

PRACTICAL EXAMPLE FOR MONITORING AND REPORTING TRAINING WORKSHOPS

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Workshop Session: Compliance Monitoring

In 2002 I was employed to review resource consent monitoring while managing the RMA compliance function at Auckland City (excluding Gulf Islands). The terms of the review focused on expanding capacity, but I quickly identified the need to target capacity to potential development effects and to include data collection and reporting that could feed back to assessment of District Plan effectiveness and consent decision making.

In 2004/5, with an expanded but targeted consent monitoring programme in place, demands to increase RMA incident response were growing in the new political term. I recognised the need for better information about environmental priorities that could be influenced by enforcement action, to steer these demands and allow staff decision-making to remain consistent and prioritised under pressure. An important source of information would be the compliance inspectorate, and again, this information would be doubly used to assess Plan (and bylaw) effectiveness.

Synopsis:

Consent monitoring

- Discussion paper written by compliance manager. Reviewed by Principal Planner to ensure accuracy and buy-in across functions.
- Paper resulted in report setting out framework for targeted consent monitoring as well as development impact assessment by monitoring officers, and a business case for additional staffing funded 75% by new monitoring fees.
- Staff increased from 4 to 8. Included admin function to process impact assessment data and issue actual cost invoices (after deposit, on completion of monitoring).
- Staff trained in impact assessment using live and photographic situations. Assessment done by checklist questions. Upgraded to include urban design, with specialist training provided.
- New cross-council database / case management software built to include category based recording of development impacts and consent condition breaches. At the same time, district plan "infringements" recording set up for consent planners (data entry at time of processing applications).
- Planners trained to prioritise consents for monitoring, based on effects if conditions not met or works not according to plans where plans incorporated effects mitigation.
- 3-level priority monitoring introduced. High, Standard, Audit. High included potentially significant effects if non-compliance/accordance and all notified decisions, as well as consents to persons with previous offending. Audit included activities of a type with no expected risk of effects. Deposit fees set accordingly, based on staff time set for routine monitoring at each level.

Incident response

- Reports written to council committee regarding need for compliance project work to assess environmental priorities for enforcement, gather compliance inspectorate data for feedback to rules and policy, and lead proactive compliance actions while increasing enforcement staff to provide some capacity to support such actions (vs reactive complaints-based work).
- Internal discussion paper set out framework for new projects team, including an integrated compliance strategy that identified data sources for evaluating compliance priorities, methods of response to priorities (e.g. education plans

e.g. enforcement projects), and an annual cycle that allowed iterative learning and revised budgeting.

- Discussion paper set out some example priorities and led to consultations with compliance staff, community board chairpersons, and councillors to formulate the first year of project work.
- Council support resulted in funding allowing formation of small team of project staff, as well as additional consent monitoring and incident response officers.
- Project team began review of effectiveness of bylaw and District Plan rules relating to signs and tree protection, piloting their approach on signs in particular town centres (a political imperative) using both surveying and enforcement to test the rules i.e. was compliance necessary to, and did compliance once achieved, meet the rules' objectives?
- Incident response began recording of breach data, after both RMA and bylaw categories set up

What worked well and why:

Consent monitoring

- Compliance staff, most with environmental science, geography, or resource planning qualifications, relished the opportunity to identify development impacts. While assessment was inherently subjective on amenity and design, consistency was assisted by ongoing intra-team discussion, joint inspections, and workshops.
- Data fell relatively well into categories, because they had been tested against officer experience. Reporting possibilities were very promising, due to the ability to draw together all land use and building applications, infringements, and consent monitoring data together from the one council database.
- Monitoring priorities allowed staff to plan their time better, and justify their efforts on routine monitoring. The approach worked well because it was flexible, allowing the efforts to increase if breaches or non-consented effects were found.

Incident response

- Consultation on environmental compliance priorities attracted significant political interest that assisted funding, and gave the programme legitimacy with existing staff who were needed to provide time to compliance projects and were to be the recipients of new enforcement approaches that came out of project work.
- Taking a topic / area / industry approach to compliance monitoring provided opportunities for community education on rules and objectives, as well as the role of compliance staff and the enforcement powers under LGA and RMA. While there was some venting of displeasure in the news media, high levels of compliance and the basis for stakeholder groups for rules review were achieved in the pilot signs project.

Hot Tips for Success:

General

- Use whatever resources you have to manage the political interest. Committee, ward, or hearings managers may be able to translate your proposals to elected representatives (ER) in the context of what they know about ER experience and policy standpoints.
- Staff benefit from protocols about assessment (data collection) and data entry, to increase consistency against desired standards and methods of interpreting effects and breaches. Schedule regular training e.g. annually, to deal with staff turnover.
- Data categories must be revisable in the database, to allow increased accuracy and relevance as monitoring learns from experience.
- Don't spend too much time and money on complex report writing. Instead extract data in records that combine data elements you wish to explore e.g.

correlations in, and use statistical expertise inhouse to process that data e.g. in MS Excel.

- Get the ball rolling on environmental priorities and indicators. While you might sketch out some overall categories and a broad strategy, start with a pilot model and improve it with experience; start in one area and roll it out with adaptations to other topics / areas. That way you can prove what is possible and maintain confidence for intra-organisational relationships you will rely on, morale and focus among staff, and funding for the work.
- Warm your target communities to the changes - e.g. change in fees e.g. new focus on their activities. Provide good reasons; define the community interest in compliance e.g. the relevant state of environment objectives.

Consent monitoring

- If consent planners are to set monitoring priorities, work on increasing mutual consultation between them and monitoring officers, so that monitoring priorities are accurate to on-site realities. This will also promote feedback to consent decision-making. Occasional joint site visits can help.
- Reorganising historical files to the new priorities is critical, if staff are to reap the time management benefits of a new priority system.
- The Audit category is usually of great interest to councils, because it allows them to justify a minimal effort on some consents, especially if it wants to keep consent related fees down. It can work by checking just a sample of consents in this category, or by requiring self-monitoring reports, or by responding only to complaints (with or without previously having advised neighbours of its Audit status).

Incident response

- Staff used to reactive work may take some warming to the idea of integrated enforcement. Include them throughout the planning and set up process.
- Negotiate your new approach with others who have high level monitoring functions in council; they may have information or sources they can share - as well as toes to stand on! If there is potential duplication in roles, make sure this is understood by senior management and the reasons and constraints for it agreed.

What did not work well and why:

Consent monitoring

- It was difficult to maintain the levels of knowledge regarding impact assessment especially as urban design thinking developed rapidly in council, because compliance was not considered part of the planning functions. Similarly, mutual relations between consent planners and monitoring officers did not improve significantly despite a programme of joint visits. With separate management structures and performance objectives, there was little structural motive for this.
- Data mounted up, but time to analyse it and report on it was constrained by lack of time budgeted to this activity. This problem sat both with compliance staff and policy planning staff. Additionally, time was needed to regularly check the quality of data entry.
- Cost recovery became an issue because staff had to adjust to daily time recording, and invoicing at the end of monitoring involved a significant time delay and sometimes change in land ownership from the time of consent application.

Incident response

- Political interests were stronger than expected, and resulted in some adjustment to project priorities as perceived by officers and available data.

Pitfalls to avoid:

- Consider how structures may constrain integrated compliance monitoring; consider joining inter-dependent functions under one management umbrella.
- If creating capacity for integrated compliance monitoring, plan for additional staff time not only for data collection, but data assurance, analysis and reporting and workshopping - both on the compliance side and the policy side - or in an intermediary or joint function.
- Find ways to inform ER, but maintain the effectiveness of the staff role as expert adviser to policy decisions.

What were the critical factors in getting approval for this approach or process or product in terms of decision making?

- Reports with principles drawn from specialist literature / international examples, alternatives and costs/benefits examined.
- Cost recovery ability.
- Political interest and consultations.

References available from this work?

Various (attached)

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