

MEMORANDUM OF UNDERSTANDING

between

**The Conservation and Environment Protection Authority (“CEPA”)
PO Box 6601, BOROKO, National Capital District, Papua New Guinea;
which under the terms of this MoU represents the interests of the regional
branches of CEPA;**

and the

**The National Museum and Art Gallery (“NMAG”), PO Box 5560,
BOROKO, National Capital District, Papua New Guinea; which under the
terms of this MoU represents the interests of the regional branches of
NMAG;**

and the

**Department of the Environment and Energy (“DoEE”) PO Box 787,
CANBERRA, Australian Capital Territory 2601, Australia; which under
the terms of this MoU represents the interests of the National Historic
Shipwrecks Program.**

**FOR THE PURPOSE OF
COLLABORATION IN RESEARCH IN MARITIME ARCHAEOLOGY
AND UNDERWATER CULTURAL HERITAGE MANAGEMENT**

I. PARTIES AND PURPOSE

- A. This Memorandum of Understanding (MOU) is between the Papua New Guinea Government through the Conservation and Environment Protection Authority (CEPA), the Papua New Guinea National Museum and Art Gallery (NMAG), and the Australian Government Department of the Environment and Energy (DoEE).
- B. The purpose of this MOU is to facilitate cooperative maritime archaeological research and underwater cultural heritage management activities, education and capacity building between CEPA, NMAG, and DoEE (which administers the Commonwealth Historic Shipwrecks Program). This MoU will support collaborative projects on shared heritage and the different values attached to it; increase public awareness of both nations' maritime heritage; sharing knowledge and capacity with other States; undertake scientific research, monitoring, and exploration; and provide educational programs for the public. Additionally, this MoU will support skill sharing and professional development opportunities, hands-on marine educational opportunities for learning and participating in maritime archaeology and maritime history.
- C. All activities and projects related to the implementation of this MoU will be conducted in accordance with international best practice as outlined in the UNESCO 2001 *Convention on the Protection of the Underwater Cultural Heritage* - Annex Rules concerning activities directed at underwater cultural heritage.

II. BACKGROUND

- A. The Independent State of Papua New Guinea (PNG) and Australia have a shared heritage, that includes a history of trade and close contact extending back to the first arrivals of people to Australia, and shared maritime border. The ability to declare wrecks owned by Papua New Guinea was specifically recognised in the drafting of the Commonwealth *Historic Shipwrecks Act 1976*. Cooperation between the two countries would be beneficial not only for them individually, since much is to learn from each other, but may also have a positive effect on the heritage and heritage management of other regional countries, such as those in the south west Pacific.

This MoU sets the framework for improving maritime archaeological and underwater cultural heritage management capacities in PNG. In both countries, underwater cultural heritage is abundant, and dive tourism is a basis for small businesses. This MOU aims to assist in giving broader returns to PNG society through facilitating the development of sustainable tourism and fishing outcomes around protected underwater cultural heritage.

- B. The Papua New Guinea Conservation and Environment Protection Authority (CEPA) was established under the *Conservation and Environment Protection Act 2014* replacing the role formerly administered by the Department of Environment and Conservation. CEPA is a Public Body with a constituent law

as provided for by the *Public Finances (Management) Act 1995* (PFMA) and is responsible for the formulation and implementation of policy and for administering legislation related to environmental protection and conservation. CEPA administers several pieces of legislation for the protection of natural values, although current protection of heritage places is primarily through the *Conservation and Environment Protection Authority Act 2014* and the *Conservation Areas Act 1978*.

In the future, the proposed *Protected Areas Bill* will be the foundational legislative mechanism for protection of historic heritage consistent with the proposed *Protected Area Environmental Code of Practice*. The objective of the Code of Practice is to ensure the environment within a protected area is protected and conserved, while allowing for the traditional activities of the local community, customary landowners from the protected area, and those customary landowners living adjacent to the protected area.

The proposed *Protected Areas Bill* specifically refers to the protection of national heritage places as a National Heritage Area, in partnership with relevant stakeholders. This MoU provides a means through which CEPA can work with national and international partners to help establish a protected area in the immediate vicinity of the HMAS *AE1* (1914).

- C. The Papua New Guinea National Museum and Art Gallery (NMAG) was legally established by an act of Parliament of the same name in 1992. The National Museum and Art Gallery Act empowers two other pieces of legislation which the Trustees through NMAG staff administer – *National Cultural Property Preservation Act 1965* (NCPP) and *War Surplus Material Act 1952* (WSM). NMAG, through NCPP and WSM Acts, have a mandate to secure, protect, preserve and promote PNG's historical and cultural heritage which it sees as vital to informing the country's sense of nationalism, national narrative and distinctive cultural identity.

Both NCPP and WSM Acts provide a clear basis for the Museum to work with other partners, national and international, to secure underwater cultural heritage in PNG waters. A key focus for NMAG, through this MoU, is to review both acts it administers and amend as necessary to meet the evolving role of NMAG and the dynamics of the nature of work now required within the cultural and development sector.

NMAG, through the platform of the Australian National Shipwrecks Database (ANSDB), seeks to clearly map out the historical and cultural underwater heritage as a first step to managing the known sites and from there collaborating with other partners, international and national, where our interests may be mutual as in the case of the finding of HMAS *AE1* (1914).

- D. DoEE administers the Commonwealth *Underwater Cultural Heritage Act 2018* (UCH Act) that protects shipwreck and aircraft and their associated relics that are older than 75 years, in jurisdictional waters, and enables individual declaration of other underwater cultural heritage. The UCH Act for

shipwrecks applies to Australian waters that extend from the low tide mark to the end of the continental shelf. For aircraft and other underwater cultural heritage the Act's jurisdiction is Commonwealth waters. All underwater cultural heritage is administered in collaboration between the Commonwealth, the States, Northern Territory and Norfolk Island. The Commonwealth also directly administers historic shipwrecks in certain territories, which include Christmas Island and Cocos Keeling Islands in the Indian Ocean Region.

The UCH Act is delivered through the Historic Shipwrecks Program. The Historic Shipwrecks Program's objectives are to research, explore, document and protect Australia's historic shipwreck heritage. Each State or Territory program offers different opportunities for community participation in heritage management and protection. The agencies or departments of Historic Shipwrecks Delegates are encompassed by this MoU.

A key direction of DoEE is to develop policies and programs to support Australia's national maritime heritage, to provide national leadership and to contribute internationally, particularly to regional capacity building. Australia is involved in the international maritime archaeological community through participation in the non-government organisation, the International Council on Monuments and Sites - International Committee on the Underwater Cultural Heritage (ICOMOS/ICUCH). Australia has agreed to meet international best practice management of Australia's underwater cultural heritage as outlined in the Annex to the *United Nations Educational, Scientific and Cultural Organization (UNESCO) 2001 Convention on the Protection of the Underwater Cultural Heritage*.

Australia has broadened protection to all underwater cultural heritage and to enable the Minister, subject to consultation with the nearest coastal State, to declare shipwrecks of significance to Australia, outside Australia's jurisdiction, as protected.

Linking with CEPA and NMAG through this MOU provides a platform for collaborative work of an international character in Australia's and Papua New Guinea's waters.

III. AUTHORITIES

- A. The programmatic authority for CEPA to enter into this MoU is by signature of the Director, Sustainable Environment Programs, CEPA.
- B. The programmatic authority for NMAG to enter into this MoU is by signature of the Director of the NMAG.
- C. The programmatic authority for the DoEE to enter into this MoU is by signature of the First Assistant Secretary of the Heritage, Reef and Marine Division, DoEE.

IV. PROPOSED ACTIVITIES

CEPA and NMAG will: (based on projects approved under this umbrella agreement)

1. Assist, when practical, with support and placement in appropriate agencies/departments/museums, of Australian Government Officers (DoEE), Historic Shipwrecks Program Practitioners, and other appropriate Australian researchers, Australian based university masters and doctoral researchers and other appropriate researchers at regional branches with the study and preservation of maritime heritage resources and shared heritage;
2. Encourage its staff, maritime archaeology masters and doctoral students to work with DoEE, Historic Shipwrecks Program Practitioners and other appropriate researchers on mutually agreed projects, subject to the availability of funds and personnel;
3. For the purpose of fulfilling this MoU, facilitate access to CEPA and NMG resources, where practical and appropriate; and
4. Work with DoEE to identify sources of financial and other support for mutually agreed upon projects.
5. Assist in the capacity building in underwater cultural heritage management and archaeology within Australia and cooperate in capacity building projects in other areas with a focus towards the Pacific Ocean and South East Asian Regions.

DoEE will: (based on projects approved under this umbrella agreement)

1. Assist, when practical, with support and placement of CEPA and NMAG staff at DOEE and in Delegated agencies under the Historic Shipwrecks Program for the study and preservation of maritime heritage resources, underwater archaeology and underwater cultural heritage management particularly in Australian waters;
2. Encourage their staff, Historic Shipwrecks Program Practitioners, Australian based students and other stakeholders like appropriate community based research groups to work with CEPA and NMG staff on mutually agreed upon projects, subject to the availability of funds;
3. For the purpose of fulfilling this MoU, facilitate access to DoEE and Historic Shipwrecks Delegates resources where practical and appropriate; and
4. Work with CEPA and NMAG staff to identify sources of financial and other support for mutually agreed upon projects.

D. All Parties will:

- Where practical and appropriate, cooperate on capacity building activities in underwater cultural heritage management in Australia and Papua New Guinea.

Cooperate to establish and implement mutually agreed joint research and education programs to enhance public and scientific understanding and appreciation of maritime archaeology, history, heritage, resource preservation and underwater cultural heritage management, in support of CEPA, NMAG and DoEE mutual goals, consistent with the UNESCO 2001 *Convention on the Protection of the Underwater Cultural Heritage*, the PNG *War Surplus Material Act 1952* and the PNG *War Surplus Material (Amendment) Act 2015*, *Maritime Zones Act 2015*, the *Commonwealth Historic Shipwrecks Act 1976* and the *Underwater Cultural Heritage Act 2018* and other applicable laws, regulations, policies, and procedures;

- Seek opportunities for researchers, students and technical staff to further their qualifications, experience and training;
- Seek opportunities for exchanges of public communication projects including, but not limited to, school education programs, online projects, travelling exhibitions, conferences, workshops and training programs;
- Publish any cooperative research results in journals and monographs under joint CEPA, NMAG and DoEE rights. The order of logo as well as authorship will be determined by the level of contribution; and
- Publish research that results from the MoU in at least English with a summary in Tok Pisin.

V. FUNDING, PROGRAMMING, PAYMENT, AND REIMBURSEMENT ARRANGEMENTS

This MoU defines in general terms the basis on which the Parties will cooperate, and as such, does not constitute a financial obligation to serve as the basis for expenditures. Any activities involving reimbursement or transfer of funds between the Parties to this MoU will be handled in accordance with applicable laws, regulations, and procedures of the country where the activity is being undertaken. Such activities will be documented in a separate legal instrument.

Expenditures of funds, human resources, equipment, supplies, facilities, training, public information, and technical expertise will be provided by each Party to the extent that their participation is required and resources are available.

This MoU does not restrict the Parties from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

This MoU does not obligate the Parties to expend funds or to enter into any other agreements, contracts or other obligations. The MoU will however serve as a stimulant for cooperative projects and quality control for research being executed within this framework.

VI. CONTACTS

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

CEPA

Kumaras Kay Kalim—Conservation and Environment Protection Authority
PO Box 6601, BOROKO, National Capital District, Phone: 675 301 4520
Mobile: 675 7685 8076
email: kkalim@gmail.com

NMAG

Mr Alois Kuaso – Deputy Director, Science, Research and Consultancy,
Division, National Museum and Art Gallery
PO Box 5560, BOROKO, National Capital District, Phone: 675 3252 422
Mobile: 675 75294769 Alt. 675 76310227
email: akuaso18@gmail.com

DoEE

David Williams, Assistant Secretary, Heritage Branch, Department of the
Environment and Energy, PO Box 787, CANBERRA, ACT 2601, Australia.
Ph. (+612) 6274-2015 Alt. Mob: 0407 430 138
email: david.williams@environment.gov.au

- B. If there is a change regarding the information in this section, the Party making the change will notify the other Parties in writing of such change.

VII. DURATION, AMENDMENTS, OR TERMINATION

This MoU will become effective upon execution by all Parties, and will expire four years from the commencement date.

The MoU may be amended within its scope or renewed prior to the expiration date, through the written mutual consent of the Parties.

The MoU may be terminated by (1) written mutual consent, (2) one Party's written notice 60 days in advance, or (3) completion of the Terms and Conditions of this MoU.


The Parties will review this MoU at least once every three years to determine whether it should be revised or terminated.


VIII. OTHER PROVISIONS

- A. If the Parties disagree over how to interpret this MoU, they will present their differences to each other in writing, and they will discuss them. If the Parties fail to resolve their differences within thirty (30) days, then the Parties may terminate this MoU pursuant to section VII.C above.

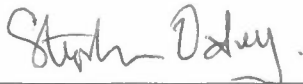
IX. APPROVALS

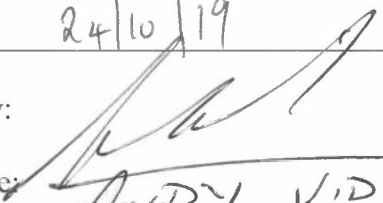
ACCEPTED AND APPROVED FOR THE
CONSERVATION AND ENVIRONMENT
PROTECTION AUTHORITY

BY: 
Kumaras Kay Kalim
Director
Conservation and Environment
Protection Authority
Port Moresby, Papua New Guinea


DATE: 13/09/19
Witnessed by: 
Witness name: YVONNE TIO
Institution: CEPA
Date: 13/09/19


ACCEPTED AND APPROVED FOR THE
DEPARTMENT OF THE ENVIRONMENT
AND ENERGY

BY: 
Stephen Oxley
First Assistant Secretary
Heritage, Reef and Marine Division
Department of the Environment and
Energy
Canberra, Australia

DATE: 24/10/19
Witnessed by: 
Witness name: ANDY VIDUKA
Institution: DOEE
Date: 24/10/19

ACCEPTED AND APPROVED FOR THE
NATIONAL MUSEUM AND ART GALLERY

BY: 
Dr Andrew Moutu
Director
National Museum and Art Gallery
Port Moresby, Papua New Guinea

DATE: 21/8/2019
Witnessed by: 
Witness name: DOROTHY GUTUMA
Institution: NATIONAL MUSEUM AND ART GALLERY
Date: 21/8/2019

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