

Media Release

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Fishing Industry To Challenge Historic Judgement Supporting Priority of Peoples Right to Fish.

An inalienable right that goes back to the Magna Carta, the ongoing priority of the peoples common law right to fish and feed themselves is being appealed in Court by the New Zealand fishing industry.

Three of New Zealand's largest commercial fishing companies Sanford Ltd, Sealord Group Ltd and Pelagic & Tuna NZ Ltd are appealing the historic High Court decision made by Justice Harrison in March this year that requires the review of the kahawai allowance made to recreational and customary fishers in 2004 & 2005.

The first challenge to commercial fishing, in the 20 years since the introduction of the Quota Management System, was brought by the recreational fishers at the end of last year and known as the Kahawai Legal Challenge.

"For too long the commercial fishing industry has had things all their own way so it is understandable that they will fight to maintain the status quo", said Richard Baker of the Big Game Fishing Council representing the group of recreational fishing organisations and individuals who brought the Judicial Review case on behalf of all New Zealanders,

"It is a direct and ongoing attack on the people's birthright to fish and provide for their social, economic and cultural wellbeing as specified by Justice Harrison"

"The appeal is a tactical move by large wealthy players in the commercial fishing industry who have benefited, often at the public's expense, from the quota system," continued Richard Baker.

"Also the appeal will be a cost to the taxpayer as the Minister of Fisheries will need to be represented and financially for our organisations it is certainly a David and Goliath battle but one we believe is important to pursue for all New Zealanders no matter what the cost as it affects many fisheries including snapper."

The case was against the view that the then Minister of Fisheries in 2005, David Benson-Pope took, on the advice of the Ministry of Fisheries. He found that kahawai allowance for amateur fishers should be reduced by 25% along with commercial quotas.

The recent ruling by Justice Rhys Harrison found that David Benson-Pope had made an error in law for not properly allowing for recreational fishing interests and their well being.

“For years the fishing industry has maintained that the economic benefit generated and their commercial fishing property right (quota) is more important than the interests of the people of New Zealand,” continued Richard Baker,” but at last with the findings of Justice Harrison the people’s wellbeing is the ‘starting point’ and priority when setting allowances.”

The amateur fishing interests point out that without some action the large surface schools of kahawai - often referred to as the people’s fish - that were once an integral part of the seascape and sustenance fisheries in northern New Zealand will become a ‘distant memory.’

Richard Baker concluded: “We cannot let this happen as the result of excessive purse seining by the fishing industry who is only interested in the short term outcome of maintaining the high volume low value commercial fishery for kahawai”.

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Background to Kahawai Legal Challenge Findings.

Justice Rhys Harrison found that The Minister of Fisheries decisions on entry of the kahawai species to the quota management system in 2004 and 2005 were unlawful.

This was an important win for recreational and amateur fishers who brought the case known as the Kahawai Legal Challenge

The findings against the Minister of Fisheries included the fact that a total allowable commercial catch for kahawai had been set without having proper regard to the social, economic and cultural wellbeing of the people - a mandatory consideration in the Fisheries Act 1996.

Also the Minister had failed to take into account the special considerations applying to the Hauraki Gulf, due to the Hauraki Gulf Marine Park Act 2000, when fixing the total allowable catch within area 1 (covering North Cape to East Cape, and including the Hauraki Gulf).

The judicial review case was brought by the New Zealand Big Game Fishing Council and the New Zealand Recreational Fishing Council Inc. Both recreational fishing councils lodged the proceedings as a test case. The case is the first legal proceedings by amateur and recreational fishing interests since the introduction of the quota management scheme.