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Ground Cover tracks legislative and regulatory reform in resource management, local government and planning law.

Resource Management

Resource Management Amendment Bill 2019 introduced

The Resource Management Amendment Bill 2019 creates a new specialised planning process for changes to regional policy statements and plans to implement the new National Policy Statement (NPS) for Freshwater Management currently out for consultation (see item below).

But most of the Bill is directed to repealing what Environment Minister David Parker sees as the worst of the amendments introduced by National in 2017. Provisions include:

- repealing Section 360D, which allows the Minister to overturn or prohibit local plan rules
- removing the preclusions on public notification and appeals against consents for subdivision and residential activity
- reintroducing the right for submitters to appeal resource consent decisions regarding issues not traversed in their original submission
- repealing the provision which would have prohibited the use of financial contributions from April 2022
- increasing maximum infringement fees to \$2,000 for individuals and \$4,000 for entities, and
- extending from six months to 12 months the statutory limitation period to file charges for prosecutions under the Resource Management Act (RMA).

This Bill is separate to the comprehensive overhaul of the resource management system now underway. This will be led by a Review Panel chaired by Tony Randerson QC. Other members are: Beca Senior Technical Director Amelia Linzey, Chief Operating Officer at Auckland Council Dean Kimpton, Environment Court Commissioner Kevin Prime, lawyer Rachel Brooking and Policy Director with the Environmental Defence Society Raewyn Peart.

Their appointments expire on 30 June 2020.

[Bill](#)

[Panel announcement](#)

Freshwater plan looking for watershed moment

The Government's plan to improve freshwater quality is ambitious in scope and will require significant change – and this is before we get to the trickier allocation and ownership issues.

But Parker is determined to begin the rehabilitation of the country's rivers and lakes "within a generation".

We provide a summary of the discussion document. Any business which uses large amounts of water will be affected. Submissions close on 31 October 2019.

Parker has extended the initial submission deadline by two weeks and has indicated that he will consider regional as opposed to national bottom lines for some pollutants. This would assuage some of the impacts identified by the Local Government New Zealand (LGNZ) Regional Sector Water Subgroup (see below).

[Chapman Tripp commentary](#)

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LGNZ weighs in on water reforms

The LGNZ Regional Sector Water Subgroup, representing the agencies which will be responsible for much of the on-the-ground implementation of the new freshwater regime, has produced two documents on the proposals – a 61 page report and an eight page commentary.

The commentary notes that the policy solutions must be socially durable, meaning that they must be “capable of community support over a sustained period”, the burdens imposed must be “fair and proportionate”, and the pace of change must “reflect the scale of the task and the (at times) intergenerational origins of the problems to be addressed”.

The report is clear that these requirements are not being met in the changes as currently proposed. Findings include:

- that the use of national averages for dissolved organic nitrogen (*DIN*) and dissolved reactive phosphorous (*DRP*) will impose unnecessary and very large financial costs in soft-bottomed stream catchments such as the Waikato, the Bay of Plenty and Northland
- that insufficient regard is made of the high level of indebtedness among many farmers, and of the constraints that places on their ability to implement change, and
- that the human and financial resources needed to achieve the required improvements on a national scale within the timeframes proposed would be “vast” with considerable regional variation. Particularly hard hit would be regions with large agricultural or horticultural sectors or which had experienced recent intensification (with higher debt levels), or where the reforms represented a significant change in direction.

[Report](#)

[Commentary](#)

Product stewardship schemes for high waste products

The Government is proposing to reduce waste by moving from a throwaway “take-make-dispose” model to a circular economy in which businesses are incentivised through regulation to take responsibility for the life-cycle impacts of their products through a “make-use-return” ethic.

The aim is to reduce the harm posed by certain end-of-life products and design waste out of the system. The changes will be implemented through the powers already available under the Waste Minimisation Act 2008 (*WMA*).

Six product groups have been identified for this treatment – tyres, agrichemicals, electrical and electronic goods (e-waste), refrigerants, farm plastics and packaging (beverage and single use plastic packaging). The consultations will be in two stages:

- stage one will decide the priority products and set ministerial guidelines to clarify what an accredited priority product scheme should look like and the outcomes it should deliver, and
- stage two will run through to 2021 and will consult by product group on the proposed *WMA* regulations.

14 voluntary product stewardship schemes are in place (seven of them single-company operations) but the discussion paper says they often experience problems with participation and product recovery rates – particularly where they rely upon a levy or fee, as this can deter participation and create a price advantage for non-participants.

[Discussion paper](#)

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High value soils NPS

The Government is consulting on a proposed NPS to improve the way highly productive land is managed under the RMA by:

- recognising the full range of values and benefits associated with its use for primary production
- maintaining its availability for this purpose future generations, and
- protecting it from inappropriate subdivision, use and development.

Submissions close on 10 October.

[Paper](#)

Waitaha dam declined

An application by Greymouth-based company Westpower Ltd to build a hydro facility on the Waitaha River near Hokitika was declined by Environment Minister David Parker because it would have significant impacts on the natural character of an area which was “largely unmodified by humans, “near to pristine” and yet “accessible for recreation”.

The proposal was supported by the Department of Conservation.

[Press statement](#)

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Climate Change

Tools for the job

The Government has released two tools which will be important for managing emissions.

- The Climate Change Adaptation and Risk Assessment Framework outlines how the assessments to be produced every six years by the Climate Change Commission will be structured, the content they will cover, and the level of detail which will be provided at both geographic and sector level.
- The national guidance to assist local businesses to voluntarily offset their emissions gives examples of how offsetting can be applied in the New Zealand context and the criteria which will have to be met for the offset to be considered credible.

[↪ Guidance](#)

[↪ Framework](#)

Fact-based evidence sought

The Interim Climate Change Committee (ICCC) has called for evidence on the mitigation options that will be available over the period 2022 to 2035. It is to present its first advice to the Government in February next year.

Areas it is currently working on are: prototyping a sectoral approach focusing on the transport sector; assessing data and modelling needs for land use, and developing high quality, economy-wide models and analysis to inform emissions budgets.

[↪ ICCC consultation](#)

Latest round of ETS changes

In what it is promoting as “a third set of fixes” to the Emissions Trading Scheme (ETS), the Government will introduce legislation later this year to:

- phase down free allocation to high emissions, trade exposed emitters by at least 1% a year from 2021 to 2030, at least 2% from 2031 to 2040 and at least 3% from 2041 to 2050, and
- establish a legislative mechanism which could apply further phase-downs to activities at low risk of emissions leakage.

To encourage forestry, foresters will be able to use the averaging accounting model which allows them to receive New Zealand Units as the forest grows, up to a predetermined level of long term carbon storage, and relieves them of any liabilities on harvest provided they replant.

[↪ Statement](#)

High strike rate for low emissions report

The Government has agreed to 43 of the recommendations in the Productivity Commission’s low emissions economy report and announced that it will do more work on a further 33.

[↪ Press statement](#)

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Local Government

Local government – the front line in the climate change response

Territorial authorities are highly exposed to climate change risk, both through their statutory role as the branch of government responsible for implementing much of the response and as the owners of large amounts of at-risk infrastructure.

This is the third instalment in Chapman Tripp's *Building resilience to climate change* series. The previous two instalments covered insurance and governance.

[Chapman Tripp commentary](#)

Councils told to grow up and grow out

The planned NPS on Urban Development is out for consultation. It seeks to improve housing supply by requiring councils, particularly in high population growth areas, to make room for growth – both up and out.

Some provisions will have application across all urban environments. Others, setting more stringent requirements, will be restricted to “major urban centres” where the pressure on housing is greatest. Identified for this status are: Auckland, Hamilton, Tauranga, Wellington, Christchurch and Queenstown (the Big Six).

The proposed changes are directed at ensuring:

- an adequate supply of land to keep up with housing demand at affordable prices
- better integration of transport systems with land use to improve access to jobs and reduce car dependency, and
- cities which create less pressure on natural resources and are better at meeting people's needs for physical activity, air quality, mental health, disability access and social cohesion.

Submissions are due by 10 October.

[Chapman Tripp commentary](#)

Auditor-General on freshwater management

The Office of the Auditor-General is largely positive about the progress achieved since it reported in 2011 on four regional councils' management of the effects of land use on freshwater quality.

It found that all four - covering Waikato, Taranaki, Manawatu-Whanganui and Southland – had made improvements but that they could improve how they shared information, strengthen their relationships with iwi and hapu, and use a broader range of tools for compliance, monitoring and enforcement.

[Overview](#)

[Report](#)

Dedicated water regulator

The Government will appoint a dedicated regulator to ensure satisfactory standards are maintained by suppliers of drinking water to the public.

Regional councils will remain the primary regulators for wastewater and stormwater services but will be required to report annually on a set of national environmental performance measures. In recognition of the scale of investment which will be required by some territorial authorities to comply with the new requirements, a transitional period of five years will apply.

The moves are in response to the Havelock North campylobacter contamination in 2016.

[Announcement](#)

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Chapman Tripp's national environmental, planning and resource management team offers market-leading expertise and a seamless service for all your commercial projects, land use, infrastructure development and consenting needs.

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