

Submission On The NSW Fisheries Discussion Paper For Grey Nurse Shark Protection - July 2003

From The NSW Spearfishing And Freediving Association Pty Ltd.

This association objects very strongly to this latest review, coming as it does a scant six months after the completion of a comprehensive review process which culminated in the introduction of 10 critical habitat sites and associated regulations on 1st December 2002. The NSW government and its department NSW Fisheries are acting like chooks with their heads cut off and are creating a climate of uncertainty and desperation for the grey nurse shark which simply does not exist.

This association is far more positive and is absolutely certain that the grey nurse population is recovering strongly and can only suspect hidden agendas with NSW Fisheries portrayal of the situation. Can it be empire building within the Fisheries department of conservation?

D.A. Pollard et al in their 1996 paper "The biology and conservation status of the grey nurse shark in New South Wales, Australia" on page 8 state quite unambiguously '*interactions between skindivers and grey nurse sharks are nowadays rare*'. **Today skindivers are happily in the situation where interactions are quite common, they are being seen in numbers not encountered since the 1960's and in locations where they have not been seen in the past.**

This same paper refers to correspondence in 1977 by Valerie Taylor who wrote "*When we first began diving 22 years ago, schools of grey nurse consisting of 30 to sometimes 50 fish could be seen resting near every reef and island along our coast*". Valerie is well known for colourful exaggeration (to put it kindly) and allowing for that, there really is little difference to the situation existing today. **Today's spearfisher frequently sights 30 to 50 sharks in a single days diving and at times well over 100.**

This association has serious concerns at some of the statements appearing in this discussion paper which are obviously designed to inflame the conservation movement and those whose knowledge of the grey nurse shark is very limited.

We are angered at the statement in the 1st paragraph of the introduction to this document that "*One shark has been seen with a spear embedded in its shoulder.*" We are disgusted at the lack of professionalism evidenced by that statement and strongly condemn those responsible for its inclusion (who no doubt will hide behind the cloak of anonymity). This raises in our minds further questions as to the credibility and motives of NSW Fisheries. Fisheries have once again demonstrated their incredible talent for jumping to conclusions. We have had expert spearfishers examine the photo's of the shark with the alleged spear and all are unanimously of the opinion that the object is far too short to be a spear (and spears do not snap at that length), however

expert recreational fishers have suggested that it could be a gamefishing tag applicator. There are other possibilities. Really the jury is still out on this one. This introduction also states that new radio tagging work “*shows they forage far beyond the areas designated as critical habitat*” but then in the section entitled Current situation the last paragraph states “*Preliminary results from a CSIRO and NSW Fisheries electronic tagging project has found that grey nurse sharks regularly move 1000 metres from aggregation sites to forage and feed.*” Our information suggests they may be moving up to 1200 metres, which gives a very strong indication that NSW Fisheries got it right with the buffer zone of critical habitat sites extending to 1000 metres from the aggregation site. **Why is NSW Fisheries misleading the public in its introduction?**

The current situation section is also misleading with its information on increases in hooking incidences. The 2% quoted comes from Pollard et al previously referred to. This survey covered a small area of the NSW coast at Seal Rocks and could in no way be interpreted as it has. This interpretation (i.e. that 2% of grey nurse sharks carried hooks in 1991) is downright dishonest! Sightings by our members do not support the contention that hooking incidences have increased dramatically.

We also take issue with the statement in the introduction that “*There are serious concerns without proper protection the species may become extinct at some time within the next 40 years*”. Yet another example of NSW Fisheries remarkable ability at jumping to conclusions. This association has carefully examined all the published studies and the printed media along with the consistent reports from our membership of increasing abundance and considers this statement alarmist nonsense, not at all expressing the real situation. The grey nurse shark has been **TOTALLY** protected since 1984. If that does not constitute proper protection then what does? Prohibiting fishing along the entire eastern seaboard? NSW Fisheries and the NSW government have indicated very plainly that they do not intend to do anything about the two primary causes of grey nurse mortality, bottom set line fishing for wobbegong sharks and the beach meshing program. It would be most unfair to expect recreational fishers alone to carry the brunt of any new measures.

It appears from fisheries alarm that the critical habitat experiment has been a failure. Our submission of May 2002 supported the view of the US Fish and Wildlife Service that “*The critical habitat designation usually affords little extra protection to most species, and in some cases it can result in harm to the species*”. We said that we believed this would be the case with the grey nurse. It would seem that only six months later we are being proved correct, that is if we can rely on the information being provided by NSW Fisheries.

The introduction also carries the statement that “*A review of protection measures is required because we now believe grey nurse shark numbers are lower than thought...*” without providing information as to why fisheries have arrived at that quite remarkable conclusion. It is our understanding that this is due to concern at the high number of sightings of recently tagged sharks and we were told that this is quite unique when in fact it is not and we quote from “Tagging techniques for the underwater identification of sharks” by Pratt H.L. Jnr and Carrier J.C. “*Repeat sightings have been numerous during mating season*”. A number of grey nurse studies have observed apparently a high degree of site attachment so it should not be

unexpected to sight tagged specimens regularly. Is this a case of NSW Fisheries jumping to conclusions once again?

We do not see any significance in the fact that Scuba divers did not see grey nurse at the Peaks. The Peaks was dived regularly in the late sixties and early seventies and they weren't seen then either. That does not mean they aren't there. A scuba diver operating at those depths is extremely limited as to what can be accomplished. Once again Fisheries jumps to conclusions.

We are in total agreement with the statement that *“we have to think beyond the idea of just simply locking up areas if we are going to achieve our goal of increasing grey nurse shark numbers”*. **We are strongly of the view that if increasing grey nurse shark numbers is the goal then that goal has already been attained and nothing further need be done.** Locking up areas is a lazy defeatist approach to management that only increases fishing effort in the ever decreasing areas that are left open to us. Locking up areas can never ever replace sensible management.

To respond to your specific questions:-

Critical Habitat and Buffer Zone Provisions.

There can be little doubt that the process for the declaration of *“critical habitat”* is *open to misuse and abuse and indeed there is compelling evidence that this has already occurred (e.g. Bass Point). The Fisheries Amendment Act 1997 relating to threatened species conservation requires in section 220P (1) The whole or any part of the habitat of an endangered species, population or ecological community that is **critical** to the survival of the species, population or ecological community is eligible to be declared under this division to be the critical habitat of the species, population or ecological community”*. A dictionary defines critical as “important, as regards consequences” in this context. A close study of the work done in identifying so called critical habitat in NSW is inadequate and fails to make a compelling case that these sites need special protection for the grey nurse to survive.

The Director of Fisheries Steve Dunn in correspondence to the Coffs Harbour Advocate published on 26/11/02 stated that *“Critical habitats are areas where grey nurse sharks are known to gather to feed, mate and pup, and they are vital to the survival of this endangered specie”*. From reading the literature produced by NSW Fisheries it appears that an aggregation of grey nurse sharks is considered to be 5 or more individuals present at the same site at the same time (Otway et al June 2003). Any aggregation site is apparently then considered “key (critical) habitat”. A site where aggregations of grey nurse sharks are found should not automatically be considered as critical habitat without a thorough rigorous assessment process using predetermined criteria that is transparent and independent of NSW Fisheries.

In correspondence to us dated 22/2/2003 from the former Minister for Fisheries concerning critical habitat the minister stated *“Marine scientists have identified these sites as the key locations where grey nurse sharks gather, feed and breed”*. The minister seemed completely unaware of his obligations under the act when declaring critical habitat and it is our belief he has done so quite improperly. Section 220S (1) (a) of the act requires the minister to have regard to *“the likely social and economic consequences of a declaration of the area as critical habitat”*. We have not seen any evidence that the minister did in fact do this.

We would like to see an enquiry into the whole process of the establishment and declaration of critical habitat with guidelines established that have complete transparency.

Feeding Grounds.

Increased protection will be provided by prohibiting bottom set line fishing for wobbegong sharks in NSW waters.

Hook and bait Fishing.

Nothing more can be done.

Trolling and drifting.

You have already answered this in your pamphlet "Protecting the Grey Nurse Shark" where you state "Trolled hooks are not a danger to grey nurse sharks which are found in deeper waters.

Spearfishing.

Spearfishing is the most selective method of any fishing and should not be targeted for any additional restrictions. This association has developed its own guidelines for members when spearfishing where grey nurse sharks are found and is in the process of introducing accreditation for our members who will be required to demonstrate that they are able to fish sustainably and selectively within the laws of our state. This association has led the way in the development of ecologically sustainable fishing practices.

Commercial net fishing.

If there is evidence that this method of fishing is impacting negatively on the grey nurse then action should be taken to mitigate these impacts.

Scuba Diving.

This association has previously advised on what should be done to manage the impacts of scuba diving and been ignored. Is there any point in responding further as they seem to be a protected specie as far as the department is concerned.

It really is a joke the so called rules for scuba diving and their code of conduct which are just ignored and with no evidence of enforcement by NSW Fisheries. What happens at Magic Point is an absolute disgrace.

Night Fishing.

To be of any effect night fishing, especially for jewfish and teraglin would have to be stopped in the whole of the waters of NSW. This is obviously not practical.

Mel Brown

Secretary

NSW Spearfishing and Freediving Association Pty. Ltd.
(For and on behalf of its 360 members).

