

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter referred to as “MoU”) is entered into by and between The Submarine Institute of Australia Inc., a not for profit organization, organized and validly existing under the laws of Australia, having its principal office at PO Box 5018, Lyneham ACT 2602 Australia (hereinafter referred to as “SIA”) and TINA Turkish Institute of Nautical Archaeology, a not for profit Foundation, organized and validly existing under the laws of Turkey, having its principle office at Koç University Rumeli Feneri Kampüsü, Rumeli Feneri Yolu, Sarıyer 34450 Istanbul Turkey (hereinafter referred to as “TINA”).

SIA and TINA (individually the "Party" and collectively the "Parties") have agreed upon the following:

Introduction

SIA and TINA wish to promote a suitable outcome for the wreck of the HMAS AE2 Submarine that lies in the Sea of Marmara. They therefore wish to enter into this MoU to achieve this end, the terms of which are set out hereunder.

This proposal builds on the previous work of Mr Selçuk Kolay OAM in discovering the wreck, “Project AE2” and the outcomes of its 1998 Dive in positively identifying it and commencing site analysis. Both parties formally acknowledge the seminal work of that project and by Dr Mark Spencer and Tim Smith¹ in providing the historical antecedents to future efforts.

Status of This Memorandum of Understanding

This memorandum records a common understanding based on friendship and cooperation between the Parties with the aim of achieving a common objective.

Purpose of Co-operation Between The Parties

THE OBJECTIVES:

- To promote an understanding in Australia and Turkey of the submarine HMAS AE 2 role (1913-1915) in the Gallipoli campaign, as a basis for ongoing friendship and respect between the two nations.
- To achieve an outcome acceptable to both Parties as to how the wreck should be preserved and presented to the international public for the foreseeable future.

These Objectives are supported by activities to:

- Preserve, protect and promote the fragile archaeological AE2 wreck structure, with a view to engaging public knowledge of, and learning from, the role of AE2, the Dardanelles Campaign generally and the importance of the wreck to both nations involvement in the campaign.

¹ Project AE 2 – Investigation of The Wreck of The HMA AE 2 Submarine Wreck Site, Turkey, October 1998 © NSW Heritage Office, Sydney NSW.

- This work is to be undertaken in a professional manner, within the controls of the Turkish legal system and meet the highest international professional maritime archaeological standards, giving regard to the rules annexed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001.
- Preserve the AE 2 wreck as far as practicable so that future generations can use it as a means of achieving the Objectives.
 - This includes surveys to ascertain the material state of the wreck and obtain comprehensive images of the wreck.
 - The results of the archaeological investigations and surveys should be presented with absolute transparency and with no underlying agendas.
- Establish public education opportunities, including developing interpretation centres in Turkey and Australia to tell the story of the engagement of AE 2 with Turkish defence forces and the conservation status of the wreck.
 - The intention is to have these centres available for celebrations of the centennial of the landing in 2015.
- Provide protection to the wreck by:
 - Exploring opportunities to provide greater Turkish legislative protection to the wreck
 - Preventing inadvertent damage by fishing activities.
 - Possibly initiating anodic protection of the site to further physical retention.
 - Obtaining a comprehensive assessment of the site's conservation status through targeted studies, including an archaeological corrosion survey.

Responsibilities for Resourcing Activities

- Unless otherwise agreed in writing, each party is responsible for funding its own activities.
- By written agreement, TINA may offer to support mutual activities in Turkey, this could take the form of services, personnel or funding and includes such activities as:
 - Arranging logistic support for Australian activities in Turkey associated with AE 2, including assisting with applications for archaeological work permits.
 - Involvement in joint field work at the site.
- The SIA intends to establish a trust, "The Australian Submarine AE2 Gallipoli Commemorative Trust" (the Australian Trust) as a legal entity within Australia, to manage of all financial aspects of the SIA's contribution to this mutual endeavour.
- The Australian Trust will be:
 - Overseen by a number of prominent Australians.

- Independently audited annually and the results made available to the TINA and other interested parties.
- The SIA may choose at a later date to transfer its rights and obligations under this MoU to the Australian Trust so long as such Trust is under the control of SIA.

Sponsorship

- It is envisaged that both Parties will have to attract sponsors to fund their own activities.
- Sponsors should be compatible with the Objective:
 - Both Parties should be careful in their selection of sponsors given the heritage value, to both countries, of the wreck and the events which are commemorated.
 - All sponsors must agree to respect these values in promoting their commercial objectives.
- Sponsors will be offered a range of opportunities to promote their business and publish their generosity in supporting the Objective.
 - This will include signage at the interpretation centres in both countries for an agreed level of sponsorship.

Ownership of Intellectual Property Rights, Images and Any Income or Benefits Arising From Joint Activities Undertaken On AE 2 Under This Memorandum

- The images and any intellectual property rights generated by activities undertaken under this MOU are to be regarded as common property and held in trust. In Turkey by TINA and in Australia by the SIA.
- All researches, filming, documentations previously made (and any developments thereon) are exempt from the scope of this MOU.
 - The intention is to maximise the data collected from the site in order to provide professional assessment on the state of the AE2 wreck and the management opportunities that then arise from the assessment of this data.
 - The management of this information is particularly important in order to maximise the benefit accruing from these activities.
- The procedures and processes to be followed are detailed in a Non Disclosure Agreement attached to this MoU.
- The Australian Trust will exercise ownership on the SIA's behalf for material generated by activities under this MOU.
- As a general principle any revenue or benefit obtained from these assets should be directed toward achieving the Objectives.
- Income or any other benefit should be directed on the basis of the country in which it is earned. In the interests of clarity, income earned in:

- Turkey goes to the TINA or its nominated financial entity.
- Australia to the Australian Trust.
- Any other country is to be divided on a 50:50 basis.
- The individuals who create the images will be given a non-exclusive and irrevocable licence to use these images.
- This use should not deny TINA or the SIA opportunities to derive additional funds as income that could be used to achieve the Objectives.

In return, prior to participating in any activities on AE 2 the individuals will be obliged to grant TINA and the SIA an exclusive and irrevocable copyright of the images.

Recovery of Artefacts

- Recovery of artefacts is not seen as an objective per se.
- Any recovery should have regard for the Rules annexed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001.
- The SIA and TINA agree that they do not wish to lay claim to the AE 2 wreck or its contents.
- They further agree to abide by the legislative controls of Turkey for the recovery of archaeological artefacts and any other measures as may be mutually determined between the Australian and Turkish Governments concerning the wreck of AE 2.

Coordination and Cooperation Between The Parties

- The Parties wish to cooperate on the basis of equal status.
- A Joint Management Team (JMT) shall be established to facilitate planning and coordination of all activities.
- Each Party shall nominate up to 3 members of the JMT.
- The JMT shall be chaired by a rotating Chairman who shall serve for a calendar year.
- The JMT shall normally meet by teleconference, or as otherwise agreed.
- Meetings shall be held as required and at least once per year, to plan and execute activities toward achieving the Objective.
- Meetings will be conducted in English.
- Each Party shall cover its own costs associated with meetings.
- Either Party may request a meeting of the JMT and provide agenda items to be considered.
- A JMT quorum for making decisions is the Chairman or a nominated stand in from the membership of the JMT and at least two members from each Party.
- Voting is by the Parties, that is, there are two votes.

- Decisions are to be unanimous; a decision that is not agreed by one of the Parties does not commit that party to acting on the decision or to any expenses or other obligations that may arise from that decision.
- The Chairman is responsible for providing Minutes of each meeting.

Dispute Resolution

- The Parties agree that the principals should endeavour to settle any dispute controversy or claim arising out of or relating to this MoU.
- Claims which they are unable to settle through direct negotiations should be referred to mediation with a mediator mutually acceptable to the parties.
- Mediation is to be conducted in English.
- If the parties are unable to agree thereafter this Agreement is at an end.

Relationship With The Turkish and Australian Governments

- Neither Party is able to bind its respective government to a course of action.
- Each Party is responsible for liaising with its Government and other National Agencies to seek any necessary approvals prior to undertaking agreed activities.

Duration of This Memorandum

- This MoU becomes effective on the date of signature by the last Party to sign it.
- This MoU is intended to cover the period until the opening of the interpretation centres in 2015.
- This MoU may be dissolved by either party giving reasonable notice in writing to the other of their decision to withdraw from the MoU.

IN WITNESS WHEREOF, each of the Parties hereto has caused this MoU to be executed by its duly authorised officers or representatives.

**The Submarine Institute of
Australia Incorporated**

**TINA Turkish Institute of Nautical
Archaeology**

By: Peter Briggs

By: Selcuk Kolay

Signature:

Signature:

Witness:

Witness: Kenan Yılmaz

Signature:

Signature:

Date:

Date:

ATTACHMENT A: SIA-TINA NDA