

In summary the Supreme Court ruled:

- That the law requiring the Minister to allow for recreational fishing interests when setting the TACC requires a Minister to set an "allowance" which is an estimate of a catch (being a portion of the TAC) which the Minister is able to control through regulation.
- The allowance represents what the Minister considers recreational interests should be able to catch but also all that they will be able to catch.
- While the Minister is required to make a deduction for all mortality before setting the TACC, the sequence of determination of the TACC does not give recreational fisheries any substantive priority over commercial fishers. The relative priority between sectors is a matter for the Minister.
- The Court has held that the Minister exercises discretion, allowing the Minister to decide on the appropriate "allocations", to be considered along with the Minister's ability to set or vary the TACC at or to zero.

So this puts the matter back in the hands of the Minister, who it appears can pretty much do exactly what he/she wants...

### **Annual Conference and AGM of the NZ Recreational Fishing Council**

The NZRFC Conference and AGM were held on 24– 25 July 2009 at the Trailways Hotel, Nelson. The Conference theme was *"Recreational Only Fishing Areas"*

The keynote address was by the Minister of Fisheries Phil Heatley on giving effect to "Recreational Only" fishing reserves as one way of recognizing recreational fishing needs. Nothing specific came from this address other than the Minister said he was committed to the enhancement of non-commercial fishing and as a keen fisherman he wanted to see sustainable inshore fisheries. He reiterated the Govt's. policy of "no licensing". However, one of his key objectives as Minister is to enhance the export earning capability of NZ's commercial fisheries. This it seemed to me, did not suggest the Minister was about to close out commercial fishing from any area any time soon.

Two Australian recreational fishing representatives were invited to highlight the Australian experience in establishing recreational only fishing areas, but they did not show. The program went on to include:

MFish CEO Wayne McNee's address included:

- MFish restructuring
- Vision 2030
- Regional Recreational Forums
- Amateur Advocacy

Marine Protection Areas (MPA) Process

- Tania McPherson on the sub-Antarctica Islands process
- Geoff Rowling on the West Coast MPA process
- Scott Williamson MFish Nelson

In all cases discussed there appears to have been very little or no recreational fishing representation or consideration.

Kahawai Legal Challenge: Brief analysis by Ocean Law, Nelson.