

## **Kahawai Challenge Team**

Update #33, March 2008

### **Appeal Court Challenge Brings Enthusiastic Support**

It was a boost for the team returning from Wellington's Appeal Court hearing to learn that several notable contributions have been received into the Kahawai Challenge Fund.

These include another contribution from the Marlborough Recreational Fishers Association, this time \$3,500 was raised by selling raffle tickets. The Wanderers Surfcasting and Angling Club of Henderson, Auckland, has sent \$100 collected from their members. Glenfield resident David Casey took a bundle of kahawai t-shirts to the recent Browns Bay fishing competition and sold the lot!

This effort is uplifting the people committed to defending the High Court's Kahawai Challenge decision. Hesketh Henry Lawyers and Alan Galbraith QC have been representing this 'public good' case for over two years.

### **Commercial fishers heard in Court of Appeal**

Three Court of Appeal judges heard the commercial fishers' appeal on February 26<sup>th</sup> and 27<sup>th</sup>. The Court has reserved its decision.

From an amateur fisher's view it was very interesting to sit in the back of the Court and witness the interplay between the judges and the lawyers presenting the legal arguments for the appellants, amateur fishers and Crown Law.

"At times the two-day hearing felt like a roller-coaster ride," said Scott Macindoe of the Challenge team.

In a surprise move before the hearing, the Crown Law office acknowledged the Minister's original decisions for kahawai in 2004 and 2005 were wrong, and that allowing for amateur interests needed to take into account a wider range of considerations than just catch history. This was hotly contested by the commercial fishers represented by Sanford's and Sealord's.

The KLC team argued that the Minister has a legislative requirement to manage fisheries sustainably, to enable people to provide for their social, economic and cultural wellbeing.

### **Hauraki Gulf**

Submissions from the NZ Big Game and Recreational Fishing Councils addressed the Hauraki Gulf Marine Park Act 2000. This Act has to be taken into account when making decisions under the Fisheries legislation. The Gulf is within Kahawai Management Area 1 (KAH1).

Both Councils have made numerous submissions since the early 1990's about the degradation of the kahawai fishery.

NIWA surveys have indicated the lowest catch rates of kahawai in the Gulf since 1991. Kahawai is generally taken as a bycatch of the snapper fishery, but these days only one kahawai is caught for every eight boat trips. It takes 100 fisher hours to catch one kahawai in the Gulf!

In addition to poor size and catch rates, environmental concerns have been raised in relation to inter-dependent species. The loss of kahawai schools has deprived many people the thrill of watching fish boiling on the surface attracting 'kahawai birds' from seemingly all corners of the sky.

The final outcome in terms of the legal principles applied by the Ministry is very important for clarifying the nature of the amateur fishing right, and how this applies to fisheries of significant interest to recreational fishers. Fisheries in this category include kahawai, snapper, blue cod, kingfish, crayfish and paua.

The Appeal Court decision is eagerly awaited and may be out by the end of April.

Watch this space!