



NZWEA 2021: RMA REFORM; OFFSHORE WIND UPDATE

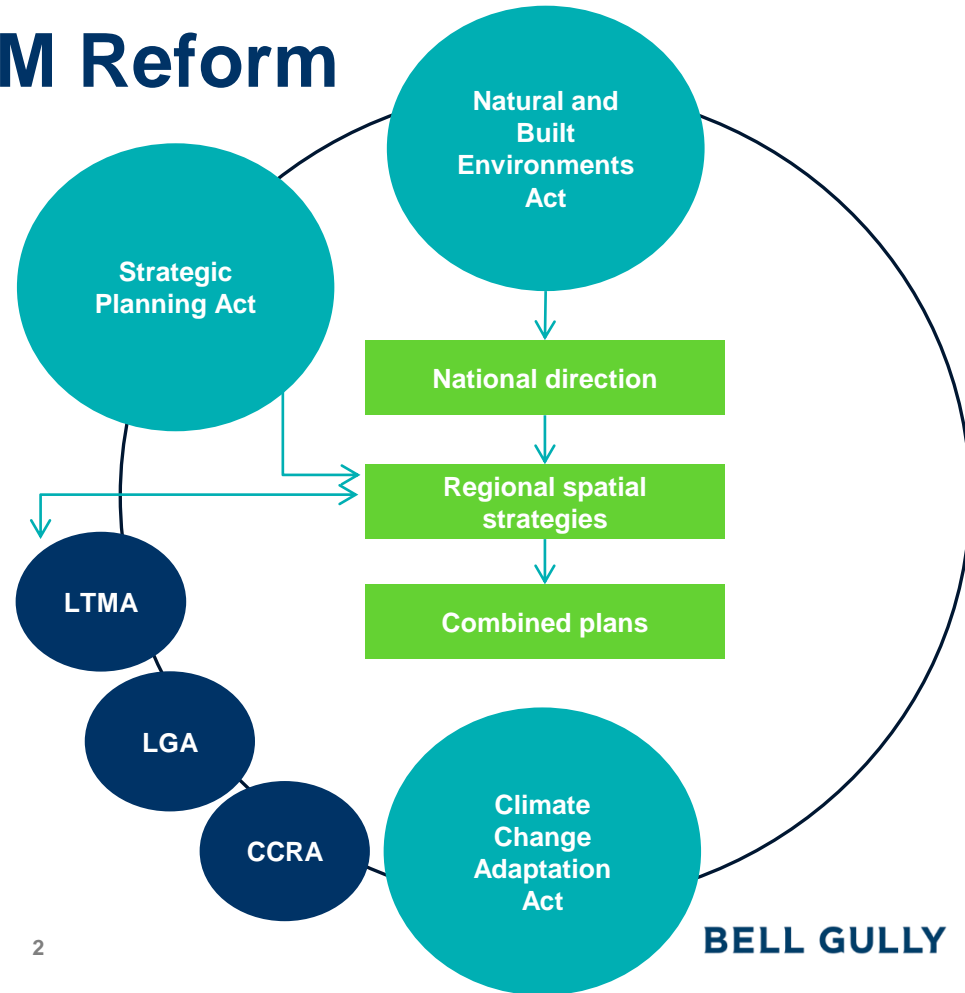
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27 OCTOBER 2021

Overview of Proposed RM Reform

- In early 2021 Govt said it will replace the RMA, with three proposed new Acts:

- New NBA to replace RMA
- New SPA
- New CCA



Exposure Draft of the NBA Bill

- NBA being progressed via a two-stage select committee process:
 - the select committee inquiry into the exposure draft
 - a standard legislative process for the full Bill next year.
- The exposure draft does not cover consenting, designations, existing use rights, transitional arrangements or the process for preparing the new National Planning Framework or NBA plans.

NBA: Purpose



Te Oranga o te Taiao to be upheld including “protecting and enhancing”



“Use environment” in a way that supports well-being of present generations without compromising future generations

Achieving the purpose of the NBA



Limits



Outcomes



Adverse effects

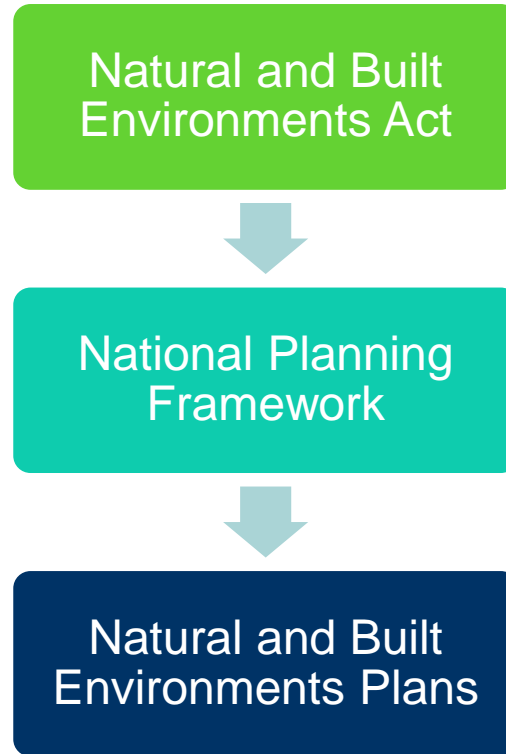
National Planning Framework

Integrated direction on matters of national significance

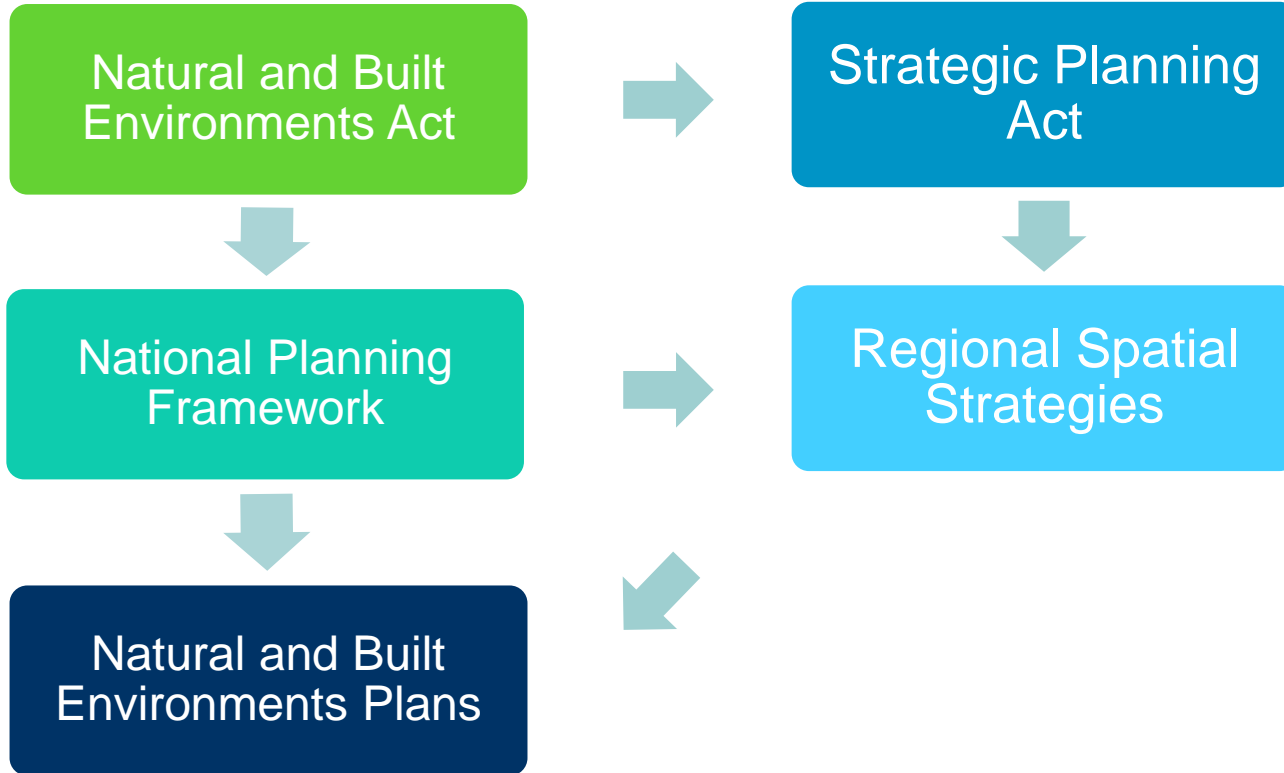
Must set strategic goals

May be given effect to through NBA plans, regional spatial strategies or direct legal effect

NBA Plans



Strategic Planning Act



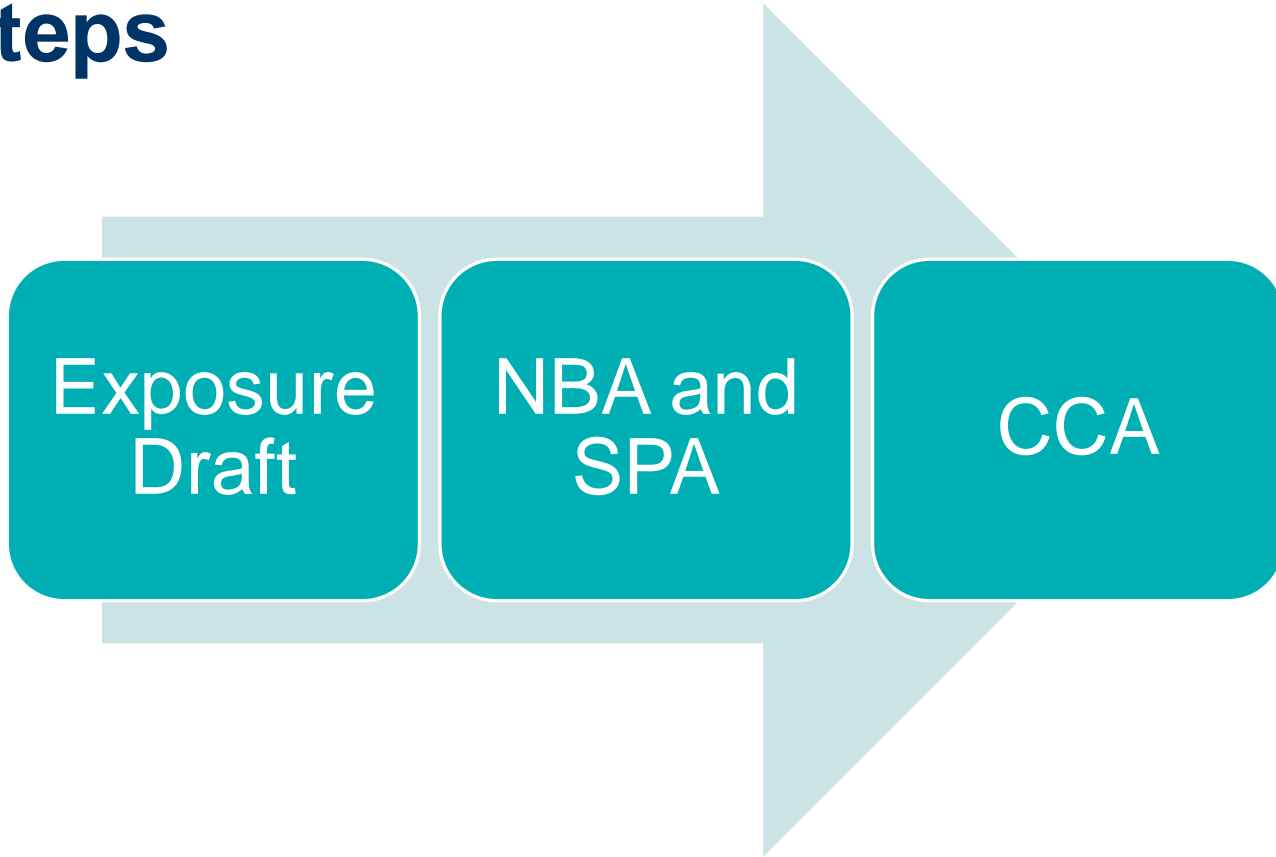
Summary of NZWEA and ESEG's submissions on NBA

- Real risk of broadly defined and absolute environmental limits hindering renewable energy generation development.
- Inserting a climate specific environmental target in clause 7 could assist achieving balance and ensure the overall intent and outcomes of the NBA are achieved.
- Environmental limits should include climate targets
- Strengthen and use more directive language in support of climate change mitigation and the importance of increasing renewable electricity generation
- Conflict resolution – seek that policy pathways provided in the NPF

Opportunities under the NBA

- Provide for listed projects on the New Zealand Infrastructure Commission *Te Waihanga* infrastructure pipeline by requiring national planning framework and all plans to give effect to the list of projects noted on the Infrastructure Pipeline website.
- Regional spatial strategies (RSS) to be an enabler of recognised development, particularly if the consenting pathway is simplified for infrastructure development within identified areas

Next steps

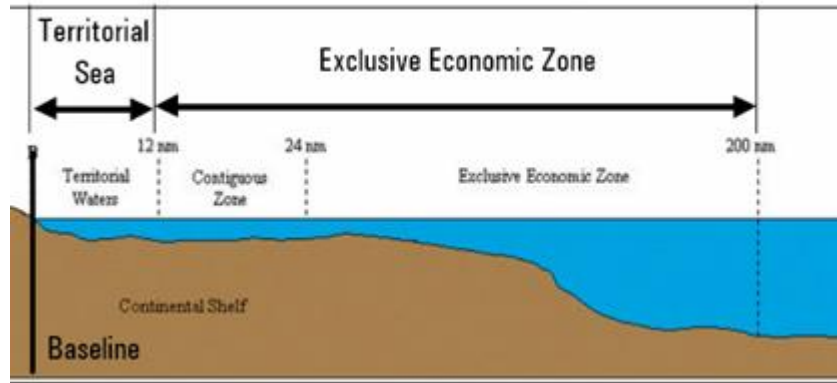


Transitional provisions?

- Not described in the NBA exposure draft
- All happening in parallel with Local Government reform – adds complexity and potentially confusion
- Given inter-relationship between reform programmes and Spatial Planning Act, likely to take considerable time to transition across to new regime

Offshore wind projects – consenting considerations

- Resource Management Act 1991
- Marine and Coastal Area Act (Takutai Moana) 2011
- Exclusive Economic Zone and Continental Shelf Act 2012



EEZ Act and renewables

- Any offshore wind proposal will be a discretionary activity and require a marine consent.
- Section 59 sets out considerations that a marine consent authority must take into account, including:

Effects on human health

Effects on the environment and existing interests

Economic benefit to NZ

Importance of protecting rare and vulnerable ecosystems, and the habitats of threatened species

importance of protecting biological diversity and integrity of marine species, ecosystems and processes

Efficient use and development of natural resources

Whether imposing certain conditions manage any adverse effects of the activity

Nature and effect of other marine management regimes

TTRL v Taranaki-Whanganui Conservation Board [2021] NZSC 127

- Appellant sought marine consents and marine discharge consents in order to undertake seabed mining within New Zealand's EEZ.
- Issue was whether the EEZ Act purpose provision creates an environmental bottom line.

10 Purpose

- (1) The purpose of this Act is—
 - (a) to promote the sustainable management of the natural resources of the exclusive economic zone and the continental shelf; and
 - (b) in relation to the exclusive economic zone, the continental shelf, and the waters above the continental shelf beyond the outer limits of the exclusive economic zone, to protect the environment from pollution by regulating or prohibiting the discharge of harmful substances and the dumping or incineration of waste or other matter.

TTR – SC held

- S10 provides an overarching framework for decision-making under the Act and has substantive or operative force.
- S 10(1)(b) creates an environmental bottom line for marine discharges and dumping.
- 3 step test in relation to discharge/dumping marine consent applications:
 - Does the discharge/dumping cause material harm?
 - If yes, can conditions be imposed to avoid/remedy/mitigate?
 - If yes, undertake balancing exercise in light of statutory purpose to take into account all relevant factors

MBIE Accelerating renewable energy and energy efficiency discussion document

- Infrastructure needed for offshore wind likely to involve offshore substations, a high-voltage direct current link to the shore and special purpose ships.
- MBIE notes it may be more economical to develop wind assets onshore or deploy other renewable energy or energy efficient technologies.
- Developing offshore wind assets would likely require new regulations, including the introduction of an allocation system for auctioning or tendering a lease for use of the seabed, water column, and airspace above the water, and permitting for an electricity company to operate assets beyond 12 nautical miles (nm).

Recent developments

- Venture Taranaki released a discussion paper in April 2020 highlighting offshore wind as a substantial opportunity for the region and one that should be explored further.
- First Offshore Wind Forum held in December 2020, explored the potential for offshore wind here in NZ and what is happening in this space globally.
- In May 2021 it was reported that Oceanex Energy has plans for developing offshore and floating wind farms in Australia and New Zealand.
- Hon Dr Megan Woods noted earlier this year that offshore renewable options may fit well with other emerging technology solutions, such as hydrogen production, and these technologies may also work well alongside a New Zealand 'Battery'.
- NZWEA has established an Offshore Wind Working Group and is working with MBIE on progressing regulation / licensing arrangements.

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