



The New Zealand Environmental Protection Authority: a Wolf in Sheep’s Clothing?

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The following article is an abridged version of a report prepared for the ERST 635 Group Case Study as part of the Master of Environmental Policy programme at Lincoln University in 2011. The purpose of this study was to analyse the development of the newly formed Environmental Protection Authority in New Zealand. The authors of the full report are Joan Abes, Felicity Boyd, Abbie Bull, Paul Christie, Shaun Coffey, Erienika Lompoliu and Liping Shang. For a PDF version of the full report, please email [Felicity.Boyd@mfe.govt.nz].

The National Party’s Bluegreen Vision

Since 1984, New Zealand’s institutional framework for environmental management has undergone significant changes. Over time, the ideologies of governing political parties have had a distinct influence on the types of policies developed in different Parliaments – for example, Robert Muldoon’s “Think Big” projects and the New Right focus of the Labour Party during the 1980s. This has been seen once again in recent years with the National Party’s increased focus on environmental management and regulation. The National Party began to recognise the importance of the ‘green’ vote prior to the 2008 elections and developed *A Bluegreen Vision for New Zealand* in order to discuss the ways in which the National Party could attract such a ‘green’ vote. Seen as a complex and often contradictory connection by opposing parties, the union of environmental management and economic growth outlined in the *Bluegreen Vision* has become the focus of the National Party’s environmental policy since they came into office after the 2008 elections. This union has since resulted in the development of New Zealand’s first Environmental Protection Authority (EPA).

The Environmental Protection Authority

At its first reading, the EPA Bill was supported by all parties. Such unanimous support showed that there was agreement between parties that an EPA was considered necessary in New Zealand. The EPA, as proposed in the first reading of the EPA Bill, provided an integrated way to consolidate existing resources and expertise from various organisations (outlined below in Table 1), and appeared to show New Zealand’s commitment to high quality environmental management.

Table 1: Functions to be undertaken by the EPA

Function	Former Party Responsible
National consenting under the RMA	EPA office within MfE
Regulation of pesticides, fireworks, explosives and other hazardous substances	ERMA
Regulation of new and genetically modified organisms	ERMA
Administration functions of the Emissions Trading Scheme	MED
International obligations on hazardous waste	MED
Advice to the Ministry of Foreign Affairs and Trade regarding environmental assessments for Antarctica New Zealand	MfE
Advice and information on the development and implementation of National Environmental Standards	MfE
Process and issue permits for otherwise prohibited ozone depleting substances	Minister of Commerce

After the second reading, however, the EPA lost the support of the Labour and Green parties. Although both parties provided a number of criticisms of the model, this withdrawal of support was primarily due to one overarching issue: the Labour and Green parties argued that an Environmental Protection Authority must include an objective directly relating to the protection of the environment. The National Party countered this argument by explaining that such an objective is unnecessary, as the current objective includes the furthering of objectives in associated environmental Acts, such as the Resource Management Act 1991 and the Hazardous Substances and New Organisms Act 1996. In short, the National Party claimed that including such a specific mandate for environmental protection would be duplication and therefore unnecessary. However, there is duplication occurring between the EPA Act and the Climate Change Response Act 2002 with regards to international obligations. If this duplication is acceptable, why not duplication regarding environmental protection?

Should an EPA Protect the Environment?

If the EPA does not contain an objective to protect the environment, it appears that the name may be misleading. During discussions in Parliament, critics from the Labour and Green parties claimed that the addition of an environmental protection objective would stifle the progression of development and, therefore, economic growth. This directly opposes the ideology of the National Party's current environmental policy (based on the union between environmental protection and economic development) and may provide a possible explanation for the absence of environmental protection from the objectives of the EPA Act. By comparing and contrasting the New Zealand EPA with international examples, it is clear that an objective requiring environmental protection is not unusual in similar organisations – in fact, out of an examination of six EPAs (in New Zealand, Denmark, Ireland, Sweden, USA and Victoria, Australia) New Zealand is the only EPA without a clear objective to protect the environment. While the argument from the National Party, and particularly Dr Smith, initially appears convincing and logical, upon closer inspection there are a number of gaps and weaknesses. Without direct communication with Dr Smith, it is impossible to know exactly why this objective has been left out, however it is clear that there are a number of possibilities.

Will the EPA Contribute to Good Environmental Management?

Despite the debate over the objectives of the EPA, on the whole it appears that the development of the EPA has been logical and in the interests of good environmental management. By consolidating resources and shortening timeframes, Dr Smith hopes to free up experts within various environmental organisations such as the Environmental Management Risk Authority so they may pay greater attention to the development of national environmental policy. Central-led environmental directives such as national environmental standards and national policy statements are sorely lacking in New Zealand currently. It is hoped that the establishment of the EPA will allow environmental experts within the Government to 'work smarter, not harder.'

With recent voting intention polls showing the National Party as a clear favourite to win the 2011 general election (Roy Morgan Research, 2011), the EPA in practice is unlikely to become any stronger in terms of environmental protection. Based on clear trends in the National Party's environmental policies, it is reasonable to expect that any reforms to the EPA, or environmental policy generally, until 2014 will be based primarily on the desire to

increase efficiency. With the environment, climate change, and energy and resources portfolios housed in the Cabinet Economic Growth and Infrastructure Committee, the contentious union of environmental management and economic growth appears to be well-established in the governing of New Zealand for at least the next three years.

Conclusion

Overall, the new EPA can be considered a useful institution for environmental management, and makes a number of improvements on current processes. However; it appears to be slanted more in favour of development and economic growth than environmental outcomes, despite the 'balanced approach' rhetoric surrounding its establishment. Based on the development and assessment of three options in section 7.3 of the full ERST 635 report, we have developed six key recommendations for improvements to the current EPA framework:

1. Amend the objectives of the EPA to promote environmental protection.
2. Extend the functions of the EPA to incorporate added enforcement responsibilities on relevant matters.
3. Change the EPA from a Crown agent to an autonomous Crown entity.
4. Modify the process for selecting the EPA Board and the Boards of Inquiry.
5. Make EPA decision making more 'community friendly'.
6. Widen the scope of the EPA to make the organisation a more comprehensive and overarching body.

These recommendations support our view that, as an Environmental Protection Authority, it is imperative that the EPA operates with a clear goal to protect New Zealand's unique and precious environment and that it is not 'hijacked' by development interests. Is the current EPA a 'wolf in sheep's clothing'? Yes, in the sense that it is parading as something which it is not (an organisation concerned with the protection of the environment first and foremost). Is this misrepresentation the result of deliberate, malicious intent (eg. in order to 'ram through' large developments)? Currently, we believe that this is not the case; however it is certainly an area to keep an eye on in the future.

References

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