



### **Recreational fishers are not a pushover**

It was all hands to the pump for the New Zealand Sport Fishing Council volunteers at the recent Hutchwilco New Zealand Boat Show. Over 34,000 show attendees were able to talk with the LegaSea crew and contribute to the ongoing effort to protect our fishing future.

It was particularly pleasing to engage with people who had contributed to the Kahawai Legal Challenge and clarify the positive outcomes from our first-ever foray into the judicial system.

In 2009 the Supreme Court dismissed the Council's appeal, but went on to clarify that:

- The allowance for recreational fishing was not proportional – a Minister could provide more fish for the public and was not constrained by notions that commercial and recreational fishers had some sort of fixed shares in a Total Allowable Catch.
- Recreational fishers had a right to quality fishing; providing for people's social wellbeing was an important part of their 'interests,' and any allowance had to be reasonable.
- The Minister could manage a stock at high abundance if he/she chose; indeed in the subsequent Court-ordered review the Minister chose to manage Kahawai stocks at more than 50% of its estimated original stock size, to better provide for recreational interests.

### **Proportional agenda thwarted**

Ever since the 1991 Task Force report, fisheries managers have been trying to shoehorn the public's fishing interests into the Quota Management System and allocate a fixed, proportional share.

This they argued would strengthen recreational fishing rights, give certainty and enable amateur fishers to contribute to the cost of fisheries management.

But, it would also remove the ability to alter over time the public's share, depending on changes in population and values.

There have been several more attempts to foist proportional allocation onto the public, including the government's 2000 Soundings and 2007 Shared Fisheries proposals.

Despite overwhelming rejection, proportional allocation became the Minister and Ministry of Fisheries' unofficial policy.

When catch reductions were required the overall recreational allowance and commercial quota limit were being decreased by the same proportion. In essence, treating recreational fishers as if we were quota holders.

Proportional cuts were applied as Kahawai was introduced into the quota system in 2004. This incensed thousands of people.

In the High Court the Council argued it was unjust that public catch was being sacrificed as a result of years of commercial overexploitation using industrial harvesting methods, mostly purse seining.

Justice Rhys Harrison's decision was a slam-dunk win for recreational interests. The fisheries Minister must 'allow for' people's broad social, economic and cultural wellbeing when making decisions. Not just recent catch history, which was artificially low due to a lack of fish in coastal waters.

Full costs were awarded against the Crown, which they promptly paid.

**Further appeals**

Sanford and Sealord appealed the High Court decision. The 2008 Court of Appeal decision overturned some of the earlier ruling, but was a mixed bag.

In 2009 the Supreme Court agreed to hear the Council's appeal. The appeal was eventually dismissed, but the Supreme Court has provided valuable clarification of both the Minister's obligations and our future fishing interests.

**Positive outcomes**

A pleasing aspect of the Kahawai Legal Challenge is that recreational fishers proved that we are not a pushover. When required we can collectively fend off challenges from commercial interests and the government.

However, more recent management decisions have been inconsistent with the Court's directions.

Your contribution to LegaSea is necessary as it will enable the Council to both develop a strong base and adequate resources to challenge unjust decisions, and ensure that the Supreme Court's decision is given maximum effect. It's the least we can do for our family's fishing future.