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

Resource management

UDA to have big tool kit

Housing New Zealand, its subsidiary HLC, and the KiwiBuild Unit are being merged to form the UDA, responsible for leading the Government's large scale housing projects. The Authority will be given large powers, including to:

- repurpose Crown-owned land and compulsorily acquire private land (landowners may be compensated through an equity share in the development)
- "resume" land transferred to a private developer where the developer doesn't deliver to the agreement
- build, alter or remove any building or infrastructure in a project area
- the same powers as Auckland Transport in relation to land transport (except for state highways), and as a territorial authority in relation to the three waters
- override, amend or suspend by-laws and Resource Management Act (RMA) planning documents
- set a targeted rate inside project areas, and
- charge development contributions or enter development agreements.

Legislation will be introduced this year. The UDA is expected to be up and running in early 2020.

[UDA overview](#)

Two step plan for RMA reform

A Bill to undo some of the National Government's 2017 changes to the RMA will be introduced early this year. Provisions will include:

- repeal of measures preventing public notification and appeals in residential and subdivision consent applications – Environment Minister David Parker cited the impacts a housing development near facilities such as ports, airports, quarries and electricity networks could have on the facility operator's future development options, and complaints from subdivision developers that they had lost their appeal right against unreasonable conditions imposed by councils
- removing the broad regulation making power passed in 2017 which allowed central government to override councils, or substituting it with a narrower power tied to urban development, and
- at the request of regional councils, creating an ability to upgrade groups of consents in line with updated standards (to speed river clean ups).

The second stage – a comprehensive review of the RMA system – is now being scoped. It will build on the Government's priorities across the urban growth strategy, climate change and freshwater management.

[Parker statement, includes links to the relevant cabinet papers](#)

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Water plan

The Government has announced a detailed plan which it promises will deliver “a noticeable improvement in water quality within five years” with an initial focus on at-risk catchments.

Components include:

- accelerating the implementation of Good Farming Practice Principles and identifying options for tree planting through the One Billion Trees programme
- a new National Policy Statement (NPS) for Freshwater Management by 2020 to ensure that all aspects of ecosystem health are managed and to provide greater direction on how to set limits for resource use and how to better protect estuaries and wetlands
- a new National Environmental Standard for Freshwater Management by 2020 to regulate activities such as intensive winter grazing, hill country cropping and feedlots
- amendments to the RMA within the next 12 months to more quickly implement water quality and quantity limits and to strengthen enforcement tools, and
- decisions on how to manage the allocation of nutrient discharges.

The changes will be developed in consultation with a network of specially appointed advisory groups – Kahu Wai Māori, the Science and Technical Advisory Group and the Freshwater Leaders Group.

[Statement](#)

Timeline for three waters review

The Government has set a firm timeline for the three waters review with decisions by the end of this year, and aggregation of suppliers is definitely on the table, despite strong opposition from Local Government New Zealand (LGNZ).

June 2019: detailed recommendations to Cabinet on a stronger regulatory framework, including a new risk management regime for drinking water; targeted changes to lift environmental performance for wastewater, and greater transparency in the operation of wastewater and stormwater systems.

Late 2019: detailed recommendations to Cabinet on service delivery arrangements, including no change; a three waters fund to support voluntary change, and the creation of an aggregated system of dedicated, publicly owned providers.

Later 2019: report to Cabinet on any economic changes to support the decisions made in the previous two rounds.

Later again in 2019: proposals to change oversight and stewardship across the new regime.

[Cabinet paper](#)

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Environment Commissioner faults Overseer model

The Parliamentary Commissioner for the Environment (*Commissioner*) has found that the online Overseer computer model – owned by fertiliser companies Ballance and Ravensdown, the Ministry for Primary Industries (MPI) and AgResearch – is being used for regulatory purposes for which it was not designed and may be ill-equipped.

It was developed as an on-farm management tool to achieve optimal nutrient use but has morphed into an instrument to measure agricultural emissions and, by regional councils in the country's most under-pressure catchments, to manage the clean-up of waterways.

The Commissioner notes that Overseer appeals because farmers have expressed a strong preference for effects based measures rather than the alternative, which is input controls – e.g. caps on fertiliser use and livestock numbers.

“But because the environmental effect of one farm's diffuse nutrient pollution cannot be measured separately from the combined effects of all farms in a catchment, the regulator is forced to fall back on using nutrient leaving the property as a proxy for the environmental damage it will cause. Since the nutrient cannot be measured paddock by paddock, farm by farm, the regulator is thrown back on having to estimate the loss – which is where Overseer is called into action.”

Yet Overseer may understate nitrogen losses by between 25% and 30% and is something of a “black box” because it was created as a commercial proposition for commercial use and there are proprietary issues involved.

The report finds that “a significant amount of information needed to confirm Overseer's use in a regulatory setting is lacking” and that “a comprehensive and well-resourced evaluation needs to be undertaken” to ensure that it is fit for its expanded purpose.

Its overarching recommendation is that the Government decide whether it wants Overseer to be used in the regulation of water quality and, if the answer is yes, “clearly identify what additional steps and actions may be required to support that use”. The other nine recommendations are aimed at setting out a process to achieve this.

[Report](#)

\$2bn price tag for safe drinking water

The GHD-Boffa Miskell report estimates the costs of upgrading wastewater treatment plants to meet the objectives of the NPS Freshwater may be as high as \$2b.

The full price tag will be significantly larger as the estimate covers discharges into rivers and lakes (not to beaches) and does not factor in the costs of preventing wastewater pollution in coastal areas and urban environments.

[Statement](#)

[Report](#)

Urban water principles

The Urban Water Working Group, a collaborative body of 45 technical experts and practitioners convened by the Ministry for the Environment, has developed ten high level urban water principles and values to guide consenting, infrastructure design choices and outcomes.

[Urban water principles](#)

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Climate change

NZ Green Investment Finance Ltd (NZGIF)

The \$100m NZGIF, launched by the Government in December, is intended to provide start-up capital to support new private sector investment in low emissions industries.

The aim is that the returns on the loans will enable NZGIF to become self-supporting. It is expected to operate as an independent commercial entity and has been established as a company under the Public Finance Act.

Potential opportunities for investment include electric vehicles, manufacturing processes, energy efficient commercial buildings and low emissions farming practices.

The Board will be chaired by Cecilia Tarrant, who has significant finance and governance experience.

[↪ Statement](#)

Driving in the wrong direction for electric vehicles (EVs)

Data from the Ministry of Transport shows that average vehicle emissions stayed static in 2017 because, although the EV fleet grew by 3,656, the number of large gas guzzling vehicles with engines greater than 3,000 CC grew by five times that amount.

[↪ Statement](#)

Emissions Trading Scheme (ETS) decisions

The Government will implement its reforms to the ETS through a single piece of legislation, expected to be introduced in the second half of this year, to amend the Climate Change Response Act 2002 (*the Act*).

It announced its first tranche of decisions before Christmas. All of the changes had been clearly signalled in advance. They will align the Act with the emissions targets emerging from the Paris Agreement and:

- allow New Zealand units to be auctioned
- retain the ability to restrict the use of international units
- replace the \$25 fixed price option (which acts as a quasi-price ceiling) with a cost containment reserve through auctioning, supported (possibly) by a price floor
- provide for unit supply settings to be set over a five year rolling period, and
- strengthen the administration, operation and governance of the ETS.

[↪ Announcement](#)

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Forestry changes

The Permanent Forest Sink Initiative (*PFSI*) will be replaced and the activity brought within the ETS, making it easier for forest owners to access NZUs for the carbon stored.

Other changes included in the first tranche of ETS decisions will:

- allow more flexible use of pre-1990 forest land
- exclude from the ETS post-1989 forest land that is mostly weeds, and
- simplify the process to secure exemptions from deforestation liabilities for tree weeds (including wilding pines) and for communally owned Māori land.

Further changes are expected later this year.

[↪ MPI announcement](#)

Dairy Industry Restructuring Act 2001 (*DIRA*) review

The review of the DIRA has been put out for consultation. Submissions close on 8 February. The DIRA regulates Fonterra in the domestic market. The discussion document holds out the prospect of allowing Fonterra to decline milk from non-shareholder farmers who do not follow good environmental practice.

[↪ Ministerial statement](#)

[↪ Discussion document](#)

Local government

Focus now moves to the Productivity Commission inquiry

The announcement by the Prime Minister in October that no more regional taxes will be implemented under her leadership has transferred attention to the Productivity Commission inquiry into local government funding and financing options.

The Commission has released its issues paper but its final recommendations are not due with the Government until the end of next year – meaning there will be a significant time lag before any relief comes from that source.

[↪ Chapman Tripp commentary on issues paper](#)

Local Government New Zealand (*LGNZ*) weighs in on water plan

LGNZ has laid out its preferred sequencing for water reform. Broadly it wants:

- drinking water dealt with first
- the 2017 amendments to the NPS for Freshwater Management bedded in before any further reforms
- mandatory aggregation of water infrastructure “off the table”, and
- a co-regulatory regime, as in the gas industry, to lift performance standards, with targeted financial support from central government (where needed) for small rural councils.

[↪ LGNZ position statement](#)

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