

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

CIV 2005-404-4495

UNDER Part 1 of the Judicature Amendment Act 1972

IN THE MATTER An application for review

BETWEEN **THE NEW ZEALAND RECREATIONAL FISHING
COUNCIL INC AND NEW ZEALAND BIG GAME
FISHING COUNCIL INC**

Applicants/Third Counterclaim Respondent

AND **MINISTER OF FISHERIES**

First Respondent/First Counterclaim Respondent

AND **CHIEF EXECUTIVE OF THE MINISTRY OF
FISHERIES**

Second Respondent/Second Counterclaim Respondent

AND **SANFORD LIMITED, SEALORD GROUP LIMITED
AND PELAGIC & TUNA NEW ZEALAND LIMITED**

Third Respondents/Counterclaim applicants

**APPLICATION OF FIRST AND SECOND RESPONDENTS FOR STAY
PENDING APPEAL**

Dated: 23 May 2007

Next Event Date:

Judicial Officer: Harrison J

**Crown Law Office (Peter McCarthy/Sara Ritchie)
Telephone: 494 5602, PO Box 2858, DX SP 20208,
Facsimile: 494 5680, Wellington Central.**

TAKE NOTICE that on the day of 2007, at am/pm
or as soon thereafter as counsel may be heard, the first and second respondents will
move the Court at Auckland for orders:

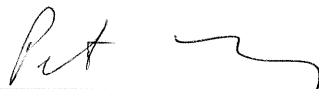
1. Staying the judgment dated 21 March 2007 pending determination of the
 appeal against that decision by the third respondents and of the cross-appeal
 by the plaintiffs.
2. Such order as to costs as the Court deems just.

UPON THE GROUNDS:

1. The decision of this honourable Court requires the first respondent to
 undertake a reconsideration of specified decisions in accordance with relevant
 provisions of the Fisheries Act.
2. Both the plaintiffs and the third respondents have appealed the judgment of
 this Honourable Court, each in different respects.
3. In the event the Court of Appeal were to allow all or any of the points on
 appeal, the first respondent will have made decisions on reconsideration
 affecting the rights of the other parties on what will have been held to have
 been a wrong legal basis.
4. If the first defendant proceeds with the reconsideration directed by this
 honourable Court, his decision is likely to be challenged on either the grounds
 raised by the appeal, or on the grounds raised on the cross-appeal.
5. Implementation of the decision resulting from the reconsideration in the
 2007/08 fishing year will likely be affected or prevented by interim orders.
6. Reconsideration of sustainability measures for kahawai stocks over May-
 September 2007 will mean that resources are not available for consideration of
 new sustainability measures for a number of other stocks.
7. It is therefore desirable to defer the reconsideration until the result of the
 appeal and cross-appeal is known.

This application is made in reliance on Rule 12 Court of Appeal (Civil) Rules 2005, and *Dymocks Franchise Assistance (NSW) Pty Limited v Bilgola Enterprises Limited* (1999) 13 PRNZ 48.

Dated this 23rd day of May 2007



Alan Ivory/P A McCarthy
Counsel for first and second respondents