The *King Salmon* decision has forced a reset of our approach to landscape management under RMA. The question now raised is whether we as resource management practitioners either fully appreciate the implications of the decision, or are equipped to deal with them. This article explores some of these implications, and poses a challenge to the profession, landscape experts in particular, to assume a lead role in taking landscape evaluation and management forward into the new 'post *King Salmon* paradigm'.

When the New Zealand Coastal Policy Statement 2010 (NZCPS) came into force, it was undeniably within a setting whereby the requirements of any one policy, including Policies 13 and 15, were weighed in the mix. They did not set an absolute bottom line, prevailing over all other factors, whatever the cost. It was this 'overall judgment' approach that was applied by the Board of Inquiry in the *King Salmon* case, and it reflected nearly 20 years of case law. Now that the Supreme Court has rejected that approach, and Policy 13 and 15 do set bottom lines, in my view the profession needs to lift its game as to landscape assessment and management.

Local authorities are also not always distinguishing between areas 'with and without' the coastal environment (to which Policy 13 and 15 of the NZCPS actually and only apply), as to the level of landscape protection afforded under their policy statements and plans. For example, the now more stringent policy approach reflecting *King Salmon* applies both to the 16% of mainland Auckland rated as an ONL under the Unitary Plan, and to ONLs on the Hauraki Gulf Islands. In both areas, even farm buildings above 50m2 on rural land rated ONL need resource consent, which may be refused. From my reading of the decisions version of the Queenstown Lakes District Plan, the same can be said of this district located within Central Otago, some 97% of which is rated as outstanding. Express policy makes it clear that subdivision and development is inappropriate "in almost all locations in" ONL areas, and only the exceptional case will be approved. In my view, this reality only makes meeting the challenge posed, all the more important.

In *Man O' War Station v Auckland Council,* the Court of Appeal confirmed the "factual" nature of landscape evaluation, divorcing the policy or planning implications arising from an ONL rating, from the rating exercise itself. While outstanding landscapes may therefore simply be "what they are", regardless of the planning consequences that follow, those consequences cannot be ignored in real world terms. I respectfully suggest that the landscape profession has an obligation in this regard, and not just to secure the protection of landscapes for their intrinsic sake or their value to wellbeing and tourism. The profession needs to also take land owners, infrastructure providers, farmers, developers, mana whenua and indeed all stakeholders affected by the policy implications of landscape rating, with it on the journey. To

do that, in my opinion, greater consistency and transparency of approach at all the relevant stages referred to in the NZILA 2010 Best Practice Note is required, i.e. landscape identification, characterisation, evaluation, and perhaps most important- change management.

One undeniable fact is that the word "outstanding" appears only once in Part 2 of the RMA. It does not appear in s6(a) (as to natural character of the coastal environment), nor in s6(c) addressing areas of significant indigenous flora and fauna. Something greater than "significant" was envisaged from the outset. The term "outstanding" was deliberately employed by the drafters of the RMA to draw upon case law surrounding water conservation orders in the previous legislation. Readers will be aware of the line of case law reflecting that approach, including the seminal *WESI* decision, confirming that landscapes may be "beautiful or picturesque" even "magnificent" without being outstanding. I do wonder whether the Practice Note definition of an ONL as being "particularly notable" fairly reflects the intended threshold, or (with respect to Court of Appeal) *should do* any more in the new paradigm.

The Environment Court has also several times noted that outstanding landscapes are generally so obviously exceptional, as to not require expert appraisal (*Man O' War v Auckland Council,* for example*)*. Yet case law is legion with divided expert opinion dominating disputes over the nearly two decades since WESI, as to whether landscapes vast and small should be rated outstanding, and if so, whether the effects of a given proposal (wind farm, dwelling, subdivision or quarry) are appropriate and so consistent with the requirements for ONL protection set by s6(b) of RMA.

It is now well established that the *WESI* or *Pigeon Bay* criteria can be grouped into biophysical, associative and perceptual attributes (see, for example, *Upper Clutha Tracks v Queenstown Lakes District Council)*. What seems considerably less clear is the methodology by which the rating of each attribute is determined, and how the various attributes are themselves then ranked or combined to obtain the final result.

The NZILA Best Practice guidelines were no doubt carefully prepared with a view to standardising the approach to landscape evaluation and management, and this is to be applauded. But as the responses to the survey recently conducted by former NZILA President Shannon Bray reveal, there is still much work to be done in this respect, including as to how landscapes are both characterised and rated.

In my respectful opinion, this is manifestly an area of resource management practice literally demanding a national policy statement or standard, directing a more uniform and consistent approach to how landscapes are identified, what attributes must be considered, and how the rating of each attribute is then to be determined. In my view, such national guidance should also address issues of weighting between attributes (biophysical versus perceptual for example) and as to how the final or overall evaluation and synthesis should be made to decide whether the threshold of *outstanding* is met. It should also cover process issues such as to what extent a multi-disciplinary exercise is required for the task, and the requisite degree of community and stakeholder engagement.

But as touched on earlier, this is when the potentially even more vexed question of landscape change management then arises, and how to determine whether a given development proposal is appropriate in particular. To that end, clearly and concisely framed records of the landscape evaluation, identifying in objective terms the characteristics and qualities that led to the rating, would aid the cause. Whether a given development is appropriate consistent with protecting the specific landscape characteristics and qualities can then be more predictably and transparently assessed. While no doubt we all have our own war stories, landscape

attribute descriptions as nebulous as “the interface of sea, bush and sky” simply beg the question, how on earth do you decide whether a given development proposal is appropriate in that context?

We should not as the Practice Note says, simply “freeze landscapes”. My overriding concern is that at present, the current landscape policy setting may direct that very outcome, without reference to the wider sustainable management implications of the decisions being made.

I would fully endorse any initiative taken by the landscape profession towards meeting the challenge ahead, and taking leadership in the preparation of national guidance regarding the critical aspects of landscape evaluation and management in particular. To be clear I am not proposing a straitjacket here disposing of the need for expert evaluation. But I am proposing a framework, which all experts in all districts and regions would be required to follow. Its time has come, if not overdue.

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