

Kahawai Challenge Team

Update #37, 24th JUNE 2008

Non-commercial Fishing Interests Come First, Commercial Last

Months of waiting are over!

The Court of Appeal has confirmed the 2007 High Court ruling, that the Minister of Fisheries must first allow for the non-commercial fishing interests of Maori customary and recreational fishers and make an allowance for fishing-related mortality, before he sets the commercial catch limit in any fishery.

Interestingly, the three Appeal Court judges did not agree that it was mandatory for the Minister to provide for the social, economic and cultural wellbeing of people when setting allowances. In summary they said:

“As with most aspects of the decision-making role played by the Minister, the consideration of the wellbeing factor requires a balance of competing interests, especially in the case of a shared fishery such as kahawai.”

This was one of many statements made in the 40-page judgment delivered on June 11th. The judges agreed with some of the claims made by both the commercial appellants and amateur fishers, so the ruling was a mixed result for both.

The commercial claim that the Minister should be required to monitor and assess the recreational kahawai catch was turned down by the Court.

The claim by non-commercial fishers that the Minister must have “particular regard” to the national significance of natural resources in the Hauraki Gulf Maritime Park, when setting allowances, was upheld by the Court.

A copy of the full Court decision is online, as is an overview of the decision from our legal team. Visit the [Kahawai website](#).

www.kahawai.co.nz.

The NZ Big Game Fishing Council, the NZ Recreational Fishing Council, option4, Ngapuhi and other non-commercial fishing organisations who supported the legal challenge are eagerly awaiting a full analysis by Alan Galbraith QC and Hesketh Henry Lawyers before deciding the next step. There is no automatic right of appeal. Leave to appeal must be obtained from the Supreme Court by July 9th.

An interesting question remains unanswered, how will the Minister comply with earlier decisions to reduce the public’s catch of kahawai by 25 percent when we catch so few fish?

This issue and many others were discussed during an [enlightening interview](#) [KiwiFM’s Wammo](#) had with Scott Macindoe, the Kahawai Challenge’s spokesperson, after the decision’s release.

<http://www.scoop.co.nz/stories/HL0806/S00171.htm>.

Thank you to all the heroes who have supported the Kahawai Legal Challenge. We will keep you updated on further developments as they occur.

Regards

From the KLC team.