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Swimming and interacting with **humpback whales** in Ningaloo Marine Park



Ningaloo Marine Park Trial



Department of Biodiversity,
Conservation and Attractions





Interacting with humpback whales

Humpback whales are a favourite with many observers because of their acrobatic and playful behaviour. They are extremely large, powerful animals, fast moving and unpredictable and so it is important to understand that interacting with them can be risky, both for the whale and the observers. Rules exist under the *Biodiversity Conservation Act 2016* for the protection of marine mammals including humpback whales. Both commercial and private vessels (including everything from surfboards, kayaks, yachts to launches) are bound by these rules, which must be adhered to while **watching** whales from a vessel.

Under these rules **members of the public or people on private boats must not attempt to swim with whales.**

The opportunity to swim with humpback whales is possible in Ningaloo Marine Park by going out with an operator licensed to participate in the 'In-water humpback whale interaction' trial as part of a commercial whale interaction tour.

Whale watching

Rules for whale watching from a vessel (*Biodiversity Conservation Regulations 2018*).

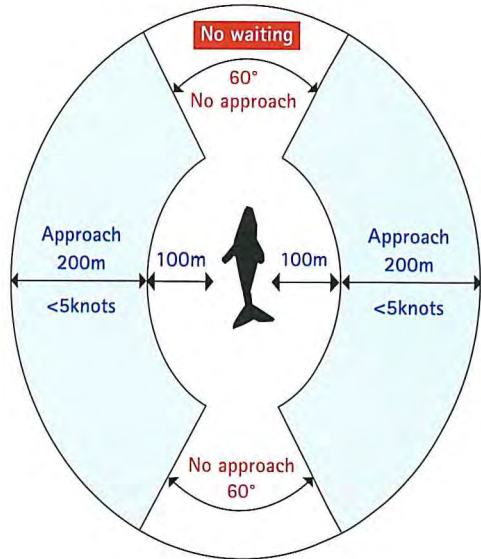
Swimming with, feeding or touching whales is not permitted.

If you are in the water and a whale approaches, you must endeavour to keep a minimum distance of 100m between yourself and the whale.

Any marine vessel, whether powered by a motor, paddle or sail that is within a distance of 300m from a whale is within the whale's approach zone.

The following special rules apply within the **approach zone**:

- A vessel must not cause a whale to alter its direction or speed of travel.
- A vessel must not disperse or separate a group of whales.
- A vessel, whether under power or drifting, must not approach a whale from a direction within an arc of 60 degrees of the whale's direction of travel or an arc of 60 degrees of the whale's opposite direction of travel.
- A vessel must not approach a whale within a distance of 100m (except licensed 'RESEARCH' vessels in particular circumstances).
- Where a whale approaches a vessel and the distance between the whale and the vessel becomes less than 100m, the master of the vessel must place the vessel's motor or motors in neutral or move the vessel at <5 knots away from the whale until the vessel is outside the approach zone.
- A vessel must not block the direction of travel of a whale, or any passage of escape available to a whale, from an area where escape is otherwise prevented by a barrier, shallow water, vessel or some other obstacle to the whale's free passage.
- A vessel master must abandon any interactions with a whale at any sign of the whale becoming disturbed or alarmed.





Swimming with humpback whales – the trial

Whale watching has become an increasingly popular pastime in recent years, yet only a few locations around the world offer the experience of swimming with humpback whales. Such destinations include Tonga, the Dominican Republic and Queensland, Australia.

These amazing creatures were on the brink of extinction in the mid-1960s, yet due to a ban on commercial whaling of humpback whales in the southern hemisphere in 1963 and strict environmental laws, numbers have steadily recovered. The Western Australian population is now estimated to have returned to pre-whaling levels.



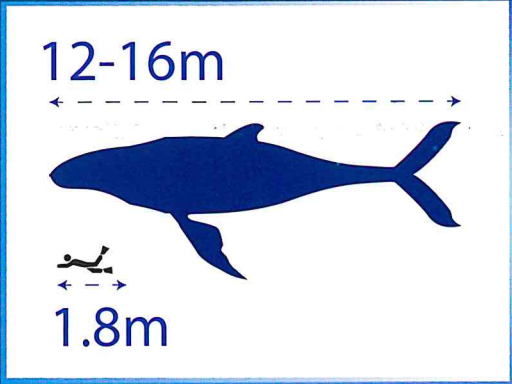
In 2016, Western Australia began trialling in-water humpback whale interaction tours in Ningaloo Marine Park (State waters) to give visitors the opportunity to swim with humpback whales, provided the conditions were suitable both for whales and swimmers.

On the basis that the trial has been successful over three seasons without evidence of negative impacts from in-water interactions on humpback whales nor significant risks to public safety and a high level of satisfaction from visitors, the State Government determined to continue with the trial in 2019 and 2020 whilst it transitions to a permanent licensed industry.



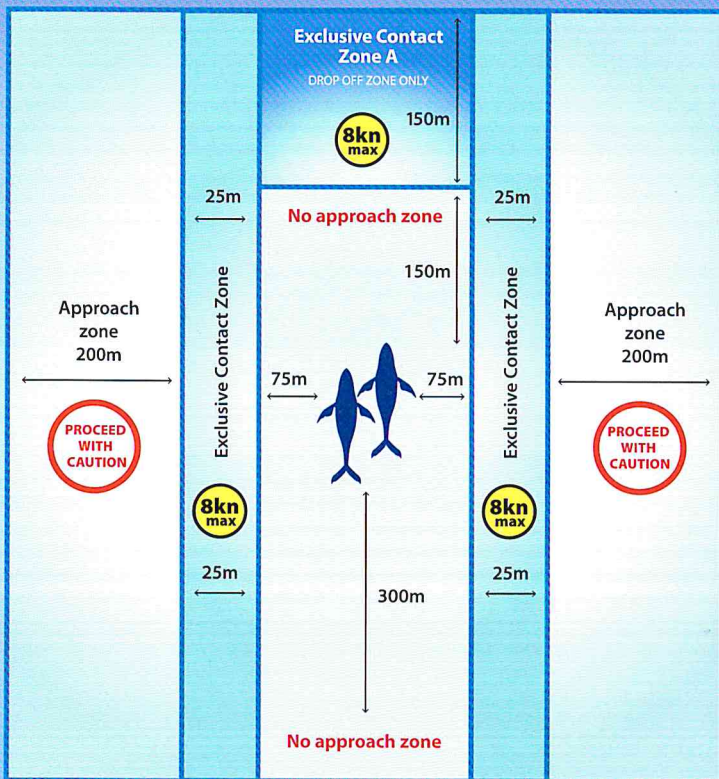
How the **trial** will work in 2019 and 2020.

- The trial will run from 1 July for operators based in Coral Bay and from 1 August for operators based in Exmouth. The trial will cease 30 November each year.
- The trial will be conducted in **Ningaloo Marine Park (State waters) and Muiron Islands Marine Management Area only. Waters of the Ningaloo Marine Park (Commonwealth waters)** and Exmouth Gulf outside the marine park are not included in the trial. Ningaloo Marine Park (Commonwealth waters) and Exmouth Gulf provide whales with refuge away from this activity, with Exmouth Gulf being an important resting area, particularly for mothers and calves.
- Existing whale shark tour operators have been given the opportunity to participate in the trial. These operators already have an Electronic Monitoring System (EMS) installed on vessels that allow real time monitoring and data input to assist in the management of the program.
- A legislative framework exists which allows **trial participants only** to conduct in-water activities with humpback whales in a manner that aims to reduce the risks to visitors and minimise disturbance to whales. Operators will spend time observing whales before allowing swimmers to enter the water under strict conditions that must be adhered to. This will allow the interaction to be on the whales' terms.
- DBCA will provide information on humpback whale interaction protocol to all operators and crew participating in the trial. The trial will be closely monitored and evaluated by the DBCA.



In order to minimise both risks to visitors and disturbance to whales, interaction conditions apply for commercial operators participating in the trial when interacting with humpback whales within Ningaloo Marine Park. These conditions are outlined in the diagrams on the following pages

Interaction conditions for vessels – licensed trial participants only



Humpback Whale (HW) flag must be displayed when in the Exclusive Contact Zones and when swimmers are in the water.



Vessels are not to split whale pods.



Vessels have a 60 minute time limit within Exclusive Contact Zones.



Vessel speed in the Exclusive Contact Zones is a maximum of 8 knots.



Only one vessel in any of the Exclusive Contact Zones.

In addition to the rules depicted in the two diagrams above, there are additional rules applicable to the trial:

- If a whale approaches a vessel resulting in the vessel being in the 'no approach zone', the vessel must disengage or switch off engines or move away slowly at a speed that does not cause wake. Swimmers are not permitted in the water in this instance.

Vessel operators:

- must not conduct leapfrogging or handballing activities
- must not loiter in the Exclusive Contact Zone(s) unless intending to conduct in-water interactions with humpback whales, i.e. if whale watching only, trial vessel must adhere to the rules that all other vessels must follow.

Interaction conditions for swimmers – licensed trial participants only



Do not attempt to touch or free-dive with a humpback whale

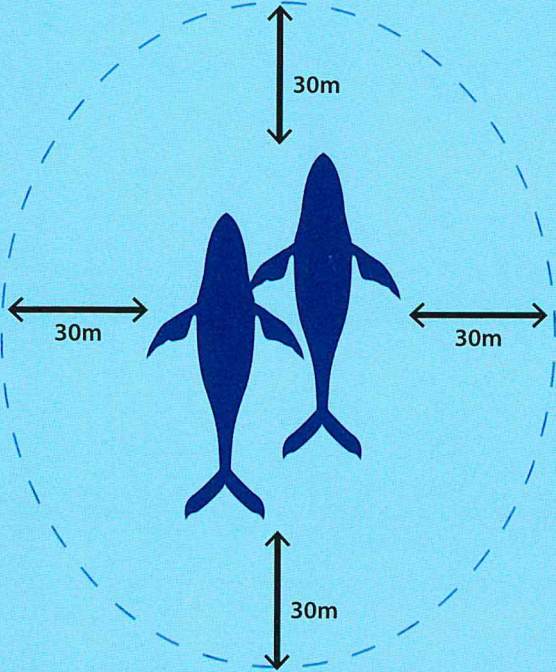


No cameras on extension poles



Do not undertake strobe or flash photography

Members of the public or people on private boats must not attempt to swim with whales



Only 7 swimmers and 2 crew or photographers/videographers in the water at any one time.



Swimmer must not approach closer than 30m to whale. If whale approaches, swimmer must attempt to maintain 15m from whale.

Vessel operators:

- must cease contact with any whale at any sign of the animal becoming disturbed or alarmed
- must display a dive flag when swimmers are in the water
- shall not use any device capable of towing or carrying a person that is towed behind a vessel in a contact zone
- must not allow swimmers to enter the water with pods containing injured, sick or entangled whales
- must not allow swimmers to enter the water if orcas have been observed within two hours and within five nautical miles of the licensee's vessel
- must not play back recordings of whale vocalisation, or allow whale vocalisation recordings to be played by tour participants, from either the vessel if it be loud enough to be heard underwater or in the water during a tour.

Research and monitoring

The evaluation and credibility of the in-water humpback whale interaction management program in Ningaloo Marine Park will be reliant on defensible and independent research and monitoring that can be used to confidently evaluate the success of the trial and inform management decisions.

DBCA will be working with independent researchers and commercial operators to develop and undertake research and monitoring to:

- assess visitor satisfaction and visitor safety
- assess potential impacts on the short and long-term behaviours of humpback whales
- identify critical habitat for humpback whales (particularly calves) in the Ningaloo region.

The results will inform an adaptive management approach and help managers and operators to learn from the trial.



Happy whales, happy watchers

The key to interacting with such a large animal is to give it space so it feels comfortable to behave naturally. The best experience is when the observer becomes part of the scenery, giving the whale freedom to act as it chooses. A whale that feels disturbed will spend less time at the surface and is more likely to move out of the area, resulting in a brief and less spectacular wildlife encounter.

Should you see whales behaving in the following ways please move away slowly (<5 knots) as you may be disturbing them:

- attempting to move away from a boat or leaving the area
- regular changes in swimming speed or direction
- sudden changes in behaviour
- sudden dives or diving more often (rather than staying at the surface)
- aggressive behavioural displays (e.g. tail slaps)
- bumping the vessel.

REMEMBER if you notice any sign of the animal becoming disturbed or alarmed you must cease contact with the whales. Move your vessel away from the whale at <5 knots until you are at least 100m away. It is an offence to harass whales.



If you are in the vicinity of a vessel displaying an orange Humpback Whale (HW) flag please maintain a distance of 100m from this vessel as it is undertaking 'in-water humpback whale interaction' activities and may have swimmers in the water.





Who to contact

If you would like more information you can contact the Department of Biodiversity, Conservation and Attractions:

DBCA Headquarters

17 Dick Perry Avenue, Technology Park
Kensington WA 6151
Phone: (08) 9219 9000
dbca.wa.gov.au

DBCA Parks and Wildlife Service Exmouth District Office

20 Nimitz Street (PO Box 201)
Exmouth WA 6707
Phone: (08) 9947 8000
Email: exmouth@dbca.wa.gov.au

Indemnity

In participating in the 'In-water humpback whale interaction' tour, the participant acknowledges and assumes all associated risks and will hold the Director General, his employees, servants and agents free from any and all liability, causes of action, debt, claims and demands of every kind and nature whatsoever that may arise out of or in connection with participation in the tour.

Photos – Dani Rob/DBCA, Doug Coughran, Phil Hartell and Felicity Kelly/DBCA

Information current at July 2019. This information is available in alternative formats on request.



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