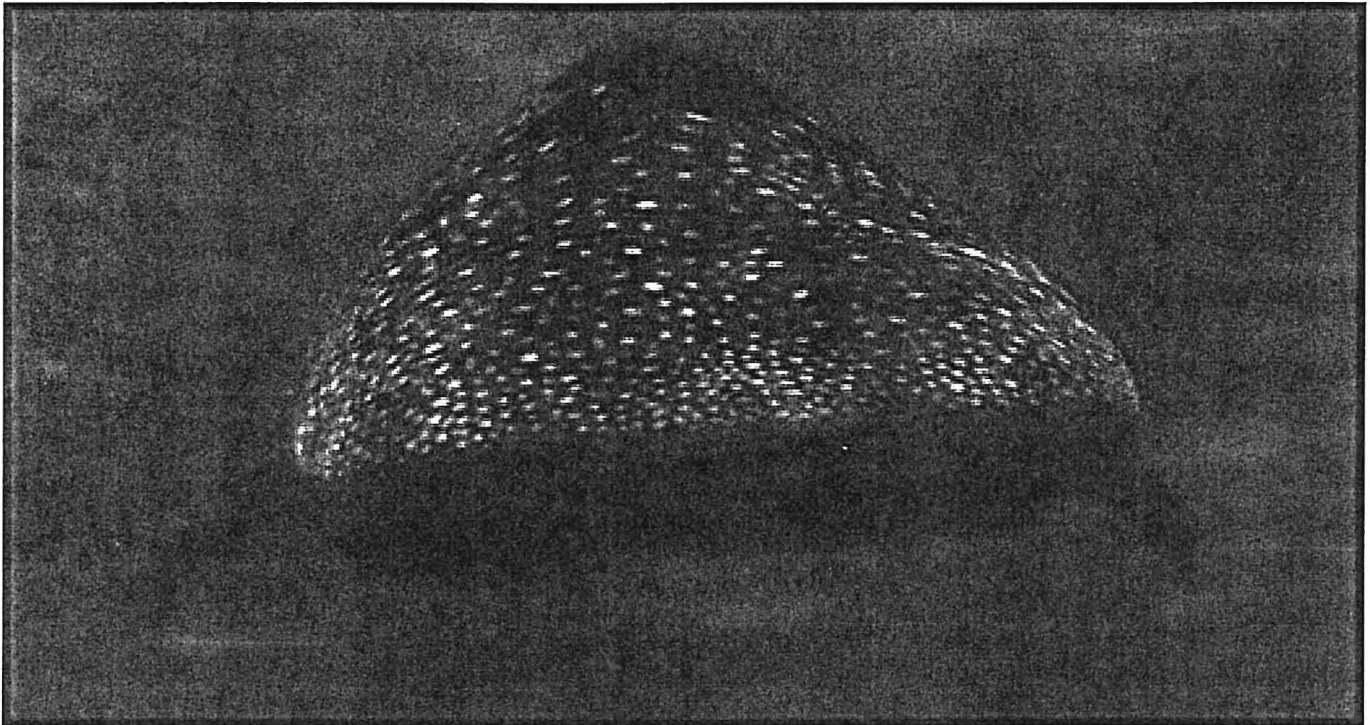


Tourism Opportunity

Commercial Whale Shark Interaction Tours Ningaloo Marine Park Western Australia



**Tour operators are invited to express their interest in conducting Commercial
Whale Shark Interaction Tours
in the Ningaloo Marine Park, for 1999-2003.**

Guidelines for Submissions

Close Friday 7th November 1997



INTRODUCTION

The Ningaloo Marine Park is internationally renowned for the unique recreation experience of swimming with whale sharks (*Rhincodon typus*). The Ningaloo Marine Park is the only readily accessible place in the world where the massive whale sharks congregate in significant numbers on a regular basis.

The Department of *Conservation and Land Management Regulations 1992* have required the licensing of all commercial activities within marine reserves. Consequently, commercial Whale Shark Interaction Tours have been licensed since 1994 under the *Conservation and Land Management Act 1984*.

With the expiry of the current licences in December 1998, the opportunity now exists for tour operators to submit expressions of interest to conduct commercial Whale Shark Interaction Tours in the Ningaloo Marine Park, for 1999-2003. These five year licences will be issued by the end of 1997.

THE LOCATION

The Ningaloo Marine Park, some 1 200 km north of Perth, extends from Bundegi Reef in Exmouth Gulf, around North West Cape, then 260 km southwards to incorporate Ningaloo Reef (see Appendix 1). The Ningaloo Reef is a fringing coral reef enclosing a shallow lagoon and is as spectacular as it is ancient. The coral formations making up the reef have created an underwater wonderland habitat with over 200 species of coral, more than 460 species of fish and a variety of marine wildlife, including whale sharks, turtles, dugongs and humpback whales.

The annual mass spawning of the reef's coral, that follows the full moons in March and April, seems to coincide with the congregation of whale sharks off the Ningaloo Reef. The whale shark "season" as it is referred to coincides with aggregations of other species such as manta rays, devil rays and swarms of jellyfish, krill and baitfish. Some of these animals are probably feeding on the same prey as the whale sharks.

MANAGEMENT OF NINGALOO MARINE PARK

The Western Australian Department of Conservation and Land Management (CALM) manages the Ningaloo Marine Park. CALM manages the marine park to provide for recreation and tourism while preserving and protecting the natural environment, social and heritage values.

CALM's primary aims in relation to recreation and tourism are:

- to protect the conservation values of an area;
- to ensure that visitors enjoy a safe and rewarding experience; and
- to assist visitors to develop a better understanding of the natural environment.

A specific tourism opportunity of Ningaloo Marine Park is the interaction with the whale sharks. Whale sharks are fully protected in the state waters of Ningaloo Marine Park under the *Wildlife Conservation Act 1950*. As little is known of the whale shark and its behavioural patterns, a precautionary approach to management of the Whale Shark Interaction Tours is required.

Please note, that whale sharks are listed as totally protected fish under Regulation 10 of the *Fish Resources Management Regulations 1995* and as such are protected from commercial and recreational fishing under Section 46 of the *Fish Resources Management Act 1994*.

MANAGEMENT OF COMMERCIAL WHALE SHARK INTERACTION TOURS

Commercial whale shark tours have been operating in Ningaloo Marine Park since 1987 and until 1992 the scale of this activity was relatively small. By 1993, the awareness of the industry had significantly increased with both national and international tourists.

The significance of the whale shark to the conservation objectives of the Ningaloo Marine Park were recognised in CALM's *Ningaloo Marine Park Management Plan 1989-1999* for the state waters of the Marine Park. It was stated that CALM had a clear responsibility to ensure that the Whale Shark Interaction Tours were managed equitably and sustainably. Measures were taken to ensure these objectives were met. Therefore to ensure the species was protected from increasing tourism demand and to ensure the conservation objectives were maintained, licensing became necessary.

Initially in 1993, the Whale Shark Interaction Tours were licensed under CALM's *Wildlife Conservation Act 1950*. Then later in 1993, CALM's Regulations came into force. These Regulations required all commercial operations to be licensed. This included the whale shark licences previously licensed under the *Wildlife Conservation Act 1950*. In 1994, the whale shark licences became Whale Shark Interaction Licences, issued under the *CALM Act 1984* [see below].

Table 1: Licensing of Commercial Whale Shark Interaction Tours, 1993 - 1998

Year	Licensing Structure	Duration of Licence	Licence Charges	Number of Licences
1993	Interaction licences issued under <i>Wildlife Conservation Act 1950</i> .	12 months, with review after the season.	No fee charged.	16
1994	Commercial tourism licences issued as Whale Shark Interaction licences, under the <i>CALM Act 1984</i> .	12 months, with review after the season.	Charge of \$10 per head /per day.	15
1995	Commercial Whale Shark Interaction licences issued under the <i>CALM Act 1984</i> .	36 months, for the northern water licences. 12 months for the southern waters, 'developmental licences'.	Charge per head/ per day of \$15 for adults; \$7.50 for children. Pre-season deposit of \$750.	15 in total, 13 for the northern waters, 2 for the southern waters.
1996	Commercial Whale Shark Interaction licences issued under the <i>CALM Act 1984</i> .	24 months remaining for northern water licences. 12 months for the southern waters 'developmental licence'.	Charge per head / per day of \$15 for adults and \$7.50 for children. Pre-season deposit of \$750.	14 in total, 13 for the northern waters, 1 for the southern waters.
1997	Commercial Whale Shark Interaction licences issued under the <i>CALM Act 1984</i> .	12 months remaining for northern waters licences. 12 months for southern waters 'developmental licence'. Review after the 1997 season.	Charge per head / per day of \$15 for adults and \$7.50 for children. Pre-season deposit of \$750. Review after the 1997 season.	14 in total, 13 for the northern waters, 1 for the southern waters.
1998	Commercial Whale Shark Interaction licences under the <i>CALM Act 1984</i> .	12 months renewal for both northern and southern waters licences.	Charge per head / per day of \$15 for adults and \$7.50 for children. Pre-season deposit of \$750.	14 in total, 13 for the northern waters, 1 for the southern waters.

In 1993, CALM in conjunction with the whale shark operators developed an operational "code of conduct" for Whale Shark Interaction Tours. This code of conduct was to protect the whale sharks, enhance visitor's experience and ensure visitor safety, whilst enabling observers to be in relatively close proximity to whale sharks. This code of conduct deals with Licensed Vessels and their Tenders; Exclusive Contact (Exclusion) Zone; and Swimmers [see Appendix 2]. To further enhance the visitor's experience, information brochures were also produced [see Appendix 3].

In 1996, to further manage human interaction with the whale sharks, the *Wildlife Conservation (Close Season for Whale Sharks) Notice 1996*, made under the *Wildlife Conservation Act 1950* was developed [see Appendix 4]. This notice is applicable to all other persons wishing to approach whale sharks, anywhere in State waters and at any time of the year.

To ensure CALM's management objectives are met, a continual review process of the management controls takes place. These have been identified in the WA Wildlife Management Program No. 27, "Whale Shark Interaction Management, With Particular Reference to Ningaloo Marine Park, 1997-2007". For your complementary draft copy of this document, please ring Elena at CALM's Como office (contact details are on page 6).

Whale Shark Interaction Tour Licences for 1999-2003

The number of licences issued under this Expressions Of Interest will revert to the original 1994 level of fifteen (15) licences. These will be divided into two areas, thirteen (13) being issued for tours from Tantabiddi and two (2) for tours from Coral Bay.

Prior to the 1999 season, the interaction licences have been divided by a geographical boundary set at Point Cloates [see Appendix 5]. This boundary will be removed for the 1999 season and beyond, so that licences issued will be restricted by boat access only and not the geographical boundary.

TOURISM OPPORTUNITY

You are invited to express your interest in providing Whale Shark Interaction Tours that are compatible with CALM's tourism and conservation objectives.

All commercial activities conducted in marine parks and other conservation areas are required to be licensed by CALM.

The number of licences is required to be limited for environmental and management reasons. For further details regarding the commercial licences see "Operator's Information Commercial Tourist Activity Licences" [see Appendix 6].

It is important to note that all operators who are currently operating Whale Shark Interaction Tours in the Ningaloo Marine Park are required to make a submission for the consideration of continuation of their operation as part of this call for expressions of interest.

SPECIAL CONSIDERATIONS

The two key areas that Whale Shark Interaction Tours operate from in Ningaloo Marine Park are Tantabiddi and Coral Bay. The Coral Bay area requires special consideration for the issuing of licences for environmental and management reasons.

Coral Bay

The operation of commercial activities are constrained at Coral Bay because of the limitations of moorings and the potential conflicts between users in Bill's Bay. This area is not only the focus for tourism activities, but also recreational and commercial fishing (outside the sanctuary zone), and many other recreational uses including, boat launching, swimming and snorkeling.

MAKING A SUBMISSION

Each submission received in response to this call for “Expressions of Interest” will be assessed by CALM and treated as a commercially confidential document.

For consideration for this expression of interest the applicant must address the following changes to the selection criteria:

The application will need to be submitted by a single person only. A joint licence holder application will not be accepted.

The applicant will need to demonstrate their association to the on-water activities. Sub-leasing of licences will not be permitted. (The applicant will need to be the owner or the lessee of the nominated vessel and must provide documentation to substantiate this.)

Selection Criteria

Expressions of Interest will be assessed according to the following selection criteria:

- Suitability of vessel and other equipment, licensed and approved by the Department of Transport or other relevant regulatory agencies;
- Skills and experience in relation to the provision of marine nature-based tours;
- Demonstrated knowledge and understanding of local conditions, environmental processes and management objectives;
- The capacity and willingness to operate within specified codes of conduct appropriate to activities in a protected area; and
- Commitment to the provision of quality visitor services.

To address the selection criteria please complete the application form attached.

Licence Conditions

Licence conditions have been developed and reviewed to ensure that commercial Whale Shark Interaction Tours are undertaken in an environmentally sustainable way, to minimise risk of injury and to prevent the animals from being harmed or disturbed. A code of conduct was developed for passengers on commercial and private vessels. [see Licence “Code of Conduct” and the Wildlife Conservation (Close Season for Whale Sharks) Notice 1996].

Licences will be offered on the basis of acceptance of these licence conditions.

Successful licence holders will be expected to liaise closely with CALM, Whale Shark Western Australia Incorporated, other concessionaires and tourist industry operators to ensure compatibility of services and operations that result in minimum detrimental impacts on the whale sharks and optimum benefit to visitors, the community and CALM.

CLOSING DATE FOR SUBMISSIONS - Friday 7th November 1997

Written submissions should be marked:

Confidential: Whale Shark Interaction Expressions of Interest

posted to

**Miss Elena Anière
Park Policy and Tourism Branch
Department of Conservation and Land Management
Locked Bag 104
Bentley Delivery Centre WA 6983**

or delivered to

**Department of Conservation and Land Management
50 Hayman Road
COMO WA 6152**

For further information, or to obtain a copy of the "*Whale Shark Interaction Management, with Particular Reference to Ningaloo Marine Park 1997-2007*" Management Program please contact:

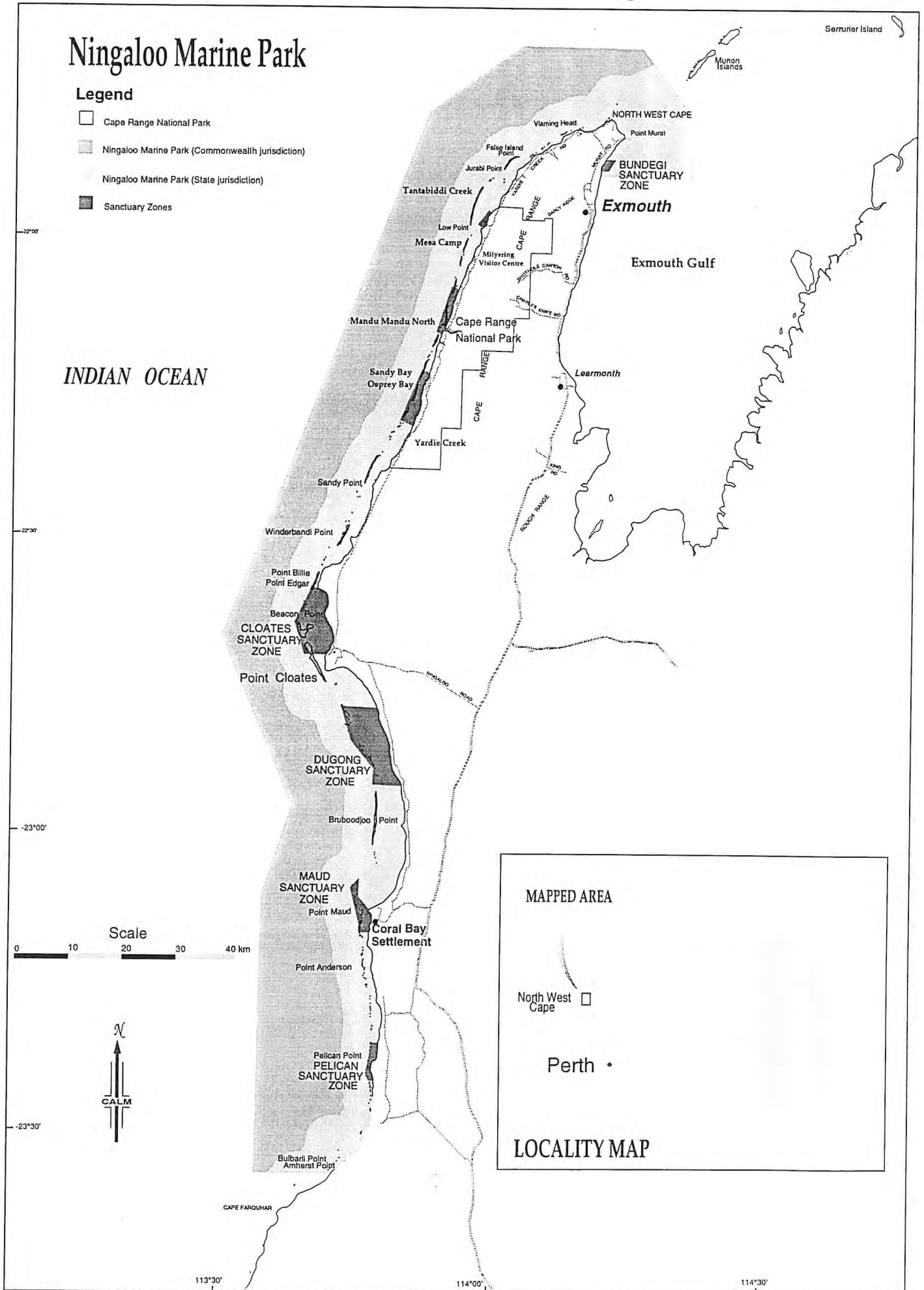
**Elena Anière
Policy Project Officer
Phone: (08) 9334 0566
Fax: (08) 9334 0253**

Please note that the acceptance of a submission does not mean that a licence will be issued. Following an assessment of all submissions, the CALM Act prescribes that the granting of licences is subject to approval by the National Parks and Nature Conservation Authority and the Minister for the Environment.

DISCLAIMER

The information contained in this document is based on sources believed to be reliable and has been provided by CALM in good faith and to the best of its ability. CALM gives no undertaking that the said information, is correct and accepts no responsibility for any resultant errors contained therein and for any loss, however caused, suffered by any individual or corporation.

Appendix 1: Ningaloo Marine Park



CONSERVATION AND LAND MANAGEMENT ACT 1984 (SECTION 101)
CONSERVATION AND LAND MANAGEMENT REGULATIONS 1992 (PART 5)
LICENCE TO ENTER UPON AND USE LAND IN ORDER TO CONDUCT GUIDED TOURS,
INSTRUCTIONAL COURSES AND LEISURE ACTIVITIES - SCHEDULE

Code of Conduct 1996

This document has been reviewed for the 1999 - 2003 Licences

Licence Number

«licence»

Expiry Date

SCHEDULE 1

1. The licence holder must abide by the conditions and restrictions as set out in the "General Licence Conditions" dated July 1994 as varied from time to time by the Executive Director.
2. The licence holder must prepare, keep and preserve a full record of operations indicating, on a daily basis and in a form approved by the Executive Director, details of whale shark sightings and the number of passengers carried during the operation of the licence, and
 - (a) make this record available to the Executive Director on request; and
 - (b) submit a copy of the record of operations to the Exmouth CALM office, at weekly intervals during the operation of the licence, for the licence activities conducted during the previous week.
3. In consideration for the licence, the licence holder must pay to the Executive Director
 - (a) a charge of \$15.00 per adult per day and \$7.50 per child (under the age of 16) per day for all paying passengers carried during the operation of the licence between 11 March and 9 June (inclusive) each year, payable on or before 10 July for each year of the licence period; and
 - (b) an annual (non-refundable) deposit on these charges of \$750.00 on or before 31 January for each year of the licence period. Note that this deposit will be deducted from the amount payable under Condition 3 (a), and represents the minimum annual licence charge payable.
4. Upon payment of the deposit required under Condition 3 (b), the Executive Director will issue to the licence holder passenger validation tickets for the purposes of Condition 6. At the completion of each whale shark season, all unused passenger validation tickets must be returned to the Executive Director on or before 10 July each year. The difference between the number of tickets issued and the number of tickets returned will be used to assist calculation of the amount payable under condition 3 (a).

CODE OF CONDUCT - COMMERCIAL WHALE SHARK INTERACTION TOURS (NINGALOO MARINE PARK)

5. The licence holder must ensure that interactions occur during daylight hours only.
6. The licence holder must ensure that each paying passenger is issued a passenger validation ticket appropriate to their age group, to be supplied by the Executive Director, for each day, or part thereof, that the passenger spends on a whaleshark interaction tour conducted by the licence holder, and that each ticket issued is validated as required by the Executive Director.
7. The licence holder must cooperate with the Department of Conservation and Land Management (CALM) in gathering and providing any data which may be required for research and management purposes.
8. The licence holder must comply with all directions issued to him by an officer designated under the CALM Act 1984 as amended.
9. The licence holder is required to make available on request a position on their vessel for any officer designated under the CALM Act 1984 as amended to monitor licence activities.
10. The licence shall be displayed in prominent position on the vessel specified on the licence.

CONSERVATION AND LAND MANAGEMENT ACT 1984 (SECTION 101)
CONSERVATION AND LAND MANAGEMENT REGULATIONS 1992 (PART 5)
LICENCE TO ENTER UPON AND USE LAND IN ORDER TO CONDUCT GUIDED TOURS,
INSTRUCTIONAL COURSES AND LEISURE ACTIVITIES - SCHEDULE

11. The licence holder must ensure that all due care is taken to avoid stressing or injuring whale sharks and interaction activities are to cease immediately any stress or injury is apparent.
12. The licence holder must ensure that activities authorised under the licence are conducted each year of the licence period. If the licence is not used to a reasonable extent, as determined by the Executive Director, the Executive Director may cancel the licence.
13. The licence is not transferable. The licence holder must explain to prospective purchasers of a business operation that involves the operation of the licence that the licence is not transferable, and that the prospective purchaser would be required to make application to the Executive Director to obtain a new licence to continue the licensed activities conducted by the licence holder.

"Licensed vessel" means the vessel nominated on the licence as the vessel to be used by the licence holder to carry out the licensed activities.

"Exclusive contact zone" means all waters within a 250 metre radius of any whale shark.

"Swimmer" includes divers, snorkelers and any other persons in the water within the exclusive contact zone.

EXCLUSIVE CONTACT (EXCLUSION) ZONE

14. Only one licensed vessel is to operate within the exclusive contact zone at any one time. All other vessels are to use boat power as necessary to avoid any encroachment into an exclusive contact zone occupied by another vessel.
15. The first vessel to encroach within an exclusive contact zone will be deemed to be "in contact" with a whale shark, regardless of the position of any spotter aircraft. Other vessels should attempt to locate other sharks, with the exception that the second vessel to arrive at the exclusive contact zone may queue to have access to the shark by maintaining a minimum distance of no less than 250 metres from the contacted shark. All other licensed vessels are to maintain a distance of at least 400 metres from the contacted shark.
16. A licensed vessel may remain "in contact" with a whale shark for a maximum of ninety (90) minutes. Swimmers from the licensed vessel may remain in the water with a shark for a maximum of sixty (60) minutes from the time of first entry into the water.
17. In the event that two (2) or more whale sharks are within a 250 metre radius of each other the limit of one vessel "in contact" still applies until the sharks separate by more than 250 metres, in which case each shark will have its own exclusive contact zone.
18. In the event that two (2) or more whale sharks with swimmers "in contact" from separate vessels close to within 250 metres of each other, skippers must cooperate to ensure the safety of their swimmers and the sharks.

LICENSED VESSELS AND THEIR TENDERS

19. The vessel nominated by the licence holder to be the licensed vessel must not be nominated as the licensed vessel to be used by another licence holder.
20. The licence holder must nominate a principal vessel to be used during the operation of the licence, and may nominate a substitute vessel to be used only in the event that the primary vessel is unavailable. The substitute vessel may be a vessel nominated as the licensed vessel to be used by another licence holder, only where unavailability of the primary vessel is for mechanical reasons.
21. Licensed vessels will be restricted to a maximum of one diving tender in addition to the licensed vessel.
22. Licensed vessels and diving tenders must not approach within thirty (30) metres of a whale shark and shall move at a slow speed (8 knots or less) when within an exclusive contact zone.

**CONSERVATION AND LAND MANAGEMENT ACT 1984 (SECTION 101)
CONSERVATION AND LAND MANAGEMENT REGULATIONS 1992 (PART 5)
LICENCE TO ENTER UPON AND USE LAND IN ORDER TO CONDUCT GUIDED TOURS,
INSTRUCTIONAL COURSES AND LEISURE ACTIVITIES - SCHEDULE**

- 23. Licensed vessels and tenders may only approach whale sharks from ahead of the shark's direction of travel and must drop swimmers into the water no less than thirty (30) metres ahead of the shark.
- 24. Licensed vessels must clearly display one (1) dive flag (International Code Flag "A") and one "whale shark" flag of a design approved by the Executive Director to indicate when swimmers are in the water and must maintain radio contact with other approaching vessels to advise that diving/shark interactions are in progress.

SWIMMERS

Licence holders must ensure that the "in water" activities of swimmers comply with the following:

- 25. Swimmers must treat all whale sharks with caution and at all times recognise that while they appear to be "gentle giants" they are wild animals that can inflict serious injury if they strike a swimmer with their body, tail or fins.
- 26. Swimmers must not touch a whale shark under any circumstances and must maintain a minimum distance of at least three (3) metres from the head or body of a shark and four (4) metres from its tail.
- 27. Swimmers must not attempt to block a whale shark from its chosen direction of movement.
- 28. Swimmers must not undertake flash photography.
- 29. The number of swimmers in the water with a whale shark at any one time is limited to a maximum of ten (10).
- 30. The number of swimmers to be carried by a licensed vessel is limited to a maximum of twenty (20) unless otherwise endorsed on the licence.
- 31. Swimmers must not use dive scooters or any other motorised propulsion aid.

CAUTION: Whale sharks are normally gentle but are capable of inflicting injury or death, particularly if harassed or distressed.

- 32. The licence will not be automatically renewed upon expiry of the licence period. The licence holder should expect that licence renewal will be subject to a competitive application process, following a full review of licence activities and numbers.

INDEMNITY

- 33. The Licence Holder hereby indemnifies the Executive Director from and against liability for all actions, suits, demands, costs, losses, damages and expenses (hereinafter called "claims") which may be brought against or made upon the Executive Director or which the Executive Director may pay, sustain, or be put to by reason of damage to property or injury to persons (including death) caused by or arising in any way out of the conduct of the Licence Holder on any lands or waters managed by the Department of Conservation and Land Management ("CALM") or generally as a result of the presence of the Licence Holder, or the Licence Holder's agents or clients on lands or waters managed by CALM and for the purpose of this indemnity the Licence Holder shall at all times during the period of the licence maintain a policy of public liability insurance in the names of the Licence Holder and the Executive Director to the extent of their respective rights and interests for a sum of not less than 5 million dollars (\$5,000,000) to cover claims to which this indemnity applies made against the Executive Director or the Licence Holder AND SHALL LODGE WITH THE EXECUTIVE DIRECTOR proof of the insurance policy with the interest of the Executive Director noted thereon and shall on demand by the Executive Director produce evidence of current premiums required under the policy having been paid.

I confirm that I have read and will comply with the conditions and restrictions above.

.....

 Licence Holder Date



Photo - Doug Caughman

WHALE SHARKS

The mass spawning of more than 200 species of coral in March and April each year is part of a chain of biological events that heralds the arrival, in Ningaloo Marine Park, of the world's largest fish, the whale shark (*Rhiniodon typus*).

These gentle giants cruise the world's oceans in search of concentrations of zooplankton. They have thousands of tiny teeth arranged in more than 300 rows, but they neither bite nor chew their food. Water is drawn into their large mouths and strained through gills, where a fine mesh of gill rakes extract the tiny plankton. They are also thought to supplement their diet periodically with squid and small fish such as anchovies and sardines.

Whale sharks are found in a band around the equator between about 30° north and 35° south. They prefer surface water temperatures between 22°C and 27°C where cool nutrient-rich currents mingle with warm plankton-laden waters. Their backs are darker in colour than their bellies, but both have white spots almost five centimetres in diameter. They have been reported to reach 18 metres in length, but are more commonly 4–12 metres. They are known to weigh up to 11 tonnes and are long-lived, but just how old they become is unknown.

Ningaloo Reef is the only place in the world where whale sharks are known to appear regularly in any numbers, in near-shore waters, easily accessible to observers.

WHO TO CONTACT

Details of whale shark observations can be left at:

EXMOUTH DISTRICT OFFICE
Payne St (Old Shire Chambers)
PO Box 201
EXMOUTH WA 6707
Ph (099) 49 1676 Fax (099) 49 1580

MILYERING VISITOR CENTRE
Cape Range National Park
Phone/Fax (099) 49 2808

PILBARA REGIONAL OFFICE
SGIO Building
Welcome Road
KARRATHA WA 6714
Ph (091) 86 8288 Fax (091) 44 1118



DEPARTMENT OF CONSERVATION
AND LAND MANAGEMENT

INDEMNITY

In participating in the whale shark watching tour, the participant acknowledges and assumes all associated risks and will hold the Executive Director, his employees, servants and agents free from any and all liability, causes of action, debt, claims and demands of every kind and nature whatsoever which may arise out of or in connection with participation in the tour.

WHALE SHARKS in NINGALOO MARINE PARK



ExperiencE

A GUIDE FOR PASSENGERS
OF COMMERCIAL TOURS



DEPARTMENT OF CONSERVATION
AND LAND MANAGEMENT



HOW YOU CAN HELP

CALM is interested in any information you can acquire about whale sharks. You can assist skippers by helping to record the following details when you next see a whale shark:

- date, time and location
- weather and sea conditions
- number of sharks seen
- gender of each animal
- their behaviour
- approximate length of each shark
- lateral markings (located 60–90 cm behind the gill slits. Note both sides if possible) and scars*
- tags* (these resemble marlin tags and are thin strips of plastic about 3 cm long, often covered in weed).

**Photographs provide a useful method of recording these details and help in the identification of individual sharks.*

Photographs should be dated and recorded on the skipper's data sheet.

Please do not use flash as this may upset the sharks.

WHERE TO LOOK FOR TAGS AND LATERAL MARKINGS

Scars and lateral markings can be seen in this area on both sides.

Tag sites.

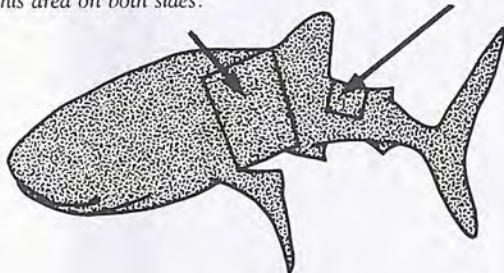


Photo - Simon Jones

QUESTIONNAIRE

One way that you can assist in protecting whale sharks is to complete the following short questionnaire. We do not wish to know details about you in particular, but rather what type of person comes to interact with whale sharks, what facilities are needed, and what experiences he or she expects. The questionnaire can be mailed **free of charge** anywhere in Australia. Thank you.

(1) Country of permanent residence _____

(1a) Postcode (Australian permanent residents only) _____

(2) How long have you spent in the following:

North West Cape Area?

Western Australia?

1 - 7 days

1 - 7 days

8 - 28 days

8 - 28 days

Longer

Longer

(3) Did you first find out about whale sharks at Ningaloo from a:

television program?

radio program?

local tourist bureau?

newspaper?

magazine?

other?

(4) Have you been whale shark watching before? Yes No

(5) Would you return to Ningaloo Reef to whale shark watch again?
 Yes No

(6) What comments do you have on your whale shark experience?

(7) Do you wish to have further information sent to you about:

other WA national parks?

Yes No

other WA ecotourism attractions?

Yes No

the role of CALM?

Yes No

LANDSCOPE magazine?

Yes No

If you would like further information, please write your name and address:

_____ P/code _____

Return questionnaire to: **REPLAY PAID NO 36**
(no stamp required) Tourism & Community Involvement
Dept of Conservation & Land Management
PO Box 104
COMO WA 6152

CALM'S ROLE IN WHALE SHARK WATCHING

The Department of Conservation and Land Management (CALM) conserves and manages Western Australia's wildlife and the lands, waters and resources entrusted to the Department for the benefit of present and future generations.

CALM, therefore, ensures that access to natural attractions is well managed, is ecologically sustainable, and only occurs where appropriate. To do this requires a diverse range of skilled professional staff including scientists, rangers, wildlife officers, recreation planners and commercial operations administrators.

CALM tries to recover the cost of management and research activities through a system of licence charges on tour operators. By doing this, commercial whale shark watching can be managed to be both ecologically and economically sustainable.

Tour operators are expected to provide their passengers with a safe, interactive tour with the whale sharks without causing harm to the animals.

Participation in whale shark tours, therefore, provides a direct benefit to further research into whale shark behaviour and ensure that future generations will also have the opportunity to swim with whale sharks at Ningaloo.



Photo - Doug Coughran



Photo - Simon Jones

RESEARCH

Very little is known about whale shark numbers, their behaviour patterns, or how much human contact they will tolerate before becoming disturbed and perhaps leaving the area. Care must be taken to ensure that we do not lose the best-known whale shark observation area in the world.

There is almost no scientific information about whale sharks' migratory patterns, breeding behaviour or even precisely what species of zooplankton they eat.

Researchers have looked at whale shark distribution and abundance patterns along the Ningaloo Reef. Plankton sampling has been carried out to identify further the sharks' food species. New initiatives include identification programs to help recognise individual sharks through their lateral markings and scar patterns. Other developments include the use of 'smart tags', which are digital data loggers attached to the dorsal fin, to record animal position and depth for periods of up to nine years, and sociological research into the tourism aspects of whale shark interactions.



Photos - Doug Coughran



WATCHING WHALE SHARKS

Whale sharks are fully protected under the Wildlife Conservation Act and the CALM Act. Although they appear to be 'gentle giants', they are wild animals that can inflict serious injury if they strike a swimmer with their body, tail or fins. To minimise the risk of injury and to prevent the animals from being harmed or disturbed, the following code of conduct has been prepared for passengers on commercial tours.

SWIMMERS IN THE CONTACT ZONE:

- must not attempt to touch or ride on a whale shark, block a shark from its chosen direction of movement or approach closer than one metre from the head or body and four metres from its tail;
- must not undertake flash photography or use motorised propulsion aids;
- are limited to a maximum of 10 people in the water at any one time.



Photo - Pip O'Dell

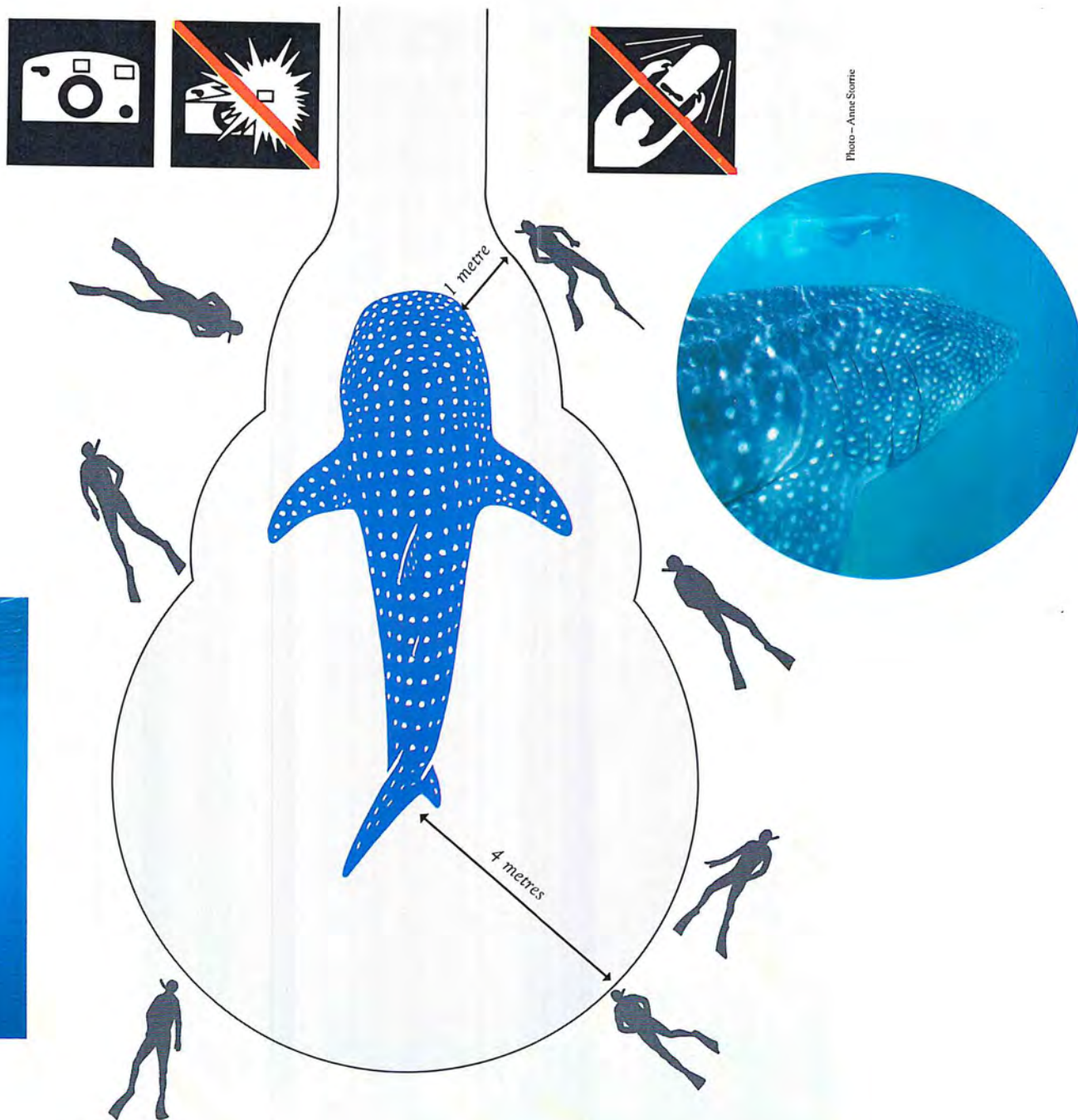


Photo - Anne Stormie

CONSERVATION AND LAND MANAGEMENT

23

CM401

WILDLIFE CONSERVATION ACT 1950**WILDLIFE CONSERVATION (CLOSE SEASON FOR WHALE SHARKS) NOTICE 1996**

Made by the Minister under section 14 (2) (a).

Citation

1. This notice may be cited as the *Wildlife Conservation (Close Season for Whale Sharks) Notice 1996*.

Object of this notice

2. The object of this notice is to allow limited interaction between humans and whale sharks in State waters, while protecting whale sharks from disturbance and molestation, by setting out acceptable approach distances, etc., for vessels, swimmers and divers when in proximity to a whale shark, and to prevent some other activities that may disturb whale sharks.

Interpretation

3. (1) In this notice—

“contact vessel” means a vessel, and any tender vessel accompanying the vessel, within a contact zone;

“contact zone” means the area within a radius of 250 metres of any whale shark that is in State waters;

“whale shark” means the fauna *Rhincodon typus*.

(2) It is the responsibility of the person in charge of a vessel to comply with a requirement placed on that vessel by this notice.

Declaration of a close season

4. (1) Subject to clauses 5 to 14, a close season is declared in respect of whale sharks in all State waters.

(2) The close season is for the period commencing on the day on which this notice is published in the *Government Gazette* until the day on which this notice is cancelled or this clause is varied by a notice under section 14 (2) (b) of the Act.

Restriction on number of vessels in or near contact zone

5. (1) A vessel must not enter a contact zone if another vessel is in the contact zone.

(2) If a vessel is in a contact zone and a second vessel is within 400 metres of the relevant whale shark, any other vessels must maintain a distance of at least 400 metres from that whale shark.

Restriction on period in contact zone

6. A contact vessel must not remain in the same contact zone for longer than 90 minutes.

Restriction on vessel speed in contact zone

7. (1) Subject to subclause (2), a contact vessel must not exceed 8 knots in a contact zone.

(2) If, for reasons of safety, a contact vessel must exceed 8 knots in a contact zone, that vessel must leave the contact zone as soon as is practicable.

Proximity of contact vessel to whale shark

8. A contact vessel must at all times maintain a distance of at least 30 metres from the nearest whale shark.

Direction of approach

9. If swimmers or divers are to enter the sea from a contact vessel to view a whale shark, the contact vessel must approach a whale shark from the opposite direction of travel to the whale shark's direction of travel.

Physical contact with whale sharks prohibited

10. Subject to clause 12, a person must not touch or ride on, or attempt to touch or ride on, a whale shark.

Proximity of swimmers or divers to whale shark

11. Subject to clause 12, a person in the sea must at all times maintain a distance of at least—

(a) 3 metres from the head or body of a whale shark, when approaching a whale shark from any direction; and

(b) 4 metres from the tail of a whale shark, when approaching the tail from any direction.

Exception when authorized under the Act

12. Clauses 10 and 11 do not apply to a person who is authorized under the Act to make physical contact with a whale shark, if that contact is in accordance with the authorization (eg. *authorized under a scientific licence*).

Motorized swimming or diving aids, and other aids, prohibited

13. (1) A person must not use a submersible motorized or otherwise powered swimming or diving aid in a contact zone.

(2) A person must not use any device capable of towing or carrying a person, that is towed behind a vessel, in a contact zone.

Other taking, etc., of whale sharks prohibited

14. (1) A person must not capture, disturb, molest or take in any other way, a whale shark unless that person does so in accordance with this notice and the *Wildlife Conservation Act 1950*, or unless it is lawful for that person to do so—

(a) under the *Fish Resources Management Act 1994*; or

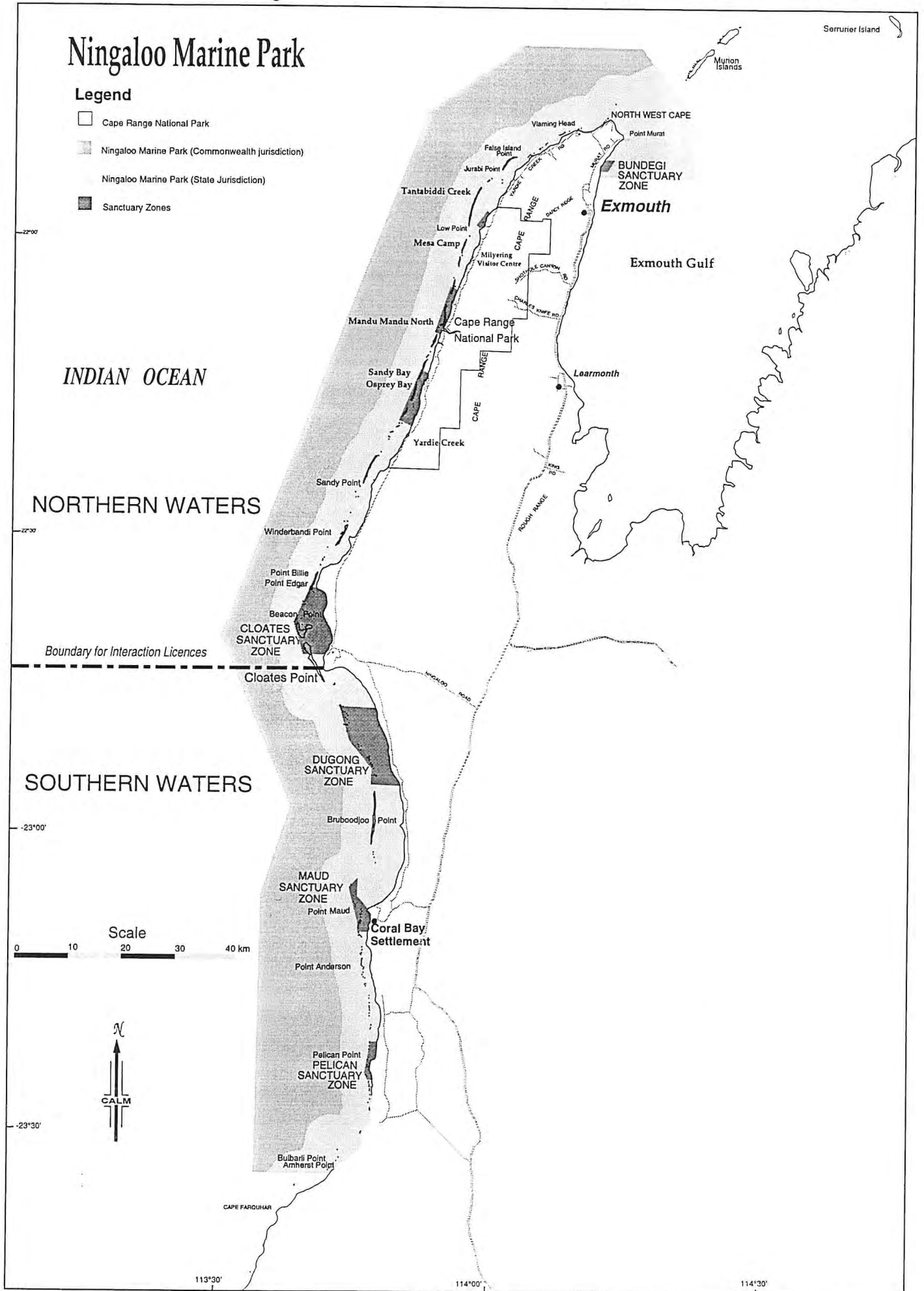
(b) under the *Conservation and Land Management Act 1984*.

(2) To the extent that this notice and the *Wildlife Conservation (Fauna of Ningaloo Marine Park) Notice 1992** are inconsistent, this notice prevails.

[* *Published in Gazette of 17 July 1992 at p. 3388-9.*]

P. G. FOSS, Minister for the Environment.

Appendix 5: Geographical boundary for Northern and Southern waters up to 1998



OPERATORS' INFORMATION COMMERCIAL TOURIST ACTIVITY LICENCES

If you conduct or you are considering conducting a commercial tourist activity in WESTERN AUSTRALIA on lands or waters managed by the Department of Conservation and Land Management (CALM) you will need a licence.

This brochure answers questions that arise over the issuing of licences and will assist tour operators in obtaining their licence.

1. When is a licence required?

A licence is required for any commercial activity on all lands and waters managed by CALM and vested in the National Parks and Nature Conservation Authority (NPNCA).

The *Conservation and Land Management Regulations, 1992* require all commercial operations to be licensed. The failure to obtain a licence to sell goods or services carries a penalty of \$2,000 (Reg. 11).

2. What are CALM Lands and Waters vested in the NPNCA?

CALM manages over 19 million hectares of land and waters in Western Australia that are reserved for various purposes. Lands and waters vested in the NPNCA include:

CATEGORY:	MAIN PURPOSE OF RESERVATION
Nature Reserve/ Marine Nature Reserve	Conservation of the natural environment, scientific study and preservation of features of archaeological, historic and scientific interest.
National Park /Conservation Park	'Conservation and recreation consistent with the protection of flora and fauna and preservation of features of archaeological, historic and scientific interest.
Marine Park	Marine conservation and recreation consistent with the protection of flora and fauna and preservation of features of archaeological, historic and scientific interest.
Other Reserves	Held for a variety of purposes, but normally related to recreation or wildlife conservation.

As it can be seen, some tourism activities will be incompatible with the purpose for which some categories of land have been reserved.

Tourism activities will only be approved if they are consistent with the provisions of a management plan for the area involved, or in the absence of a management plan are either 'compatible' or 'necessary' operations in relation to the park or reserve involved.

3. Why is a licence required?

In its role as manager of the public estate, CALM has two major responsibilities in relation to tourist activities: to protect the conservation values of the land, and to ensure that visitors enjoy a safe and rewarding experience and develop a better understanding of the natural environment. CALM shares this second responsibility with tour operators who also want their clients to enjoy their experience.

The issuing of licences enables CALM to monitor access and use of lands under its control and to ensure that the conservation values of these areas are maintained. By protecting these values

the tour operator will be able to return to popular locations on many occasions and find them in an unspoiled condition.

4. What is a commercial operation?

A commercial operation is the selling of any product or service by any person, partnership, company or other organisation for reward or other consideration.

Examples of the types of activities which may be conducted commercially on CALM lands include:

- vehicle tours or safaris;
- guided walks;
- adventure activities such as white water rafting and rock climbing;
- minor facilities and services, eg. souvenir outlets;
- charter tours.

5. Charter Operators. Who requires the licence?

The licence is required by the person or organisation responsible for conducting the activity. In circumstances where a tour operator utilises the transport services of another operator, it is the tour operator who should be licensed. However, when transport services extend to guiding or conducting an activity, it is that operator who should be licensed. In all cases, commercial activities must be conducted by licensed operators who are in a position of responsibility for the activity being undertaken.

6. What type of licence is required?

CALM issues two types of licence depending on the nature of the commercial activity.

A. CLASS 'T' LICENCE

This is normally required when the activity is open to many operators. In these circumstances, environmental and visitor management objectives can be achieved simply through appropriate licence conditions. The majority of tour operators will fall into this category. Examples of class 'T' licences include safari tours, guided walks and general snorkel/dive charters.

B. CLASS 'E' LICENCE

Class 'E' licences would generally be required when there are environmental and/or management reasons why licence numbers are required to be limited. Examples of 'E' class licences include whale shark tours (where the demand for licences exceeds the number that can be sustainably managed) and boat tours in confined areas (where congestion and environmental damage may result from too many operators). Expressions of Interest are usually called for before a class 'E' licence is issued.

7. How to obtain a licence.

- a. Contact the nearest office of the Department for an application form CLM 149. Where a submission is being made to an "expression of interest" advertisement, this form will be included in the Guidelines to submissions prepared for each specific advertisement.
- b. Complete the form. The form seeks information on the purpose, location, type and size of the proposed tour, as well as other information needed to evaluate the application, such as your experience and safety considerations.

- c. Forward the application to the office from which the application form was obtained with the prescribed application fee of \$50.00.
- d. Departmental staff will assess your application and, if appropriate, recommend conditions upon which a commercial activity licence may be issued. Approval will be sought from the National Parks and Nature Conservation Authority (NPNCA) (the vesting authority for parks and reserves) and the Minister for the Environment to issue a licence.
- e. Following this approval, any specific licence conditions will then be sent to you for information. Your licence will then be issued subject to the payment of required licence charges and sighting of your public liability insurance policy.

8. What other requirements do you have to meet?

If your activity includes the use of a motor vehicle or a boat, appropriate licences and certificates for their use are necessary throughout the term of the licence. These are obtained from the Departments of Transport.

A commercial operator must have Public Risk Liability insurance with a minimum cover of \$5 million before a licence is issued. This cover must include the Executive Directors interests.

A licence will not be issued until these requirements are met.

9. What if the activity covers a number of areas of WA.?

Operators whose activities cover a number of areas can generally include them on the one application and they are then approved on one licence. In cases where more than one park or reserve is visited, each park or reserve involved must be identified separately on the application. Licences will not be issued for "all parks and reserves".

10. What if you don't want to be tied to a specific route or a timetable?

Depending on the areas you visit and the nature of your operation, flexibility can be built into your licence.

11. What happens if you sell your business?

Tour Licences are not tangible assets and cannot be transferred to a new owner. Prior to any change of ownership of a business, the potential purchaser should enquire whether a replacement licence will be issued.

12. How long is a licence valid?

Class 'E' Licences can be valid for one or more years (to a maximum of five years). The period is determined by CALM and will depend on the nature of the activity, the amount of capital investment made by the licence holder and the impact on the environment.

Class 'T' Licences are granted on an annual basis and are generally valid to either 30 June or 31 December each year.

13. What are the fees and charges and what are they used for?

Commercial tourist activities on CALM lands can involve the Department in significant additional management costs. Also, in the case of class 'E' licences, a portion of the financial returns from the activity can be considered as deriving directly from the use of these public lands and involve a degree of protection from open competition. It is, therefore, considered appropriate that some fee be charged related to the use of the land for the commercial activity.

Licence fees and charges are levied in accordance with the *Conservation and Land Management Regulations, 1992*.

FEES

There is a non-refundable \$50 application and renewal fee which is paid at the time of submitting your application for a licence or licence renewal to your nearest CALM office.

Application and renewal fees are used to help cover the costs of processing the application/renewal.

LICENCE CHARGES

All other charges associated with a licence are directed toward the management of licence activities and the provision of services and facilities to benefit users of the park or reserve.

Examples of management costs include:

- the establishment of monitoring programs to ensure the continued sustainability of tourist activities;
- the provision of information and interpretive material to enhance the quality of visitor experience and understanding of the natural environment; and
- the provision of facilities and services to benefit park users and minimise potential impacts.

Licence charges are vital to ensuring that tourist activities are both environmentally and financially sustainable.

Class 'E' Licence charges are linked directly to the level of activity of the licence and will generally be a percentage of gross receipts from licensed activities or a "per head" figure based on the number of passengers carried. Circumstances that require class 'E' licences often mean that intensive management and monitoring is required to ensure the balance between use and conservation is maintained. The costs of such management can be substantial. Licence charges are used to help offset the costs of management and research activities necessary to ensure the continued sustainability of nature based tourism activities. Charges are generally payable at quarterly intervals.

Class 'T' Licence charges are a fixed annual amount. For 1996/97, licence charges are \$250.

This charge is payable at the time licences are issued.

PARK ENTRY AND OTHER FEES

Entry, camping, caving and other fees apply at a number of parks in Western Australia. These fees are levied in accordance with the *National Parks Authority Regulations* and are independent of commercial licence requirements. Fees collected are directed towards the provision and maintenance of facilities and services for the benefit of all park users.

Where levied, these fees apply to all visitors, private and commercial. Possession of a Commercial Licence does not negate the operator from paying the prescribed fees for clients of tours conducted by the operator.

Credit facilities are available to approved licence holders for the payment of entry, caving, camping and other fees. A credit application form must be completed and approved before credit facilities are provided.

The payment of fees by a licence holder can be done in the following ways:

- (i) cash or cheque,
- (ii) a CALM docket is completed (one docket per vehicle) The licence holder is then invoiced for the amount.

Either of the above are to be handed to CALM staff or left in an honour box at the time of use. The use of a tour operators own docket is not approved and CALM docket books are only made available after credit facilities are approved.

14. Who checks on licences?

CALM staff carry out random checks to ensure that commercial activities on CALM lands are covered by licences and that operators adhere to licence conditions. CALM can cancel or suspend licences if conditions are not complied with.

15. What are the benefits?

By safeguarding the beauty and diversity of Western Australia's natural environment and by complying with these requirements, you will be helping CALM to ensure that the beauty and diversity of Western Australia's natural environment and the natural attractions upon which your business is based are not diminished. CALM will also help you in any way it can to improve the experience of visitors on the land it manages.

For further information and assistance contact your nearest office of the Department of Conservation and Land Management.