

Gary Hawke (ed.), *Guardians for the Environment*. (Wellington: Institute of Policy Studies, 1997), pp.xii, 226.

These are the Proceedings of a Symposium held on 28 February and 1 March 1997 in Wellington “to mark the first decade and to provide future directions for the New Zealand Parliamentary Commissioner for the Environment”. Ten years after the establishment of this Office, a “world first”, and on the occasion of the retirement of the first Commissioner, Helen Hughes, the Symposium provided an opportune platform for discussing the role and achievements of the Office. The meeting brought together just over one hundred participants, among whom Members of Parliament, central government officials, representatives from local and regional government, environmental groups, environmental consultants, lawyers, and academics. Also present were the Environment Commissioners from the Australia (ACT) and Canada.

When the New Zealand Office was created in 1986 with the adoption of the Environment Act, its role was not sharply prescribed and delineated. [Its establishment was largely based on the need to find a home for some of the “residual” functions of the Commission of the Environment that was replaced by the Ministry for the Environment as the government’s main environmental policy agency. In particular, it was considered desirable that an office independent from the Government would take responsibility for auditing environmental impact reports prepared on government sponsored projects, a role that at times had brought the Commission into strife with the government. However, the new Parliamentary Commissioner for the Environment received a mandate that went far beyond this auditing role, which by and large had become redundant with the decline in direct government involvement in development projects after the change of government in 1984. Foremost,] the Environment Act gave the Commissioner the task to keep under review “the system of agencies and processes established by the Government to manage the allocation, use and preservation of natural and physical resources” to “investigate the effectiveness of environmental planning and environmental management carried out by public authorities”, and to report to Parliament on these matters, and any other matter “in respect of which, in the Commissioner’s opinion, the environment may be or has been adversely affected.”

This broad mandate gave the Commissioner a large degree of discretion to shape the role of the Office. An analysis undertaken by this reviewer of how the Office has utilised this discretion identified three aspects to the role played by the Commissioner: that of an environmental ombudsman (complaints office), that of an environmental auditor (assessing the performance of agencies), and that of a systems guardian (addressing the gaps and problems in the environmental management system as a whole).¹ At the Symposium, the presentations and discussions were largely structured around these roles, with the addition of a fourth role, that of “provider or broker of environmental information”, a role more central to the Environment Commissioners in Australia (ACT) and Canada (in particular Ontario) than to the New Zealand Commissioner.

So how did the participants at the Symposium evaluate the role(s) played by the New Zealand Commissioner? Much appreciation was expressed for the work that the Office has done, and for how it has done it (with meagre resources). Many of the reports produced by the Commissioner, such as those on the Crown’s responses to the recommendations of the Waitangi Tribunal, on consultation with tangata whenua, and on land management issues (notably in relation to rabbits and possums) found much acclaim. The Office also won praise for the advice and assistance provided to citizens and local governments on a range of environmental management issues. The general feeling was that the Commissioner has drawn attention to many gaps and shortcomings in

¹ Ton Bührs, “Barking Up Which Trees? The Role of New Zealand’s Environmental Watchdog”, *Political Science*, Vol.48, No.1, pp.1-28. This article is also included as an Appendix in these proceedings.

New Zealand's environmental management, and has provided constructive advice as to how these can be addressed. Overwhelmingly, participants at the Symposium agreed on the value and importance of having an independent and credible environmental watchdog, and there was no call for abolishing the Office.

There were, however, various issues on which opinions diverged, such as whether the Commissioner should become a more pronounced "environmental advocate", whether the Office should be involved in evaluating policies (rather than focus on processes and structures), on the relative emphasis that should be put on the three (or four) roles identified, and on whether some of these functions could or should be transferred to other independent agencies (such as the Ombudsman and the Auditor-General). In this context, the need to sharpen the role of the Commissioner, and to communicate that role more effectively to the outside world, was also recognised.

Some of the shortcomings and limitations of the Office also received attention, such as the reactive nature of many of its past activities, its limited capacity in addressing Maori concerns, and its very narrow resource base. These were, however, expressed not so much as a critique of how the Commissioner had fulfilled her role but as signals of the constraints and multiple expectations under which the Office has operated. Given the very limited resources made available to the Office (about a dozen staff and little more than NZ\$ 1 million dollars annually), it is impossible for the Office to meet the many needs and expectations with regard improving environmental management in New Zealand. Even if the Office is put on a sounder financial basis, it cannot escape having to set priorities and to focus its activities.

That it may be more fruitful for the Commissioner to put greater emphasis on the role of "system's guardian", and to focus on the structural weaknesses in New Zealand environmental management system (e.g. with regard to the environmental capacity of local government, the institutional basis for, and barriers to, "environmental advocacy" at all levels of government, and the system of environmental monitoring and information collection and provision) rather than trying to fill all those gaps him/herself, seems to be recognised by the new Commissioner, Morgan Williams, in his "Concluding Comments" at the Symposium, and in the Strategic Plan that the Office has produced since. How these more fundamental weaknesses can be addressed effectively in a political and economic climate in which economic growth continues to be assigned foremost priority, remains a major challenge. But at least the Office provides a basis for raising these issues and for continuing to prod decision makers to take steps in that direction.

Although these proceedings contain contributions from the Environment Commissioners from Australia and Canada, they do not provide a comparative analysis or assessment of the relative merits and achievements of the quite different roles played by each of these Offices. That work remains to be done. But for those who are interested in taking stock of the role played by the New Zealand Commissioner for the Environment, and in taking note of the different perceptions of that role in the New Zealand context, this publication is a useful starting point.

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