

# RURAL-COASTAL ONLS : THE MAN O'WAR DECISION

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# EDS v KING SALMON DECISION

- ▶ OBJECTIVES AND POLICIES IN COASTAL ENVIRONMENT
- ▶ AVOIDANCE OBLIGATION
- ▶ IMPACT ON MAPPING ?

# RURAL-COASTAL AS ONL



# QUESTIONS OF LAW: HIGH COURT

- ▶ Failure to address WESI factors
- ▶ Comparative error: looking at regionally important not nationally important rural coastal landscapes
- ▶ King Salmon changed the threshold for ONL; the Environment Court applied the wrong legal test
- ▶ Failure to separate farm into coastal and not coastal post King Salmon

# POLICY 15 NZCPS

- ▶ (c) identifying and assessing the natural features and natural landscapes of the coastal environment..having regard to:
  - ▶ (i) natural science factors;..
  - ▶ (iii) legibility or expressiveness...;
  - ▶ (iv) aesthetic values including memorability and naturalness;..
  - ▶ (vi) transient values, including presence of wildlife or other values at certain times of the day or year;..
- ▶ (d) ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and
- ▶ (e) including the objectives, policies and rules required by (d) in plans.

# QUESTIONS OF LAW: COURT OF APPEAL

- ▶ 5 Questions [simplified]
- ▶ Q1: Whether mapping of an ONL is informed by s6(b) RMA and the wording of Obs and Pols
- ▶ Q2: Whether test for ONL has changed (been elevated) in coastal environment post King Salmon
- ▶ Q3: If Obs and Pols are not 'King Salmon compliant', should mapping of ONL be reassessed
- ▶ Q4: 4<sup>th</sup> dimension: how to address future use as a working farm that is also an ONL
- ▶ Q5: Comparative issue: do we look at local, regional or national landscapes ?

# IMPLICATIONS

- ▶ RETHINK WESI ?
- ▶ NATIONAL, REGIONAL, DISTRICT, LOCAL LANDSCAPES
- ▶ 4<sup>TH</sup> DIMENSION
- ▶ IMPACT ON MAPPING ?

# ARPS PC 8

- ▶ Insert Link to ARPS PC8 Map 33
- ▶ <http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/DistrictRegionalPlans/regionalplans/aucklandcouncilregionalpolicystatement/Pages/change8volcanicfeaturesandviewshaftsandproposedchange8landscape.aspx>