

Underwater Cultural Heritage: Guidelines for Planners and Developers



There are more than 800 shipwrecks recorded in and around South Australian waters. Shipwrecks may be found in underwater environments or intertidal (marine, lacustrine and riverine) or terrestrial environments. In the latter case, shipwrecks may be found above the high water mark as a result of coastline migration over time or through human-caused landscape changes such as within land reclamation works, e.g. along the harbour frontages of Port Adelaide. They may be the result of accidental loss (grounding or foundering) or from deliberate action (abandonment or scuttling).

Given the broad range of environments that shipwrecks (and their associated relics) can be found it is important for developers and Council planners to consider the potential for any development in offshore or near-shore coastal, lacustrine or riverine environments to have on historic shipwrecks and relics.

Legislative Context

In South Australia there are two principle pieces of legislation that protect historic shipwrecks:

- *Underwater Cultural Heritage Act 2018* (Commonwealth): all historic shipwrecks and aircraft, and any other declared underwater cultural heritage (UCH), located in Commonwealth waters are protected under the Commonwealth Act; and
- *Historic Shipwrecks Act 1981* (State): all historic shipwrecks located within the limits of the State waters are protected under the State Act.

In South Australia these legislation are administered by **Heritage South Australia**, part of the Department for Environment and Water (DEW). The Commonwealth has delegated certain powers to act on the Commonwealth's behalf in relation to the management of historic shipwrecks, aircraft and declared UCH in Commonwealth waters.

Commonwealth vs State Waters

So, how do you know which legislation is relevant? For all intents and purposes, Commonwealth waters commences at the low water (tide) mark along the majority of the State's open-sea coastline. State waters includes the intertidal zone, as well as:



- Spencer Gulf north of a line between Cape Catastrophe and Cape Spencer;
- Gulf St Vincent north of a line between Troubridge Point and Cape Jervis;
- Specific historic bays, including: Anxious Bay, Encounter Bay, Lacedpede Bay and Rivoli Bay; and
- Internal waters such as rivers and lakes.

The seaward limits of the four historic bays are defined within the *Seas and Submerged Lands (Historic Bays) Proclamation 2006*.

Development

Clause 17(1) of Schedule 8 of the *Development Regulations 2008* requires a referral to the SA Minister for Environment and Water for any development to be undertaken within 500 m of an historic shipwreck or historic relic within the meaning of the *Historic Shipwrecks Act 1981*, or to the Commonwealth Minister of Environment and Energy for any development to be undertaken within 500 m of an historic shipwreck or historic relic within the meaning of the *Historic Shipwrecks Act 1976*.

For historic shipwrecks and relics under the State legislation, this is further divided whether or not the development site is located with the River Murray Floodplain Zone or not. The table below shows these requirements.

As DEW is delegated certain management powers by the Commonwealth to act on their behalf in relation to historic shipwrecks, submerged aircraft and other declared UCH, for all intents and purposes all referrals will be sent to DEW for assessment and comment.

Clause	Development	Referral Body	Period	Conditions
17(1)	Development within 500 m of a HS or HR (except within the River Murray Floodplain Area)	the Minister administering the <i>Historic Shipwrecks Act 1981</i> (State)	8 weeks	Direction
17(2)	Development within 500 m of a HS or HR	the Commonwealth Minister administering the <i>Historic Shipwrecks Act 1976</i>	8 weeks	Direction
19(c)	Development within 500 m of a HS or HR within the River Murray Floodplain Area	the Minister administering the <i>River Murray Act 2003</i> (State)	8 weeks	Direction

Clause 1 (2)(d)(iii) of Schedule 8 of the *Development Regulations 2008* allows DEW, on behalf of the relevant Minister, to direct the relevant authority to (A) refuse a development application; or (B) to impose any conditions on development permit as the Minister thinks fit.

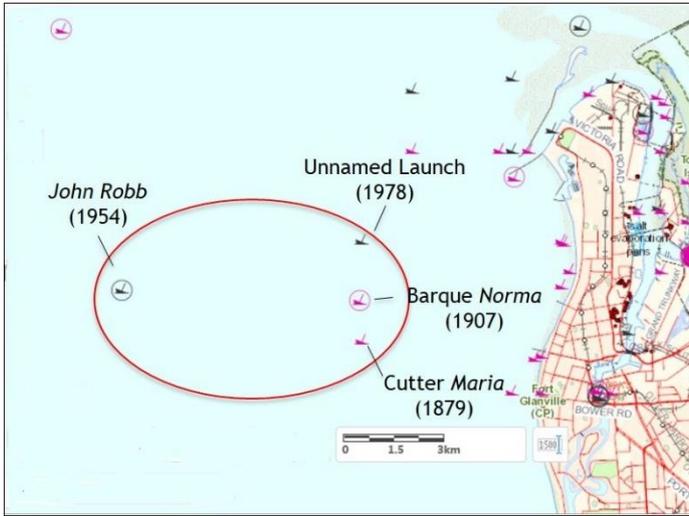
Protected UCH

UCH includes historic shipwrecks, historic submerged aircraft, and another significant cultural heritage items declared under the legislation. Currently, only historic shipwrecks are protected in State waters.

There are more than 800 shipwrecks recorded in South Australia and at least 33 submerged aircraft; however not all of these are declared as historic shipwrecks, and those are not covered by the protections of the legislation. Historic shipwrecks and aircraft are defined under both the Commonwealth and State legislation as ships or aircraft, or parts of ships or aircraft, that are in territorial waters for ≥ 75 years (known as *blanket protection*), or have been individual declared as historic. This also applies to any ships/aircraft that have been removed from territorial waters (e.g. for museum exhibits), or any artefacts or relics removed from those shipwrecks/aircraft. All such artefacts/relics must be declared to the Minister/s and recorded on the SAHSR. This includes ships' timbers, ceramic fragments and any other article that was part of or aboard the vessel/aircraft when it was lost.

Referral Process

When a development application is received, if an assessment of potential impacts to historic shipwrecks has not been included, then planners should conduct a preliminary assessment to determine whether the development is within 500 m of an historic shipwreck or relic.



- ⊖ Not Protected (Found)
- ✈ Not Protected (Not Found)
- ⊕ Protected (Found)
- ✈ Protected (Not Found)

There are four types of shipwreck icons shown in NatureMaps. These show whether a particular shipwreck has been found or not, or is protected or not (legend above).

In the example above, the barque *Norma* and the cutter *Maria* are both protected as historic shipwrecks. Should any development occur within 500 m of these two vessels, a referral to the Minister would be required. In this case, the position of *Norma* is known and an assessment of impact is relatively straightforward. However, the exact position of *Maria* is not known and the location shown on the map is only indicative based on historical information about the loss of the vessel. For *Maria*, further assessment may be required in the form of desktop assessment (further historical research) or, potentially, through archaeological survey of the development site. There is no requirement to refer a development in the vicinity of John Robb or the Unnamed Launch

The other two shipwrecks are not currently protected. The unnamed launch is not a significant shipwreck and therefore has not been individually declared; since it is only a relatively recent loss (1978) it will be many years before it reaches its 75th anniversary for blanket protection. In contrast, *John Robb* was lost in 1954 and will reach its 75th anniversary in 2029. Planners and developers should always check the status of wrecks in the vicinity of a development because blanket protection means that new shipwrecks/aircraft become protected each year.

Schedule 8 of the *Development Regulations 2008* only requires referral in relation to 'historic shipwrecks', i.e. those shipwrecks that are protected. In the case of 'Not Protected' shipwrecks, a referral is not required.

NB. The provisions of the new Planning, Development and Infrastructure Act 2016 (the PDI Act) are being progressively implemented to replace to *Development Act 1993*. When fully implemented, there will only be a requirement to refer development within 150 m of a shipwreck that has been found.



More information
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