



New Zealand
Planning Institute[®]
Te Kokiringa Taumata



New Zealand Planning Institute’s Feedback on “A National Monitoring System for the Resource Management Act 1991 – A proposal for discussion”

30 August 2013

1. Introduction

The New Zealand Planning Institute (NZPI) welcomes the opportunity to provide comment on the Ministry for the Environment's (MfE) "A National Monitoring System for the Resource Management Act 1991 – A proposal for discussion".

Established in 1949, NZPI is the professional organisation representing planners and planning practitioners throughout New Zealand. NZPI is the "home of the planning profession and achieves a better future for NZ by championing the profession, promoting excellence and supporting its members. It aspires to empower planners and promote excellence." NZPI membership is broad, and individuals within the organisation have a varied range of opinions and experiences which underpin this submission.

This submission is the product of consultation with all members. This submission may not necessarily reflect the views of individual NZPI members, but rather, it reflects the views of a range of members, including minority views.

2. Overall comments

NZPI members agree that effective resource management is vitally important to New Zealand's future and that an appropriate monitoring and evaluation framework is critical to a successful Resource Management Act 1991 (RMA). Members therefore support in principle the proposed National Monitoring System (NMS), and fully support a monitoring system that is developed in collaboration with all potential users to enable informed decisions and actions in an integrated, enhanced, transparent, and efficient manner. NZPI members also note that while data collection is important, understanding that data and how it will be used is of equal importance.

A key objective, as stated in the proposed NMS, is to generate the anticipated benefits while minimising unnecessary costs, i.e. a best value approach. To achieve a best value monitoring framework MfE has chosen to seek feedback from those responsible for implementing the RMA.

Some NZPI members have expressed their disappointment that workshops on the proposed changes have only included councils, excluding members of the wider planning profession also responsible for implementing the RMA. RMA implementers span a wide range of public and private sector agencies, all of whom will need to engage in a rigorous review of the proposed changes as part of the on-going Resource Management Reforms.

Some NZPI members have concerns that the NMS is focused on implementation, and does not necessarily address outcomes. These members have concerns about this gap. That concern is heightened by the fact that outcomes will not be addressed by the new three-yearly State of the Environment environmental monitoring reports proposed by the Minister for the Environment, and Environmental Reporting Bill to be introduced this year. These members note that the environmental monitoring report will not adequately address, or make the link with, plan effectiveness. They note that plan effectiveness should be the key focus given that plans are an applied translation of the RMA's purpose, whereas consents are a tool used to implement those plans.

NZPI members support getting the NMS right rather than quick. These members recognise that getting the monitoring system right is critical because of its link to Phase 2 of the RMA Reforms and other initiatives under way to monitor local government performance and improve efficiency of local government processes.

3. Question 5: In your view is there merit in developing a nationally consistent Monitoring system?

A number of NZPI members believe that there is merit in developing a nationally consistent Monitoring system. They also believe that the objectives of the NMS, as well as design of data structure and evaluation methodologies, need to be developed collaboratively with local government and resource user sectors.

A number of NZPI members have concerns that what is proposed is not actually a monitoring system for the RMA. These NZPI members note that what is proposed in the discussion document is a monitoring system for measuring the number, time, and costs associated with the implementation of the RMA's processes. They also note that section 24 of the RMA already sets out the wide monitoring functions of the Minister for the Environment. The stated functions include: "(f) the monitoring of the effect and implementation of this Act (including any regulations in force under it), national policy statements, and water conservation orders:

- (g) the monitoring of the relationship between the functions, powers, and duties of central government and local government under this Part:
- (ga) the monitoring and investigation, in such manner as the Minister thinks fit, of any matter of environmental significance:"

These members therefore recommend that the proposed NMS be renamed, and be described as a national implementation monitoring system. This would sit alongside the user satisfaction survey that is focused on the performance of councils and central government in delivering those services related to the RMA.

4. Question 6: Do you believe that the right information has been identified to tell the story around the implementation of the functions, processes and tools of the RMA?

A number of NZPI members believe that the proposed system needs to better identify the appropriate information required for the NMS. While these NZPI members recognise that MfE has taken a consultative approach with local authorities, they reiterate that the exclusion of the wider planning community in this process could lead to critical gaps in information necessary for developing a robust monitoring system.

NZPI members note the importance of gathering the right information, given local government is required by the Local Government Act 2002 to develop performance measurement and monitoring systems for its activities, and that MfE is responsible to government to ensure its processes and performance is delivering value for money. In 2012 MfE commissioned a report on case studies of national monitoring frameworks as part of its scoping work and preparation to develop an integrated monitoring framework for the RMA¹. Referencing this report and highlighting how its recommendations influenced the proposed NMS would have been an opportunity to both provide transparency and demonstrate a commitment to delivering value for money.

Typically, monitoring systems are built around both quantitative and qualitative measures. With this in mind, NZPI members have identified a number of gaps in information, particularly the lack of

¹ Case Studies of National Monitoring Frameworks. Prepared by Beca for the Ministry for the Environment. April 2012. Available from: <http://www.mfe.govt.nz/publications/rma/monitoring-review-project/case-studies-national-monitoring-frameworks.pdf>

qualitative detail, required for better decision making. The following areas have been identified by NZPI members as requiring further information.

Contextual detail

NZPI members have concerns about the lack of specific information collected. These members also note that the focus on gathering primarily quantitative information will lead to gaps necessary for understanding an authority's performance, or that of a whole sector.

A number of NZPI members are concerned that the proposed system is a set of questions reorganised to reflect on the basic tools and processes of the RMA. However, these members are concerned that greater clarity is needed regarding how the information, once collected through the questionnaires, will be evaluated, and against what criteria. These members also seek greater clarity regarding how the proposed system will enable achievement of the identified outcomes of interest. Furthermore, they believe that the NMS requires a clearer structure for its final products and outputs to be clearly identifiable.

Some NZPI members also have concerns that the meaning of functions, processes, and tools is unclear from the perspective of the objective of the NMS, and that functions are generic management responsibilities under ss 30-31 (s30: "Functions of regional councils under this Act" and s31: "Functions of territorial authorities under this Act") of the RMA. These members assert that the NMS should use the term 'activities' or 'operations' to cover the suite of things done under the RMA for which data-fields are proposed.

While some NZPI members agree that the matters identified in the proposal seem appropriate in terms of implementation, they recommend that the following areas of contextual information be included to assist those interpreting the performance, effectiveness, and comparisons necessary for ensuring optimal outcomes.

- Council size (i.e. not just the number of full-time equivalents (FTEs) working on consents staff/planners and area that the district/region covers)
- Level of each council's income, and the amount of money that is budgeted for by the council in relation to the process, as well as the council's policy about user charges
- How decisions are made on resource consents
- Appointment of Hearing Commissioners, e.g. standing committees weekly or monthly meetings, or use of Duty Commissioners
- Non-regulatory methods of information collected
- Resourcing and budget implications
- Māori participation
- The increased focus on budgets and resourcing and cost recovery
- Recognition of the dual processes, i.e. consent and district plan compliance, and 2 plan effectiveness

Plan Effectiveness

NZPI members have noted that the proposed NMS will not deliver information or analysis that can be utilised to enable the development and monitoring of best practice and performance on plan development and implementation. Furthermore, the proposed NMS does not gather qualitative information to give contextual differences between councils and desires of the communities that the plans cover. They note that while figure 1 on page 3 of the discussion document shows the scope and

highlights the limitations, there is no reference to functions of regional councils, territorial authorities, and whether the plans they are required to prepare assist them in carrying out their functions.

Relevant, up to date, and effective plans are critical to the efficient implementation of the RMA by regional and local government. With this in mind, NZPI members recommend that any monitoring system include the monitoring of plans effectiveness, as well as the plan development process including its research, consultation, and section 32 analysis stages.

Case Law

Some members recommend that there be greater consideration of relevant case law that impacts on how the RMA or plans are interpreted. This includes declarations obtained from the Environment Court that influence interpretation of provisions. These members note that the effect of amendments to the RMA impact on consents, in terms of notification and the use of transitional provisions on when amendments take effect, are influencing factors that need to be recorded and understood when people interpret data as part of the NMS.

5. Question 7: Do you believe there are additional barriers or challenges to the proposed National Monitoring System for the RMA that have not yet been identified?

Some NZPI members have identified additional barriers and challenges to the proposed NMS for the RMA, and note that this question will have already been answered in part through the response to Question 6.

Some members note that the order of marginal costs imposed over the current biennial survey (which is of limited performance assessment value) has not been estimated, as the systems for accessing the datasets have not been adequately understood from either councils' or MfE's perspectives. They note that there is huge cost risk and the question regarding what value for effort.

A number of members also note that for the proposed system to operate as a national monitoring system, information about how well the functions of those who have duties and powers under the RMA are being delivered needs to be captured. This requires measuring both quantitative and qualitative information.

An example is that while a question relating to a regional council controlling the use of land for the purpose of soil conservation could yield a simple matter of a yes or no answer, determining how effective the controls are and measuring the impact of the controls in the plan/policies in Regional Policy Statements are far more complex. This requires a range of indicators, as well as links to the level provided for as a permitted activity, the number of resource consents lodged to exceed the standards permitted and if they were granted, therefore how effective the conditions were to avoid or mitigate the effects of the proposal. These members recommend gathering information regarding what post consent analysis was undertaken. This will be critical to developing a comprehensive view of environmental and other outcomes. This information will also provide insight to assist in ensuring that conditions are practical, relevant, and cost effective.

These members also recommend that the survey include the qualitative perspectives of those affected, including applicants, neighbours, and interested parties/bodies/those with statutory responsibilities). In addition, this needs to include the ability to capture audits that may have been undertaken by others such as university research or MfE, Landcare Research, etc., to compare the results over time and with other similar areas, and to capture key events that may have to be considered.

6. Question 8: What type of support or systems do you think will be required to implement the proposed National Monitoring System for the RMA?

NZPI members note that there is a high level of detail proposed for the NMS, and that this will generate a considerable amount of work. MfE will need to consider the increased resources required to undertake the implementation and development work required. Central government may need to fund MfE to develop the NMS, as there appears to be cost efficiencies for MfE to undertake the development and implementation work. Funding will need to extend to supporting local government to adapt their systems to support the NMS without this being a burden of the ratepayers, given councils may not have the financial and staff capacity to support the NMS.

NZPI members believe that to be useful, the data must be comprehensively and continuously collected, and that data integrity needs to be established in a manner that avoids excessive auditing requirements. This will require up to 78 data systems with enough functionality to enable data transfer; and a very large data system operated by MfE to make sense of the returns. Some NZPI members have recommended that MfE work with territorial authority core system providers (potentially resourced by central government) to facilitate early cost effective reporting. They believe that automatic uploading should be the objective, with freely available real time access and benchmarking capability for central government and local authorities. These members note that some councils may utilise similar systems, but that these may not necessarily be compatible or allow information to be mined. Some councils may have bespoke systems for collecting data on RMA performance, whereas others will collect little or no data.

7. Question 9: What might a national user satisfaction survey for the RMA look like, what would it cover, and what costs or benefits would it create for your organisation?

A number of NZPI members support MfE in exploring the option of a satisfaction survey for the RMA. They note that the survey would potentially deliver an interesting insight into the effectiveness of the RMA.

Some NZPI members have noted that many councils already survey their communities in relation to environmental outcomes as part of the LGA 2002 requirements. Many councils also survey applicants about their experience with the council process, while few survey those who were notified of an application or submitters to a plan change about the process or the outcome. These members recommend that any national user satisfaction survey would need to include the aforementioned areas.

A number of NZPI members also recommend that due to the RMA's encompassing nature, a survey would need to either focus on particular segments or be extensive, and that any survey will need to take a standardised approach across the country. These members also note that the most salient feature of a satisfaction survey (or monitoring and evaluation system) is its ability to enable identification of the cumulative response of a broad range of users, including RMA actors, stakeholders, applicants, investors, professional organisations, local authorities and even passive individuals/community groups, in a continuous manner. They therefore recommend that the survey be developed in consultation with a wide group of users, such as NZPI, Local Government New Zealand, Environmental Defence Society, and The Property Council.

8. Conclusion

Thank you for the opportunity to provide feedback on "A National Monitoring System for the Resource Management Act 1991". We trust that these comments and recommendations provide useful feedback as part of developing a national monitoring framework for the RMA.

We would welcome the opportunity to meet with you and Ministry officials to discuss our feedback more fully. Should you have any queries regarding the above submission content, please contact either of the following:

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Yours sincerely,



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