrate the importance of shared heritage.

Licensees and active participation⁸⁶











- 5.5. Wrecks, whether protected or not, represent a holistic and dynamic environment and are often co-located with natural heritage features with the potential for synergistic and/or ancillary protective benefits that were not necessarily intended.⁸⁷ Specific legislation aims to provide certain direct protections. The regimes of designation under the PWA 1973 contrasts with, but runs parallel to, scheduling under the AMAAA 1979. The former is more limited in application and purpose. Access is regulated such that only a diving team acting under a licence held by a named individual undertakes controlled access to and assumes responsibility for the monitoring, investigation of the wreck, thus supporting the management role of the Heritage Agency. The ability to draw on support from Historic England, or other heritage agencies in the devolved administrations, via an advising archaeologist enables a direct oversight and clear reporting framework. It enables the upskilling of volunteer participants, who in turn are providing value to the regulator as described above. The opportunity to dive the sites is more strictly controlled and reflects the more fragile nature, and exposed remains present, on these most valued or vulnerable, sites.
- 5.6. Active participation in UHA protection is equally a feature of the sites which are scheduled under the AMAAA 1979. Scheduling is distinguished principally by the fact that there is no access restriction imposed. The sites may be freely dived, although they benefit from the same protections as apply to terrestrial sites, on the basis of their national significance. There is no direct oversight related to access from the heritage agency, no nominated archaeologist and no licensee acting as gatekeeper for site access, with the resultant outcome that the site is potentially more able to become a community asset for study and leisure, as by way of analogy is evident in, for example, visitors to Stonehenge. The relative points are summarised in the table below.

Coverage	PWA 1973	AMAAA 1979
Access restricted by licence		
Free access		

⁸⁵ See for example <https://historicengland.org.uk/campaigns/visit/protected-wrecks/dive-trails/> (last accessed May 2024).

⁸⁶ Jane Maddocks, British Sub Aqua Club.

⁸⁷ See for example, Hickman (et al), 'Shipwrecks act as de facto Marine Protected Areas in areas of heavy fishing pressure', 2023, *Marine Ecology* 45(1), 12782, <https://doi.org/10.1111/maec.12782> (last accessed May 2024).

Expert archaeological advice		
Annual reporting requirement		
Site-specific activity restrictions		
Community resource potential		
Ancillary upskilling of avocationals		

- 5.7. The ability to have access to a heritage asset in this way would enable the involvement of a broader constituency of custodians, outside of licence requirements, and represented a positive opportunity for community engagement. The site would still retain the benefit of being protected, although in a less restrictive way.
- 5.8. In either case, the hidden financial contribution made by volunteers diving on wrecks is significant. Solely by reference to those wrecks designated under the PWA 1973, the seminar revealed that work, by way of direct input, to the value of (circa.) £197,000 had been undertaken as noted above.⁸⁸ The figure was based on around 1315 days of volunteering effort being spent taking an average of £150 per day.⁸⁹ The force multiplier effect of public participation in marine archaeology is a key indicator of its value and demonstrative of the level of good will and commitment within the voluntary sector.
- 5.9. While there was consensus as to the importance of this hidden contribution, other contributors to the discussion viewed the figure as very conservative or a ‘gross undervaluation’, and pointed to the additional and indirect costs, such as desktop research, recording and conservation/curation, as opposed to being merely at sea. A figure of £63k spent over one diving season on one PWA 1973 designated site was reported. It was noted in discussion that core funding to HE had dropped considerably between 2015 and 2020 impacting upon its capacity.⁹⁰ It was also noted that the figures quoted did not reflect the totality of the sundry costs of licensees, such as travel and fuel costs, vessel maintenance, and insurance premiums (etc.), although the survey had sought to include these.
- 5.10. In considering the issue of difference between the categorisation of ‘designated’ and ‘scheduled’ statuses applied to UHA, it was felt necessary to maintain restricted access, while providing greater access to others, via scheduling, to enable more active participation from a broader constituency of recreational divers and avocational archaeologists. As noted, currently there are only 57 wrecks designated, and thus protected, under the scheme of the PWA 1973 in English territorial waters.⁹¹ In parallel, the potential for the AMAAA 1979 to provide additional

⁸⁸ Above, footnote 42.

⁸⁹ Equivalent to some 9840 hours at Heritage Lottery Fund rates, the results of the survey are available at <https://protectedwrecks.org.uk/news/new-survey-reveals-huge-contribution-made-by-volunteer-divers/> (last accessed May 2024).

⁹⁰ Figures quoted by participant, noting a drop from £745k to £340k during that period (although representing 12% of HE spend on commissioned work).

⁹¹ All are included on the National Heritage List for England and more details including a link to the list are available from Historic England’s webpages, <https://historicengland.org.uk/listing/what-is-designation/protected-wreck-sites/> (last accessed May 2024). The potential also exists to designate on a basis

opportunities to engage with the subsea heritage environment is perhaps something to be seized upon, and the rapid growth of scheduling, with 25 wrecks scheduled as of September 2023, suggests that it is a viable ancillary means to protect and inform.

Value added⁹²

- 5.11. The framework established by the PWA 1973 enables demonstrably important public benefit, in the stewardship of a shared and finite resource. Heritage agencies take the lead in the management of protected wrecks, securing their conservation for and on behalf of society, premised upon their intrinsic value. Ancillary benefits though cannot be overlooked and are manifested in a number of socio-economic outcomes, delivered in conjunction with pure heritage purposes. Public value has been identified to exist in respect of support to the levelling-up agenda, in supporting wellbeing promoting positive mental health as well as increasing scientific knowledge that can be used to help understand bigger issues such as climate change.⁹³
- 5.12. ClfA's previous work has identified clear public benefits from archaeological work, in creating knowledge and fostering a sense of community and identity.⁹⁴ Sites designated under the PWA 1973 can offer significant opportunity in this respect. Examples such as the #Rooswijk1740 project, a designated wreck managed by Historic England on behalf of DCMS and owned by the Dutch government is a good example of a shared heritage project. Spillover effects into the local Ramsgate economy have been significant, through work on the wreck bringing enhanced spend into the area, and ultimately succeeding in generating sustainable tourism and contributing to the case to secure levelling up funds. The *Rooswijk* captured local imagination and has contributed to the economic and cultural wellbeing of the town. Figures in respect of economic activity demonstrated significant additional spend, in the region of £100k, over the course of the project.⁹⁵
- 5.13. Less tangible, but nevertheless of significance was the international media coverage, visits of Netherland's dignitaries and visitor numbers exceeding 1,600 for the open days arranged through the project. The increased spend from the visitor numbers is not quantifiable but likely to have contributed significantly to the local economy. Additionally, as noted above,⁹⁶ protected wreck sites offer the potential to strengthen local community. Involvement in the sites can support wellbeing through offering volunteering opportunities and a sense of belonging that can improve mental health, tackle loneliness, and teach new transferable skills. Upskilling of heritage sector volunteers is just one aspect of the potential that can be gained from protected wreck sites, through promotion and careful management of them.
- 5.14. During the United Nations Decade of Ocean Science for Sustainable Development, it is important to make the case for protected wreck sites. The effects of climate change are likely to be significant and studies of Protected wrecks – and how they are managed - offer an opportunity

other than cultural value, Section 2 for example in respect of dangerous vessels, but such designations are outside of the scope of this report.

⁹² Alison James, MSDS Marine

⁹³ In this connection see, for example Historic England's Public Value Framework, available at <https://historicengland.org.uk/about/what-we-do/corporate-plan/public-value-framework/>; and Heritage Counts, available at <https://historicengland.org.uk/research/heritage-counts/> (both last accessed May 2024).

⁹⁴ On such benefits, see for example, https://www.archaeologists.net/sites/default/files/Delivering_public_benefit.pdf; and <https://www.archaeologists.net/profession/publicbenefit> (both last accessed May 2024).

⁹⁵ Additional spend in 2017 alone calculated at £46,250 See also, footnote 88.

⁹⁶ *Supra* footnote 91.

akin to the canary in the coal mine through consistent site monitoring and evaluation. Clearly adaptation and the need to find solutions to climate-based threats is a challenge of our time. The impacts of sea level rise, increased acidification, the movement of non-native species also bring with them threats to marine UHA. Baseline studies on sites offer opportunities for appreciation of climate impacts on wrecks so that monitoring can detect changes and assist in adaptive or conservation archaeology to take place.

- 5.15. The large and skilled pool of licensees and volunteers who work on protected wreck sites, represents a resource for citizen science and is a clear positive of the PWA 1973, offering a great opportunity for protected wreck sites to be test beds to study impacts to inform climate change adaptation.⁹⁷ The wrecks subject to protection under the PWA 1973 thus have a value beyond their, undoubted, heritage interest. They offer opportunities for social cohesion, regional economic growth and citizen science projects to chart climate related sea changes.

Knowledge and other successes

- 5.16. According to Professor Dave Parham of Bournemouth University, the UK has a rich array of UHA, with arguably the world's richest in its own waters and those of other nations, with many examples of trade from pre-history, through to the more contemporary. The represented wrecks, from both the UK and other nations, includes aeroplanes and ships from many other countries. The UK is fortunate to have grown a very well organised and developed marine archaeology industry. The strength of maritime archaeology is seen in the range of skilled practitioners, something that the UK has been able to export across the globe. Such skillsets also recognise the more prosaic threats to heritage such as wood-eating species and exposure through natural erosion. In some cases, these present greater threats than looting and/or fishing.
- 5.17. These skills in marine archaeology are able to offer solutions in instances where artefacts may otherwise be lost. Specific examples include the Swash Channel wreck, funded by HE, and HMS *Invincible*, funded via the Libor scheme. Even so, marine archaeology is poorly funded in the UK compared to the remainder of Europe.⁹⁸ The example was given was that the UK Government, spends around 4% by GDP per capita of what the Dutch Government does on maritime archaeology. The point was made that the Dutch Government has given more than the UK Government in respect of wrecks where there is a shared national interest.
- 5.18. The risk is that without adequate resource it is possible to identify problems but be unable to do the work to protect UHA for future generations. The problem is compounded in situations where British UHA outside of territorial waters faces continuing threats, with very avoidable looting and/or damage. This is not solely in respect of distant wrecks,⁹⁹ but those situated within the UK EEZ, but outside of the 12nm territorial sea.
- 5.19. There are gaps in the maritime history record comprised in the PWA 1973 designated sites, and thus noted gaps in the UK's maritime history. Historic England is being active in trying to fill them with examples given of the submarines project, early iron, and composite ships, for example. It

⁹⁷ See for example in this connection, Gregory D, Dawson T, Elkin D, et al. Of time and tide: the complex impacts of climate change on coastal and underwater cultural heritage. *Antiquity*. 2022;96(390):1396-1411. doi:10.15184/aqy.2022.115 (last accessed May 2024).

⁹⁸ Pers. Comm, Professor D. Parham, who has undertaken a desk-based analysis of the figures, noting that if the UK spent as much of its GDP as the Netherlands, Norway, Ireland and France on UCH an annual budget of £10.5 million would enable the UK to manage its UCH at a comparable level (noting the devolved nature of the issue).

⁹⁹ Such as for example the Java Sea wrecks.

was noted further that there is a bias towards armed conflicts etc and that it was a priority to work on the peacetime assemblage as well.

Challenges

Effectiveness¹⁰⁰

- 5.20. Matters relating to the specific effectiveness of the PWA 1973 are set out in detail in section 4, however, key issues to consider include: the narrow focus of offences and the deficiencies in drafting. The limited application, to vessels, and to specific 'spot' locations. For example, a well-known area for shipwrecks, a specific reef or known hazardous area such as the Goodwin Sands could not have a generic protection placed upon it. The difficulties in the use of the term 'abandon', preclude practices of anchoring, trawling or potting (all of which have the potential to cause damage to the extent of obliteration). Unlike the AMAAA 1979 there is no ban on the use of metal detectors. It is, at least, worth considering the extent to which speculative surveying, in a specific area without additional controls may provide unwelcome impact on heritage through its 'discovery'.

Enforceability¹⁰¹

- 5.21. Wreck sites by their nature are challenging to police. Most are permanently submerged and even if visible from land it is inevitably difficult to be certain that interference is taking place. It is usually unfeasible to provide consistent and comprehensive site monitoring. If sites are visited by divers, they are unlikely to be there for any length of time and interference may take place at night making it still harder to witness.
- 5.22. UK territorial waters are extensive and there is limited offshore presence by enforcement authorities. Enforcement capability offshore is vested in police forces with a marine unit, Border Force, the Marine Management Organisation, inshore fisheries officers, and the Royal Navy. None, however, are specifically tasked with heritage, and the peculiarities of the PWA 1973 provides challenges for enforcers.
- 5.23. Evidentiary and forensic difficulties present significant obstacles. Recovered artefacts may be difficult to link to a specific wreck – especially in situations where the wreck assemblage has not been thoroughly investigated and/or recorded. Additionally, there are knowledge gaps to overcome. Working to promote a greater understanding of the cultural and monetary value of protected wrecks among marine-capable enforcement agencies and the public is likely to assist. Equally, deterring offenders can be achieved through raising awareness of the legislation and the sites that it applies to.
- 5.24. Work to tackle these challenges has been undertaken to facilitate collaboration between organisations involved in policing and enforcing at sea, as well as continuing professional development is essential in enhancing the protection of marine heritage assets. In addition, initiatives to improve site security, which, crucially, engage licensees in monitoring roles may assist in the protection offered to protected sites. Site security kits enable risks to be managed, crimes to be prevented and provide protocols for follow up in circumstances where a site falls victim to criminal activity. The Site Security Champion initiative is one such contemporary development aimed at increasing engagement to contribute to greater site security.

¹⁰⁰ Jason Lowther, University of Plymouth.

¹⁰¹ Beccy Austin, MSDS Marine (presented by Alison James).

- 5.25. Training has been made available to those working in maritime archaeology, marine industries and government organisations that might encounter marine heritage crime. Training not only raises awareness but also provides a useful background in the legislation and gives access to case studies. Training has also been made available through a brief introduction to marine heritage crime aimed at divers, which was part of the PWA50 Bite-Size training scheme promoted by the Nautical Archaeology Society.¹⁰²
- 5.26. Great strides have been made in respect of the enforcement of heritage crime generally. Historic England has sponsored several initiatives and has located considerable resources on its website regarding reporting and enforcing heritage crime. It provides practical guides for interested parties such as local authorities, prosecutors, sentencers, including the production of impact statements which contribute to the appreciation of the severity of the offence. Interagency collaboration is essential as resources are limited. Co-working adds to the enforcement effort becoming more than the sums of its parts and to that end a Common Enforcement Manual has been produced to help move towards a consistent approach to heritage crime by offshore enforcers.
- 5.27. Alongside a pilot study to assess the contribution of satellite-based surveillance of shipwreck sites to deter and/or gather evidence of heritage crimes, the development of forensic marking material to use on wreck sites is evidence of the progress that has been made to secure protection in tandem with the PWA 1973. Taken together the various initiatives provide scope to mitigate the difficulties in enforcing a statutory regime in an exceptionally difficult environment.

Potential reforms¹⁰³

- 5.28. Discussion around reforms is once more elaborated in some detail in section 4 above. In general terms, the potential reforms address head-on the identified limitations. First to overcome the narrow application of wreck, an option would be to extend the categories to aircraft, vehicles, and human-generated items/features.
- 5.29. Second, would be to promote the use of ‘area-based’ management tools, very common in respect of the natural environment, where certain activities may be prevented or subject to positive management measures within a defined area of sea/seabed. Third, and linked to this could be the creation of an offence of exploiting sea fisheries within designated areas, to complement the current regimes promulgated under the Fisheries Act 2020 and Marine and Coastal Access Act 2009 where although recognised, UCH is not the principal focus on the measures.
- 5.30. Difficulties in making out offences fall into two principal categories. First, proving damage and, second, satisfying the criminal standard of proof beyond reasonable doubt that a particular offender was responsible. The former is incredibly difficult to prove, given the operational enforcement environment. Amending the PWA 1973 to include an offence of ‘likely to’ cause damage, may serve to remove that hurdle. The latter might be achieved through applying the Regulatory Enforcement and Sanctions Act 2008, to UHA. The Act creates a suite of civil sanctions (including monetary penalties, stop notices, enforcement undertakings etc.) to which the civil standard of proof is applied – that of a balance of probabilities - making the offences easier to sustain. They are backed by criminal consequence if not followed through.

¹⁰² NAS initiative is available at <https://www.nauticalarchaeologysociety.org/bite-sized-training-for-all> (last accessed May 2024).

¹⁰³ Jason Lowther, Michael Williams.

- 5.31. Additionally, the prohibition of certain *activities*, rather than their *outcome*, so that potting/trawling anchoring, would become illegal of themselves, regardless of whether they caused damage or not, would remove some difficulty.¹⁰⁴ The presumption that they *may* cause damage would trigger the offence. Linked to this would be the creation of an offence for the unlicensed use of electronic remote survey devices', and finally to create a power to seize equipment used in any offence.

Questions relating to the operation of licensee system pros/cons

- 5.32. The licensing system operates well to engage people – limitations were noted in terms of the demographics of current licensees and the needs for outreach to champion heritage amongst a wider supporter base and specifically the younger and less well represented communities. This is particularly so with regard to the cost of diving, as has been noted above.
- 5.33. The licensing system for designated sites does though provide the advantage that a definite archaeological plan is followed with an overseeing archaeologist, clear annual monitoring and relatively skilled and 'vetted' avocational volunteer divers, often with a significant personal investment in the wreck. Without the need for a license on scheduled sites, those requirements are not a feature of the access protocol, although creating wreck champions for such sites via dive clubs and local communities could offer a means to study and protect, while generating a similar sense of agency.

Questions around funding and support

- 5.34. Relating to the above, the cost of participation in diving on designated wrecks is high and unsustainable for the avocational diver/licensee. The funding landscape is compromised currently as a result of wider government austerity measures impacting on all regulatory agencies' abilities to intervene and/or subsidise. It is also the case that rescue archaeology, or recoveries in general must be properly cared for archived and/or curated.

Wider seascape pressures

- 5.35. Contemporary offshore development, along with fisheries impacts also provide a present and growing threat to UHA.¹⁰⁵ Currently, aggregate extraction and offshore wind, whether fixed or floating, represent the principal 'development' challenges offshore. In part these are subject to consent and ongoing regulation via the marine licensing regime operated by the Marine Management Organisation (MMO),¹⁰⁶ which applies to a range of activities in the UK Marine Area, including, so far as is relevant construction, dredging, deposits and removals, scuttling and the use of explosives. Windfarms over a certain threshold require a Development Consent Order (DCO) pursuant to the Planning Act 2008. A DCO will require assessments of environmental impact, which includes impacts on the historic environment.
- 5.36. In such cases, known designated or scheduled wrecks would be a factor in decision-making and development consent conditions. Known wrecks would be avoided in the initial planning stages. Given the potential for undiscovered wreck, the expertise of heritage consultants in the surveying process is key in interpreting seabed anomalies and developing protocols in respect of their avoidance and monitoring during and post development. Mitigation strategies, such as the use

¹⁰⁴ Subject, of course to exemptions, such as dropping or fixing a shot line or placement of licensed survey equipment, in a similar way to the marine licensing exemptions under the Marine and Coastal Access Act 2009.

¹⁰⁵ Mark James, MSDS Marine.

¹⁰⁶ Part 4, Marine and Coastal Access Act 2009.

of archaeological exclusion zones are adopted so as to prevent physical impacts. The PWA 1973 and AMAAA 1979 have an application limited to the 12 nautical mile territorial sea. This would certainly contemplate impacts from cable routes, although not necessarily the wind farm arrays. This would certainly be the case for floating arrays. A potential impact is the discovery of wreck. A very good example here being the Galloper Sands development which yielded discovery of a wreck with potential archaeological interest.

- 5.37. The exploitation of sea fisheries resources has potential to create significant impacts for UHA.¹⁰⁷ Both the MMO and Inshore Fisheries and Conservation Authorities (IFCA)¹⁰⁸ are obliged to balance socio-economic benefits of sea fisheries' exploitation. In respect of the MMO, the Fisheries Act 2020 gives Ministers the power to make provision by regulation for a 'conservation purpose'.¹⁰⁹ This power includes "the purpose of protecting the marine... environment from the effects of fishing or aquaculture...".¹¹⁰ The 'marine...environment' is specifically defined and includes 'features of archaeological or historic interest'.¹¹¹ For IFCA, a dimension of these interests is the 'environment' which includes within its scope features of archaeological or historic interest.¹¹² are included within the scope of the marine environment s.186(1).
- 5.38. Taken in combination these provisions confer significant power on regulators to impose heritage friendly conditions on fisheries operations. This would specifically the case where a PWA 1973 designated, or an AMAAA 1979 scheduled, site is potentially affected by sea fisheries activity.
- 5.39. Looking ahead, the centrality of marine spatial planning to the development of the UK's marine area and the resultant uses it permits, offers significant scope for the strategic consideration and protection of UHA, whether they be known and subject to a status conferred by heritage legislation or whether they are discovered through a process of development or otherwise. Effective protection of such UHA depends upon a joined-up, systems-thinking approach to secure their cultural value to the UK.

6. Recommendations

- 6.1. Several key themes were reflected in the seminar presentations and subsequent discussion. These are clustered in terms of potential legal amendments to the Act and/or the suite of maritime heritage legislation; and policy-oriented changes, which could seek to further legislative ambition.

Legal

1. Amend the Act to extend the potential for protection to all types of UCH as 'designated heritage assets' based on the definitions of UCH used in the UNESCO Convention 2001 or the Valletta Convention, thereby permitting broader application, beyond vessels, akin to AMAAA 1979 for the most valuable and/or threatened UHA.
2. Create a power exercisable by Historic England to impose 'interim protection (i.e. pre-designation precautionary protection), for use in circumstances where there is a 'real' as opposed to 'imagined' risk of significant or permanent damage/loss posed to a site to which there is uncertainty as to its heritage value at the time of discovery. Interim protection may

¹⁰⁷ Robert Clark, Chief Officer Association of Inshore Fisheries and Conservation Authorities.

¹⁰⁸ IFCA are Established pursuant to Part 6 Marine and Coastal Access Act 2009.

¹⁰⁹ Section 36(1), Fisheries Act 2020.

¹¹⁰ Section 36(2)(b), Fisheries Act 2020.

¹¹¹ Section 52, Fisheries Act 2020.

¹¹² Section 186(1), Marine and Coastal Access Act 2009.

enhance the existing emergency designation, as it would not imply the same burden of proof of significance, which may not be known at the point, even though a site may be at risk.

3. Express power for courts to confiscate all equipment used in commission of an offence, including boats, dive kit, chart plotters and vehicles
4. Improve clarity around the legal duties to promote access both remote & actual, promote conservation of designated assets, promote socio-economic benefits of designated assets and the social value model, promote understanding of designated assets amongst marine environmental regulators, co-operate with environmental regulators to adopt the most favourable or least obstructive means to protect identified conservation objectives, publish annual report on designated assets
5. Establish an advisory body of experts and representative stakeholders (for example reinstating the Advisory Committee on Historic Wreck Sites)
6. Specific offence of anchoring or exploiting sea fisheries resources within designated areas
7. Specific offence of acts “likely to” damage designated asset - avoiding the near impossibility of proving damage
8. Extension of Regulatory Enforcement and Sanctions Act 2008 to PWA 1973 offences to overcome issues of criminal standard of proof.

Other

9. Consider opportunities to adapt regulatory ideas from protection or conservation of the natural environment (eg area designations, priority examples of representative wreck types, active conservation/preservation intervention obligations, duties to improve etc.) to seek to enhance outcomes for the historic environment, particularly where assets are co-located.
10. Utilise concepts from natural environment: reflections of sustainability (assets are a finite resource), precaution and polluter-pays, alongside the enduring science-based approach to conservation, equating to the suite of duties and drivers contained in the High-Level Marine Objectives.¹¹³
11. More holistic policy consideration of devolved administrations’ approaches.
12. A recurring theme was the adoption of the Common Enforcement Manual.
13. Consider adoption of amendments to AMAAA 1979 in relation to the designation of ‘sites without structure’, similar to those adopted in Wales and Scotland.¹¹⁴
14. Consider adoption of amendments to MPA regulation to enable Historic Marine Protected Areas, similar to those adopted in Scotland.¹¹⁵

¹¹³ Our seas a shared resource: High level marine objectives, HM Government and the devolved administrations, 2009. Available from <https://www.gov.uk/government/publications/our-seas-a-shared-resource-high-level-marine-objectives> (last accessed May 2024).

¹¹⁴ The authors note that this recommendation is technically out of scope for the project, but wished to include it as a valuable option raised as a result of discussion on general deficiencies in the existing protection regime at the seminar.

¹¹⁵ As above.

Appendices

Appendix 1 – Advocacy document

A high-level summary document, for the purpose of engaging with decision-makers, including parliamentarians was created as part of this project. This advocacy document can be downloaded from the ClfA website.

Appendix 2 – Seminar summary document

A meeting summary of the November 2023 seminar can be found [here](#).

Appendix 3 – List of project stakeholders

Historic England's brief identified certain project stakeholders. These were augmented by ClfA and were developed through the commissioning process.

The initial stakeholder group comprised:

- Historic England
- ClfA MASIG
- The Protected Wreck Association (PWAssoc)
- The Department for Digital, Culture, Media and Sport (DCMS)
- Heritage Agencies in the other home nations
- The Heritage Alliance
- Joint Nautical Archaeology Policy Committee (JNAPC)
- All Party Parliamentary Archaeology Group (APPAG) and other Members of Parliament
- Association of Local Authority Archaeological Officers (ALGAO)
- Maritime Trusts
- Asset Owners and Managers
- Licensees, team members and nominated archaeologists
- Archaeological contracting organisations
- Receiver of Wreck

Those present at the expert seminar comprised invitees from these broad group as well as individuals working or with experience in underwater cultural heritage matters, generally and the Protection of Wrecks Act 1973 specifically.

Name	Organisation
Beccy Austin	Project Officer, MSDS Marine
Mark Beattie-Edwards	Chief Executive, Nautical Archaeology Society
Jessica Berry	CEO, Maritime Archaeology Sea Trust
Jon Berry	Senior Inspector of Ancient Monuments and Archaeology, Cadw
Andy Bliss	National Police Chiefs' Council Heritage Crime Working Group
Elisabeth Bussey-Jones	University of Plymouth & Trustee, Maritime Archaeology Sea Trust
Kevin Camidge	Protected Wreck Licensee: HMS Colossus
Emma Carr	Navy Secretariat Heritage and Third Sector Team
Caroline Cary	Consultant, Maritime Archaeology Sea Trust

Robert Clark	Chief Officer, Association of Inshore Fisheries and Conservation Authorities
Major-General Partick Cordingley	Trustee, Maritime Archaeology Sea Trust
Paolo Croce	Marine Archaeologist, Wessex Archaeology
Christopher Dobbs	Curator Emeritus, Mary Rose
Liz Douglas	Navy Secretariat Heritage and Third Sector Team
Colin Dunlop	Marine Historic Environment Adviser, Historic Environment Division, Department for Communities, NI
Vice-Admiral Anthony Dymock	Trustee, Maritime Archaeology Sea Trust
Carol Ellis	London wreck licensed dive team
Steve Ellis	Protected Wreck Licensee: London wreck
Sam Farnham	Department for Transport
Antony Firth	Head of Marine Heritage Strategy, Historic England
Julian Fry	Rural Affairs Officer, Devon and Cornwall Policy
Lizzie Glithero-West	Chief Executive, The Heritage Alliance
Helen Goodman	Assistant Head, Navy Policy Secretariat
Ken Hamilton	Listings Advisor, Historic England
Laura Hampden	HER Project Officer, Historic England
Peter Hinton	Chief Executive, Chartered Institute for Archaeologists
Alison James	Heritage and Systems Manager, MSDS Marine
Mark James	Operations and Technical Manager, MSDS Marine
Paul Jeffrey	National Listing Manager (Marine & Terrestrial) Historic England
David Johnson	Protected Wreck Association & Protected Wreck Licensee: Warship Hazardous (1706)
Mike Keane	Protected Wreck Licensee: Sussex wreck
Rob Lennox	Policy and Advocacy Manager, Chartered Institute for Archaeologists
Rebecca Loader	Association of Local Government Archaeological Officers & Isle of Wight County Archaeologist
Tim Loughton	Member of Parliament & Chair, All Party Parliamentary Archaeology Group
Jason Lowther	University of Plymouth
Doug McElvogue	Protected Wreck Licensee: Kennermerland wreck
Cameron MacIntosh	Museum of London Archaeology [Early Career Observer]
Jane Maddocks	Wrecks and Cultural Heritage Advisor, British Sub Aqua Club
Heather Marshall	Navy Secretariat Heritage and Third Sector Team
Hefin Meara	National Listing Advisor (Marine), Historic England
Terrence Newman	Maritime Archaeologist, Historic England
Prof. Dave Parham	Bournemouth University
Lord Stephen Parkinson	Parliamentary Under Secretary of State for Arts and Heritage and DCMS Lords Minister
Laura Privett	Navy Secretariat Heritage and Third Sector Team
Martin Read	Protected Wreck Licensee: Cattewater wreck
Julie Satchell	Head of Research, Maritime Archaeology Trust
Michael Sharp	Chartered Institute for Archaeologists
Cdr. Richard Smith	Royal Navy Legal Services
Suzanne Smith	Professional Association of Diving Instructors
Lauren Tidbury	Honor Frost Foundation Steering Committee & Maritime Archaeology Trust
Cdr. Caroline Tuckett	Royal Navy Legal Services
Dominic Tweddle	Director General, National Museum of the Royal Navy
Jim Tyson	South-West Maritime Archaeology Group & Protected Wreck Licensee: Salcombe wreck
Julian Whitewright	Senior Investigator (Maritime), Royal Commission on the Ancient and Historic Monuments of Wales
Prof. Michael Williams	University of Plymouth
Ruoshan Yao Arup	[Early career observer]

Appendix 4 - Survey questions and semi structured interview questions

4.1 Survey Questions

1. Please indicate your involvement with/use of the Protection of Wrecks Act 1973? (indicate all which apply) (n-27)

Category	Involvement
Protected Wreck Licensee	13
Heritage Protection Agency	2
Professional Archaeologist	9
Avocational Archaeologist	10
Recreational Diver	13
Enforcement Body	0
Developer	0
Consultant	3
Seabed Owner/Lessee	0
Museum/archive role	0
Other (please specify)	6*

*(Educator 2, Researcher 1, Publisher 1, NGO committee member 1, Artillery expert 1)

2. On a scale of 1-10 (10 being excellent) how effective do you feel the Act has been in protecting the UK's most significant shipwrecks located in its territorial waters. (n-26)

1	2	3	4	5	6	7	8	9	10
1	1	4	1	7	2	6	5	0	0

3. Is there anything further you would like to add to clarify your choice?
4. In terms of the Act's successes or potential limitations how would you rate the following?

Issue	Poor	Fair	Good	Excellent
Ease of designation (n-27)	3	11	8	2
Scope (n-24)	2	16	5	1
Preventing damaging interference (n-26)	10	13	3	0

Clarity (of obligations) (n-24)	1	15	8	0
Promotion of heritage value (n-26)	5	9	11	1
Availability of support from regulatory authorities (n-26)	7	14	4	1
Management and administration of licences (n-24)	0	12	10	3
Understanding of offences (n-26)	6	11	9	0
Deterrent effect of offences (n-25)	11	8	6	0
Relationship with other protective schemes (n-25)	10	11	4	0

5. Do you have any specific comments or examples you wish to highlight (whether included in the list above or not)?
6. Do you consider the Act has stood the test of time as it celebrates its 50th Anniversary?
Yes/No/Don't know (n-27: Y 11, N 10, D/K 6)
7. Please provide any specific comments or examples you wish to elaborate on your view.
8. On a scale of 1-10 (10 being excellent) how effective has the Act been in promoting and/or developing underwater archaeology expertise? **(n-25)**

1	2	3	4	5	6	7	8	9	10
2	1	2	3	5	2	6	3	1	0

9. Is there anything further you would like to add?
10. A precautionary approach (that is in cases where there is a significant threat of loss or significant damage to a species or habitat, but where the actual effects of that threat are uncertain) is a policy tool applied routinely by regulators in decisions affecting the natural environment. It is also a stated policy tool for managing the natural and cultural environment in the UK marine area.

In your view, how may a power or a duty to adopt such an approach for protected wrecks add value to the Act?
11. Do you believe that greater public awareness and appreciation of protected wrecks is desirable or even necessary? **Yes/No/Don't know (n-27: Y 25 N 0, D/K 2)**
12. Could you explain your thoughts on how that might be achieved in practice?
13. Overall, what have been your positive experiences of the Act?
14. Overall, what have been your negative experiences of the Act?
15. Given your experience of the Act, are there any obstacles in securing improvements to the Act that you can foresee?

Thank you for your participation. If you would like to receive updates from the project team, please leave an email address in order that we may contact you.

4.2 – Semi-structured interview questions

Thank you for your participation in this project. Below are a few questions to shape/contextualise our conversation, they are not intended to be constraining. We may not cover all of them and/or there may be other things you want to raise.

- Could you outline your stakeholder interest in and experience of the Protection of Wrecks Act 1973?
- How far do you consider the Act to have been an effective means of protecting the UK's most significant heritage assets located in its territorial waters?
- What in your view have been its most notable successes or failures?
- Given its 50th Anniversary, in your view has the Act stood the test of time?
 - (Do you have any examples as to why or why not)
- Would you be able to share any insights into ways in which the legal or administrative framework established in the Act may be improved, to offer more protection to designated wreck sites and/or the wider environment?
- What has been your experience of the workings of the Act, such as definitions, licensing arrangements, obligations on licensees, relationships with heritage and other organisations, help/support available?
- Considerably more development is taking place offshore than at the time of the Act's creation, with location and retrieval technologies very much enhanced. How far do you consider the reach of the Act has kept pace?
- To what extent do you envisage greater use of *precautionary approaches* being taken to designation as a means of aligning the Act with contemporary marine policy drivers?
 - (Would a possible '*pre-designation*' status...to enable more systematic evaluation of a site and its context ahead of, say, any potential nearby development be beneficial and what might that look like?).
- If considered desirable, how could greater public awareness and appreciation of protected wrecks be achieved?
- Finally, as a key stakeholder, do you foresee any obstacles affecting your constituency – or other stakeholder groups - in securing operational improvements.

Appendix 5 - UNESCO 2001 and Valletta Convention extracts

The UNESCO Convention on the Protection of Underwater Cultural Heritage 2001 defines UCH in Article 1(1) as:

1. (a) *"Underwater cultural heritage" means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as:*
(i) *sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;*
(ii) *vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and*
(iii) *objects of prehistoric character.*
(b) *Pipelines and cables placed on the seabed shall not be considered as underwater cultural heritage.*
(c) *Installations other than pipelines and cables, placed on the seabed and still in use, shall not be considered as underwater cultural heritage.*

The Convention for the Protection of the Archaeological Heritage of Europe (revised) (Valletta, 1992) defines UCH in Article 1(2) & (3) as:

2. *To this end shall be considered to be elements of the archaeological heritage all remains and objects and any other traces of mankind from past epochs: i the preservation and study of which help to retrace the history of mankind and its relation with the natural environment; ii for which excavations or discoveries and other methods of research into mankind and the related environment are the main sources of information; and iii which are located in any area within the jurisdiction of the Parties.*
3. *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.*

Appendix 6 - Abbreviations

ADU – Archaeological Diving Unit

APPAG – All Party Parliamentary Archaeology Group

AMAAA 1979 – Ancient Monuments and Archaeological Areas Act 1979

CIfA – Chartered Institute for Archaeologists

CISMAS – Cornwall and Isles of Scilly Maritime Archaeology Society

DCMS – Department for Culture, Media and Sport

DCO – Development Consent Order

EEZ – Exclusive Economic Zone

GDP – Gross Domestic Product

HE – Historic England

HMPA – Historic Marine Protected Area

HMY – Her Majesty’s Yacht
HMS – Her/His Majesty’s Ship
HMSub – Her/His Majesty’s Submarine
IFCA – Inshore Fisheries and Conservation Authority
MASIG – Marine Archaeology Special Interest Group
MCZ – Marine Conservation Zone
MMO – Marine Management Organisation
MPA – Marine Protected Area
NAS – Nautical Archaeology Society
PMRA 1986 – Protection of Military Remains Act 1986
PWA 1973 – Protection of Wrecks Act 1973
PWAssoc – Protected Wreck Association
RESA 2008 - Regulatory Enforcement and Sanctions Act 2008
RN – Royal Navy
UCH – Underwater cultural heritage
UHA – Underwater heritage asset(s)
UK – United Kingdom
UNESCO – United Nations Educational, Scientific and Cultural Organization