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**Department of Conservation Services**

**The Historic Wrecks Act 2001 and the Planning Process for Underwater  
Cultural Heritage Assets in Bermuda.**

*Updated May 2014*

Before industrial, private, and government organizations undertake development in *or that affects* the marine zone in Bermuda, they may be required to do an **Historical Resources Overview (HRO)** and based on this be required to carry out additional **Underwater Cultural Heritage Impact Assessment (UCHIA)** work to assist in the protection and understanding of historical resources on affected undersea or coastal areas.

Bermuda's Marine Zone is considered the public underwater and coastal environment **up to the high water mark** and out to the edge of Bermuda's 200 mile EEZ.

The Historic Wrecks Act 2001 identifies various classes of Underwater Cultural Heritage (UCH) and the protections they are afforded under the Act. Development projects need to consider the Historic Wrecks Act and consult with the Office of the Custodian of Historic Wrecks and the Historic Wrecks Authority who determine when and where **Historical Resources Overview (HRO)** and/or **Underwater Cultural Heritage Impact Assessments (UCHIA's)** are required.

An HRO will describe the area and proposed development impact, describing any known historical resources in the area and exploring the potential of the area to hold unrecorded resources that may be impacted by development. If an HRO indicates that there are identifiable significant historical resources or a high potential for unrecorded resources to exist in the area then an Underwater Cultural Heritage Impact Assessment (UCHIA) may be required of the developer. An Underwater Cultural Heritage Impact Assessment (UCHIA) refers to the process by which archaeological and historical resources are located, studied, and managed in Bermuda's marine zone.

A list or dataset of known "Open" shipwrecks and Marine Heritage sites, primarily legal locations of important sites, is available to the public and can be provided to developers in advance of projects submitting plans in the official planning process. It is available as the Official Listing of Open Historic Shipwrecks (online). There is also a private dataset of historic underwater features, including shipwrecks, which are not a public document. The Office of the Custodian of Historic Shipwrecks maintains this dataset and will consider it in relation to all official planning applications that affect the Marine environment. These datasets allow the CHW and planning regulators to know if a proposed development may impact known or unknown historical resources and trigger the need to implement HRO and HRIA work.

The process officially begins with an application to the Department of Planning for a particular development. When proposed development is seen to impact the marine zone the file is referred by the Planning Department to the various Government Departments and sections that oversee the marine environment. The Office of the Custodian of



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Historic Wrecks (CHW) marine Heritage section is the section that determines if there are any potential impacts to Underwater Cultural Heritage (UCH). The proposed project is reviewed by the CHW at the Department of Conservation Services and then taken to the Historic Wrecks Authority (HWA). The HWA is an advisory body set up for the purpose of advising the CHW and the Minister on issues relating to the protection of shipwrecks and marine heritage under the Historic Wrecks act 2001.

From this review recommendations are made to the Department of Planning and the Minister.

If there are no potential significant UCH assets that will be impacted by the project then a recommendation will be sent to the Planning Department that there appear to be no risks to UCH in relation to the project. If there are known or potential significant UCH assets that will be negatively impacted by the project a recommendation will be made to the Planning Department that an HRO be carried out and possibly an HRIA (with specific terms and conditions) as required. If an initial HRO determines that the area is of low archaeological potential then a recommendation will be sent to the Planning Department stating that the risks to UCH are low and should not be an impediment to the project. These recommendations are communicated by letters signed by the Custodian of Historic Wrecks and by the Chairman of the Historic Wrecks Authority to the Department of Planning listing the official planning file number for the project.

If an HRO or HRIA is recommended and then required by the Department of Planning, the developer, at their cost, undertakes the study. The developer is required to retain qualified underwater research technicians, archaeologists, historians or other professionals as required by the terms and conditions of an HRO or HRIA. In many cases a certified professional marine archaeologist can undertake all aspects required. The HRO or HRIA is undertaken on the developer's behalf and a report is submitted to the Office of the Custodian of Historic Wrecks. The CHW will internally review, ground truth and comment on the report and make recommendations regarding any historical resources encountered. Once the review process has been completed a report will be submitted to the HWA who will add their views and make recommendations to the Minister. The letter will either recommend that a site is **clear for development** as concerns UCH or set out site specific recommendations that may include for example a need for **further in depth research**, specific **mitigation** requirements, **survey during development or construction work** or request that **licenses** be applied for to carry out specific archaeological work.

The Custodian and the HWA can also consider direct inquiries pre submission by the developer of a proposed project, whether private or public, or a governmental planning/regulatory agency relating to UCH and can help guide HRO and HRIA work as the result of a consultative process undertaken in partnership with various agencies prior to any formal planning submission.



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The Office of the CHW creates a file for each development project with which it deals. These files contain copies of all correspondence relating to projects and specific sites within these projects. These may include overview letters from consultants, letters to planning, licenses for projects, reports etc.,. In some cases concern over privacy issues or protection of historical resources prevent open public access to these documents. The HRO/HRIA site/project paper trail therefore involves letters, forms, and reports. These reports are integral to our understanding and management of UCH in Bermuda.

Historical Resources Impact Mitigation (HRIM), or more simply, mitigation, typically refers to the excavation of archaeological sites but can also refer to the in-depth documentation of a site or wreck or the field stabilization or rescue and conservation of specific UCH items deemed to be in peril or that are hazards such as items in shipping channels, collapsing sea walls or historic ordinance.

Mitigation allows the collection of information that would otherwise be lost if the site was destroyed without study.

The HRIA report details the location, description, and evaluation of UCH within a specific project area, descriptions of the artifacts collected, and any other information pertinent to a development and its potential impact on Historical Resources. It will contain recommendations for or against further site studies. The CHW and HWA will review these recommendations in determining final site mitigation and disposition requirements.

While all HRIA projects will result in an HRIA report, only those HRIAs in which significant sites are identified that cannot be avoided by development projects will result in the recommendation that follow up with mitigative research projects be carried out.

If recommendations from the CHW and HWA requiring active hands on mitigation of UCH are supported by the Department of Planning they are undertaken under a separate license.

Sometimes, depending on the nature and significance of a site, mitigation might involve archaeological excavation and entails what most people think about when it comes to archaeology: a crew of varying size is mobilized to excavate a site in a timely and efficient manner.

The results will be communicated to the CHW and the HWA through a report prepared by the consulting professional/archaeologist. This report goes through the review process and a further letter is issued either advising the area is clear for development as concerns UCH or advising of further recommendations for survey and mitigation.

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Underwater Cultural Heritage management flow chart for developers.

**Planning Department submission**

Planning Consult initiated through the office of the Custodian of Historic Wrecks at DCS

Initial assessment by the technical officer - CHW

Report and plan shared with the HWA

**Recommendation flow**

No UCH - Clear

Potential UCH – evaluation through HRO

HRO – low UCH –recommend clearance

HRO - high UCH – vigilance for discovery - continue evaluation through HRIA or protected

HRIA – Clear

HRIA – HRIM - successful mitigation – recommend clearance

HRIA - HRIM – mitigation not possible – recommend protection

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