

IN THE SUPREME COURT OF NEW ZEALAND

**SC 40/2008
[2008] NZSC 74**

BETWEEN NEW ZEALAND BIG GAME FISHING
 COUNCIL INC
 First Appellant

AND THE NEW ZEALAND RECREATIONAL
 FISHING COUNCIL INC
 Second Appellant

AND SANFORD LIMITED, SEALORD
 GROUP LIMITED AND PELAGIC &
 TUNA NEW ZEALAND LIMITED
 First Respondents

AND MINISTER OF FISHERIES
 Second Respondent

AND THE CHIEF EXECUTIVE OF THE
 MINISTRY OF FISHERIES
 Third Respondent

Court: Elias CJ and McGrath J

Counsel: A R Galbraith QC and S Ryan for Appellants
 B A Scott and G T Carter for First Respondent
 A E L Ivory and P A McCarthy for Second and Third Respondents

Judgment: 2 October 2008

JUDGMENT OF THE COURT

A The application for leave to appeal against the judgment of the Court of Appeal in Sanford Ltd v The New Zealand Recreational Fishing Council Inc [2008] NZCA 160 is granted.

B The approved ground of appeal is:

Did the Minister of Fisheries, when setting the total allowable commercial catch for Kahawai under s 21 of the Fisheries Act 1996 in 2004 and 2005, act in accordance with statutory requirements?

C The appellants' application for leave to respond to the submissions of the respondents on the leave application is consequentially dismissed.

REASONS

[1] The application for leave to appeal is granted on the basis of the first appellant's submissions of 6 August 2008 in support of granting leave. Having considered those submissions, along with submissions from the respondents each dated 27 August 2008, it was not necessary for the Court to address the further "factual context" submissions made for the appellants dated 3 September 2008. The appellants' application for leave to file the further submissions in reply to those of the respondents is accordingly dismissed.

Solicitors:

Hesketh Henry, Auckland for Appellants

Chapman Tripp, Wellington for First Respondents

Crown Law Office, Wellington for Second and Third Respondents