



RUSSELL McVEAGH

*SOS v New Zealand King Salmon*

Some background ...  
and 5-minute observations

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## Background – some visuals

- The 9 proposed salmon farm sites
- The Port Gore site – the ONL in question
- Richmond site – not an ONL
- A permitted dwelling (not on an ONL)

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This seminar will count towards the New Zealand Law Society's continuing professional development requirements.



**Waitata Reach**

**Port Gore**

**Queen Charlotte & Tory Channel**

# PORT GORE



# RICHMOND

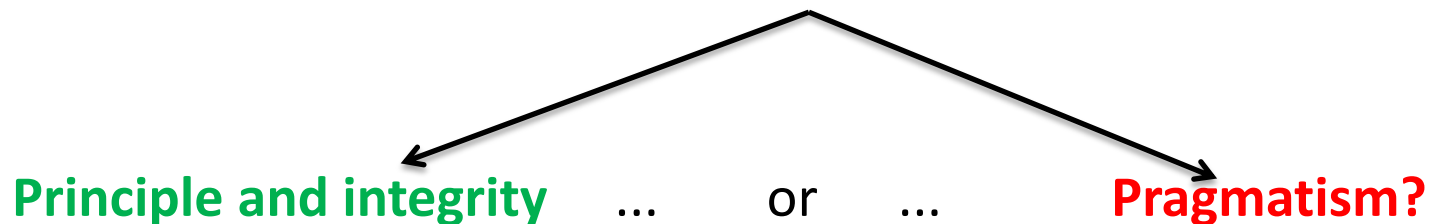


# NGAMAHAU



## Some musings (EDS implications)

Doctrine of Precedent



Should the “sustainable management” outcome be the same irrespective of process (ie plan change, consent, designation)?

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# Integrity

- The NZCPS gives “substance to Part 2 in the coastal environment” [85]
- Policies 13 and 15 give “primacy to preservation or protection” in the relevant circumstances [149]; and “avoid” means “not allow” or “prevent the occurrence of” [96]
- A policy in the NZCPS ... may ... have the effect of what in ordinary speech would be a rule”



**The result = prohibited activity status in the plan**

**So, shouldn't all other activities that do not meet Pol 13 & 15 be prohibited?**





## Integrity (continued ...)

- Prohibiting such activities would achieve “sustainable management”
- The outcome, even if the relevant plan allows a consent application to be made, should also be the same: **ie consent should be declined; so too should a notice of requirement for a designation**
- But what about “subject to Part 2”? = The NZCPS gives substance to Part 2; and Part 2 is the overriding consideration (it must trump “have regard to the NZCPS”)

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# Pragmatism

- Will try to “read down” and isolate the implications of the EDS decision
- Plans might still be able to provide non-complying status (rather than prohibit)
- “Subject to Part 2” and “have regard to” leave the door open for the overall broad judgement on consent applications and notices of requirement



**It will take longer for the implications to be known**



# Discussion

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