

Media Release

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Supreme Court grants leave to appeal contentious fisheries management priorities

A milestone decision by the Supreme Court to accept an application to review the 2008 Appeal Court kahawai decisions has been welcomed by amateur fishing organisations.

The Supreme Court has granted leave to appeal against the Court of Appeal's decision.

Clarification has been sought as to how the Minister of Fisheries is to properly allow for amateur fishing interests when setting catch limits in all, important fisheries. The Supreme Court's decision will likely set a precedent for all future management decisions.

Joint appellants to the Appeal Court decision, the New Zealand Big Game Fishing Council and the New Zealand Recreational Fishing Council, are now waiting for a hearing date to be set by the Supreme Court, likely to be early 2009.

Richard Baker, President of the NZ Big Game Fishing Council, has been inundated with calls of support since the Court's announcement.

"This is an historic day for all New Zealanders. The Council appreciates the backing of option4 and our largest iwi, Ngapuhi, in trying to defend the inalienable right of all future Kiwis to fish and provide for their wellbeing."

While the Council is pleased with the decision to allow the appeal, it was not surprised that the fishing industry had opposed the Supreme Court application. The Council was however very surprised and disappointed that the Ministry and Minister of Fisheries supported the fishing industry in opposing the Council's application. This, especially as they had previously accepted the High Court's findings and not sought to appeal the case at the Appeal Court level.

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Background to Kahawai Legal Challenge

In March 2007 the High Court 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.

The judicial review proceedings were lodged 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.

In April 2007 three of New Zealand's largest commercial fishing companies Sanford Limited, Sealord Group Limited and Pelagic & Tuna NZ Limited appealed the historic High Court decision made by Justice Harrison.

The Court of Appeal decision was released in June 2008. The Appeal Court's decision was mixed, with a win for both the commercial appellants and the respondents. Some aspects of the Appeal Court's interpretation of the relationship between different sections of the Fisheries Act 1996 forms part of the Supreme Court challenge.

Web: www.kahawai.co.nz