Inquest into the death of Bethany Emily Farrell

Bethany Emily Farrell died on 17 February 2015 after she became separated from her group while undertaking an introductory scuba dive off Hayman Island.

Coroner David O’Connell delivered his findings of inquest on 30 May 2018.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The departments named in this response will provide implementation updates until the recommendation is delivered. Further information relating to the implementation of recommendations can be obtained from the responsible minister named in the response.

Recommendation 1a

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that introductory diver to instructor ratios of a maximum of 2 to 1, and 1 to 1 if conditions are poor (such as current, visibility, or surface chop).

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing introductory diver ratios with a view to including them in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018*. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations, however, this does not impact on the coroner’s recommendations.

Recreational diving industry roundtables were convened in Cairns and Brisbane in 2018 and Airlie Beach in 2019 as part of the consultation on the recommended change to the code of practice. The industry roundtables were hosted by the Office of Industrial Relations and attended by Minister for Education and Minister for Industrial Relations (the Honourable Grace Grace MP), the Member for Cairns (Mr Michael Healy MP), diving industry operators and associations as well as the Northern and Brisbane Coroners, Surf Life Saving Queensland, the Queensland Police and the Australian Workers’ Union.

A smaller industry working group was established from key stakeholders from the North Queensland, Whitsundays and South-East Queensland region. These representatives met with the Office of Industrial Relations in Cairns in 2018 to consider the recommended changes to the code of practice as well as consider relevant regulatory changes. After further industry roundtable and working group meetings in early 2019 a draft code of practice was circulated to working group members in May 2019. Feedback from working group members was incorporated into the draft code and circulated to the industry roundtable and working group members for comment in September 2019. Feedback from the circulation of the draft code is currently being considered with amendments to the draft code before a final draft is circulated to industry. Once
stakeholders have been provided the opportunity for input and consultation is complete, the draft code will be finalised and considered by government.

The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise, any amendments to the code of practice in the coming months.

**Recommendation 1b**

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* a review of the term ‘resort dive’ to be renamed ‘introductory dive’.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing whether to rename the term ‘resort dive’ in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018*. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

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The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.
Recommendation 1c

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that the instructor always be within arms-length of their resort divers, and to link arms if conditions (whether visibility, current, or surface chop) are assessed as poor or very poor.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018* with a view to include instructor-diver distance. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

Recreational diving industry roundtables were convened in Cairns and Brisbane in 2018 and in Airlie Beach in 2019 as part of the consultation on the recommended change to the code of practice. The industry roundtables were hosted by the Office of Industrial Relations and attended by Minister for Education and Minister for Industrial Relations (the Honourable Grace Grace MP), the Member for Cairns (Mr Michael Healy MP), diving industry operators and associations as well as the Northern and Brisbane Coroners, Surf Life Saving Queensland, the Queensland Police and the Australian Workers’ Union.

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The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

Recommendation 1d

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that dive instructors must do a dive site assessment, which includes:

a. Assessing visibility with a secchi disk.

b. Conducting an in-water (at depth) visual inspection for horizontal visibility, and to assess current, to determine if the site is suitable for introductory divers and to determine the introductory diver: dive instructor ratio.
Secchi disk is described as a weighted disk with four coloured quarters (black/white/black/white) at the end of a rope with metre intervals marked along the rope so that when the quarters could not be readily discerned a determination can be made of the visual depth clarity down through the water column when viewed from the surface.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018* with a view to include dive instructor dive site assessments. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

Recreational diving industry roundtables were convened in Cairns and Brisbane in 2018 and in Airlie Beach in 2019 as part of the consultation on the recommended change to the code of practice. The industry roundtables were hosted by the Office of Industrial Relations and attended by Minister for Education and Minister for Industrial Relations (the Honourable Grace Grace MP), the Member for Cairns (Mr Michael Healy MP), diving industry operators and associations as well as the Northern and Brisbane Coroners, Surf Life Saving Queensland, the Queensland Police and the Australian Workers’ Union.

A smaller industry working group was established from key stakeholders from the North Queensland, Whitsundays and South-East Queensland region. These representatives met with The Office of Industrial Relations in Cairns in 2018 to consider the recommended changes to the code of practice as well as consider relevant regulatory changes. After further industry roundtable and working group meetings in early 2019, a draft code of practice was circulated to working group members in May 2019. Feedback from working group members was incorporated into the draft code and circulated to the industry roundtable and working group members for comment in September 2019. Feedback from the circulation of the draft code is currently being considered with amendments to the draft code before a final draft is circulated to industry. Once stakeholders have been provided the opportunity for input and consultation is complete, the draft code will be finalised and considered by government.

The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

**Recommendation 1e**

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that elementary dive skills including mask clearing, regulator clearing, regulator recovery, buddy breathing, buoyancy control device inflate/deflate, and emergency weight belt dropping, are taught until the skill is competently demonstrated to the instructor, and that this is to occur in a controlled water environment such as a swimming pool.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:
The Office of Industrial Relations is reviewing the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018* with a view to ensuring divers can demonstrate elementary dive skills. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

Recreational diving industry roundtables were convened in Cairns and Brisbane in 2018 and in Airlie Beach in 2019 as part of the consultation on the recommended change to the code of practice. The industry roundtables were hosted by the Office of Industrial Relations and attended by Minister for Education and Minister for Industrial Relations (the Honourable Grace Grace MP), Member for Cairns (Mr Michael Healy MP), diving industry operators and associations as well as the Northern and Brisbane Coroners, Surf Life Saving Queensland, the Queensland Police and the Australian Workers’ Union.

A smaller industry working group was established from key stakeholders from the North Queensland, Whitsundays and South-East Queensland region. These representatives met with the Office of Industrial Relations in Cairns in 2018 to consider the recommended changes to the code of practice as well as consider relevant regulatory changes. Following further industry roundtable and working group meetings in early 2019, a draft code of practice was circulated to working group members in May 2019. Feedback from working group members was incorporated into the draft code and circulated to the industry roundtable and working group members for comment in September 2019. Feedback from the circulation of the draft code is currently being considered with amendments to the draft code before a final draft is circulated to industry. Once stakeholders have been provided the opportunity for input and consultation is complete the draft code will be finalised and considered by government.

The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

### Recommendation 1f

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that diving groups are staggered, and that routes are determined in a way to avoid dive group interaction whilst underwater.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018* with a view to including staggered dive groups and avoiding dive group interaction. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

Recreational diving industry roundtables were convened in Cairns and Brisbane in 2018 and in Airlie Beach in 2019 as part of the consultation on the recommended change to the code of practice. The industry roundtables were hosted by the Office of Industrial Relations and attended by Minister for Education and Minister for Industrial Relations (the Honourable Grace Grace MP), the Member for Cairns (Mr Michael Healy
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The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

**Recommendation 1g**

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that the dive instructors solely have the final decision on whether a dive proceeds, or is terminated, and that it not be the skipper, nor the tour operator (who may have commercial considerations influencing their judgement).

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018* with a view to allow dive instructors to cancel or terminate dives. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

Recreational diving industry roundtables were convened in Cairns and Brisbane in 2018 and in Airlie Beach in 2019 as part of the consultation on the recommended change to the code of practice. The industry roundtables were hosted by the Office of Industrial Relations and attended by Minister for Education and Minister for Industrial Relations (the Honourable Grace Grace MP), the Member for Cairns (Mr Michael Healy MP), diving industry operators and associations as well as the Northern and Brisbane Coroners, Surf Life Saving Queensland, the Queensland Police and the Australian Workers’ Union.

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stakeholders have been provided the opportunity for input and consultation is complete, the draft code will be finalised and considered by government.

The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

**Recommendation 1h**

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that safety measures include that the ‘surface watch’ person has an emergency grab bag which includes a weighted lost diver marker, and that dive instructors carry on their person (whilst conducting the dive) a suitable underwater marker system to indicate underwater the last known position that the separated driver was seen.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018* with a view to include a ‘grab bag’ safety measure. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

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A smaller industry working group was established from key stakeholders from the North Queensland, Whitsundays and South-East Queensland region. These representatives met with the Office of Industrial Relations in Cairns in 2018 to consider the recommended changes to the code of practice as well as consider relevant regulatory changes. Following further industry roundtable and working group meetings in early 2019, a draft code of practice was circulated to working group members in May 2019. Feedback from working group members was incorporated into the draft code and circulated to the industry roundtable and working group members for comment in September 2019. Feedback from the circulation of the draft code is currently being considered with amendments to the draft code before a final draft is circulated to industry. Once stakeholders have been provided the opportunity for input and consultation is complete, the draft code will be finalised and considered by government.

The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.
Recommendation 1i

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* that if swimming fins are used, then some style of ‘fin-safe’ style retainer strap is used with the swimming fins.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing whether to include swimming fin styles in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018*. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

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The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

Recommendation 1j

The Office of Industrial Relations, within six months, review and consider for inclusion in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* whether a policy should be implemented that if any diver becomes separated, that all divers in that group must immediately surface and inflate their buoyancy control device, even though it is an emergency ascent.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:
The Office of Industrial Relations is reviewing how a dive group should respond if a diver is separated, with a view to including the procedure in the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018*. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011*. The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

Recreational diving industry roundtables were convened in Cairns and Brisbane in 2018 and Airlie Beach in 2019 as part of the consultation on the recommended change to the code of practice. The industry roundtables were hosted by the Office of Industrial Relations and attended by Minister for Education and Minister for Industrial Relations (the Honourable Grace Grace MP), the Member for Cairns (Mr Michael Healy MP), diving industry operators and associations as well as the Northern and Brisbane Coroners, Surf Life Saving Queensland, the Queensland Police and the Australian Workers’ Union.

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The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

**Recommendation 2**

The Office of Industrial Relations, within six months, review and consider whether the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2011* needs to be mandated as the minimum standard for operations, rather than being ‘guidelines’.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Office of Industrial Relations is reviewing whether the *Recreational Diving, Recreational Technical Diving and Snorkelling Code of Practice 2018* should be mandated as the minimum standard for operations. The 2018 code of practice commenced on 8 February 2018 and it is the approved code of practice under section 43 of the *Safety in Recreational Water Activities Act 2011* (SRWA Act). The 2018 code of practice has replaced the 2011 code of practice referred to in the coroner’s recommendations however this does not impact on the coroner’s recommendations.

This recommendation could be achieved through the insertion of a provision similar to s26A of the *Work Health and Safety Act 2011* into the SRWA Act. The Office of Industrial Relations raised this recommendation with the industry roundtables and working group established for the consultation on the 2018 code of practice. The Office of Industrial Relations intends to finalise the review of the code of practice before considering amendments to the SRWA Act to mandate the code as a minimum standard.
The Office of Industrial Relations intends to complete the review and subsequent to the government’s consideration of the review findings, finalise any amendments to the code of practice in the coming months.

**Recommendation 3**

All parties at the inquest agreed that a sensible and reasonable recommendation was that the Dive and Snorkelling Death Review Panel be reinstated. ‘How’ it is conducted is the real issue. It is appropriate, in my view, to be conducted by the Office of Industrial Relations, comprising a panel of diving experts, select government representatives, and industry personnel. The coroner then, if they so choose, can seek a report from the panel on any particular death. There needs to be a separation of the coroner’s investigation and the work of the review panel. Appropriate resourcing of the panel can be achieved by the Office of Industrial Relations. Accordingly I recommend that the Dive and Snorkelling Death Review Panel be re-instigated by the Office of Industrial Relations. I envisage that this could be achieved within three months.

Response and action: the recommendation is implemented.

Responsible agency: Department of Education (Office of Industrial Relations).

On 9 December 2019 the Minister for Education and Minister for Industrial Relations responded:

The Queensland Government reconvened the Dive and Snorkelling Death Review Panel.

The terms of reference were drafted in consultation with the state coroner and the northern coroner and a panel of diving and medical experts was established.

It is intended that a coroner may refer a matter, still under coronial investigation, to the panel for expert advice. It is also intended the coroner may make recommendations to the Office of Industrial Relations that for a specific matter the panel should be constituted with specific medical expertise.

Information about the panel has been published [here](#).