

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and some industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to diver to instructor ratios the working group considered the suitability of ratios to all dive operators who use different sites with different conditions. The working group supported maintaining the existing ratios on the basis that the 4:1 ratio is the international standard of all training agencies. The draft updated code of practice includes a risk assessment model that applies to all operators and allows for relevant conditions at particular dive sites to be considered and the ratio adjusted where necessary. This provides consistency in the assessment and decision making throughout dive locations in Queensland. The risk assessment covers environmental conditions and involves an in-water assessment which should be undertaken in the hour before the dive and be documented to allow proper consideration of conditions and to support auditing and accountability.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

Any change to the term 'resort dive' will require a consequential change to the Safety in Recreational Water Activities Regulation 2011.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to renaming 'resort dive' to 'introductory dive' stakeholder consultation indicated there was a structured course called 'introductory scuba experience'. Therefore, the draft updated code of practice replaces 'resort' with 'non-certified' to eliminate any unintended crossover with existing courses. The Office of Industrial Relations notes that this will require a consequential change to the Safety in Recreational Water Activities Regulation 2011. Concurrently with the preliminary impact statement lodged with the Office of Best Practice Review, the Office of Industrial Relations completed an agency assessed exclusion for the proposed regulation change from the term 'resort dive'.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to this recommendation the draft updated code of practice includes that where a risk assessment has resulted in reduced instructor/diver ratios, this should cause the dive instructor and non-certified diver to be able to maintain physical contact including holding hands and linking arms.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to this recommendation the working group agreed that the use of a Secchi Disk is not always the best option in all circumstances and is for vertical visibility only. The majority of the working group considered an in-water dive site risk assessment should be performed within the hour before the dive. The draft updated code of practice includes an in-water dive site risk assessment, undertaken in the hour before the dive. The in-water assessment is to include a system to estimate underwater vertical and horizontal visibility.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to appropriate dive skills for a non-certified dive, during consultation, the working group raised that teaching the skills of 'alternate air source' (this is relevant to the coroner's reference to 'buddy breathing') and 'weight belt dropping' introduced more rather than less risk. Feedback from the working group considered that teaching, in the water, a weight belt drop would not be recallable or practical and would increase the stress of participants. It was considered that informing diving participants about an emergency weight belt drop at the surface was appropriate. The working group also raised concerns that there were other safety skills within the code of practice that were more important than 'alternate air source' and highlighted the need to avoid the risks associated with participants having little knowledge of a lot of skills in the context of a dive not being part of the certification process. The draft updated code of practice

includes further basic skills be taught including mask clearing, removing and replacing the regulator, recovering and replacing the regulator, and to inflate and deflate the buoyancy control device while on the surface of the water.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the

updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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 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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to this recommendation the draft updated code of practice includes that the dive site risk assessment consider the risk of dive group interaction at the one site and for the dive supervisor to ensure that divers can easily be identified underwater with flexibility to use measures appropriate to the environment and circumstances of the dive.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and

proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to this recommendation the draft updated code of practice includes that the dive instructor or a competent person has the authority to decide whether a non-certified dive should be cancelled or modified. 'Competent person' is a person who has acquired, through training, qualifications, experience or a combination of these, the knowledge and skill enabling the person to competently carry out the activities for which the competent person is responsible. This reflects that there are a number of people with responsibility for aspects of a dive including the vessel master who decides dive location.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

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, 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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to this recommendation the draft updated code of practice adopts this recommendation with the flexibility to recognise that different dive sites will have different requirements. For example, a pontoon operation with a defined route will be able to more easily identify the last location of a potential missing diver.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

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. 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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to 'fin-safe' style retainer straps, during consultation, the working group considered fin retainer straps as an example of an appropriate control measure but highlighted that correctly fitting fins were preferred for safety. The draft updated code of practice includes that suitably fitted fins be provided to a diver or where that is not possible, a control such as a fin retainer strap is to be provided to a diver.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

Following consultation with the working group and wider industry consultation in September 2019, a final draft of the code was circulated to the working group and some industry roundtable members for comment with responses by 30 January 2020. Feedback on the final draft of the code will be carefully considered with further amendments made where appropriate.

The Office of Industrial Relations intends to complete the review and subsequent to the government's consideration of the review findings, finalise the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

Feedback from consultation with the working group and industry roundtable members in January 2020 was carefully considered in consultation with the Work Health and Safety Queensland Dive Unit and the draft updated code of practice was amended where appropriate.

A preliminary impact statement for the draft updated code of practice (and subsequent amendments to the Safety in Recreational Water Activities (Codes of Practice) Notice 2011) was lodged with the Queensland Productivity Commission (Office of Best Practice Review) on 14 February 2020. The Queensland Productivity Commission made an assessment on 4 March 2020 that the Office of Industrial Relations was not required to undertake a further regulatory impact analysis.

With respect to this recommendation, during consultation, the working group provided guidance on best practice procedures in the event of diver separation, and considered that in these circumstances, instructors should gather all participants and bring them to the surface in a controlled ascent procedure. This option was

considered the safest option given that emergency ascents could increase the risk of decompression illness. As such, the draft updated code of practice includes that, in the event of diver separation, instructors are to use a controlled ascent procedure, linking arms to return all divers to the surface.

In March 2020, the impact of the COVID-19 pandemic essentially shut down the snorkelling and diving industry in Queensland with businesses ceasing to operate. Given this, it was determined it would not be beneficial to commence the new code of practice until the effects of the COVID-19 pandemic have eased.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

In July 2020, the Office of Industrial Relations provided industry a copy of the final draft of the new code of practice and advised that the Office of Industrial Relations intended to introduce the new code of practice, pending ministerial approval, once the industry had sufficiently recovered from the COVID-19 pandemic restrictions. The Office of Industrial Relations encouraged industry operators to work towards complying with the proposed new code of practice in preparation for reopening their operations.

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are either not operating or operating in a significantly limited capacity.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Most operators are still either not operating or operating in a significantly limited capacity. However, industry operators have been given a draft copy of the new code of practice and have been encouraged to work towards complying with the new requirements as they reopen their operations.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The COVID-19 pandemic has continued to significantly impact the diving and snorkelling industry as the industry relies heavily on interstate and international tourists. Throughout 2021 most operators did not operate or operated in a significantly limited capacity. While it is expected that snorkelling and diving operators will experience an increase in demand from December 2021, it will take some time for industry to recover from the economic impacts of the COVID-19 pandemic.

Industry operators have a draft copy of the updated code of practice and the Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the

updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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.

On 4 June 2020 the Minister for Education and Minister for Industrial Relations responded:

As noted in the December 2019 response, the Office of Industrial Relations intends to finalise the review of the code before considering amendments to the *Safety in Recreational Water Activities Act 2011* 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 the code of practice as soon as practicable.

On 9 September 2020 the Minister for Education and Minister for Industrial Relations responded:

As noted in the report in December 2019, the Office of Industrial Relations intends to finalise the review of the code before considering amendments to the *Safety in Recreational Water Activities Act 2011* to mandate the code as a minimum standard.

Once the impacts of the COVID-19 pandemic on the snorkelling and diving industry have eased, the Office of Industrial Relations will begin to progress the draft updated code of practice for ministerial approval and commencement anticipated in 2021.

On 26 April 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

As noted in prior reports, the Office of Industrial Relations intends to finalise the review of the code of practice before considering any amendments to the *Safety in Recreational Water Activities Act 2011* to mandate the code of practice as a minimum standard.

The Office of Industrial Relations will continue to monitor the recovery of the diving and snorkelling industry and assess the most appropriate time for commencement of the code of practice pending ministerial approval which is anticipated in 2021.

On 14 October 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

As noted in previous reports, the Office of Industrial Relations intends to finalise the review of the code of practice before considering any amendments to the *Safety in Recreational Water Activities Act 2011* to mandate the code of practice as a minimum standard.

Given the continued impacts of the COVID-19 pandemic, the Office of Industrial Relations plans to consult with operators in the diving and snorkelling industry in late 2021 regarding the changes to the code and proposed timing for its commencement. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

On 11 May 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

Implementation of the updated Recreational diving, recreational technical diving and snorkelling code of practice 2011 has been delayed due to industry impacts from the COVID-19 pandemic. The Office of Industrial Relations intends to finalise the review of the code of practice before considering any amendments to the *Safety in Recreational Water Activities Act 2011* to mandate the code of practice as a minimum standard.

The Office of Industrial Relations will engage with industry in mid-2022 to determine if there is sufficient economic recovery to introduce the updated code of practice. Following this, the Office of Industrial Relations will seek final ministerial approval of the code of practice.

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](#).