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Big Build is a quarterly publication tracking legislative and regulatory reform and other developments affecting the construction and infrastructure sector.

CONSTRUCTION

Government and regulatory

Retentions regime needs more work

A review by the Ministry of Business, Innovation and Employment (MBIE) has found that, although most of the sector is complying with the legal requirements, more work is needed “to ensure subcontractors are protected across the board”.

Areas for improvement, identified by MBIE General Manager Building System Performance Anna Butler are:

- enforceable penalties
- co-mingling retention monies, and
- guidance provided to construction firms.

Further announcements will be made this year.

[🔗 Statement](#)

[🔗 Report](#)

Workforce Development Councils

Construction and infrastructure is one of six sectors selected by the Government for the establishment of a Workforce Development Council (WDC) to provide leadership across vocational education and training. The other five are: primary industries; service industries; health, community and social services; manufacturing, engineering, logistics and technology; and creative, cultural and recreation.

A key function will be to ensure that training programmes meet industry standards and that courses are relevant and up-to-date. Unless a programme has WDC approval, it will not get funding.

The change will require legislation. The Government’s intention is to have the new system operational from the beginning of 2023.

[🔗 Statement](#)

Two more tools for the urban development tool box

Two Bills to expedite urban development were ushered into Parliament before Christmas – one to help overcome the constraints on local authority funding for growth infrastructure, and the other to give Kāinga Ora new powers to promote large scale public projects.

[🔗 Chapman Tripp commentary on the Infrastructure Funding and Financing Bill and the Urban Development Bill](#)

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Overseas Investment Act changes

The Government had two objectives in the Overseas Investment Act (OIA) review – to clearly assert New Zealand’s right to maintain domestic control and ownership of sensitive and strategic assets, and to reduce the barriers to overseas acquisitions which will confer an unambiguous national benefit.

The reforms will deliver on the first objective and make significant progress toward the second – limiting the number of transactions captured by the screening regime, simplifying the application process and setting specific timelines for consent.

We generally welcome the changes but identify some areas for further consideration.

[Chapman Tripp commentary](#)

Government releases new health and safety guide for procurement

The Government has released a guide to help agencies integrate health and safety into their procurement processes. It is designed to sit alongside the new Procurement Rules.

[Guide](#)

Building Law review, first round of changes

The first tranche of reforms from the Building Act review provide a useful start. They should help deal to the housing affordability issue by promoting the use of prefab construction.

They will also improve information around the reliability, use and maintenance of building products, lower the building levy and increase the sanctions for substandard work and poor behaviour.

Legislation to implement the changes will be introduced early this year for enactment by the middle of the year. Occupational licensing will be dealt with in a later Bill.

[Chapman Tripp commentary](#)

Trade training boost

Trades training will be boosted by the addition of up to 4,000 extra places in the Trades Academy programme and up to 2,000 more in the Gateway scheme. This will be supported by a strategy to encourage school leavers into skills training, with an emphasis on construction and agriculture – where skills shortages are most acute.

[Announcement](#)

[Strategy](#)

Earthquake-prone building regulations

The regulations to support the recent changes to the Building Act to improve the earthquake strength of New Zealand buildings came into force on 16 December 2019.

[Regulations](#)

New guidance for building on liquefaction-prone ground

The Building Code rules around building on liquefaction-prone land have been strengthened. The changes are already in place in Canterbury and will be applied through the rest of the country over a two year transition period.

[MBIE statement](#)

Mandatory disclosure of climate-related risk

The Government is moving to require listed issuers, banks, general insurers, institutional investors and investment managers to disclose their exposure to climate-related risk.

[Chapman Tripp commentary](#)

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Design of a fair pay agreement system

The Government is seeking feedback through a 53-page discussion document on how to design a fair pay agreement (FPA) system.

This consultation is based on the recommendations of the Jim Bolger-led tripartite Working Group, which reported in December 2018.

Submissions closed on 27 November 2019. No timeline is indicated for the implementation legislation.

[🔗 Chapman Tripp commentary](#)

Industry

Behind the concrete curtain

New ultrasound technology which can look up to two metres inside concrete columns, beams, walls and floors has found critical structural elements either defective or missing in 1,100 of the 1,200 buildings scanned by Wellington company Concrete Structure Investigations since 2016.

The sample includes residential, commercial and public properties, most built since the 1980s and some new or still to be finished, including in Auckland, Hamilton, Tauranga, Hawke's Bay, Wellington and Christchurch. MBIE is investigating the report.

[🔗 Article](#)

Investigation against CTV engineer can proceed

Engineering New Zealand (formerly Institution of Professional Engineers New Zealand (IPENZ)) can continue its investigation against engineer Alan Reay for his alleged role in the CTV building collapse during the Christchurch earthquake.

Reay resigned from IPENZ in 2014 and claimed that this removed him from the institute's jurisdiction. However, the Court of Appeal has upheld the High Court's decision that IPENZ's rules meant that its investigative and penalty powers withstood a member's resignation.

[🔗 Article](#)

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INFRASTRUCTURE

Budget boost for infrastructure

The Government has taken advantage of the current low interest rate environment to borrow an additional \$12b for infrastructure development over the next four years. More than half of the new borrowing – \$6.8b – will go to transport. Of the rest: \$400m will go to schools' capital funding; \$300m to regional investment opportunities; \$300m to District Health Board asset renewal, and \$200m to public estate decarbonisation. The specific projects will be announced in 2020.

The announcement was made with the release of the December Half Year Economic and Fiscal Update. This shows GDP growth of above 2.5% on average over the forecast horizon (still solid but slightly down on the May Budget track), declining immigration and a continuing tight labour market.

[↪ Statement](#)

[↪ Economic and Fiscal Update](#)

A-G may investigate Auckland Light Rail procurement process

The Office of the Auditor-General has received concerns about the procurement process for the Auckland Light Rail project and is deciding whether further investigation is warranted.

[↪ Article](#)

Upper North Island Supply Chain Strategy released

The Government has released the final report from the Working Group on the Upper North Island Supply Chain Strategy. It recommends moving most or all of Port of Auckland's present and future freight business to Northport, beginning immediately to be fully completed by 2034. It also suggests a "backstop" under which the Government would legislate should the port owners be unable to reach a commercial agreement by 1 December 2020.

The Ministry of Transport and the Infrastructure Commission have been asked to subject the proposals to further scrutiny and analysis. Treasury advises in its paper to Cabinet on the matter that: "The key issue for Cabinet to consider when it takes decisions on the Working Group's recommendations is whether the potential gain to New Zealand from the port move is sufficient to justify the significant Crown seed investment and the possible need for regulatory and legislative intervention".

[↪ Report](#)

[↪ Cabinet paper](#)

Rail to be funded through NZ Transport Agency

The Government has released a draft New Zealand Rail Plan which proposes funding rail through the NZ Transport Agency. The change will be legislated for through amendments to the Land Transport Management Act and implemented over the next two years through the National Land Transport Programme.

[↪ Plan](#)

Bigger freight role for Palmerston North

KiwiRail plans to develop a high tech intermodal hub in Palmerston North to cement its role as a critical freight distribution centre for the lower North Island.

[↪ Announcement](#)

Big price tag attached to a resilient Wellington

Without a substantial investment in seismic strengthening, a 7.5 magnitude earthquake on the Wellington fault could cause a GDP loss to New Zealand of more than \$16b over five years, a 300-page report has found. It says this could be reduced to \$10b through a 25-project accelerated infrastructure works programme at a total capital cost of \$3.9b.

[↪ Wellington Lifelines Project](#)

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Infrastructure Commission up and running

The legislation to establish the New Zealand Infrastructure Commission/Te Waihanga was passed early in October. The Commission has now released an update to its original project pipeline, showing a substantial increase in aggregate value – from \$6.1b to \$21.1b.

[Statement](#)

OceanaGold succeeds at second attempt, Sage sidelined

OceanaGold's application to buy land in Waihi to extend the life of its open pit gold mining operations has been granted after the decision-making roles were transferred to Finance Minister Grant Robertson and Associate Finance Minister David Parker from Land Information Minister Eugenie Sage and Associate Finance Minister David Clark.

The company reapplied on 12 August after being declined by Sage, against the recommendation of the Overseas Investment Office and in opposition to Clark who was the senior Minister.

Announcing their decision, Robertson and Parker said the investment would benefit New Zealand through the retention of about 340 full-time jobs and export earnings of \$2b over nine years.

They noted that they were required to assess only the benefits described in the Overseas Investment Act in determining their response.

[Announcement](#)

Inquiry backs status quo on local government funding and financing

The Productivity Commission has ruled out the need for radical reform in its final report on local government funding and financing, finding that there is "significant scope" for councils to make better use of their existing tools and that the rates-based system "remains appropriate".

The Commission acknowledges the funding demands arising from climate change, unfunded mandates and – in some areas – high population growth and a burgeoning tourism industry. It says the scale of some of these pressures is "unprecedented" but that the impact is highly uneven across the country, with the result that they are best addressed through local solutions.

[Productivity Commission Report](#)

LGNZ – report an opportunity missed

Local Government New Zealand (LGNZ) says the Commission's "lack of courage" and "play-it-safe approach" will relegate the report to "a mere repeat of the nine rates reviews that have preceded it since 1945".

[Statement](#)

Water Services Regulator

The Government has introduced legislation to create a Water Services Regulator to oversee, administer and enforce the new regulatory system governing drinking water nationwide.

A separate Bill will be introduced early in 2020 to set out the regulator's functions and enforcement powers.

[Bill](#)

Climate Change Commission members

Rod Carr – former Reserve Bank of New Zealand Chair, Jade Software Corporation Chief Executive and Vice-Chancellor of Canterbury University – will lead the Climate Change Commission. Announcing the appointment, Climate Change Minister James Shaw said he had chosen Carr for the independence, credibility and analytical approach he would bring to the role.

The other members are: Nicola Shadbolt, Chair of Plant & Food Research and a former Fonterra Director; Catherine Leining, Moto economist and policy fellow; James Renwick, climate scientist; Judy Lawrence, senior researcher into climate change adaptation and policy making; Lisa Tumahai, Chair Ngai Tahu, and Harry Clark, Director of the New Zealand Agricultural Greenhouse Gas Research Centre.

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