

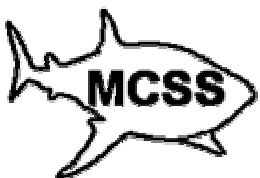
Marine Conservation Society Seychelles

**Workshop to develop a
WHALE SHARK ENCOUNTER POLICY IN SEYCHELLES**

17th December 2003

National Institute for Education
Mont Fleuri

Workshop Proceedings



Executive Summary:

The workshop principle aim was to develop an encounter policy to allow for the sustainable utilisation of whale sharks as an eco-tourism resource. The workshop was opened by Mr Rolph Payet, Director General for the Division of Policy Planning & Services of the Ministry of Environment. This workshop had been developed on the outputs from the first whale shark workshop which requested that a policy be developed based upon existing encounter policies where they exist and the result of stakeholder feedback.

Participants were given a review of the process by which this workshop had been convened and an overview of the outreach programme and the responses from the stakeholders interviewed. The draft policy model was then presented and then each clause of the policy was discussed. Feedback from participants was extremely productive with care being taken by the participants to ensure that the policy was both precautionary but practical in terms of the situation in Seychelles.

The workshop agreed the various clauses and added an additional clause to the model policy which will be circulated to the participants for their confirmation prior to circulation to a wider audience and to the Ministry of Environment.

Introduction:

The regular occurrence of whale sharks around Seychelles makes them an ideal eco-tourism resource. During the workshop on 28th May 2003, participants put forward views on developing a sustainable whale shark encounter policy, noting that care should be taken in any future development of an eco-tourism industry using the whale shark as the primary attraction to ensure it does not adversely affect the sharks. It was suggested that an outreach programme be conducted to get additional views on the subject and a workshop should be planned to develop a Seychelles whale shark encounter policy based on existing models.

Workshop Aims:

1. To advise the public & stakeholders about the need for a whale shark encounter policy.
2. To get agreement from stakeholders in the development of a Whale Shark Encounter Policy for Seychelles

Workshop outline:

1. Introduction with review on current situation
2. Results from the MCSS Whale Shark Encounter Questionnaire
3. Develop a Seychelles Whale Shark Encounter Policy

Workshop Outputs:

1. Whale Shark Encounter Policy developed for Government endorsement.

Workshop Discussion Points:

1. Introduction with review on current situation

The process for this Whale Shark Encounter Policy Workshop was reviewed: this initiative began with the Whale Shark Monitoring Network Workshop held on the 28th May 2003 during which the Marine Conservation Society, Seychelles (MCSS) gave an overview of the research done to date on the whale shark (*Rhincodon typus*). The national and regional context of whale sharks conservation was discussed and a National Whale Shark Monitoring Network set-up.

Participants in the first workshop, amongst other issues, noted that the regular occurrence of whale sharks in Seychelles waters made them an ideal eco-tourism resource and that care should be taken in the development of an ecotourism activity based on the whale shark. It was agreed that a workshop should be planned to develop an encounter policy and that existing models should be used as a basis for development of said policy. An outreach programme should also be undertaken to obtain additional viewpoints on the subject prior to the formulation of such a policy.

In addition the whale shark was declared a protected species in Seychelles waters, in January 2003, under the Wild Animals Protection Act. The first subsidiary legislation of 2003 (S.I. 1 of 2003. 13th January 2003) states that:

- *The whale shark (Rhincodon typus) is declared to be protected throughout Seychelles at all times.*
- *No person shall kill or take a whale shark.*
- *Nothing in the preceding regulations shall be construed as preventing otherwise legitimate fishing activities or authorised scientific research.*

The protected status of the species further underlines the need for an approved encounter policy.

2. Results from the MCSS Whale Shark Encounter Questionnaire

The participants were presented an overview of the Whale Shark Encounter Questionnaire that was designed as part of the outreach programme requested by participants of the first Whale Shark Monitoring Workshop held in May. Its aim was to get additional views on the current status of whale shark encounters so that a framework encounter policy could be proposed for discussion.

Dive Operators had been identified as the main stakeholders involved in whale shark encounters. However it was noted that other organisations, to a lesser extent come in close contact with whale sharks. Staff from 14 organisations were interviewed personally to complete the questionnaire on Mahe and Praslin; 8 dive centres, 2 glass bottom boats, 3 boat charters and 1 taxi boat. An email version of the questionnaire was also distributed to various additional organisations but none responded. The following responses were recorded:

- Everyone questioned knew what a whale shark was and had seen one or more in Seychelles before. The majority of respondents recognised a whale shark season starting in July and ending in Feb with the majority of sightings occurring in August and November. The remaining respondents reported year round sightings.
- Few respondents had identified sharks, based on scaring patterns, which had returned the following year.
- According to those questioned, the way in which a whale shark reacts to boats, snorkellers or divers depends on how the shark are approached and also on the individual shark.

Generally it was agreed that whale sharks are curious and would circle boats, snorkellers and / or divers. However, if touched the shark would in most cases swim or dive away.

- All respondents agreed that sightings were by chance, but the majority agreed that there was scope for an Eco-Tourism Industry using the whale shark as the primary resource. At present, however, sharks are not in general being targeted as an ecotourism resource.
- Current practices in terms of approaching whale sharks involves dropping clients off either ahead of the shark or along its side at a distance of <10 metres. Generally, there would be between 5-10 clients in the water at the time (this is a reflection of the number of people on the boat at the time). In the majority of cases, the boat engine would be switched off with the boat maintaining a distance of > 10m. In the case where operators were involved in dry viewing, generally a distance of <10m is maintained with the engines switched on or in neutral to follow the shark.
- Other than the taxi boat and 2 charter boats, which do not drop clients off to swim with whale shark, all other organisations questioned generally had encounter protocols. In the majority of cases, clients are advised not to touch the animal, not to restrict its movements and to keep their distance from the shark, while avoiding the tail fin. None of the individual's questions were advising clients against using flash photography.
- Individuals were given a brief overview of the Australian Whale Shark Encounter Policy and asked for their comments. Generally it was agreed that the recommendations of this Policy were a sound basis from which to develop a local encounter policy.

3. Develop a Seychelles Whale Shark Encounter Policy

Stakeholders were presented with a model Whale Shark Encounter Policy and asked for their feedback on all aspects of this Policy. Each clause was examined and changes were made to the wording of certain clauses within the model policy as per stakeholder comments.

Questions were asked as to the enforcement of such a policy: participants were advised that this would be determined by the appropriate Ministry and would depend on whether the policy was turned into a regulation or remained as a policy. Participants suggested that the finalised policy be circulated to the Port and Marine Authority; it was agreed that this would be done as it was apparent that they were not represented although they had been invited to the workshop.

With regard to data recording of the encounter activities it was suggested that this data be made available to all involved in whale sharks encounters. It was pointed out that the data form as used in Western Australia (ANNEX II), is designed as a management tool to determine whether or not eco-tourism activities are having a detrimental effect on the whale shark over time. It is not designed as a means of identifying areas where sharks are occurring. If an eco-tourism industry is established other means of locating shark, namely in the form of aerial surveys would need to be investigated.

Participants were concerned over the "contact period" and requested that it be defined under clause 2. Discussions were also held on the definition of a "contact area" especially in relation to periods when there are shark aggregations or in cases when there were other boats in the vicinity undertaking other activities.

One participant suggested that a clause to prevent shark feeding be included in the policy. The overall consensus on this issue was that this was un-necessary considering that whale sharks are plankton feeders.

There was animated debate over the clause stating that flash photography be prohibited. Although it was recognised that the Flash could be construed as a disturbance to the whale shark, many felt that if an ecotourism industry were to develop there would be a call for photographers to come to Seychelles to photograph sharks. However, given the increase in digital photography this may turn out to be a non issue. It was eventually agreed that MCSS contact Jeremy Colman, Western Australian Department of Conservation and Land Management (CALM) who designed the Australian Encounter Policy to determine what impact flash photography could have on the shark. If Dr Coleman could provide conclusive proof of a detrimental affect this clause would be kept within this policy. If on the other hand, there was no evidence of disturbance, the clause would be removed but would be considered for future re-instatement based on feedback from the Whale Shark Encounter Record Form.

At the end of the workshop, Stakeholders agreed that the Model Whale Shark Encounter Policy was acceptable in the format so amended and subject to the considerations above. MCSS has agreed to investigate further these specific aspects before circulating a second draft of the Model Encounter Policy for final comments before it is submitted to the government for endorsement.

Workshop Outputs:

1. A Whale Shark Encounter Policy (ANNEX I) will be proposed to Government for endorsement and for the development of appropriate legislation

Post Workshop Clarifications:

The workshop had requested clarification from CALM Western Australia on the topic of flash photography, Clause 11.1.c.; the following has been received:

This regulation 'goes back to the initial meeting with the industry when we discussed what should be included in the rules. The concensus then was that whale sharks sometimes spooked at flash taken near the head (eyes) and therefore the recommendation was to exclude flash from use.

Brad Norman wrote some observational information in a masters thesis in 1999 describing eye rolling behaviour in response to flash photography. Basically any behavioural response that might indicate stress was deemed to be unacceptable by both Industry and Management. In regards to photos, many professional photographers eg David Doubilet and Michael Aw continue to return to Ningaloo Reef to photograph whale sharks under this policy. It certainly hasn't stopped anybody getting publishable photos.'

As such based on the feedback from the workshop, clause C. should remain as a part of the policy.

During the course of writing up the proceedings it became apparent that there was a divergence of policy with respect to the direction of approach, the Australian Policy wording being somewhat open to interpretation;

Advice from CALM in Western Australia clarifies this:

'I would like to interpret this as letting whale sharks approach a group of snorkellers rather than the other way around.

We have found that the least intrusive method of deploying swimmers is to manoeuvre the boat into the direct path of the whale shark. This requires an amount of good timing and anticipation by experienced operators and also a bit of luck. Not necessarily from head on maybe also from anywhere within the front 180 degrees of the shark. The swimmers can then be deployed and the boat can move off at a moderate speed before coming within close proximity of the shark.

The alternative is to let boats motor past a whale shark at increased speed, greatly increasing the noise, particularly if multiple boats are working. At the same time a front on approach allows the whale shark to see and anticipate bodies and boats in the water as opposed to imposing a boat from behind. It gives them a bit more of a choice.'

Clause 7 originally read as follows:

- (1) If swimmers or divers are to enter the sea from a contact vessel to view a whale shark, the contact vessel should wherever possible approach a whale shark from behind or from the side; in no circumstances should the vessel approach the whale shark head on.

As such it is proposed that this clause should be amended as follows:

- (1) Subject to clause 6 (1 & 2) if swimmers or divers are to enter the sea from a contact vessel to view a whale shark, the contact vessel should wherever possible approach a whale shark from in-front or from the side without the vessel forcing the shark to change direction.

ANNEX I

Seychelles Whale Shark Encounter Policy

1. Objective:

In recognition of 'The Wild Animals (Whale Shark) Protection Regulations 2003' the objective of this encounter policy is to enable the wise development of eco-tourism activities based upon the whale shark (*Rhincodon typus*).

This will allow limited interaction between humans and whale sharks in State waters. It proposes to protect whale sharks from excessive disturbance, by setting out criteria for vessels, swimmers and divers when in proximity to a whale shark.

2. Definition:

"whale shark" means the animal *Rhincodon typus*

"contact zone" means the area within a radius of 200 metres of any whale shark that is in State waters

"contact vessel" means any vessel or craft, and any other tender vessel or craft accompanying it, within a contact zone,

"contact period" means the duration of an encounter after which the vessel must leave the contact zone

"designated flag", a flag approved to indicate a vessel is in a contact zone

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

3. Restriction on vessels in or near contact zone:

(1) A vessel establishing a contact zone should identify itself by raising the designated flag.

(2) Any other vessel must not enter a contact zone to observe a whale shark.

(3) The operator of a vessel establishing a contact zone shall record the details of the contact on the form provided and return this to the appropriate authority within the time specified.

4. Restrictions on period in contact zone:

(1) A contact vessel must not remain in the same contact zone for longer than 30 minutes if there are other vessels queuing to view the shark.

(2) Notwithstanding clause 4 (1) above, the contact period is deemed as having ended once the contact vessel has lost contact with the shark and should lower the contact flag indicating that the contact zone and contact period have lapsed.

5. Restrictions on vessel speed in contact zone:

- (1) Subject to clause (2 & 3) below, a contact vessel must not exceed 8 knots (14.6 km/hr) in a contact zone.
- (2) A contact vessel must not exceed 2 knots (3.6 km/hr) within 50 metres of the contact whale shark.
- (3) If, for reasons of safety, a contact vessel must exceed 8 Knots (14.6 km/hr) in a contact zone, that vessel must leave the contact zone as soon as is practicable.

6. Proximity of contact vessel to the whale shark:

- (1) A contact vessel must maintain a distance of at least 10m from the nearest whale shark.
- (2) Should a whale shark swim towards the vessel to within 10m, all engines should be in neutral or switched off until the shark has moved more than 10m away from it.

7. Direction of approach:

- (1) Subject to clause 6 (1 & 2) if swimmers or divers are to enter the sea from a contact vessel to view a whale shark, the contact vessel should wherever possible approach a whale shark from in-front or from the side without the vessel forcing the shark to change direction.

8. Number of swimmers or divers:

- (1) The number of swimmers or divers entering the sea from a contact vessel to view a shark is limited to a maximum of 8 persons in total.

9. Physical contact with whale shark prohibited:

- (1) A person must not touch or ride on, or attempt to touch or ride on, a whale shark under any circumstance.

10. Proximity of swimmers or divers to the whale shark:

- (1) A person in the sea must
 - i. at all times maintain a distance of at least:
 - a) 3 metres from the head or body of the whale shark, when approaching a whale shark from any direction; and
 - b) 4m from the tail of the whale shark, when approaching the tail from any direction.
 - ii. must not deliberately cross in front of the whale shark's direction of travel or impede its movement.

11. Motorised swimming and other activities prohibited:

- (1) A person in the sea must not
 - (a) use a motorised or otherwise powered swimming or diving aid in a contact zone.
 - (b) use any device capable of towing or carrying a person, that is towed behind a vessel, in a contact zone.

(c) use flash photography

12. Exceptions when authorised under “*The Wild Animals (Whale Shark) Protection Regulations 2003*”:

(1) Clauses 9, 10 and 11 do not apply to a person who is undertaking authorised scientific research.

13. Provision to review this policy:

(1) This policy is liable to review after 24 months by the stakeholders.