



# NSW OCEAN TRAP AND LINE FISHERY

## CODE OF PRACTICE FOR REDUCING WHALE ENTANGLEMENTS

DECEMBER 2019



**Australian Government**

**National  
Landcare  
Program**



*This project is supported by OceanWatch Australia, through funding from the Australian Government's National Landcare Program.*

# NSW Ocean Trap and Line Fishery

## Code of Practice for Reducing Whale Entanglements

---

### 1. Best Practice Operations for NSW OTL Fishers

NSW OTL fishers are encouraged to adopt the following measures to reduce the risk of whale entanglement:

1. Be aware of increased whale numbers between May and October.
2. Alert other fishers in the area if whales are observed near fishing grounds.
3. Remove traps from the water when not actively fishing.
4. Trial the practicality of gear and techniques that have the potential to reduce whale entanglements.
5. Provide assistance to further refine this Code of Practice.

### Fishing Gear

Trials of the practicality of modified fishing gears that have the potential to reduce whale entanglements are scheduled to commence in early 2020<sup>1</sup>. Knowledge gained from gear trials will be used to further inform future best practice advice.

Current NSW OTL management regulations require fish traps and spanner crab trot lines to be marked with a buoy of minimum 100 mm diameter at the surface. The following advice identifies best practice fishing gear which complies with current management arrangements for the NSW OTL Fishery.

### Demersal Trap

1. Limit slack rope in the water column.
2. Avoid excessive knots on ropes.

### Spanner Crab

1. Limit slack rope in the water column.
2. Avoid excessive knots on ropes.
3. Minimise the number of buoy lines during whale season.
4. Minimise distance between dillies during whale season.

### Line West, Line East, School and Gummy Shark

1. Limit slack rope in the water column.
2. Avoid excessive knots on ropes.
3. Minimise the number of buoy lines during whale season.
4. Minimise distance between hooks during whale season.

---

<sup>1</sup> *Trials of the practicality of modified fishing gears that have the potential to reduce whale entanglements are scheduled to commence in early 2020. NSW DPIE have informed support for gear trials, and will assist by expediting assessment and issue of permits where appropriate.*

## 2. Course of Action when Encountering an Entangled Whale

The safety of fishing vessels and crew is the highest priority. Do not attempt to disentangle whales.

Immediately report entangled whales to **NPWS** on **1300072757**.

Rapid reporting ensures the NSW Government Large Whale Disentanglement Team has the best opportunity to successfully disentangle whales.

Provide details including:

- Location.
- Type of entanglement.
- Location of entanglement on the whale.
- Speed and direction of travel.

Stand by and monitor an entangled whale from a minimum 100m for an adult or 300m if a calf is present.

Assist the disentanglement team to rapidly locate an entangled whale.

Provide assistance to disentanglement teams when requested.

## 3. Reporting Requirements for Interactions with Threatened, Endangered and Protected (TEP) Species

All whales in Australian waters are protected under the Environment Protection and Biodiversity Conservation Act 1999.

All interactions with protected species must be reported via Fisher Mobile reporting app or DPI logbook. An interaction with a protected species means any physical contact between the protected species, and a fisher, their vessel or fishing gear.

It is not an offence to interact with a protected species if fishers are working in accordance with management regulations.

## 4. Adding to the Knowledge Base Concerning Whale Migrations in NSW Waters

Real-time reporting of whale sightings supports researchers in better understanding the paths of migrating whales and contributes important information to long-term monitoring. NSW OTL fishers can assist through reporting whale sightings via the Wild about Whales app.

*The NSW OTL Whale CoP has been developed with funding support from the Australian Government Department of Agriculture and Water Resources and the Australian Government Department of Environment and Energy.*

## About this Code of Practice

### Background

The Professional Fisherman's Association (PFA) has developed the NSW Ocean Trap and Line Fishery Code of Practice for Reducing Whale Entanglements (NSW OTL Whale CoP) in association with OceanWatch Australia. The NSW OTL Whale CoP provides detailed information specific to the entanglement of whales in NSW Ocean Trap and Line (NSW OTL) fishing gear, and is a supplement to the existing NSW Ocean Trap and Line Fishery Code of Practice (NSW OTL CoP), previously developed by OceanWatch Australia and adopted by NSW OTL fishers through the OceanWatch Master Fishermen training and assessment program.

The NSW OTL Whale CoP is designed to assist NSW OTL fishers to reduce the incidence of, and risks associated with, whale entanglements in fishing gear.

Trials of the practicality of modified fishing gears that have the potential to reduce whale entanglements are scheduled to commence in early 2020. The Code will be regularly reviewed as further knowledge regarding whale specific best practice fishing operations for NSW OTL fishers becomes available.

The NSW OTL Whale CoP has four key elements.

#### 1. Documenting whale specific best practice fishing operations for NSW OTL fishers:

1. including gear modifications that minimise the potential for whale interactions<sup>2</sup>.
2. including conservation measures to assist in protecting whales from entanglement.
3. to minimise damage to or loss of fishing gear and catch due to whale entanglements.
4. to demonstrate fisher's capacity to be proactive in response to emerging environmental issues.

#### 2. Providing information on the appropriate course of action when encountering an entangled whale, including:

1. appropriate and safe work practices for NSW OTL crews in the event of a whale entanglement.
2. rapid reporting of incidents to enable the disentanglement process to begin.
3. assisting whale disentanglement response teams.

#### 3. Highlighting reporting requirements for interactions with Threatened, Endangered and Protected (TEP) species.

Relevant to the Commonwealth EPBC Act and NSW Biodiversity Conservation Act.

#### 4. Highlighting opportunities for NSW OTL fishers to add to the knowledge base concerning whale migrations in NSW waters.

---

<sup>2</sup> *Trials of the practicality of modified fishing gears that have the potential to reduce whale entanglements are scheduled to commence in early 2020. NSW DPIE have informed support for gear trials, and will assist by expediting assessment and issue of permits where appropriate.*

## Scope of the Entanglement Issue

As whale populations in the southern hemisphere recover from past commercial whaling, the potential for interactions between whales and commercial fishing operations is increasing, with most entanglements occurring since 2006. Most entanglement incidents involve Humpback whales, a species listed as a Vulnerable within the Commonwealth EPBC Act and NSW Biodiversity Conservation Act 2016.

Humpback whales migrate through NSW waters between March and November, with a high percentage of the population found between 1nm and 5nm offshore. They are vulnerable to entanglement with fishing gear due to their body shape, habitat use, distribution and behaviours. Unique to Humpback whales are wart like round protuberances (bumps or tubercles) that occur on the head forward of the blowhole and on the edges of the flippers, increasing the potential for entanglement with set fishing gear.

The population of Humpback whales has risen from an estimated 2,000 individuals to 35,000 over the 25-year period from 1994 to the present. This recent recovery of the population of Humpback whales has led to increasing community interest and economic activity associated with observing whale migrations.

Over the same 25-year period there have been 259 whale entanglements recorded in NSW waters. Humpback whales comprise 255 of these entanglement incidents, with two entanglements attributed to Southern Right whales.

Southern Right Whales generally have a shorter season in NSW waters than Humpback whales, typically between June and September. Their migration may extend north to Forster or Port Macquarie, but generally most records of sightings occur south of Sydney. They spend approximately 90% of their time in waters less than 10m depth.

Southern Right Whales are of conservation interest due to the low population level, estimated at less than 300 individuals in the South Eastern Australia population. They are listed as an Endangered species within the Commonwealth EPBC Act and NSW Biodiversity Conservation Act 2016.

In the past few years, there has been an increase in media reports relating to whale entanglements in fishing gear. There has also been an increase in community awareness and concern for animal welfare and bycatch issues.

Preliminary assessment of recorded whale entanglements in New South Wales confirmed a variety of sources contributing to whale entanglements recorded in NSW. These sources include: set fishing gear of unknown origin, e.g. rope and floats, or rope only; set fishing gear not consistent with NSW; rope only (not consistent with NSW fishing gear); NSW and QLD shark mitigation gears; interstate set fishing gear; longline gear of unknown origin and gear associated with aquaculture.

Entanglements associated with NSW commercial set fishing gear include configurations used in the demersal fish trap, spanner crab, demersal setline and lobster trap fisheries, with a higher incidence of interaction with the demersal fish trap sector and low incidence in other sectors. It is likely that a proportion of these entanglements are attributable to the inadvertent contact of whales with ropes associated with some NSW OTL set fishing gears. In the NSW OTL Fishery, potential exists for entanglements to occur when whales inadvertently make contact with buoy lines that extend from set demersal fish traps to identifying head gear. Potential also exists within the Spanner Crab and line fishing components of the fishery for whales to become entangled in trot lines to which multiple crab "dillies" or baited hooks are

attached. Entanglements can compromise a whale's ability to swim, feed and breathe and result in mortality.

Whale entanglements are complex and often dangerous incidents to respond to. Due to the size of whales, disentanglement operations require staff to have specialist training and skills. To date, 46 whales have been successfully disentangled. While disentanglement provides a means for dealing with incidents as they arise, the optimum solution to the problem involves reducing the risk of the entanglement.

Gear trials, commencing early 2020, will be undertaken by NSW OTL fishers to determine the practical utility and safety aspects of gear modifications that may potentially minimise whale entanglement. These trials will determine potential uptake of gear modifications by endorsed fishers, and provide focus for further scientific trials to determine whale entanglement mitigation.

## The NSW OTL Fishery

A comprehensive Fishery Management Strategy (FMS) has been prepared for the NSW OTL Fishery and was approved by the Minister for Primary Industries in November 2006.

Prior to finalisation, the FMS was subjected to a comprehensive Environmental Impact Assessment process under the NSW Environmental Planning and Assessment Act 1979.

There are six types of Ocean Trap and Line endorsements in NSW waters. The East Coast Whale Entanglement Mitigation Program is focussed on Demersal Fish Trap, Spanner Crab North and South, Line West, Line East, and School and Gummy Shark fishers who may utilise buoy lines attached to set fishing gear as an integral component of their fishing operation.

Current NSW OTL fishery management regulations require fish traps and spanner crab trot lines to be marked with a buoy of minimum 100 mm diameter at the surface.

### Demersal Fish Trap

A demersal fish trap endorsement authorises the holder to take fish from ocean waters by means of a fish trap set on the sea bed.

Demersal fish traps are permitted in all NSW ocean waters excluding Marine Parks.

The demersal fish trap endorsement within the NSW OTL fishery is managed by input controls which limit the fishing capacity of fishers, and thereby indirectly controlling the amount of fish caught. These controls include restrictions on the number of endorsements, number of traps, design and dimensions and the waters that may be worked.

### Spanner Crab - Northern Zone and Southern Zone

A Spanner Crab Northern Zone or Southern Zone endorsement authorises the holder to use a spanner crab net, commonly referred to as a dilly, to take spanner crabs from ocean waters.

The fishery operates from Hat Head to the NSW/Queensland border.

The Spanner Crab Northern Zone or Southern Zone endorsement within the NSW OTL fishery is managed through a Total Allowable Catch and input restrictions. Fishers are restricted to operating a maximum of 40 dillies, with generally 10 dillies attached to each trot line. Seasonal closures are also in place to protect spawning females between 21st October and 20th January the following year, and males between 21st November and 20th December.

#### Line fishing western zone endorsement

A line fishing western zone endorsement authorises the holder to use a line to take fish from ocean waters that are west of the 183 metre (100 fathoms) depth contour.

#### Line fishing eastern zone endorsement

A line fishing eastern zone endorsement authorises the holder to use a line to take fish from ocean waters that are east of the 183 metre (100 fathoms) depth contour.

#### School and gummy shark endorsement

A school and gummy shark endorsement authorises the holder to take school and gummy sharks using a line from ocean waters south of a line drawn due east from the northern point of the entrance to Moruya River.