FRASER COAST INDUSTRY

Code of Practice

SWIM WITH THE WHALES

DRAFT

Fraser Coast Opportunities

ec3
EVALUATE COMMUNICATE EVOLVE

CONTENTS

I. INTRODUCTION 3
II. OBJECTIVE OF THIS CODE OF PRACTICE 3
III. PRINCIPLES OF THE CODE OF PRACTICE 4
IV. APPENDIX 5
Appendix 1- Case Study 5
..... 5
Appendix 2- LEGISLATION AND GUIDELINES 6

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The information and recommendations provided in this Code of Practice are made on the basis of information available at the time of preparation. While all care has been taken to check and validate material presented in this report. EC3 Global accepts no liability for decisions made or the information provided in this document.

I. INTRODUCTION

The Fraser Coast is a stunning Queensland destination rich in diversity and natural beauty. With abundant marine life and incorporating Australia's only humpback whale nursery and calf playground, the region is home to some of the best whale encounters in Australia. With the development of the Fraser Coast Destination Tourism Plan, setting the direction for tourism and events in the Fraser Coast region towards 2020, the 2020 vision for the Fraser Coast is to be:

"Globally recognised for world class personal natural encounters, World Heritage Listed Fraser Island and as Australia's number one whale experience Destination"

This vision is supported by a number of strategic objectives and key goals, including;

- Cementing the region's position as the **leading destination for personal natural encounters** by maximising the tourism potential of whale watching and positioning Fraser Island to the fore and rebuilding its status as an iconic visitor attraction.
- **Increasing the region's share of Queensland marine tourism** activities in the leisure market; and
- Generating **growth in repeat visits**.

In 2013, the Queensland Government made key amendments to *the Nature Conservation (Wildlife Management) Regulation 2006* which allows people to enter or be in the water with marine mammals more closely than previously allowed. These changes have presented a key product opportunity for the Fraser Coast whale watching and marine tourism industry in the provision of swim with whale experiences.

II. OBJECTIVE OF THIS CODE OF PRACTICE

To ensure that marine encounters in the Fraser Coast are developed and undertaken in a way that minimises any potential negative impacts on the whales as well as ensuring a positive and safe personal natural encounter for participants. The Fraser Coast whale watching and marine tourism industry have collaborated to exceed the legislation through developing this Fraser Coast Industry Code of Practice which outlines key areas of management for tour operators in undertaking swim with whale experiences. It has been developed in consultation with industry, with input from key stakeholders and is intended to be reviewed and updated based on ongoing scientific research and international best practice guidelines.

This Code of Practice provides operators with a framework that surpasses the minimal requirements of the legislation to ensure the safety of marine mammals and the safety of visitors is paramount. These guidelines aim to ensure that the Fraser Coast remains the leading destination in whale watching by implementing best-practice for swimming with whales.

III. PRINCIPLES OF THE CODE OF PRACTICE

The following principals of the code of practice have been prepared and agreed to by the Fraser Coast whale watch operators to guide and maintain 'world's best practice' within the Great Sandy Marine Park. The principals are as follows:

- Operators agree to diligently abide by existing safety and conservation legislation including but not limited to: a) *Nature Conservation (Wildlife Management) Regulation 2006*; b) *Marine Parks Act 2004*; c) *Transport Marine Safety Act 1994* & d) *Safety in Recreational Water Activities Act 2011, and the commercial activity agreements for each operator.*
- Operators agree that the safety of passengers and participants is the highest priority and will not be compromised.
- Operators will ensure that any whale 'swim with activities' will be on the whales terms; allowing the whale to control the nature and duration of any interactions.
- Operators will develop and provide 'world's best practice' whale watching visitor experiences for passengers and participants.
    - Operators will implement and maintain Captain and crew training and procedures that will target specific safety, education and conservation focused visitor experiences such as providing pre activity briefs, monitoring whale behaviour, rules of participation, pre assessment of participants ability, managing passenger & participant behaviour, and emergency procedures.
- Operators will develop and adhere to comprehensive safety management systems for their vessels and the activities they undertake; with consideration to passenger, participant and whale safety.
- Operators will exceed the legislative requirements to share the water and interactions with whales by: a) actively communicating by VHF radio to ensure safe navigation in the vicinity of participants and whales; b) only one operator at a time will undertake 'swim with' activities per pod/ whale.
- Operators will maintain appropriate crew levels to supervise and maintain passenger and participant safety in and out of the water.
- Operators will display sufficient visual markers to communicate the extent of their 'swim with' activities for example dive flags at either end of the activity.
- Operators will adhere to appropriate participant and span of control levels for in and out of the water activities.
- Operators will document 'swim with' encounters in regards to pod type, participant levels and duration
- All operators are encouraged to display their commitment to the Code of Practice on board each vessel.

IV. APPENDIX

Appendix 1- Case Study

Whale watching has become one of the fastest growing nature tourism industries in the world. The industry is currently worth U.S $2.2 billion globally with 15 million people participating annually[1]. Within Australia, going whale or dolphin watching showed the largest growth of nature tourism activities for both international and domestic overnight visitors between 2003 and 2009, with an average annual growth of 5%[2].

A small swimming with whales sector currently exists in Australia, including the Great Barrier Reef (Dwarf Minke Whales) and now South-East Queensland. However, given the increase in popularity in whale watching generally within the Australian tourism industry and the appeal that swim with whale experiences present, it is likely these activities will continue to increase in popularity. Despite both the economic opportunity as well as the contribution to cetacean conservation efforts that whale watching activities promote, the potential impacts of these activities are still being researched and assessed. International guidelines as well as national and state-based legislation provide the minimum requirements for operators in managing impacts on whale populations, a code of conduct aims to go to the next level of ensuring these activities are sustainable as they develop into the future.

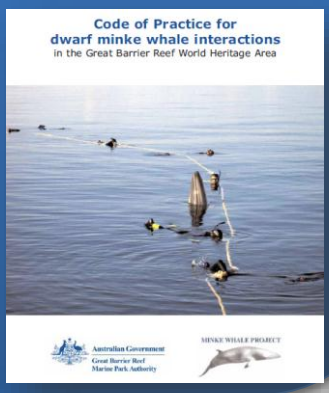
The Code of Practice provides a consistent standard for all operators in the Fraser Coast region. This will ensure Fraser Coast maintains a competitive edge in offering safe and sustainable activities which promote the protection of whales in line with international best practice.

Case study: Dwarf Minke Whales Code of Practice

In 2008, the Great Barrier Reef Marine Park Authority published the Code of Practice for dwarf minke whale interactions in the Great Barrier Reef World Heritage Area. This Code of Practice outlines the environmentally responsible way to approach and interact with dwarf minke whales and has been developed specifically for the permitted tourism operators operating within the Marine Park.

The Code of Practice incorporates five comprehensive protocols, including: general protocols; vessel approach to whales; vessel departure from whales; in-water interaction management; and protocols for snorkelers and divers. Along with outlining the current legal requirements, this Code of Practice goes beyond the legislation in detailing a number of specific management actions. Distinctively, it provides detailed guidelines on managing interactions with a cow and a calf. Other additions to the Code of Practice include:

- Endorsed tourism operators must submit a completed **Whale Sighting Sheet** for each dwarf minke whale encounter
- They are also **encouraged to submit additional research** and support it by monitoring data to the Minke Whale Project
- **Pre-swim briefing** – including **why passengers must abide** by legal requirements and detailed protocols
- **Crew** should be **appropriately trained** to manage interactions



For More information visit:
http://www.gbrmpa.gov.au/__data/assets/pdf_file/0003/4476/Birtles-et-al-2008.pdf

Appendix 2- LEGISLATION AND GUIDELINES

Queensland Government Marine Mammal Regulations

In 2013, the Queensland Government made key amendments to *the Nature Conservation (Wildlife Management) Regulation 2006* to provide a more streamlined and comprehensive piece of legislation to protect and manage marine mammals in Queensland. The amendments repealed the *Nature Conservation (Whales and Dolphins) Conservation Plan 1997* along with the *Nature Conservation (Dugong) Conservation Plan 1999* and replaced these with new marine mammal regulations. These are stipulated in Chapter 7, Part 5A, a new section added to the existing *Nature Conservation (Wildlife Management) Regulation 2006.* The new legislation provides a contemporary and responsive management framework for marine mammals in Queensland and is based on the most up-to-date scientific research.

Amendments that deal specifically with swim with whale and dolphin activities are included in Division 4 (338Q). This section identifies the minimum (prescribed) distance requirements for people in or entering the water in the vicinity of marine mammals as;

- 100 meters from a whale; and
- 50 meters from a dolphin.

Minimum distances of vessels must comply with the minimum legal requirement defined as no approach zone for vessels: 100m from the whale or 300m from any point within an arc of 30 degrees from either side of the front or rear of the whale; 50m from dolphins or 150m from any point within an arc of 30 degrees from either side of the front or rear of the dolphin. These approach distances for people have been amended for consistency with vessel no approach distances. As a result, people are now able to enter or be in the water more closely than previously allowed. This has opened the way for swim with whale programs to now become a feasible offering for operators within Queensland.

The legislation also details restrictions on:

- Depositing rubbish near a marine mammal;
- Making a loud or sudden noise within 300m of a marine mammal that may disturb the mammal;
- Touching a marine mammal; and
- Feeding a marine mammal.
- A person in control of a boat must not restrict the path or cause change in the direction of travel of a marine mammal.
- A person in control of a boat must for no reason divide a group of marine mammals (e.g. a pod or a cow and calf).
- It is forbidden to use motorised propulsion aids.

Furthermore, the legislation also defines ‘caution zones’ and ‘no approach zones’ for vessels; the approach, speed and total number of vessel requirements within the caution zone (three vessels); and stipulations regarding Special Management Areas and Special Management Marine Mammals.[3]

Marine Park Act 2004, Regulations & Zoning Plans

Marine Park Act 2004 and its subordinate regulations and zoning plans provide the legislative framework for managing commercial activities in state marine parks including the requirement for an authority to conduct a 'commercial whale watching program'.

Australian National Guidelines for Whale and Dolphin Watching 2005

The new Queensland Legislation provides increased consistency with the Australian National Guidelines for Whale and Dolphin Watching 2005. These guidelines represent a consistent national standard which helps inform governments when designing policy and legislation for whale and dolphin watching. The aim of the guidelines are to minimise the impacts of whale and dolphin watching on individuals and populations of whales and dolphins and to ensure people know how to act appropriately when watching whales and dolphins.

The key guidelines relating to swimming and diving with whales and dolphins as stipulated in the National Guidelines are:

- Operators are not to place swimmers directly in the path of an animal or group of animals and swimming should not occur with whale or dolphin calves, or pods containing calves;
- Commercial swim programs should be accompanied by ongoing research to monitor whale and dolphin responses to swimmers;
- Any attempt at swimming with whales or dolphins should stop if the animals show signs of disturbance;
- Limits on the number of vessels and/or swimmers & a maximum watching time;
- The need for temporal or spatial exclusion zones; and
- Distance of swimmers to animals.

International Whale Watching Guidelines

The International Whaling Commission is an Inter-Governmental Organisation tasked with the conservation of whales and the management of whaling. The Commission has a current membership of 89 Governments from countries around the World, including Australia**.** The IWC introduced three general principles for whalewatching in 1996, these principles establish the international benchmark for the whale watching sector and are specifically designed to minimise the risk of adverse impacts from whalewatching activities on all cetaceans, they are:

1) Manage the development of whale watching to minimise the risk of adverse impact.
2) Design, maintain and operate platforms to minimise the risk of adverse effects on cetaceans, including disturbance from noise.
3) Allow the cetaceans to control the nature and duration of 'interactions'

These principles are supported through dedicated management actions which are outlined on the International Whaling Commission's website[4]. Furthermore, whale watching has also been added to the agenda of the IWC's Scientific Committee who now undertake research to assess the impacts of whale watching on cetaceans as an ongoing and primary function. This research will help to inform these guidelines into the future.

Other Relevant Legislation

All vessels should ensure their compliance with the relevant legislation being Marine Safety (Domestic Commercial Vessel) National Law Act 2012, Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013 and subordinate Marine Orders, Transport Operations (Marine Safety) Act 1994, Transport Operations (Marine Safety) Regulation 2008, and International Regulations for Preventing Collisions At Sea 1972.