

# BLUE ENERGY IN THE PACIFIC:

Powering Innovation



Thursday 18 & 19 April 2013  
Icon Room, Te Papa Tongarewa, Wellington



**BUDDLEFINDLAY**  
NEW ZEALAND LAWYERS

# Consenting marine energy projects.

## A practical tool-box

18 APRIL 2013

David Randal

## Overview – key consenting considerations for developers

---

- Understanding the RMA and planning context
- Consultation
- Working with a team of experts
- Developing consent conditions to address uncertainty

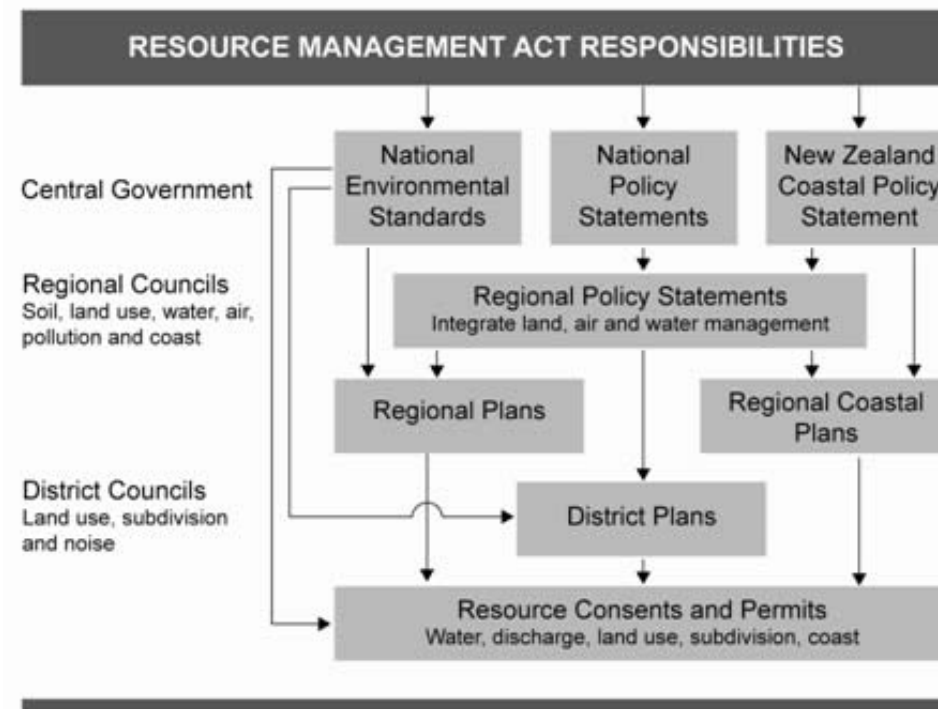
## Statutory and planning context

---

- It's complex!
- Key features of the RMA:
  - Application
  - Purpose:
    - "Sustainable management"
    - Enabling well-being while sustaining resources for future needs and avoiding, remedying, or mitigating adverse effects on the environment
  - Part 2:
    - Matters of national importance
    - Particular regard must be had to the benefits of renewable energy
    - The Treaty of Waitangi

# Statutory and planning context (continued)

- Mixture of central government influence and devolution of functions



## Statutory and planning context (continued)

---

- National policy statements:
  - New Zealand Coastal Policy Statement (2010)
    - **Objective 6:** *"To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that ... the coastal environment contains renewable energy resources of significant value"*
    - **Policy 6**
  - NPS on Renewable Electricity Generation

## Statutory and planning context (continued)

---

- Regional/district planning instruments
- Regional coastal plans
  - Subject to Minister of Conservation approval
  - Presumption that development is prohibited, unless expressly permitted
- District plans

# Consultation

---

- Legal context
- So why consult?
  - Benefits of collaborative decision-making
  - Stakeholder buy-in
  - Demonstrating that you're a "good operator"
  - Understanding the potential opposition
- Tips:
  - If in doubt, get out there
  - Plan well and capture outcomes
  - DIY?



## Working with a team of expert advisors

---

- Choose well
- Foster a robust environment of challenge and critique
- Careful management is needed to ensure a (relatively) smooth process

## Consent conditions – adaptive management

---

- Aim: to manage adverse effects appropriately ... while retaining an economically viable consent
- Adaptive management to deal with uncertainty
  - *"monitoring the environmental effects of an activity, and adapting that activity, through process changes, design modification or operational changes, to address any environmental effects observed"*

## Consent conditions – adaptive management (continued)

---

- Key principles:
  - Good baseline information
  - Effective monitoring of adverse effects using appropriate indicators
  - Thresholds set to trigger remedial action before effects become overly damaging
  - Effects that might arise can be remedied before they become irreversible
  - *Augier*
- *Crest* example
- Where to from here?

## Conclusions and recommendations

---

- The RMA and planning framework
- Consultation
- Working with a team of experts
- Conditions and adaptive management

**AUCKLAND**

PricewaterhouseCoopers Tower  
188 Quay Street, PO Box 1433  
Auckland 1140, New Zealand  
DX CP24024  
P. 64 9 358 2555  
F. 64 9 358 2055

**WELLINGTON**

State Insurance Tower  
1 Willis Street, PO Box 2694  
Wellington 6140, New Zealand  
DX SP20201  
P. 64 4 499 4242  
F. 64 4 499 4141

**CHRISTCHURCH**

245 St Asaph Street  
PO Box 322  
Christchurch 8140, New Zealand  
DX WP20307  
P. 64 3 379 1747  
F. 64 3 379 5659

[www.buddlefindlay.com](http://www.buddlefindlay.com)