

The Law of the Sea: How Ratifying the UNESCO Convention Will Affect Underwater Cultural Heritage Management in Australia

Thomas Body

BA(Hons), School of Social Science, The University of Queensland,
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The legislation regarding underwater cultural heritage management in Australia is almost 40 years old and needs to be updated to comply with current international best practice as outlined in UNESCO's *Convention on the Protection of the Underwater Cultural Heritage 2001*. Australia has yet to ratify the UNESCO convention, and, if ratification was to take place, a full review of relevant Australian legislation would need to be undertaken. This thesis reviews the current provisions of legislation in Australia to assess how ratification of the UNESCO convention would affect Australian underwater cultural heritage management. The history and current situation of Australian maritime archeological legislation and the provisions of the UNESCO convention are examined, and the expected effects of ratification are identified and discussed. The fundamental principles are then applied to the case study of the *HMS Pandora* to exemplify how Australian legislation is used to manage underwater cultural heritage in practice. This thesis concludes that, in order to ratify the UNESCO convention, a number of areas would first need to be addressed. These include expanding the definition of underwater cultural heritage, updating guidelines on significance assessment, establishing the use of in situ preservation as the first choice of conservation method, and making all sales or transfers of underwater cultural heritage illegal. This thesis also identifies how these areas would have affected the management of the *Pandora*, and it is concluded that in practice, Australian underwater cultural heritage management methods are closely aligned with international best practice in most, but not all, respects. The major difference is that excavation, as opposed to in situ retention, is the current preferred method of conservation in Australia.