Monday April 24, 2006

Environmental Impact Statement Submission
Ocean Trap and Line Fishery
PO Box 21
CRONULLA NSW 2230
Via email: otl.eis@fisheries.nsw.gov.au

OCEANWATCH AUSTRALIA

HEALTHY CATCHMENTS HEALTHY OCEANS

Dear Department of Primary Industries,

Re: Submission on the Environmental Impact Statement and Draft Fisheries Management Strategy for the NSW Ocean Trap and Line Fishery

This letter sets out the comments from OceanWatch Australia Ltd (OWA) in relation to the Environmental Impact Statement (EIS) and Draft Fisheries Management Strategy (FMS) for the Ocean Trap and Line Fishery (OTLF). OceanWatch Australia is a national environmental, not-for-profit company that works to achieve sustainability in the Australian seafood industry by protecting and enhancing fish habitats, improving water quality and advancing sustainable fisheries through action based partnerships with the Australian seafood industry, government, natural resource managers, private enterprise and the community.

OWA has consulted OTLF fishers in preparation of this submission and our comments incorporate the fishers' concerns pertaining to the EIS and FMS and the sustainability of their industry.

The OTLF, with appropriate management has the potential to be a sustainable fishery that provides valuable social and economic benefits to regional communities, with minimal detrimental impact on the environment (in terms of biodiversity and ecological integrity). However, the EIS and FMS does not instill confidence that this fishery will be managed in a sustainable manner due to:

- the fishery specific approach to managing stocks;
- the apparent lack of understanding of the nature of the fishery;
- the paucity of current data and information to adequately assess the fishery; and
- the measures posed to reduce the fishery's impact on the Grey Nurse Shark (GNS).

1. General comments

1.1. Need for an industry wide approach

OWA's primary concern with respect to the EIS/FMS is the effectiveness of the proposed management strategies (including the regulatory controls placed on the OTLF) to sustainably manage the fishery if other sectors/fisheries, particularly those that have higher or unrestricted catches of the same target species are able to operate unchecked or without the same degree of control. For example, species size limits imposed on the OTLF need to be consistently imposed industry-wide (including Commonwealth fisheries), otherwise other sectors/fisheries will be able to target and take undersized species, thus negating the effectiveness of the

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controls on the OTLF (that is, in effect robbing Peter to pay Paul). Furthermore, there remain many inconsistencies in the approaches taken by the Commonwealth and DPI with respect to fisheries management for the target species and methods which need to be resolved as a priority (as recommended in the *Report on the Review of Fisheries Management in New South Wales* (Stephens, 2005). It has been suggested by OTLF members that those fisheries that have significant bycatch or pose significant threats to stocks should be assessed as a priority (for example, the Commonwealth south east trawl fishery and recreational fishing with respect to some species), rather than those fisheries which may more easily lend themselves to such an assessment process such as the OTLF.

This is illustrated in Section B1.7 which states:

> *"Many species taken in the OTLF are also taken in other NSW commercial fisheries, by recreational fishers, by indigenous fishers and by fisheries managed under the jurisdiction of the Commonwealth or other States"*

And in particular in relation to the recreational fishery (section B1.7.2)

> *"almost all of the target species within the fishery are also heavily targeted by recreational anglers/and or charter boat operators. The surveys also indicate that the recreational catch of some species, such as black-spot pigfish, dolphinfish, bream, kingfish, mulloway, pearl perch and teraglin are comparable and in some cases larger than the OTLF catch."*

1.2. Lack of understanding of the fishery/inadequate information with which to assess the fishery

It is apparent that DPI has a very poor understanding of the nature of the operation of the OTLF, despite having 35 years to document and understand all aspects of the fishery. This is indicative of a poorly and irresponsibly managed fishery.

1.2.1. Operation of the fishery

DPI has a poor understanding of the practical operation of the fishery. This is evident in the insufficient detail in relation to fishing methods and techniques in the OTLF (*Section B - Review of the Existing Fishery*) and impractical management decisions. Intimate knowledge of the practical operation of the fishery, required to develop practical and achievable management responses is most effectively obtained through first hand practical experience in the fishery (i.e. managers need to spend out on working vessels).

1.2.2. Stocks

There is also a paucity of information on the status of the stocks of most species and as a result the nine taxa have been assessed to be at *"moderately-high"* risk (to ecosystem components) due to the *"lack of basic biological and ecological information and stock assessment.*" (Section B2.4.5.2). It is surprising that for a fishery that has been in operation for so long, so little has been done to scientifically understand the stocks that underpin it.

1.2.3. Catch history/number of active fishers in the industry

The information used to assess the fishery in terms of the number of active fishers, stocks levels (based on catch history) is outdated and inaccurate. The catch history and estimates of active fishers is 5 years old, 2001/02 (Section B1.1, C1.2 and beginning of Chapter D) and

according to fishers, does not reflect the current situation of reduced effort as a result of recent closures and the establishment/proposed establishment of marine parks. This information therefore forms a poor basis for decision-making.

1.2.4. Biological information on Wobbegong Sharks

The biological information on Wobbegong sharks presented in Table B2.15 (size and age at maturity etc.) should be adjusted to reflect the recent research findings of Charlie Huveneers (unpublished PhD on "*The biology of two species of Wobbegongs found in N.S.W. (Spotted and Ornate Wobbegong).*" This may have implications for MR (2.1(g).

1.2.5. Bycatch vs. discards

The definitions provided for *"bycatch"* are inconsistent between the EIS and FMS. Section B1.2.2 defines bycatch as:

"Bycatch is that part of the catch that is discarded, and can contain both commercial and non-commercial species. Fish and invertebrates are discarded at sea either because they are below their minimum legal length (MLL), they are too small to be marketed, and/or because of low price/demand at the market."

Whereas in section D4.2.2, bycatch is defined as:

"Bycatch consists of those animals that are discarded from the catch, and that part of the "catch" that is not landed, but is killed as a result of interaction with fishing gear..." and *"…can be generally classified into fish that are juveniles of species that are of commercial or recreational importance, mature fish being smaller that the MLL, those that are of particular conservation significance and others which are neither a commercial or recreational species, nor of specific conservation importance."*

The above definition (D4.2.2) gives the impression that everything is killed upon interaction with fishing gear. There have been no studies completed to date to assess the survival rate of discards from the OTLF, (most fishers attesting that many fish do survive) and thus the above definition should be changed to be consistent with section B1.2.2.

Following from this, OWA is in disagreement with the level of risk assigned to bycatch in Table 2.8 as "high" to ecosystem components and suggests it be modified to a lower risk, given that p95 states:

"Given the extent of the list of reported landings for the fishery, it would appear that there are very few species that could be caught by the methods of the fishery that are not retained for sale."

2. Specific comments on Management Responses outlined in Chapter D

Objective 1.2 Mitigate the impact of ocean trap and line fishing activities on bycatch (i.e. non-retained catch including prohibited species and unwanted catch).

1.2a) Design and implement an industry funded scientific observer program to document the degree of interaction of commercial designated fishing activities, including the OTLF, with non-retained and threatened species

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We make the following comments:

- Any industry funded observer or monitoring program needs to be open and transparent, with a breakdown of costs imposed to industry.
- Programs need to be designed such that they take into account all size vessels, not simply the larger vessels that are better equipped with facilities such as toilets, as this can result in a misrepresentation of fishing activities across the fishery.
- The costs of such programs need to be shared across industry, and other sectors (such as recreational) that will benefit from the information for their own stock assessments etc.

1.2 (b) Implement fish escape panels in fish traps to minimise bycatch and the retention of juvenile and small fish. Background: Under this response, an escape panel with 50 x 75 mesh will be implemented at the entire back panel of the trap with a short (i.e. one year) phase-in period. The observer program will collect information on the effectiveness of the escape panel with 50 x 75 mm mesh under normal fishing operations (Reviewed after 5 years). … Larger escape mesh panels can be implemented in specific regions, where necessary, to accommodate for the regional variation in the size of the target species.

We make the following comments:

- Escape panels that are placed in the back panel of a trap can incur injury and death to species that have larger dimensions than the prescribed 50 x 75mm mesh. This occurs as fish are forced through or crushed in the panel by the weight of catch during hauling. Additionally, many fish do not survive the hauling process as their swim bladders expand, so releasing these fish on the surface is superfluous.
- Many operators currently place the escape panel on the side panel of the trap or use it as the door to the trap (on the side) allowing the selectivity of the panel to work whilst it is fishing (unpublished OceanWatch Australia EMS work being developed with an OTLF fishermen).
- Sacrificial anodes are placed on the galvanized wire on traps to prevent them from corroding. To reduce the potential impact from ghost fishing, anodes should not be placed on the escape panel. This will allow the escape panel to corrode in the event of trap loss.
- It should be noted that if escape panels were to be placed in species-specific traps/pots, such as those recently developed for use in Western Australia (targeting octopus), these panels would render the traps/pots useless. These traps/pots, for example, are placed at the end of longlines, and have very efficient trigger mechanisms that only respond to octopus, with therefore, no bycatch issues. It has been suggested that these traps/pots should be investigated for use in NSW, particularly on the south coast where many fishers solely target Maori octopus

1.2 (f) Implement the exclusive use of circle hooks for all unattended line fishing methods to reduce gut hooking of prohibited size and other non-retained fish. Background: A circle hook is defined as a hook where a straight line drawn from the point of the hook, crosses and is not offset from the eye or shank of the hook… When laid on a flat surface, non-offset circle hooks to be used in the fishery would lay in the same dimensional plane (i.e. flat), whereas offset

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hooks would appear uneven in that the point or some other part of the hook would be raised off the flat surface. Circle hooks are already in common use by NSW setline and dropline fishers. Management response 3.1 (c) is closely related to this response, and focuses on mitigating the impact of the fishery on grey nurse sharks.

We make the following comments:

- OWA is aware of the benefits of non-offset circle hooks in the reduction of gut hooking etc, however has been alerted to the practical difficulties with such hooks, including difficulties experienced in baiting, in hooking and capturing some of the target species and with inconsistencies with Commonwealth legislation. These matters require further consideration in this MR before it is finalised.
- Clarification needs to be given to "unattended" and to the size and shape of the circle hook (e/g/ semi circular vs full circle). Consideration should also be given to the vast inconsistencies in hook manufacturing, and the way the size of the hooks are measured.
- The potential for a phase-in period should be investigated or for fishers to be able to access the available Commonwealth EMS incentive scheme to implement circle hooks. Funding exists for those fishers operating under an EMS to address actions outlined in their EMS document that will improve the environmental performance of their operation/fishing business. Circle hooks could be incorporated in the EMS as a strategy.

Objective 1.3 Mitigate the impact of the OTLF on ocean habitats and their associated biota

1.3 (a) Modify the use of trap and line fishing methods in areas where their use is identified as having a detrimental impact on fish habitat.

DPI is to be commended on this Management Response which indirectly recognises the significance of fish habitat to fisheries production and seeks to address any identified adverse impacts the OTLF has on habitat.

Objective 2.1 Prevent overfishing of the stocks of primary and key secondary species by ocean trap and line fishers

*2.1(g) Implement **minimum** size limits for wobbegong sharks (initially at 130cm total length), and adjust the size limits based on research results. Background…Discussions with commercial fishers suggest that a **maximum** size limit for wobbegong sharks is not practical due to the difficulties in measuring large wobbegong sharks.*

We make the following comments:

- There is a need to assess the real threat or risk to Wobbegong sharks in the context of the current research findings on the biology of Wobbegong sharks, recent catch trends in catch history i.e. over the last 5 years, and the reductions in existing and future effort across the fishery with respect to existing and additional closures to commercial fishing following the advent of marine parks.
- In addition to workplace health and safety issues created by requiring fishers to measure Wobbegongs, any measuring is likely to stress the animal and reduce its chance of post-release survival.

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- The potential for a daily trip limit should be investigated as opposed to size limits. The market price for Wobbegong shark fluctuates, and therefore introducing a trip limit would reduce the amount of effort placed on the fishery when prices are low and prevent overfishing in times of high market prices (Wobbegongs are a slow growing migratory species and therefore susceptible to overfishing). DPI could also investigate the possibility of buying out the fishing history for Wobbegong shark via NHT funding)

Objective 2.2 Promote the recovery of overfished species

2.2 (*a) Where the OTLF is a major harvester of a species determined as overfished in NSW (recruitment or growth overfished) develop and implement a recovery program for that species, including those listed on the harvest strategy…Yellowtail kingfish have been identified as being growth overfished but a recovery program is not being recommended for kingfish at this time. Updated length composition data of yellowtail kingfish collected in 2004/05 will enable a clearer assessment of this species and a review of the stock-status will be completed in early 2006. If the overfished status of this species remains, then a recovery program will be developed and implemented within a timeframe commensurate with the assessed risks.*

If a recovery program is to be implemented for a particular species, all sectors/fisheries (including Commonwealth and recreational) that target a particular species, such as kingfish should equitably share the cost of such a program and conform to the program's requirements.

Objective 3.1 Identify and minimise or eliminate any impacts of fishing activities on threatened species, populations and ecological communities (including mammals, birds, reptiles, fish, invertebrates and vegetation), and protected species of fish and where required, promote their recovery

3.1 (c) Implement changes to reduce or prevent the impact of the OTLF on grey nurse sharks including:

i) the exclusive use of circle hooks for all unattended line fishing methods

Refer to comments relating to 1.2 (f) above for circle hooks and comments under 3 below.

Objective 4.1 Provide for appropriate access to the fisheries resource by other stakeholders (e.g. recreational, Indigenous), acknowledging the need of seafood consumers to access fresh quality fish.

4.1 (a) Estimate the total catch of primary and key secondary species on the OTLF, taking account of the recorded commercial catch and estimated of recreational, Indigenous and illegal catch …Information on the recreational and Indigenous catch will be drawn from the results of the national Recreational and Indigenous Fishing Survey, related studies to be undertaken in NSW and information obtained from other sources such as charter boat logbooks and *4.3 (a) Respond to information about significant changes in the relative catches of the primary key secondary species taken by different endorsement types within the OTLF.*

Improvements to the current monitoring, reporting and recording mechanisms are required to allow management to respond rapidly to significant changes in stocks/catches, (This comment again highlights the fact that catch rates that are five years old and do not reflect the present state of the fishery are being used to assess its sustainability).

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Objective 5.1 Provide secure fishing entitlements for ocean trap and line fishers

5.3 (a) Manage fishing effort in the OTLF by:

i) capping the number of each endorsement type at currently active levels

ii) establishing a maximum level of fishing effort for each sector of the OTLF to be achieved within 10 years of the commencement of the share management plan

Background: The current total level of effort (active and latent) in the OTLF is greater than the level that would provide a positive economic return from the fishery. In particular, there is currently a high level of latent fishing effort in each sector of the OTLF that, if activated, could have a significant adverse impact on the commercial viability of fishing businesses reliant on the fishery. (Latent effort/capacity is defined as those endorsements never used or used at very low levels.) Careful planning is required to facilitate an orderly process of structural adjustment, including setting achievable targets for effort levels, selecting adjustment tools and setting…"

We make the following comments:

- OWA agrees that the issue of latent effort must be addressed prior to developing a scheme to cap the number of active fishers, particularly to avoid the "use it or lose it" scenario which could result in a considerable increase in effort. Thus, the **current** active and latent effort needs to be determined, accounting for the reduction in effort from recent area closures, proposed marine parks etc.
- A preferred management option for the OTLF is full cost recovery. This will inevitably see significant increases in management fees, forcing the smaller scale operators to leave the industry, as reflected in the EIS on p 11.

  "as fishers will face higher management charges they may have an incentive to activate and increase fishing effort in order to increase gross revenue." and *"It is expected that businesses unable to pay higher management charges will exit the fishery, thereby assisting the process of structural adjustment."*

  These smaller scale operators often have endorsements in many fisheries, working one fishery when seasonal fluctuations/annual migrations etc and weather conditions are favourable, thus reducing pressure on other resources during quieter times. It is important that the remaining operators are managed such that they do not jeopardise the sustainability of the resource by forcing those with multiple endorsements to increase effort in one or more of their operations in order to remain active.

  Moreover, the major flaw in the environmental risk assessment (ERA) is the inadequate assessment of the impact of the proposed FMS on the harvest behaviour of stakeholders and thus on the sustainability of fisheries resources. The proposed FMS inadequately addresses the twin legislative objectives of fisheries management, namely 1) resource sustainability and 2) promoting a viable commercial fishery. Mitigation of both fisheries management actions and industry restructuring under a share management regime is optimised by issuing shares under clause 50 in relation to endorsement type and shares under clause 71 (a) in regard to harvest participation; with both implemented at initial stage of share allocation.

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3. Grey Nurse Shark

It is OWA's understanding that DPI has undertaken considerable scientific and socio-economic assessments as to the status of the GNS within NSW waters. We have been awaiting for this information and the proposed management response in relation to protecting the shark and its habitat for many years. It is impossible to make an assessment as to the adequacy of the proposed MR's to GNS set out in Table E1.32 of the Species Impact Statement (SIS) without this information. In principle however, we are supportive of the actions proposed in this table.

Furthermore, the SIS (p 382) states that the proposed MR's in the FMS will only afford a minor reduction in the level of risk posed by the fishery,

"*overall, the immediate proposals in the draft FMS (*Table 1.32*) may lead to a minor reduction in the risk posed by the fishery to the Grey Nurse Shark* p p 382).

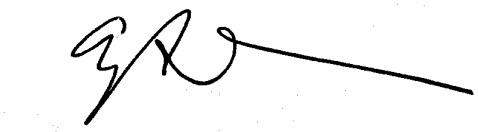
These measures will prove ineffective unless DPI takes action to mitigate against hook usage of both commercial and recreational fishers as stated in section **B2.5.3.1:**

"*closing Critical Habitats and/or Buffer Zones to all OTLF fishing or high risk line fishing methods would remove or reduce risk from the fishery in these areas, but for the purpose of equity, dealing with the risk of the KTP and minimising conflict, would require similar restrictions on recreational fishers, as they are able to conduct the KTP of hook and line fishing in those areas. Such measures are beyond the scope of the draft FMS and should be addressed in the recovery plan for the species*."

The outcomes of the above-mentioned assessments need to be made available to OTLF members and the community for consideration. DPI needs to act upon these measures across all sectors of industry immediately in order to effectively reduce the overall risk posed to the species, given its current critical state. Any outcome however, that results in significant negative impacts to OTLF members through loss of access must be dealt with equitably to minimise socioeconomic flow-on effects.

4. Conclusion

The EIS in its current form, using the outdated and inaccurate information does not adequately assess the sustainability of the fishery, nor can it propose a realistic and effective management strategy. OWA recommends that data be updated, risks reassessed and management responses adjusted appropriately (in consultation with industry). OWA recommends that our specific comments in relation to the MRs also need to be considered and adopted in order to achieve a more viable and sustainable fishery.



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