

URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

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There were two joint winners of the 2016 Fred Kan & Co. prize for best dissertation in the Master of Science (Environmental Management) course at the University of Hong Kong. This edition of UPELQ reviews one of those: *Review of Environmental Justice under the EIAO in Hong Kong*.

The Editors

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DOES THE EIAO PROVIDE ENVIRONMENTAL JUSTICE TO HONG KONG'S CITIZENS?

Research focus

In his award-winning dissertation, *Review of Environmental Justice under the EIAO in Hong Kong*, Chan Ching Ho, Albert explores the important notions of private citizens' right to a clean environment and capacity to enforce such right – if indeed it exists in today's Hong Kong – using the medium of the *Environmental Impact Assessment Ordinance* (Cap.499) (EIAO).

The abstract of Mr. Chan's dissertation (above) describes the focus of his research as follows:

"The Environmental Impact Assessment Ordinance was to provide a framework to assess and evaluate the impact of designated projects on the environment. This paper assessed the scope of individual's legal rights to the environment provided by the ordinance, and how effectively these rights are accessed under the legal system of Hong Kong. Overall, the provision of environmental justice under the ordinance is satisfactory. But without a recognition of substantial rights to enjoy a clean and healthy environment by individuals, environmental justice will not be comprehensive and sustainable development cannot be achieved."

The abstract is somewhat confused and confusing. As becomes clear from the dissertation, an individual's "legal right to the environment" is intended to mean the right of all individuals in our community to enjoy a clean and sustainable environment, rather than a "right to exploit" the environment.

The statement that the EIAO provides "satisfactory" environmental justice is also misleading, as the author's conclusion is that the EIAO does not protect individuals' rights to a healthy environment. The true result of the author's research is better reflected in the last sentence of his abstract (above).

Environment rights and justice

The *Declaration of the United Nations Conference on the Human Environment* (Stockholm Declaration) (1972) was the first clear international commitment to individuals' right to live in a healthy environment. The nations which endorsed the Swedish inspired Stockholm Declaration accepted this right as a fundamental human right, like the right to freedom and to protection from torture.

Mr. Chan discusses human rights generally, as well as in the specific context of the natural environment. He notes that the Stockholm Declaration "*acknowledged the importance of the environment to the well-being of human and the responsibility to protect a quality environment. It requested nations to safeguard natural ecosystems and sustainable use of resources for the benefit of present and future generations*".

An "environmental right" is a human right which "*relates to individuals' access to and use of natural environmental resources, such as land, water, air, sunshine etc. Sometimes environmental rights also extend to include non-human elements such as animal protection and conservation of the nature*".

The author defines “environmental justice” as “*the recognition and access of environmental legal rights by individual, i.e. how people’s enjoyment of a healthy environment is protected by the legal system and how people could respond in case of infringement. A measure of environment justice is to examine if adequate rights and means to uphold these rights are provided*”.

Environmental Impact Assessment Ordinance

The author briefly refers to a number of Hong Kong’s environmental statutes (e.g. *Air Pollution Control Ordinance* (Cap.34) and *Wild Animals Protection Ordinance* (Cap.170)) and then addresses the statutory medium of his dissertation, the *Environmental Impact Assessment Ordinance* (Cap.499) (**EIAO**).

In short, the EIAO “*prescribes a list of projects for which an environmental permit would be required for constructions, operation and/or decommissioning in Schedule 2 & 3 (section 4)*”.

A proponent of a designated project must conduct an environmental impact assessment within the scope and standards set out in the specific study brief and the general Technical Memorandum (**TM**) published by the “Authority”, namely, the Director of Environmental Protection.

There is a public consultation process before the Director refuses, grants unconditionally or grants with conditions the application for the required environmental permit: section 8. All applications are also referred to the Advisory Council on the Environment (**ACE**) for comment

Applicants may appeal against the Director’s decision: section 17. However, members of the public have no right of appeal. The author summaries the role of the EIAO in the context of protecting Hong Kong’s environment:

“The EIAO established a systematic approach at early planning stage of a project to identify and assess potential environmental consequence on various aspects arising from a proposed project. The project proponent would take the major role to carry out assessment and to demonstrate the residual environmental impact is within acceptable level. The role of the director is an impartial technical adjudicator to review the content of the project profile and EIA report against guidelines and criteria set under the EIAO TM. The ACE as a learned advisory body to comment on the two important documents could provide credibility and confidence of the EIA system. The general public could also participate through providing comment.”

Individuals’ rights under the EIAO

The EIAO provides limited rights to members of the public – as distinct from permit applicants – which the author categorises as purported rights

- to access to information
- to be heard
- to be represented

The author also notes: “*In addition, the ordinance set outs the quality of the assessment process and evaluation criteria that indirectly safeguard the environment not to be unreasonably polluted which in turn is a form of protection of the environment and the public health that individual could enjoy indirectly*”.

The abovementioned specific individuals’ rights (in the context of the workings of the EIAO), as explained in the dissertation, clearly lack any real jurisprudential substance.

“Access to information” is the most robust of these “rights”. Under section 15, the Director must establish and maintain a register containing material information relating to EIAs and environmental permit application. The register may be accessed (in hard copy and on-line) by the public.

However, important categories of information are not included in the register: e.g. advice received from other government departments and comments received by the Director from the ACE and public. Thus, transparency of the EIA process is compromised, in the author’s opinion.

The right to be heard consists only of the public consultation process mandated under section 5. The public has no right to be heard as an interested party. As well, the Director may simply ignore comments by the public and by members of the ACE, and is not obliged to address or respond to them.

An individual’s right to be represented is in fact no more than the requirement for the Director to refer a permit application and associated EIA to the ACE for its consideration and comment. Members of ACE are appointed by the government (and are not necessarily pro-environmental protection). They have no public constituency and do not represent individual members of the public, as such. Thus, the fact ACE plays an advisory role does not equate with a public right to be represented in the process.

Mr. Chan summaries his conclusions regarding citizens’ rights in the EIAO process as follows:

“The ordinance provides citizens with positive rights to access to information and rights to be heard by providing comment on the environmental impact assessment study brief and the environmental impact assessment report. These are essentially procedural rights recognized by the Aarhus Convention and common in many democratic jurisdictions. However, there are no substantial rights by individuals to enjoy a clean environment. The role of the ACE and the director do not provide additional substantial rights either.”

Enforcement under the EIAO

The effectiveness of the community’s right to have our environment adequately protected depends heavily on the way in which government agencies enforce our environmental laws. In relation to the EIAO, Mr. Chan writes:

“There is not much public available official information on the enforcement of the EIAO such as number of inspections made or non-compliance found. As for prosecution cases, there are around 2 cases each year with an average fine of \$7,500 (maximum fine under EIAO is \$2,000,000 and an imprisonment of 6 months on first conviction) (EPD, 2016B). The enforcement and punishment of EIAO is rather lenient. The post-approval enforcement of the EIAO is as important as the approval process.”

We entirely agree with the author’s opinion of the importance of enforcement of statutory provisions designed to protect (to some degree, at least) our environment. His comment that penalties imposed by our courts (in the very few prosecution brought under the EIAO) are “rather lenient”, applies with equal validity to enforcement under all of Hong Kong’s environmental statutes. The UPELQ has regularly made the same point – in relation to all environmental statutes. It is a disgrace that government agencies and the judiciary trivialise environmental offences!

Remedies outside the EIAO

The ordinary man in the street may attempt to overturn a decision of the Director, made pursuant to her powers conferred by the EIAO, by applying for a judicial review of such decision. The dissertation canvases various aspects of judicial review, concluding that, generally, it would be very difficult for an applicant to reverse the Director's decision on judicial review, quite apart from practical difficulties in pursuing that process – such as the short time limit (3 months) and high legal costs.

The author notes: *“the judicial review is not itself a right of citizen on environmental issues. The fundamental principle of judicial review is about the wrong doing of the authority. It is a way citizens scrutinize the exercise of power of the government rather than a protection of an individual rights. Also, leave from the court is required to proceed with judicial review. Compared with other jurisdictions, Hong Kong is still restrictive in allowing interested party to apply for leave for judicial review. Most of the cases are initiated by private applicants with some personal interests in the case, NGO standing for the interest of the public at large has no way to open the door of the court”.*

Mr. Chan also makes the very sensible observation: *“The courts have always tried to refrain from engaging in matters of environmental policy which may be better left to the designated government authority. However, the court could contribute to the access of justice by the environmentally deprived individual by defending rule of law and environmental rights as well as upholding the underlying objective of the EIAO, the protection of the environment”.*

There is a brief discussion of the potential of the tort of nuisance to enable enforcement of individuals' environmental rights. The text refers only to private nuisance, whereas public nuisance possibly offers more hope. Either way, the author rightly concludes the tort is realistically of little use to individuals seeking to protect the broader environment.

A comment in the summary in this section of the dissertation is especially significant (in the context of “environmental rights”): *“The rights (i.e. common law rights) are also mostly anthropocentric, i.e. human centred. The rights of the natural environment are ignored”.*

Rights of the environment

Continuing from that comment, the author has a section headed “Rights of the environment” in which he makes (or, appears to make – the language is not entirely clear) the valid point that the environment has its own intrinsic worth, so environmental protection should not be measured solely in anthropocentric terms, as is generally the case in Hong Kong (and most parts of the world).

The editors note that this point is illustrated by advances in conservation philosophies and policies during the last 15-20 years or so – particularly in the United States and Scandinavian countries – whereby the right of the environment itself (to be conserved) is put forward as the basis of all legislative and executive actions affecting the environment. This enlightened approach is neatly encapsulated in an article written some time ago by Christopher Stone, an American law academic and environmental protection advocate: *Should trees have standing?* arguing that elements of the ecosystem have *locus standi* to bring (through a human agent) proceedings to enforce environmental laws and regulations.

To his credit, Mr. Chan recognises this aspect of environmental rights as a separate, important issue. The actual rights his observation addresses are potential human rights, however. He comments: *“In fact, biodiversity and climate change are important environmental issue nowadays but concerning or affecting the fundamental survival of the natural environment are not covered in the EIAO as they were not recognised at the time of enactment of the ordinance”.*

Environmental justice under the EIAO

The author briefly considers the shortcomings of the EIAO as far as the general public's right to environmental justice is concerned. He concludes: *“As for access to justice, the EIAO apparently lacks the provision of an independent and impartial court to review objection or complaint from the public whose environmental or other legal rights has been violated. Other means of access to justice by judicial review and ombudsman investigation are the only options left to individuals. Overall speaking, the provision of environmental justice under the EIAO is less than perfect or complete but satisfactory”.*

It has to be said that such conclusion appears to be contradicted by the author's abstract at the beginning of the dissertation.

Way forward

The dissertation offers the following recommendation to improve the EIA process in Hong Kong: *“The EIA system established under the ordinance has been a giant leap for environmental protection in Hong Kong. It provided a systematic approach to assess and minimise environmental consequence of a project to aid decision making and policy approval. Yet, the design of the EIA system is not perfect. The way forward is to formalise substantive environmental rights to directly address the need of the individuals who are currently subject to environmental injustice or vulnerable to deprivation of environmental rights. The advantages of substantive rights are that it allows continuous evolving of interpretation of the scope and extent of rights according to the advance and demand of the society”.*

We add that one simple, but significant, improvement would be to change the current “designated project” definition (which is limited to major developments and activities) to cover any project which may cause significant harm to the subject environment.

Conclusion

The author opines that the EIA system under the EIAO is transparent and rigorous. Environmental factors are assessed by a “professional authority against objective standard(s)”. More realistically, he adds:

“However, there is no substantial right of individual to a clean and healthy environment provided under the ordinance. Without the recognition of a substantial right it is difficult for individuals to proceed with a claim to protect the environment or against environmental damage”.

TOWN PLANNING

Draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan approved

The Chief Executive in Council approved the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan (“OZP”).

The planning scheme area of the OZP covers approximately 264 hectares in East Kowloon within the Kwun Tong District.

Specific Zones are:

- 77.89 hectares are zoned “Residential (Group A)” zone comprising existing private and public residential developments;
- 3.29 hectares are zoned “Residential (Group B)” for medium-density residential development;
- 13.93 hectares are zoned “Comprehensive Development Area” for comprehensive residential and/or commercial development, with provision for open space and other community and supporting facilities;
- 7.75 hectares are zoned “Village Type Development Zone”;
- 5.79 hectares are zoned “Residential (Group E)” for residential use on application to the Board;
- 4.03 hectares are zoned “Commercial” for commercial developments to serve the area;
- 4.65 hectares are zoned “Undetermined” pending detailed consideration of the appropriate uses and development intensity;
- 5.26 hectares are zoned “Other Specified Uses”, consisting of an existing petrol filling station, Eastern Harbour Crossing toll plaza, railway station and ventilation buildings, sewerage treatment plant and sites reserved for general business uses and breakwater;
- 18.18 hectares are zoned “Government, Institution or Community” which include the Yung Fung Shee Memorial Centre, the Hong Kong Society for Rehabilitation Lam Tin Complex, Pamela Youde Polyclinic, Hong Kong Red Cross Princess Alexandra School, Sai Tso Wan Neighbourhood Community Centre, Kwun Tong Law Courts Building and Kowloon East Government Offices;
- 18.96 hectares are zoned “Open Space” which include the Sam Ka Tsuen Recreation Ground, Laguna Park, Sai Tso Wan Recreation Ground and Sin Fat Road Tennis Court;
- 0.07 hectares are zoned “Coastal Protection Area” for the conservation, protection and retention of the lighthouse, natural coastline and coastal natural environment; and
- 58.55 hectares are zoned “Green Belt” for the preservation of existing hill slopes.

[Town Planning Board Press Release, 28/04/2017]

Draft Tsuen Wan Outline Zoning Plan approved

The Chief Executive in Council approved the draft Tsuen Wan Outline Zoning Plan (“OZP”).

The planning scheme area of the OZP covers approximately 743 hectares in East Kowloon and Tsuen Wan New Town.

Specific Zones are:

- 7.65 hectares are zoned “Commercial” for commercial developments;
- 16.67 hectares are zoned “Comprehensive Development Area” for comprehensive development/ redevelopment of the area;
- 101.44 hectares are zoned “Residential (Group A)” for high-density residential developments;
- 11.01 hectares are zoned “Residential (Group B)” for medium-density residential developments;
- 2.19 hectares are zoned “Residential (Group C)” for low-rise and low-density residential developments;
- 3.23 hectares are zoned “Residential (Group E)” for residential use on application to the Board;
- 71.28 hectares are zoned “Village Type Development” for village expansion and replacement of village houses affected by government projects;
- 97.13 hectares are zoned “Government, Institution or Community” to cover a wide range of government institution or community facilities;
- 131.84 hectares are zoned “Open Space” for the provision of outdoor open-air public space for active and/or passive recreational uses;
- 11.87 hectares are zoned “Industrial”;
- 21.88 hectares are zoned “Other Specified Uses” annotated “Business” for general business uses to cater information technology and telecommunications industries, non-polluting industrial, office and other commercial uses;
- 22.02 hectares are zoned “Other Specified Uses” for other specific uses such as the MTR depot with commercial and residential development, sports and recreation clubs, petrol filling stations and ferry piers; and
- 164.12 hectares are zoned “Green Belt” for the conservation of natural environment, safeguard it from encroachment by urban-type development, and provide additional outlets for passive recreational activities.

[Town Planning Board Press Release, 28/04/2017]

Draft Pak Sha O Outline Zoning Plan approved

The Chief Executive in Council approved the draft Pak Sha O Outline Zoning Plan (“OZP”).

The planning scheme area of the OZP covers approximately 33.27 hectares in the northern part of the Sai Kung Peninsula. The general planning intention of the area is to conserve the high-value natural landscape and ecological significance of the area and to preserve the vernacular Hakka village setting.

Specific Zones are:

- 1.2 hectares are zoned “Village Type Development” for the preservation of the vernacular Hakka village setting;
- 0.52 hectares are zoned “Government, Institution or Community” for the provision of Government, institution and community facilities;
- 0.18 hectares are zoned “Agriculture” for the safeguard of good quality agricultural land/farm/fish ponds;
- 29.46 hectares are zoned “Green Belt” for the preservation of the existing natural landscape as well as to provide passive recreational outlets; and
- 1.36 hectares are zoned “Conservation Area” for the protection of the existing natural landscape, ecological or topological features of the area for conservation, educational and research purposes

[Town Planning Board Press Release, 05/05/2017]

WEST KOWLOON CULTURAL DISTRICT

59th Board meeting of West Kowloon Cultural District Authority

The Board of the WKCDA held its 59th meeting on 28 March 2017.

It was reported to the Board that the eight-week public consultation exercise concerning the Hong Kong Palace Museum project ended on 8 March 2017. More than 22,200 visitors visited the exhibition held at City Gallery and the online version received 22,600 page views.

It was noted that the individual construction projects, including those in relation to the Xiqu Centre and the M+ project, have progressed significantly. The external building envelope of the Xiqu Centre is nearly finished and intensive internal fit-out work is proceeding. The Xiqu Centre is expected to open in the

latter half of 2018. It was also noted that 80% of the foundations for the Lyric Theatre Complex and Extended Basement work have been completed, allowing the first contract for the major superstructure works to be offered for tender.

[WKCD Press Release, 28/03/2017]

Public consultation exercise concerning the Hong Kong Palace Museum

The WKCD reported to the Consultation Panel the key findings from the public consultation exercise concerning the proposal to establish Hong Kong Palace Museum.

The multi-pronged public consultation exercise was conducted from 11 January to 8 March 2017 following the signing of the Memorandum of Understanding of Cooperation on the Hong Kong Palace Museum (“HKPM”) with the Palace Museum in Beijing. The WKCD has appointed The Consumer Search Group as the independent consultant to analyse the submissions and views received during the public consultation period.

It was reported that the public generally supports the HKPM project and the final report will be published in due course.

[WKCD Press Release, 21/04/2017]

Report for the Public Consultation Exercise on the Hong Kong Palace Museum Project

The West Kowloon Cultural District Authority (“WKCD”) has published the Report on the Analysis of Views for the Public Consultation Exercise on the Proposed Hong Kong Palace Museum (“HKPM”) Project following acceptance of the Report by the WKCD Board on 9 May 2017.

Key findings derived from the public opinion poll conducted through on-street face-to-face interviews during the period from 28 February to 7 March 2017 were:

- 81.2% of the general public were aware of the HKPM Project;
- Approximately 52.0% of the respondents supported the HKPM Project; 14.7% did not support the HKPM project and 33.3% had no opinion either way; and
- Among the 14.7% of the respondents who did not support the HKPM project, 4.9% were concerned about the resources spent in building the museum and 2.4% were concerned about a perceived lack of public consultation.

The WKCD also organised other public consultation activities. Key findings of these were:

- 41.2% of the respondents to the questionnaire supported the HKPM Project while 34.9% did not support the HKPM Project;
- 71.5% of written and other submissions supported the HKPM Project while 23.6% did not support the HKPM Project;
- 34.0% of respondents who spoke at public consultation sessions supported the HKPM Project while 11.3% did not support the HKPM Project.

[WKCD Press Release, 09/05/2017]

61st Board meeting of West Kowloon Cultural District Authority

The Board of the West Kowloon Cultural District Authority (“WKCD”) held its 61st meeting on 9 May 2017.

It was reported to the Board that the WKCD had launched the *Hong Kong Young Architects & Designers Competition* giving young professionals and students the opportunity to participate in an innovative challenge by designing a Temporary Pavilion to be built inside the Nursery Park in the West Kowloon Cultural District (“WKCD”).

Members noted that the external building envelope of Xiqu Centre has been completed and the target to obtain Occupation Permit within this year remains on track. As well, in relation to the M+ main works contract, the erection of the mega trusses spanning the airport railway will soon be completed. It was also reported that the first phase of the Art Park would be finished by the end of this year.

[WKCD Press Release, 09/05/2017]

HONG KONG BRIEFING

Misconceived electric car policy

In his maiden budget speech, Financial Secretary Paul Chan Mo-po announced a drastic reduction to the waiver on the first-time registration tax for electric private cars, effective almost immediately. He described this as a measure to curb private-car growth for better air quality.

The government has waived this tax in full since 1994, in an effort to encourage more people to buy electric cars, thus reducing roadside emissions. The government of that era showed foresight for launching such a bold policy. Unfortunately, electric cars were quite a new concept in the mid-1990s and choices were limited. So even with the waiver, Hong Kong people were reluctant to buy one.

The waiver has now been capped at HK\$97,500, and came as a big shock to the industry and potential buyers. With this change, a buyer of a high-end electric car will have to pay over HK\$800,000 for the tax alone, more than enough to buy a luxury car that guzzles petrol or diesel. Price-sensitive consumers will probably do exactly that: shift back to buying conventional cars rather than zero-emission electric cars.

Electric private cars currently account for only about 1.2 per cent of all private cars in Hong Kong, so it is hard to understand how the new measure could have any big impact on curbing the growth of private car numbers.

Meanwhile, there is no doubt we must control our car numbers to reduce traffic congestion and improve air quality. To achieve this, the government has plenty of options other than targeting electric cars:

- Increase the first-time registration tax and annual licence fee for private vehicles with high fuel consumption and emissions, as well as for a second car registered by the same owner.
- Implement low-emission zones in the busiest districts.
- Introduce congestion charges in the most congested areas.

- Standardise the tolls for the three cross-harbour tunnels, enabling drivers to choose the tunnel that suits their destination rather than the one that's cheapest.
- Subsidise the use of public transport.
- Ensure public transport vehicles have low emissions.

Cutting the first registration tax exemption for electric private cars is misguided and ineffective. It is to be hoped that the new finance chief will instead adopt some or all of the more viable suggestions above, every one of which will genuinely help to improve roadside air quality in Hong Kong.

[SCMP, 03/03/2017]

Illegal provision of plastic bags

Two convenience stores were fined \$6,000 and \$10,000 respectively by Kwun Tong Magistrate Court on 30 March 2017 for providing plastic shopping bags ("PSBs") without charging the customers, in contravention of the *Product Eco-responsibility Ordinance* (Cap. 603).

A spokesman for the EPD said the first case involved a shop at Lok Shan Road in To Kwa Wan. During an inspection, EPD staff found that customers were asked to take PSBs hanging on a nearby lamp post without any charge. The second case involved a shop in Kwai Hing Estate Arcade. During a surprise check, it was discovered that the shop was illegally providing free PSBs to customers.

[Press Release, Environmental Protection Department, 30/03/2017]

Illegal wastewater discharge

A contractor engaged in construction on the Peak was fined \$10,000 by Eastern Magistrate Court on 3 April 2017 for discharging high-concentration wastewater into the communal drainage system, in contravention of the *Water Pollution Control Ordinance* (Cap. 358).

A spokesman for the EPD said that during an inspection on Barker Road on the Peak, staff of the EPD found that muddy water was discharged from the construction site to a public sewer. Analysis of wastewater samples revealed that the concentration of suspended solids and Chemical Oxygen Demand were 370,000 milligrams per litre and 870 milligrams per litre, exceeding the permitted level 12,000 times and 10 times respectively. The result showed that the discharged wastewater had not been properly treated and would pollute the environment.

[Press Release, Environmental Protection Department, 03/04/2017]

Shark fin sales remain robust

City traders have reportedly sold more than 78,000 kg of shark fins from five endangered species over the past two years, giving Hong Kong the unenviable title of world No.1 destroyer of sharks. The figure shocked conservationists who had expected that raised awareness about protecting the marine creatures would have realised public sales.

The Agriculture, Fisheries and Conservation Department said the city had imported about 19,625 kg of shark fins in 2015 and 24,150 kg last year; these were sourced from five endangered species.

Prentice Koo Wai-muk, campaign head for the Hong Kong Shark Foundation, said local shark fin consumption data was not available from the government, but his analysis showed that traders may have sold more than 78,000 kg in 2015 and 2016. The figure was obtained by the Foundation calculating stock entering the city from 2014 to 2017 and trade data from 2015 to 2016. Koo said the statistics may also include an unknown proportion of shark fins that were smuggled to other regions from Hong Kong.

The Foundation urged the government to set up a mechanism to enable the public to recognise listed and other endangered shark species. It should also set a target for the city to reduce its consumption of endangered species.

[SCMP, 28/04/2017]

U-turn on preserving historic site

In 2013 the preservation of a tenement building between Staunton Street and Shing Wong Street in Sheung Wan was approved. Chief executive-elect Carrie Lam Cheng Yuet-ngor was heavily involved in the original plan to protect the tenement. This April, the Urban Renewal Authority ("URA") submitted a new application to the Town Planning Board that included plans to demolish the protected structure for two residential towers with about 20 floors.

The Authority's explanation that the site's outline zoning plan did not designate it as a conservation area nor list any building as historic and the building was in poor condition was not well received. Lawmaker Tanya Chan Suk-chong warned it could be disastrous for the URA to have unfettered discretion to U-turn as it pleases. A spokesperson for an interest group added that the Authority misrepresented facts in its application (such as stating that the owner had already destroyed unique design elements), and ignored a motion passed by the Central and Western District Council on 16 March 2017 strongly opposing the new application.

[SCMP, 07/05/2017]

More green buildings

The growth in highly compact and urbanised cities such as Hong Kong presents both challenges and opportunities for sustainable urban development. To address those urban planning challenges, more than 1,800 experts, academics, and officials from 55 countries will meet in Hong Kong in June to discuss how good planning and design can help.

The Hong Kong organisers, Construction Industry Council and Green Building Council, believe the event will spark local interest in "green building". According to the chairperson of the organising committee, buildings account for about 90 percent of electricity consumption in Hong Kong. He commented that more and more in Hong Kong were beginning to see "green building technology" as a "good investment" that was becoming "more commercially viable than ever before". He is confident that innovative building and design concepts have great potential to resolve urban challenges by enhancing resource management and energy use efficiency.

[SCMP, 18/05/2017]

Illegal importation of e-waste

Two importers were convicted and fined a total of \$28,000 by the Fanling Magistrate Court on 23 May 2017 for importing hazardous electronic waste from the United Arab Emirates and the United States, in contravention of the *Waste Disposal Ordinance* (Cap. 354).

A spokesman for the EPD said that in collaboration with the Customs and Excise Department, the EPD found that two imported containers at the Kwai Chung Container Terminals in October last year contained hazardous electronic waste such as waste flat panel displays, waste batteries, waste printed circuit boards and waste toner cartridges. The intercepted hazardous electronic waste contained heavy metals (such as mercury, lead and nickel) and other toxic chemicals. Improper handling of such waste can cause harm to the environment and public health.

[Press Release, Environmental Protection Department, 23/05/2017]

ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

Summary of Minutes of the 211th Meeting of the ACE held on 13 March 2017

The main item for consideration was the *Hong Kong Biodiversity Strategy and Action Plan 2016-2021* (“BSAP”).

Mr Elvis Au and Dr Jackie Yip of the Environmental Protection Department (“EPD”) briefed members on the background of the BSAP and the institutional framework for the implementation of the BSAP.

Regarding the diminishing number of Chinese White Dolphins (“CWDs”), Mr Au said the Agriculture, Fisheries and Conservation Department (“AFCD”) would update and implement the species action plan in 2019, and 2,400 hectares will be designated as marine park to protect their habitats. When asked whether there were any current measures to conserve the CWDs, Mr Au replied the proponents of designated projects near CWDs habitats were required to comply with the conditions specified in the Environmental Permits. In addition, work was underway to designate three new marine parks near Southwest Lantau and Soko Islands, as well as one compensatory marine park near Shek Kwu Chau. A member commented that while he appreciated the government’s efforts, the dolphin population has decreased by 4% per annum. He suggested the government to expedite the establishment of those marine parks.

In responding to the comment that the BSAP was too conservative, Mr Simon Chan of the AFCD explained the plan was developed having considered the need to balance local economic and social priorities and the feasibility in achieving the vision stipulated in the BSAP. In reply to a member’s proposal to devise more pro-active measures to identify the geographical distribution of threatened species, Mr Chan said long-term territory-wide biodiversity surveys, as well as monitoring and assessment of the conservation status of species in Hong Kong, would be conducted under Actions 13 and 14 of the BSAP. Species action plans for priority species, such as horseshoe crabs and incense trees would be drawn up in due course.

A member suggested the government should step up enforcement against wildlife crime by establishing a dedicated task force. Mr Au explained the government was committed to the protection of endangered wildlife by reviewing the penalties under existing legislation regularly and imposing heavier penalties on illegal trading of endangered species. Mr Chan advised that to combat illegal harvesting of incense trees, a special task force has been set up to patrol sites where concentrated populations of incense trees were present. In addition, the AFCD and the Police would step up liaison with local residents to collect intelligence regarding illegal tree felling to help in undertaking enforcement actions expeditiously.

CLIMATE CHANGE

Hong Kong should take lead in carbon trading

An American economist and entrepreneur credited as the “father of carbon trading” says the timing is right for Hong Kong to take another shot at developing a market for buying and selling carbon emissions.

Dr. Richard Sandor said markets and pricing would be key to tackling natural resource management and pollution issues. “This place has a huge amount of human capital and enormous expertise in the financial system and a market which the world’s future depends on,” he said. “If you marry environmental objectives with its well-developed financial system, I am very optimistic that it will, can and should be a laboratory for all of China.”

Sandor helped develop the financial futures markets in the 1970s, and in the 1980s and 1990s invented cap-and-trade programmes in the US for acid rain-inducing sulphur dioxide emissions.

He said perceptions about climate change had progressed since the stock exchange first consulted the public on the idea of futures trading in carbon emissions reductions in 2009 – only for it to fizzle out after the consultation returned “no positive feedback”.

“It was too early; climate change is more of a problem than it was then and every year we have more and more evidence of the damages and potential damages occurring,” he said. “We have an urgency around the world, including in China, that makes it very different today for Hong Kong than it was in 2009. “The timing is appropriate for Hong Kong to exhibit some leadership in this whole area.”

The mainland has opened pilot carbon trading markets in seven cities since 2013, with a nationwide cap and trade programme set to open later this year. But Sandor drew attention to the mainland’s less publicised launch of an exchange for renewable energy certificates (RECs) for solar and wind power on 1 July 2017, calling it an “unspoken elephant in the room” that could have a potentially bigger impact than its carbon trading market.

Hong Kong’s carbon emissions averaged about six tonnes per capita in 2014. Sandor believes freshwater would be the “oil of the 21st century” and warranted similar cap-and-trade market solutions to regulate quality and quantity. “Just three continents, North America, South America and Europe are ‘long in water’. The rest of the world including China is ‘short in water’,” he said.

Environment undersecretary Christine Loh Kung-wai, a former commodities trader, said: “In Hong Kong, we don’t have a tradition in this area, but we are beginning to pay attention.”

[SCMP, 11/03/2017]

Flood risk on the rise

Although projections of sea level rise vary, according to a recent study a small but inevitable rise in sea level will double the frequency of severe coastal flooding, with dire consequences for major coastal cities.

The steady rise in sea levels is unlikely to cause flooding directly, as coastline developments are generally designed to withstand the larger ebb and flow of tides. However, an increased level creates a higher starting point for the storm surges and big waves that can overwhelm coastal defences. A researcher has found that the most at-risk areas are in lower latitudes, where tidal ranges are smaller, meaning a sea level rise is proportionally more significant. In those locations, just 2.5cm of sea level rise may lead to extreme water levels occurring twice as often, whilst a 5-10cm increase means coastal floods are twice as likely across all the tropics. A rise of 20cm leaves almost every coast with twice the flood risk.

A rise of 5-10cm, likely to occur within a couple of decades, would mean major cities – including San Francisco in the US, Mumbai in India, Ho Chi Minh in Vietnam and Abidjan in Ivory Coast – will face double the risk of coastal floods. Some estimated world-wide flood damage could soar to \$1trillion a year by 2050.

[*The Guardian*, 18/05/2017]

Antarctica turns green

The Antarctic Peninsula has experienced rapid warming. Antarctica now has more days a year when temperatures rise above freezing. The consequence, a study has found, is rapid growth of mosses on the ice continent's northern peninsula, providing striking evidence of climate change in the coldest and most remote parts of the planet.

A glaciologist observed the growth is another indicator that Antarctica is moving backward in geological time. Atmospheric carbon dioxide levels have already risen to levels that the planet has not seen since the Pliocene period (approximately 3 million years ago), when the Antarctic ice sheet was smaller and sea-levels were higher. And increased moss growth is probably just the beginning.

If greenhouse gas emissions continue unchecked, scientists predict Antarctica may head even further back in time, and one day the peninsula may well become forested. These changes, combined with increased ice-free land areas from glacier retreat, will drive large-scale alteration to the biological functioning, appearance and landscape of the Antarctic Peninsula during the rest of the 21st century and beyond.

[*The Washington Post*, 18/05/2017]

China tells Trump about climate responsibility

Before meeting with senior European Union officials at a summit in Brussels, China's Premier Li Keqiang, without mentioning the US or Mr Trump, told the media there is an "international responsibility" to fight climate change.

He said China had in recent years stayed true to its commitment – a hint that the US would pay a diplomatic price for signing up to an international agreement, then abandoning it. He also stressed China was one of the first countries to ratify the Paris Agreement, which appeared to be reference to a past claim by Mr Trump that climate change was a "hoax" perpetrated by China. He concluded his remarks by reiterating "Fighting climate change is a global consensus ... and that as a big developing nation we should shoulder our international responsibility".

Like Mr Li, Miguel Arias Canete, the European commissioner who has led climate talks with Beijing, contrasted China's constancy on climate change with the apparent change of heart by the US. He vowed that despite the US's doubts about the benefits of remaining in the Paris Agreement, the European Union and China are committed to the Paris agreement. As part of the commitment, the European Union and China planned to issue a joint statement – for the first time – pledging full implementation of the Paris Agreement.

[*Independent*, 1/6/2017]

New massive iceberg

Approximately 15 years ago, part of the Larsen B ice shelf broke free. After that break, the number of glaciers behind it rose drastically. Today, scientists from Project MIDAS have reported that the rift in the Larsen C Ice Shelf has grown an additional 11 miles. When the rift extends another 8 miles, the entire Shelf will have separated from the peninsula and formed one of the world's biggest icebergs ever recorded, which will be about the same size as the US state of Delaware.

Although the newly created iceberg will not contribute to rising sea levels since it is already floating, scientists warned the disappearance of ice shelves and the formation of new icebergs means ice in the form of glaciers can flow faster from the land to the ocean and thereby contribute to sea-level rise.

[*The Hamilton Spectator*, 02/06/2017]

China and European Union support Paris Agreement

China has vowed to work with the European Union to uphold the international agreement on climate change, as US President Donald Trump was due to announce whether he would keep Washington in the deal.

Visiting Germany yesterday, Premier Li Keqiang said China would "steadfastly" implement the Paris climate deal even if the US pulled out. "China will continue to implement promises made in the Paris Agreement, to move towards the 2030 goal step by step, steadfastly," Li said in a joint press conference with German Chancellor Angela Merkel. "But of course, we also hope to do this in cooperation with others."

Merkel said Germany and China should work closely together on issues such as protecting the climate.

Experts say that while USA's withdrawal from the Agreement would have profound implications for efforts to tackle climate change and would deal a major blow to Washington's global standing, it has presented China with an opportunity take the lead on climate issues.

China has surpassed the US to become the world's top emitter of carbon dioxide in recent years. Beijing and Washington were widely seen as playing a key role in securing the Paris deal.

Environmental experts said China's commitment to the Paris deal was driven primarily by domestic concerns over the huge environmental and social cost of dirty coal and air pollution. While China is on track to hit its 2030 emissions reduction targets – which would see the world's biggest polluter cut emissions per unit of GDP by 60 to 65 per cent by 2030 from its 2005 level – Beijing has also pledged to help poorer nations combat climate change.

An expert noted that while the Paris deal would not collapse because of Trump's withdrawal, the US move would create uncertainties for its implementation and set a bad example for developing nations that were unwilling to fully commit to the deal.

It would also deal a heavy blow to the hard-won consensus on tackling global warming and cause "substantial" additional costs for other key emitters, such as China and the EU, to fulfil their emissions reduction obligations under the Paris deal, he said.

[SCMP, 02/06/2017]

France lures foreign climate change talents

The French presidency launched today a website to lure international scientists, engineers and entrepreneurs to France following President Trump's decision to pull out of a global climate change deal.

The website - makeourplanetgreatagain.fr - went live just a week after President Macron's speech that criticised Trump's decision to leave the Paris Agreement signed in December 2015. The English-language website, which uses the phrase coined by Macron that itself recycled Trump's campaign slogan, allows teachers, businessmen and NGOs to find the relevant contact details to help them settle in France.

It also marks a more offensive approach by France to take advantage of the perceived isolationist policy of the US and promote a more business-friendly and open outlook advocated by the 39-year-old French president. As a French official put it, "... Attractiveness is relative. The US was attractive before, it may be less so tomorrow, and we may be more."

[Reuters, 08/06/2017]

China to lead on climate change

Just a week after President Trump announced America's withdraw from the Paris Agreement, China has already wrestled the mantle of leadership on climate change from the US.

In an annual clean energy meeting this week in Beijing, China played the convening role in bringing together countries worldwide to discuss how to deploy clean energy. During the four-day meeting, China launched a number of initiatives to advance clean energy and announced partnerships with other governments around the globe to fight climate change.

At this year's meeting, US Energy Secretary Rick Perry played a marginalised role, primarily promoting natural gas, nuclear energy and technology to capture carbon dioxide from fossil fuel emissions. Perry said the US would continue to lead on clean energy, but he also challenged China to step up in the fight against global warming, as the country has said it will. China, the world's largest emitter of carbon dioxide, had displayed its intention to do just that. The country has committed to peak its carbon dioxide emissions by 2030, and shrinking emissions after that, even while continuing to grow its economy — and many analysts expect the country to reach that point even earlier.

Officials said in January that China would invest more than \$350 billion in domestic renewable power generation by 2020. The country will also expand a cap-and-trade programme across the entire country later this year after operating it at provincial level. As Premier Li Keqiang said after Trump announced his plan to withdraw from the climate deal, "China will stand by its responsibilities on climate change".

[TIME magazine, 09/06/2017]

Solar power may kill off coal

Once expensive solar power is becoming cheap enough, it will push coal and even natural-gas plants out of business faster than previously forecast.

That is the conclusion of a Bloomberg New Energy Finance outlook for how fuel and electricity markets will evolve by 2040. The research group estimated solar already rivals the cost of new coal power plants in Germany and the US and by 2021 will do so in quick-growing markets such as China and India.

The scenario suggests green energy is taking root more quickly than most experts anticipated. It would mean that global carbon dioxide pollution from fossil fuels may decline after 2026, a contrast with the International Energy Agency's central forecast, which sees emissions rising steadily for decades to come.

"Costs of new energy technologies are falling in a way that it is more a matter of when then if," said Seb Henbest, a researcher at BNEF in London and lead author of the report.

The report also found that through 2040:

- China and India represent the biggest markets for new power generation, drawing US\$4 billion, or about 39 per cent all investment in the industry.
- The cost of offshore wind farms, until recently the most expensive mainstream renewable technology, will slide 71 per cent, making turbines based at sea another competitive form of generation.
- At least US\$239 billion will be invested in lithium-ion batteries, making energy storage devices a practical way of keep homes and power grids supplied efficiently and spreading the use of electric cars.
- Natural gas will reap US\$804 billion, bringing 16 per cent more generation capacity and making the fuel central to balancing a grid that is increasingly dependent on power flowing from intermittent sources, like wind and solar.

BNEF's conclusions about renewables and their impact on fossil fuels are most dramatic. Electricity from photovoltaic panels costs almost a quarter of what it did in 2009 and is likely to fall another 66 per cent by 2040.

Onshore wind, which has dropped 30 per cent in price in the past eight years, will fall another 47 per cent by the end of BNEF's forecast horizon.

That means even in places like China and India, which are rapidly installing coal plants, solar will provide cheaper electricity as soon as the early 2020s.

Coal will be the biggest victim, with 369 gigawatts of projects standing to be cancelled, according to BNEF. That's about the entire generation capacity of Germany and Brazil combined.

Capacity of coal will plunge even in the US, where President Donald Trump is seeking to stimulate the use of fossil fuels. BNEF expects the nation's coal-power capacity in 2040 will be about half of what it is now. In Europe, capacity will fall by 87 percent, as environmental laws increase the cost of burning fossil fuels.

[SCMP, 16/06/2017]

REGIONAL & INTERNATIONAL

CHINA

Slow progress in combating pollution

Efforts to tackle the nation's water pollution remain uneven. Some areas worsened last year, whilst heavy metals and other pollutants continue to accumulate in soil, the Ministry of Environmental Protection said.

In a yearly work report, Chen Jining, head of the ministry, told the National People's Congress Standing Committee, a top mainland decision making body, that overall air, water and soil pollutions had improved in 2016, according to a post on the congress website late on Monday.

However, "improvements in water quality are uneven, some bodies of water are worsening". Chen said, noting that quality assessments in northern China's Lian and Songhua rivers found more poor-quality sections than in 2015.

China says it is confident it can win its "war on pollution" after strengthening legislation, beefing up its monitoring capacity and cracking down on hundreds of polluting businesses. The government says average air quality improved noticeably in 2016. The authorities detained 720 people and received 33,000 tip-offs on environmental violations in 2016, and issued fines worth 440 million yuan (HK\$497 million), according to the report.

Air quality improved, Chen said, with 78.8 per cent of days being considered "good days", up 2.1 percentage points from 2015. But air quality in January and February 2017 was markedly worse than a year earlier, according to ministry data released in March.

At the time, high winter coal consumption combined with unfavourable weather conditions to create heavy smog build-ups throughout northern China, forcing dozens of cities in the region to issue "red alerts" designed to curb industrial activity and thin traffic.

[SCMP, 26/04/2017]

Saving the rare Milu deer

This April marks the start of the birthing season for the Milu deer, which has long been famed as having the head of a horse, the hooves of a cow, the tail of a donkey and the antlers of a deer.

As the herds across the mainland increase each spring, they mark a rare conservation success story in a country suffering from pollution and other environmental challenges. Today there are about 5,500 Milu deer in China; as many as 600 live in the wild in Hubei and Hunan provinces along the Yangtze River.

The deer were among animals brought from around the country to live within the emperor's hunting grounds in what is now the south of Beijing during the Yuan, Ming and Qing dynasties (1279-1911). The number of Milu deer living in the wild decreased due to loss of habitat. The species eventually became extinct in China.

The first break for the species was decades earlier in 1865 when French missionary Father Armand David introduced the species to the West, enabling it to make its way into European zoos. Then, in the same years the final Milu deer were dying in China, the 11th Duke of Bedford, an English politician who had an interest in zoology and conservation, took note and gathered 18 on his estate in England to create what became the world's only surviving herd.

Fast forward to the 1980s and Slovak-born American zoologist Maria Boyd had taken an interest in the Milu deer. Boyd's late husband happened to be friends with an important source: the 14th Duke of Bedford, or the great-grandson of the man who saved the herd. In 1985, the duke tasked Boyd with reintroducing 37 deer to China and she chose the spot where they had last been seen alive in their native country.

[SCMP, 27/04/2017]

Businesses fail pollution inspections

More than two-thirds of companies checked were found to have breached regulations in the latest round of pollution inspections in the Beijing, Tianjin and Hebei province area, state media reported. Violations were found at 70.6 per cent of the firms inspected, Xinhua said, citing the Ministry of Environmental Protection. Breaches of regulations were found at 13,785 of the companies checked over two months in 28 cities. The violations included excessive emissions and insufficient pollution control equipment. More than 4,700 companies were found to be operating in unauthorised locations, lacked necessary permits, or failed to meet emission standards, the report said.

[SCMP, 12/06/2017]

INDIA AND PAKISTAN

Competition for water from shrinking Indus River

Approximately 30% of the world's cotton supply comes from India and Pakistan, much of that from the Indus River Valley. On average, approximately 737 billion gallons are withdrawn from the Indus River annually to grow cotton. Additionally, the water provides water for industrial use in both India and Pakistan.

The Indus River, which begins in Indian controlled Kashmir of India and flows through Pakistan to the Arabian Sea, is Pakistan's primary source of freshwater. It is also a provider of hydropower for both countries. Due to rapidly increasing demand for hydropower and irrigation to meet the needs of the countries' even rising populations, competition for water in the Indus river basin is becoming more intense.

Pakistan and India signed the Indus Waters Treaty in 1960. The Treaty has provisions specifying how the river waters are to be shared. However, the Treaty has proved to be inadequate for the task of managing water-access problems faced by both countries today, as well as the side-effects of dam-building and global warming.

Downstream provinces are already affected by the significant reduction of flows in the Indus River. Some dried-out areas are being abandoned by fishermen and farmers are forced to move to cities. As well, coastal districts, which rely heavily on Indus River water for economic activities, have become “economically orphaned.”

One of the potential catastrophic consequences of the region’s fragile water balance is the effect on political tensions. Both countries have a track record of conflicts arising from competition for water resources. In India, competition for water has historically provoked conflict between communities. In Pakistan, water shortages have triggered food and energy crises that have ignited riots and protests in some cities.

[*Independent*, 07/06/2017]

INDIA

Draft Bill to address Ganga Pollution

The Indian government’s expert panel submitted the draft *National River Ganga (Rejuvenation, Protection and Management) Bill 2017* (“the Bill”) to the Union Water Resources Minister on 12 April. The Bill, if enacted, is aimed at reducing pollution in the Ganga River.

The Bill seeks to address critical issues pertaining to the Ganga. This law will improve the cleanliness and uninterrupted flow of the river. It has provisions of punishing conduct leading to unprecedented contamination of the river, such as by throwing non-degradable plastic, waste batteries or hazardous chemicals into the river. Penalties include up to 7 years imprisonment.

Under the Bill, National River Ganga Management Corporation and Ganga Volunteer Force will be established to implement and monitor various river cleaning projects. If the Bill is passed, the Ganga will be the first river protected by legislation and it will serve as a model bill to conserve and manage other rivers in the future.

[*The Times of India*, 14/06/2017]

INDONESIA

Polluted environments kill 1.7 million children

The World Health Organisation has revealed in a report that it is estimated that 1.7 million children die per year because they live in unsanitary and polluted environments.

According to the report, the increase in electronic and electric waste is also a concern. Inappropriate disposal of such waste can expose children to toxins that can cause brain damage and attention deficit disorders. As well, infants exposed to indoor or outdoor air pollution, including second-hand smoke, are at increased risk of pneumonia and chronic respiratory diseases, such as asthma, for the rest of their lives. The report also highlighted the increased risk of heart disease, stroke, and cancer from exposure to air pollution.

A major highlight of the report is that the most common causes of child death, including diarrhea, malaria and pneumonia, are preventable through intervention programmes already available to the communities most affected. These diseases can be prevented using insecticide-treated bed nets and clean cooking fuels, plus providing improved access to clean water.

Professor John Holloway, who recently authored a report on the lifelong impact of air pollution, warned that this is not a concern solely for developing countries. Exposure to air pollution and second-hand tobacco smoke affects the health of children in developed countries as well.

[*CNN*, 20/04/2017]

Plantation lobby groups challenge environmental law

The Indonesian Palm Oil Association and the Indonesian Association of Forestry Concessionaires lodged a judicial review with the Constitutional Court last month to strike down the laws that hold the plantation firms strictly liable for fires that occur on their land, namely the *1999 Forestry Law* and the *2009 Environment Law*.

The laws were enacted to eliminate small-holder farmers’ practice of slash-and-burn, which is believed to be the main cause of the devastating fires in 2015 when approximately 2.6 million hectares of forests and peat swamps were destroyed.

Indigenous rights organisations also expressed discontent with the laws on the basis that communities have practised slash-and-burn techniques for centuries. They argue that banning traditional land clearing would therefore pose a very dangerous threat to indigenous people whose lives depend on agriculture.

[*Mongabay*, 07/06/2017]

AISA

Asian countries promise to reduce marine pollution

It is reported that approximately 8 million tonnes of plastic are thrown into the world’s oceans every year, the majority of this waste comes from five Asian countries, namely China, Indonesia, the Philippines, Thailand and Vietnam.

These countries have recently indicated a change in attitude towards marine pollution. Delegates from China, Thailand, Indonesia and the Philippines at a UN oceans summit, promised to start cleaning up their act.

The Thai government submitted a report to the UN conference in which it was concluded that the most marine plastic debris is land-based, caused by inefficient waste management and poor handling of plastic wastes. The Thai government also says that it has already established a 20-year strategic plan to combat the problem, including developing financial incentives for keeping plastic out of the sea and encouraging eco-packaging design and eco-friendly substitutes for plastics.

[BBC News, 08/06/2017]

AUSTRALIA

First sighting of parrot in 100 years

For the first time in nearly 100 years, a night parrot fledgling has been sighted and photographed. The fledgling was observed in the Pullen Pullen Reserve in western Queensland, a sanctuary established by conservation charity Bush Heritage Australia to protect one of the only known populations of night parrots in the world.

The young bird appeared from behind a hummock of spinifex grass in the late afternoon and was observed and photographed by researchers from the University of Queensland. This is the first observed breeding success in nearly 100 years and the discovery has confirmed that the nature reserve is helping to protect the population and encourage breeding.

From 1912 up until very recently, only a handful of dead night parrot specimens had ever been found and the bird was presumed to be extinct. In 2013, the night parrot was rediscovered and the first ever photographs and video footage of the elusive species were recorded by ornithologist John Young, who discovered the Pullen Pullen night parrot population.

Since then, the population has been fiercely protected, and the site of the rediscovery has been converted into protected land dedicated to the conservation of this endangered species. Recently, several active nests were found in the Diamantina National Park in central-west Queensland, indicating a second population of night parrots. Despite this, the night parrot has remained extremely secretive and only a handful of people have ever actually seen a specimen alive. The sighted fledgling was the first to be spotted in over a century.

Over three years researchers have spent more than 250 days in the field at Pullen Pullen, tracking the nocturnal birds with GPS, installing sound recorders in the landscape and collecting recordings that contain more than 5,000 night parrot calls. The next steps for night parrot research include determining whether there are any more birds in the wider region (other than the Pullen Pullen and Diamantina populations) and capturing and GPS-tagging more night parrots.

The sighting of the fledgling has meant hope for one of the world's rarest and most mysterious birds, which now has a chance of being recovered from the brink of extinction.

[*Australian Geographic*, November 2016]

KENYA

Saving Lamu

ELAW (Environmental Lawyers Alliance Worldwide) is collaborating with partners in Kenya to help communities challenge a massive port project and coal-fired power plant proposed for Lamu, a UN World Heritage Site and Kenya's first Swahili settlement. The 32-berth cargo and container port would service what would be East Africa's first coal-fired power plant, and export oil and other natural resources from East Africa.

Earlier this week, ELAW Staff Scientist Mark Chernaik and Ernie Niemi, an economist from Natural Resource Economics, Inc., provided expert testimony at hearings at the Malindi High Court and the National Environmental Tribunal.

ELAW partner Waikwa Wanyoike from the Katiba Institute wrote that Mark and Ernie's testimony had a "profound" impact on the strength and credibility of the Lamu community's case: "For a group so marginalised by the State, the fact that they could marshal experts of your caliber makes them feel highly vindicated," wrote Waikwa.

Ernie's testimony on the proposed coal-fired power plant was cited in Kenya's press: "If it were constructed and operated, the Lamu project would diminish overall human well-being by imposing onto workers, families, businesses, and communities social costs that exceed the value of the electricity."

ELAW Staff Attorneys and Scientists are collaborating with the Katiba Institute, Save Lamu, and Natural Justice to ensure the port project and coal plant do not devastate coastal communities, mangroves, coral reefs, and sea turtle habitat. The proposed plant would emit extremely hazardous particulate emissions as well as nearly 9 million metric tons of carbon dioxide per year. These projects are part of an enormous infrastructure project: the Lamu Port, South Sudan, Ethiopia Transport Corridor (LAPSSET).

ELAW has provided partners with critical support, including a comprehensive review of the port and coal plant's environmental and social impact assessments, and analysis of the coal plant's impact on Kenya's ability to meet its commitments under the Paris Climate Change Agreement. ELAW also provided partners with resources for community workshops to help residents understand what a deepwater port looks like when completed.

Decisions about the fate of the proposed port and power plant are pending.

[*Elaw Press Release*, 02/06/2017]

CHAD

Chad – the most vulnerable country

According to Climate Change Vulnerability Index 2016 released by global risks advisory firm Maplecroft, Chad is the most vulnerable country to climate change. There are three main reasons for this: The high level of poverty; changing climate; and demographic challenges.

Firstly, Chad is one of the poorest nations in the world. According to the Multidimensional Poverty Index released by Oxford Poverty & Human Development Initiative, approximately 87% of Chadians are regarded as "poor", the fourth highest rate in the world. The high level of poverty is exacerbated by the fact that since it gained independence from France in 1960, Chad has been in civil war or conflict. With limited financial resources, Chadians are less able to mitigate or reduce the impact of natural disasters brought about by climate change.

Secondly, the climate of Chad has been changing. Since the 1950s, temperatures in Chad have been increasing while rainfall is decreasing. The size of the largest lake in the country, Lake Chad, has reduced by 90% over the past 50 years due to droughts and increasing withdrawals for irrigation. As Chadians base their livelihoods on subsistence farming and livestock rearing, climate change leads to a reduction in food supply and also changes their way of living.

Thirdly, Chad has a high percentage of young population. High youth unemployment has already caused unrest in the capital city. Vulnerability to climate is made worse by civil unrest or conflict as people fail to receive aid during climate-related disasters. The current situation has been made worse by the activities of the Boko Haram crisis has made matters worse as crisis in northeastern Nigeria, which have spilled over to the Lac region of Chad where there are now more than 60,000 displaced people registered and several thousand more who are unregistered.

[*Independent*, 14/06/2017]

BRAZIL

Reduction of environment budget

The Brazilian government is cutting its environment ministry budget by 51% in order to limit the country's spiraling deficit, notwithstanding the nation's critical environmental problems.

According to preliminary data from Brazil's National Space Research Institute, despite several years of decline, between August 2015 and July 2016, the deforestation rate has risen by 29% in the Amazon region over the previous year, making it the highest deforestation level recorded in the region since 2008. The main reasons are increasing demand for timber and large-scale forest clearance for production of soy and beef.

Although at the 13th Conference of the Parties on Biological Diversity (COP13) in 2016, Brazil announced plans of restoring 12 million hectares of deforested and degraded forest area by 2030 the budget cut is likely to exacerbate the deforestation problem. The environment ministry's enforcement agency, IBAMA relies on teams of inspectors on the ground to monitor not only the vast Amazon region, but all the other biomes that make up Brazil. The ministry was warned by the NGO, Observatorio do Clima, that sharp spending cuts will weaken its capacity to carry out inspection.

In addition to paying for inspection of threatened forests, the ministry's budget is also spent on: protecting approximately 320 federal conservation units; licensing infrastructure projects; and feeding thousands of animals saved from hunters, poachers and dam construction in rescue centres. A drastic budget cut will undoubtedly impair the ministry's capability to carry out these functions.

[*Climate Home*, 03/04/2017]

CANADA

Expedition to rare reefs in B.C.

A team of scientists is aiming to give online viewers their best look yet at Canada's most exotic marine ecosystem that's also a potential candidate for designation as a World Heritage site. The expedition to the glass sponge reefs in British Columbia's Hecate Strait departed from Victoria on 10 May 2017.

Scientists will spend approximately 8 to 10 days gathering data and images from the reefs, which were recently named a marine-protected area by the federal government following years of lobbying by conservation groups.

Unlike corals, which build up reefs out of calcium carbonate, glass sponges are living organisms whose bodies are made up of 80-per-cent silica by mass. As they grow, they form delicate tubular-like structures that allow them to filter nutrients from seawater. Although glass sponges are found elsewhere in the world, they are only known to form reefs in the frigid waters off the B.C. coast, in particular the channel that separates the Haida Gwaii archipelago from the mainland.

Based on data gathered during previous expeditions, the expedition team believes the sponges are able to eke out an existence in the nutrient-poor waters by forming structures that passively take advantage of currents to increase the amount of nutrients flowing through the reefs while minimizing their expenditure of energy.

They use a chimney effect of allowing the flow over top of them to draw water through them. This effect helps explain the breathtaking forms that the sponges take, in some cases reaching several metres in height.

Photographs of the spectacular structures found on the reefs, which are estimated to have formed over the past 9,000 years, have helped conservation groups make the case that the area requires special protection.

Until the reefs were discovered 30 years ago, such formations were thought to have disappeared along with the dinosaurs. In February 2017, the reefs were named a marine-protected area by the federal government, which restricts fishing activities within their boundaries. However, questions remain about how much the reefs may be affected by silt that drifts over from nearby areas where fishing trawlers are active.

While 2,410 square kilometres of territory encompassing the reefs now has protected status, the Canadian Parks and Wilderness Society has been working to include the reefs as one of the next set of Canadian candidates for designation as a World Heritage site under the United Nations.

"These glass sponge reefs exist nowhere else in the world," said Sabine Jessen, director of the society's oceans program. "We have an international obligation as well as a national one to protect them into the future."

[*The Globe and Mail*, 09/05/2017]

EUROPEAN UNION

EU moves to crack down on carmakers

In September 2015, the carmaker, Volkswagen, admitted 11 million of its vehicles worldwide were equipped with software that was used to cheat on emission tests. It is estimated that approximately 38,000 people die early each year because of diesel emissions testing failures.

In response to this scandal, new EU rules were drafted to reduce the power of national authorities and empower the European commission to test and inspect vehicles, to ensure compliance with emissions standards, and to respond to any irregularities. Under the draft rules, each EU member is required to check emissions in one in every 50,000 new vehicles based on real driving conditions. Also, manufacturers and importers are subject to fines of up to €30,000 per non-compliant vehicle.

The EU Council said in a statement that the new rules will increase the independence and quality of the EU approval system.

[*The Guardian*, 29/05/2017]

WORLD

Pollution kills 1.7m children each year

Exposure to pollution is associated with more than one in four deaths among children younger than five, according to two newly published World Health Organisation reports.

Worldwide, 1.7 million children's deaths per year are attributable to environmental hazards, such as exposure to contaminated water, indoor and outdoor air pollution, and other unsanitary conditions, the reports found. Weaker immune systems make children's health more vulnerable to harmful effects of polluted environments, the report says.

Some of the most common causes of death among children, such as malaria, diarrhea and pneumonia, can be prevented by implementing ways known to reduce environmental risks and exposure to these risks, the first report shows. About one quarter of all children's deaths and diseases in 2012 could have been prevented by reducing environmental risks.

Exposure to polluted environments is also dangerous during pregnancy because it increases the chances of premature birth. Infants and preschool children exposed to indoor and outdoor pollution are at a higher risk of contracting pneumonia and chronic respiratory diseases. The likelihood of cardiovascular diseases, cancer and stroke also increases with exposure to polluted environments.

The second report quantifies the problem by estimating the number of children who died because of exposure. According to the report, every year:

- 570,000 children under five years die from respiratory infections such as pneumonia, attributable to indoor and outdoor air pollution and second-hand smoke – smoke that is released by burning tobacco products, such as cigarettes.
- 361,000 children under five years die due to diarrhea, as a result of poor access to clean water, sanitation and hygiene.
- 270,000 children die during their first month of life from conditions that could be prevented through access to clean water, sanitation and clean air.
- 200,000 deaths of children under five years from malaria could be prevented through improved environmental actions, such as reducing breeding sites of mosquitoes.

[*Washington Post*, 24/03/2017]

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Convictions under environmental legislation: March to May 2017 (June data not available)

[Note: the EPD no longer classifies second (and subsequent) offences.]

The EPD's summary of convictions recorded and fines imposed during the above period is as follows:

March 2017

Fifty-nine convictions were recorded in March 2017 for breaches of legislation enforced by the Environmental Protection Department (EPD).

Three of the convictions were under the Air Pollution Control Ordinance, 6 were under the Noise Control Ordinance, 4 were under the Product Eco-responsibility Ordinance, 45 were under the Waste Disposal Ordinance, and 1 was under the Water Pollution Control Ordinance.

The heaviest fine in March was \$42,300, assessed against a company that installed or altered furnaces/chimney without authorisation.

April 2017

Forty-three convictions were recorded in April 2017 for breaches of legislation enforced by the Environmental Protection Department (EPD).

Two of the convictions were under the Air Pollution Control Ordinance, 1 was under the Environmental Impact Assessment Ordinance, 6 were under the Noise Control Ordinance, 1 was under the Product Eco-responsibility Ordinance, 31 were under the Waste Disposal Ordinance, and 2 were under the Water Pollution Control Ordinance.

The heaviest fine in April was \$80,000, assessed against a company that used powered mechanical equipment otherwise than in accordance with permit conditions.

May 2017

Seventy-five convictions were recorded in May 2017 for breaches of legislation enforced by the Environmental Protection Department (EPD).

Eleven of the convictions were under the Air Pollution Control Ordinance, 8 were under the Noise Control Ordinance, 1 was under the Product Eco-responsibility Ordinance; 33 were under the Waste Disposal Ordinance, and 22 were under the Water Pollution Control Ordinance.

The heaviest fine in May was \$58,000, assessed against a company discharging polluting matter into a water control zone.

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