

Kahawai Challenge Team

Update #41, October 2008

Living in 'Godzone' has many advantages: one of which is the common law right to go down to the sea and catch fish. Justice Harrison confirmed every New Zealander's right to fish in March 2007. The High Court described this right as being particularly valuable because of our proximity to the sea and our temperate climate.

It is one thing to have that right and another to be able to exercise it with some measure of success. When a 74-year-old writes a letter saying he does not fish anymore because he rarely catches enough to feed his whanau, you have to wonder if we have moved from 'Godzone' to 'Gonezone'.

Many people are surprised, even horrified, to learn that most of our important fisheries are allowed to be fished down to achieve a stock level (or biomass) around 20 to 25 percent of its original size. This biomass is considered sufficient to produce the maximum sustainable yield.

In theory, and according to computer models, this target is achievable. It allows around 80 percent of the fish to be taken from the stock without having an impact on sustainability. In practice, this exploitive approach has impacted on the public's right to go and catch a feed of fish.

In many instances the scientists and managers have got it wrong and reduced our fisheries to mere scraps of their virgin, unfished size. Orange roughy, hoki, snapper, gurnard and kahawai are recent examples of this 'throw the dart at the dartboard' type management.

Can we afford to be so brutal with our natural resources?

Some overseas fisheries jurisdictions have realised the shortcomings of maximum yield and now use other measures such as optimum yield. Managing fisheries at 40 to 50 percent of original levels enables wider consideration of people's social and cultural needs in addition to the financial returns of commercial fishing.

In New Zealand successive governments have allowed the slaughter to continue in the pursuit of monetary gain.

Despite provisions within the Fisheries Act 1996 to apply precautionary measures if information is uncertain, the adversarial approach taken to fisheries management usually ensures that those with the most resources generally win the arguments. A litany of court cases is proof of that.

Supreme Court proceedings

The application made to the Supreme Court for leave to appeal parts of the Court of Appeal's kahawai decision is vitally important for future fisheries management.

Section 8 of the Act defines the purpose as being "*to provide for the utilisation of fisheries resources while ensuring sustainability*".

Sustainability means maintaining fisheries for future generations and protecting the environment, while utilisation encompasses conserving, using, enhancing and developing fisheries to "*enable people to provide for their social, economic and cultural wellbeing*".

The key question in the application for leave to appeal is how the words "*enable people to provide for their social, economic, and cultural well-being*" are to apply to the exercise of the Minister's discretion when making decisions to allow for recreational fishing interests.

All recreational fishing groups supporting the appeal agree that it is important to get this aspect of the law clarified, which was a key part of the earlier High Court decision.

The leave of the Supreme Court must be obtained in order for the appeal to continue. The Crown and commercial fishers have opposed the application for leave. It is now up to the Supreme Court to decide if they will grant the application for leave.

The Kahawai Challenge team are grateful for the ongoing support from *New Zealand Fishing News* readers. If you value your fishing please assist the team by posting a cheque to the 'Kahawai Challenge Fund', c/o NZ Fishing News, PO Box 12-965 Penrose, or simply dialling 0900 KAHAWAI for a quick \$20 donation (or two) or go online to www.kahawai.co.nz.