

18 November 2013

Distribution: All media

Appeal against King Salmon starts in Supreme Court

The Environmental Defence Society's appeal relating to King Salmon Ltd's proposal to establish a marine farm in Port Gore starts in the Supreme Court tomorrow (Tuesday) and is scheduled to run for up to three days. Save Our Sounds (SOS) is also appealing the approval of four sites.

The EDS appeal is against an earlier decision of the High Court. EDS had appealed the decision of the Board of Inquiry to the High Court but was unsuccessful. EDS then sought leave to appeal that decision to the Supreme Court and was successful with that application.

"The EDS case is based on the interpretation by the Board of Inquiry and the High Court of the New Zealand Coastal Policy Statement 2010," said EDS Chairman Gary Taylor.

"We contend that on a correct interpretation of Policies 13 and 15, the Board, having found that the site was an outstanding landscape and had outstanding natural character, should have declined approval.

"We are also arguing that the applicant failed to properly assess alternative sites.

"Acting for EDS are David Kirkpatrick, Robert Enright and Nicola de Wit. The appeal is being opposed by King Salmon Ltd, the Ministry for Primary Industries and the Department of Conservation," Mr Taylor concluded.

The two questions before the Court are:

1. Was the Board of Inquiry's approval of the Papatua plan change one made contrary to s 66 and 67 of the Act through misinterpretation and misapplication of Policies 8, 13, and 15 of the New Zealand Coastal Policy Statement? This turns on:

- (i) Whether, on its proper interpretation, the New Zealand Coastal Policy Statement has standards which must be complied with in relation to outstanding coastal landscape and natural character areas and, if so, whether the Papatua Plan Change complied with s 67(3)(b) of the Act because it did not give effect to Policies 13 and 15 of the New Zealand Coastal Policy Statement.*
- (ii) Whether the Board properly applied the provisions of the Act and the need to give effect to the New Zealand Coastal Policy Statement under s 67(3)(b) of the Act in coming to a "balanced judgment" or assessment "in the round" in considering conflicting policies.*

*2. Was the Board obliged to consider alternative sites or methods when determining a private plan change that is located in, or results in significant adverse effects on, an outstanding natural landscape or feature or outstanding natural character area within the coastal environment? This question raises the correctness of the approach taken by the High Court in *Brown v Dunedin City Council* [2003] NZRMA 420 and whether, if sound, the present case should properly have been treated as an exception to the general approach. Whether any error in approach was material to the decision made will need to be addressed if necessary.*