

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**CIV-2005-404-4495**

UNDER Part I of the Judicature Amendment  
Act 1972

IN THE MATTER OF an application for review

BETWEEN THE NEW ZEALAND RECREATIONAL  
FISHING COUNCIL INC, AND NEW  
ZEALAND BIG GAME FISHING  
COUNCIL INC  
Plaintiffs

AND MINISTER OF FISHERIES  
First Defendant

AND THE CHIEF EXECUTIVE OF THE  
MINISTRY OF FISHERIES  
Second Defendant

AND SANFORD LTD, SEALORD GROUP LTD  
AND PELAGIC & TUNA NEW ZEALAND  
LTD  
Third Defendants

Date: 31 May 2007

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**MINUTE OF HARRISON J**

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**SOLICITORS**

Hesketh Henry (Auckland) for Plaintiffs  
Crown Law Office (Wellington) for First and Second Defendants  
Chapman Tripp (Wellington) for Third Defendants

[1] I refer to the application filed by the Minister of Fisheries for an order staying my judgment dated 21 March 2007 pending determination of an appeal filed by the commercial interests.

[2] I assume that the recreational fishers wish to be heard in opposition. Accordingly I direct that:

- (1) By 8 June 2007 the Minister is to file a synopsis of submissions in support (I assume that the commercial interests endorse the application, in which case I do not need to hear from them separately);
- (2) By 18 June 2007 the recreational fishers are to file a synopsis of submissions in opposition.

[3] The principles governing leave are well known and I would not expect synopses to be of more than 10 pages in length. Counsel should indicate whether they wish to be heard in support or opposition, in which case I will attempt to arrange a fixture of no less than one hour duration at 9 am one day in late June or early July. Otherwise I will determine the application on the papers.

[4] It may assist counsel if I make these provisional observations. It is most unusual for a party which does not appeal a decision to seek an order for stay. The Minister will have to establish a compelling case in support. The grounds of appeal are always a relevant consideration. The notice of appeal filed by the commercial interests on 19 April 2007 appears to challenge every element of the decision, regardless of its materiality to the result, and to seek to re-run arguments which I found were without hope. In my experience the prospects of a party successfully appealing a judgment are greater when one or two arguable points are identified and pursued.

[5] The Minister must proceed in the interim on the basis that the judgment is not stayed, and to act in accordance with the declarations and orders made.

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Rhys Harrison J