

URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

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Gradually governments around the world are recognising the fundamental importance of legislating for effective protection for fauna and flora. Perversely, however, very few governments actually enforce their laws with any degree of impartial robustness. Hong Kong traditionally falls into this category.

The Editors

CONTENTS

FEATURE:	Page
WILDLIFE PROTECTION : HONG KONG NEEDS A NEW SHERIFF	1
LEGISLATION DIGEST	2
TOWN PLANNING.....	3
WEST KOWLOON CULTURAL DISTRICT (WKCD)	4
HONG KONG BRIEFING	4
ADVISORY COUNCIL ON THE ENVIRONMENT (ACE).....	6
REGIONAL & INTERNATIONAL	8
PROSECUTION STATISTICS.....	12

WILDLIFE PROTECTION : HONG KONG NEEDS A NEW SHERIFF

If Hong Kong is ever to draw a line in the sand and act as the civilised, advanced society public officials so often proclaim that we are, statutory responsibility for enforcement of laws to protect the environment must be reviewed and reformed.

With few exceptions, Hong Kong’s record in conserving fauna and flora, and their threatened ecosystems, is extremely poor. A major reason is that the agency responsible for conservation has historically shown little interest in discharging its duties robustly or, even, mildly efficiently.

The Agriculture, Fisheries and Conservation Department (“AFCD”) generally has responsibility and power to enforce such environmental protection statutes as we have. In this duty, AFCD’s record is appalling; yet environmental issues rate so lowly with the government and most Legco members that nothing is, or is likely to be, done to reform the department or, better, the entire enforcement system.

Perhaps it is because AFCD also looks after agriculture and commercial fishing – industries which are usually incompatible with *genuine* environmental conservation, particularly in the case of Hong Kong’s anti-environment fishing lobby – that AFCD shows little relish in enforcing our laws (as generally mild as they are) which aim to protect the environment.

An apt example of AFCD’s ineffectiveness as our conservation watchdog is its role as the protector of wildlife, including designated “protected wildlife”, under the *Wild Animals Protection Ordinance* (Cap.170) (“WAPO”).

Section 4 of WAPO prohibits hunting or disturbing protected wild animals (without a permit). Protected wild animals are listed in Schedule 2. All species of wild birds are protected. Under Section 7, hunting of *any* wild animal is prohibited. A “wild animal” is defined as one which by common law criteria is not a domestic animal : Section 2.

“To hunt” includes “any act immediately *directed at the killing or capture of any wild animal*” : Section 2. Therefore, a person may be guilty of an offence under Sections 4 or 7 merely by setting snares on traps directed at killing or capturing, say, wild birds. An actual dead or captured victim is not required in order to prove guilt. This is important in the context of the unfortunate example of four spoonbills which we describe below.

In Section 7, “to hunt” expressly includes using a “hunting appliance” (other than one approved by AFCD), which includes a “net, gin, snare, etc.” : Section 2. Section 17A gives AFCD very wide stop, search and confiscation powers. In short, authorised

officers may, without a warrant :

- (i) stop and search any person, and
- (ii) search any property of any person

by whom he has reasonable grounds for believing that an offence has been committed.

AFCD officers have additional, wide evidence – gathering powers under Section 17A, such as the right “to seize and detain at the owner’s risk” :

- (a) any live decoy, noise emitting device, weapons or hunting appliances; and
- (b) any document or thing which is likely to contain evidence of the suspected offence.

AFCD may apply under Section 17B for a warrant to :

- (i) enter and search *any* premises (i.e. not just the suspected offender’s premises);
- (ii) remove anything obstructing entry and search; and
- (iii) detain any person found on the premises during the period of the search.

AFCD officers may enter any premises without a warrant where they reasonably believe the premises are not residential and it is not reasonably practicable to obtain a warrant.

Section 18 is the general offences and penalties provision. For offences under Sections 4 and 8, the penalty is :

- (a) a fine at level 6, i.e. \$100,000; and
- (b) imprisonment for 1 year.

The penalty for a Section 7 offence is a fine at level 5, i.e. \$50,000.

So, it can be seen that WAPO has real teeth and should allow AFCD adequately to police wildlife protection laws. Sadly, that appears not to be the case, as can be seen also in all other areas of environmental protection in which AFCD has the pivotal role (especially marine life protection). An example of AFCD’s unwillingness to use its WAPO powers is discussed below.

Recently, a newspaper article reported on the release from Mai Po Reserve of a black-faced spoonbill after seven weeks of treatment at Kadoorie Farm for injuries. The bird sustained its injuries after becoming entangled in a snare of fishing lines and hooks set on nearby fishponds by fish farmers to deter predators. The bird had also swallowed a hook.

Three other spoonbills were brought to Mai Po at the same time, having suffered the same fate. Unfortunately, they all died.

Spoonbills are an endangered species. Less than 1700 survive world-wide, and approximately one-fifth of this population winter at Mai Po. They are “protected wild animals” under WAPO : Section 2 and Schedule 2.

Clearly the fish hooks were baited by the fish-farmers in a cruel and ignorant attempt to protect their commercial interests. It took a vet three hours just to remove the hook from the surviving bird’s stomach.

Given the apparently solid evidence, referred to in the article, of an offence under Section 7 of WADO, we were concerned to follow up the case to see just how effective AFCD's enforcement action had been.

On 5 March 2008 we wrote to AFCD as follows (in part) :

"For an edition of the UPELQ to be published later this year, the main article will review the recent history of Hong Kong's enforcement of its "conservation statutes", i.e. our non-pollution environmental legislation. For this purpose, we should be most grateful for your assistance by way of :

- (a) explaining the steps taken to investigate and, if appropriate (as it appears to be), to bring prosecutions arising from, the incident described in the enclosed copy of an article from the SCMP published last week; and
- (b) providing details of successful prosecutions brought by AFCD under the relevant legislation for which it is the designated enforcement authority during the last, say, five (5) years."

To their credit, AFCD responded promptly as follows :

"Further to my letter dated 13 March 2008, I write concerning your enquiry about an incident involving a Black Faced Spoonbill as reported in an article published in the South China Morning Post on 29.3.2008. Using the same numbering, I reply to your queries as follows :

- (a) The bird in question was found injured recently in January 2008 in Mai Po Nature Reserve (MPNR) and sent to Kadoorie Farm and Botanic Gardens for treatment and care. Whilst the injured bird was found in MPNR, there was no evidence to indicate where the fishing line entangling it or the hook it had swallowed had come from. There was therefore no means of investigating the incident and as a result no prosecution.
- (b) During the last five years, our staff have, on average, removed some 17 suspected bird traps each year. There has been insufficient evidence to support prosecution in any of these cases."

You might have expected that with, reportedly, four extremely endangered birds being savagely injured by "hunting appliances" directed at killing or capturing them, and given its sweeping investigatory powers, AFCD might have been galvanised into action by this newspaper article. Not so, it seems.

Apparently AFCD did not make enquiries with the newspaper reporter as to the source of his information and other details which might have identified the culprit(s). Nor, it seems, did AFCD bother to conduct any other enquiries or investigation. However, leaving aside that disturbing aspect, it was scarcely credible that AFCD had removed approximately 17 bird traps (i.e. "hunting appliance") a year during the most recent 5 year period – that is, 85 separate instances – without once prosecuting the owner/occupier of the property!

So, it can be seen that WADO has real teeth and should allow AFCD adequately to police wildlife protection laws.

The setting of a bird-trap is an offence itself under WADO. So why were the fishpond owners/occupiers not prosecuted? Frankly, that tragic record of inaction and appeasement sums up AFCD's perverse non-intervention culture. Business interests must never be upset.

We decided to enquire further. On 9 April 2008 we wrote to AFCD as follows :

"Thank you for your letter dated 2 April 2008.

In respect to your paragraph (b), can you please advise :

- (a) how many occasions the approximately 85 bird traps were, during the past 5 years, removed from private premises; and
- (b) if not removed from private premises, where were such traps typically, or actually, found and removed from?

Could you please also advise whether there have ever been any prosecutions under the Ordinance. If so, could you please let us have brief details of the dates and nature of the offences."

Again, AFCD replied promptly and frankly (albeit briefly), by letter of 25 April 2008.

"Further to my letter dated 10 April 2008, I reply as follows to the queries raised in your letter of 9 April :-

- (i) The suspected bird traps in question were all removed from private ponds located near to Mai Po Nature Reserve;
- (ii) N/A.

Between 2006 and 2007 there were a total of seven prosecutions under sections 4, 7 and 8 of the Wild Animals Protection Ordinance, Cap 170.

I attach a schedule (compiled from our department records) setting out details of the prosecutions."

Bear in mind that in each of 85 cases of removal of a hunting appliance AFCD must have had a reasonable suspicion that an offence had been/was being committed. Thus, they then entered private properties on 85 occasions and found pretty convincing evidence (certainly sufficient to convict summarily) – namely, the bird-traps – that the owner or occupier was hunting protected wild animals and/or wild animals. It must have been convincing, evidence because AFCD removed the bird traps. Thus, the reasonable suspicion was apparently confirmed.

So why, you may ask, was none of these environmental criminals prosecuted? Imagine if it were a copyright infringement matter : then the enforcement officers would prosecute their own grandmothers – quickly, fairly and resolutely. But, again, business and the big-end of town are the victims there.

Not all blame for Hong Kong's shameful charade of environmental protection lies with the enforcement agencies, such as AFCD. In its letter of 25 April 2008 AFCD provided details of the meagre 7 WADO prosecutions during the period 2006-2007 :

Court Case No.	Offence [Cap 170]	Date of Conviction	Result	Details
STS10631 / 2005	Section 4	20/01/2006	Fined HK\$1500 (1 fish rod, 1 net, 1 bird cage and 2 White Eye confiscated)	Captured two wild birds with cage.
TWS4566 / 2007	Section 4	23/05/2007	Fined HK\$450 (1 catapult confiscated)	Shooting monkey.
TMS3575 / 2006	Section 7	02/06/2006	Convicted – no fine. (1 cage trap confiscated)	Possession of a cage trps.
ESS23793 / 2007	Section 7	28/08/2007	Fined HK\$500 (1 cage trap confiscated)	Possession of a home-made cage trap used to trap a masked palm civet.
FLS9028 / 2007	Section 7	16/10/2007	Fined HK\$1000 (1 snare trap and 1 gin trap confiscated)	Possession of a snare trap and a gin trap.
STS10273 / 2005	Section 8	06/01/2006	Fined HK\$2000 (1 plastic bottle, 1 plastic container, and 3 nets confiscated)	Possession of 3 Hong Kong Newt.
KCS10684 / 2006	Section 8	01/06/2006	Fined HK\$1000 (1 net, 1 nylon bag and 5 tortoise confiscated)	Possession of 5 tortoises.

Consider just the two Section 4 convictions, for example. Legco, quite properly, thought this offence sufficiently serious to prescribe a maximum penalty of gaol for one year and a fine of HK\$100,000. However, the magistrates who heard these cases imposed fines of \$1500 and \$450!

Regrettably, the magistracies' penalties records for offences under all other environment- protection statutes also reflect the same pathetic approach of imposing manifestly inadequate penalties for environmental offences.

In what other field of criminal or quasi-criminal law is the judiciary so utterly out of touch with the objectives, substance and public policy of the legislation they apply?

The Secretary for Justice accords so little importance to environmental cases that no application for review of a sentence for an environmental offence has ever been made, as far as we are aware.

Will the government and judiciary (plus the majority of Legco members) of this "World City" one day realise that environmental protection is a fundamental responsibility, as important as, say, healthcare and education? A sea-change in attitude will be needed to make that happen!

LEGISLATION DIGEST

Product Eco-responsibility Bill

[Gazetted 12 December 2007; the Bill passed on 10 July 2008]

According to the government, the objective of this Bill is to provide a legal framework for implementing producer environmental responsibility schemes in Hong Kong, with an environmental levy on plastic shopping bags as the first producer responsibility scheme under the Bill.

Producer Responsibility Schemes (PRS)

The PRS is a key policy initiative in the "Policy Framework for the Management of Municipal Solid Waste (2005-2014)" for waste reduction, recovery and recycling. Following the principle of "polluter pays" and applying an element of "eco-responsibility", PRS requires manufacturers, importers, wholesalers, retailers and consumers to share responsibility for reducing, recovering and recycling certain products (which may include plastic shopping bags, vehicle tyres, electrical and electronic equipment, packaging materials, beverage containers and rechargeable batteries) in order to minimize their environmental impact. In practice, PRS can take the following forms:-

- (a) product take-back schemes to ensure treatment of end-of-life products;
- (b) deposit-refund schemes to ensure the return of end-of-life products;
- (c) advanced recycling fees to finance treatment of end-of-life products; and
- (d) environmental levies to discourage the use of certain products at source.

The Bill

The general provisions of the Bill are:-

(a) Purpose Clause (Part 1, clause 2)

The purpose of the Bill is to minimize the environmental impact of certain types of products by introducing PRS or other measures that require manufacturers, importers, wholesalers, retailers, consumers or any other parties to share the responsibility for the reduction in the use, and the recovery, recycling and proper disposal of the products.

Such measures may include product take-back schemes, deposit-refund schemes, recycling fees, environmental levies, and restrictions on disposal. The purpose clause aims to demonstrate the intended coverage of the Bill and provides the legal basis for introducing other PRSs in the future.

(b) Enforcement (Part 2, clauses 6-8)

The Director of Environmental Protection (the “DEP”) shall be the enforcement authority for all PRSs. DEP or his authorized officers may obtain information, retain records and documents, take samples, and enter and search premises, vehicles or vessels.

(c) General Offences (Part 2, clauses 9-11)

Providing false information and obstructing authorized officers shall be made an offence.

(d) Appeal (Part 2, clauses 12-16)

A statutory appeal mechanism is provided to deal with appeals arising from the PRS under the Bill. Regarding the PRS concerning plastic shopping bags, an aggrieved party may appeal against certain decisions of the DEP, such as the “assessment notice” served under clause 25.

As well as the general provisions stated above, the Bill also provides for the major regulatory measures of the PRS for plastic shopping bags as follows:-

(a) Environmental Levy (Part 3, clause 18; Schedules 1, 2 & 3)

There shall be an environmental levy of 50 cents on each plastic shopping bag. The definition of “plastic shopping bag”, the exemptions (e.g. plastic bags sold for \$5 or more each, etc.) and the level of the levy are set out in Schedules 1, 2 and 3 respectively. The Secretary for the Environment (the “SEN”) may, after consultation with the Advisory Council on the Environment, amend Schedules 1, 2 or 3 by order published in the Gazette.

(b) Registration of Prescribed Retailers (Part 3, clause 19, clause 22(2); Schedule 4)

Pursuant to Schedule 4, a person is a prescribed retailer if he carries on a retail business at two or more qualified retail outlets; or at one qualified retail outlet that has a retail floor area of not less than 200 square metres. A retail outlet is a qualified retail outlet if the goods offered for sale in the outlet include –

- (i) any food or drink;
- (ii) any medicine or first-aid item; and
- (iii) any personal hygiene or beauty product.

Subject to the agreement of DEP, a prescribed retailer may seek DEP’s exemption of an area within its registered retail outlet (e.g. the area other than the supermarket within a department store where the three specified categories of goods are not offered for sale), and the environmental levy will not apply in such an exempted area. The criteria in accordance with which DEP may grant the exemption are to be prescribed by regulation.

SEN may, after consultation with the Advisory Council on the Environment, amend Schedule 4 by order published in the Gazette. This will enable SEN to extend the PRS for plastic shopping bags to other retailers in subsequent phases.

A prescribed retailer may register with DEP as a registered retailer in respect of its qualified retail outlets. A prescribed retailer must ensure that no plastic shopping bag is provided to a customer from any of its qualified retail outlets unless the outlet is a registered retail outlet. A prescribed retailer who contravenes this requirement commits an offence.

(c) Director to Maintain Register (Part 3, clause 20)

DEP shall maintain a register of registered retailers and their registered retail outlets. The register shall be open for public inspection.

(d) Display of Certificate of Registration (Part 3, clause 21)

A registered retailer shall display the certificate of registration issued by the DEP in a prominent part of its registered retail outlet. Failure to comply with this requirement will be an offence. It is also an offence for any person to display a forged, falsified or cancelled certificate of registration at any place.

(e) Duty of registered retailers to charge for plastic shopping bags (Part 3, clause 22)

A registered retailer shall charge an amount of not less than the levy prescribed for each plastic shopping bag provided to a customer from each registered retail outlet of that retailer.

A registered retailer shall not offer any rebate or discount that directly offsets the levy. A registered retailer who contravenes any of these requirements commits an offence.

(f) Return and Payment of Levies (Part 3, clause 23)

A registered retailer shall submit to the DEP such periodical returns as required by the regulation on the number of plastic shopping bags distributed and the amount of levies payable during the period to which a return relates. A registered retailer shall also pay to the Government the amount of levies payable as stated in the returns. Contravention will be an offence. The outstanding levies payable shall also be subject to a 5% surcharge for the first six months and an additional 10% surcharge thereafter.

(g) Record-keeping (Part 3, clause 24)

A registered retailer shall ensure that such records and documents as prescribed by the regulation relating to each return are kept for not less than five years. A registered retailer who fails to comply with this requirement commits an offence.

(h) Assessment Notice (Part 3, clause 25)

If a registered retailer fails to submit a return or DEP reasonably believes that the return submitted is false, incorrect or misleading, DEP may assess the amount of levies payable and demand payment of the assessed amount. A registered retailer who fails to comply with the assessment notice commits an offence. A registered retailer may appeal against DEP’s assessment notice in accordance with the statutory appeal mechanism.

(i) Defence to Offence (Part 3, clause 26)

It is a defence to a charge under the offences in Part 3 for a person to prove that he exercised due diligence to avoid committing the offence.

(j) Regulation-making Powers (Part 3, clause 27)

The SEN may, after consultation with the Advisory Council on the Environment, make regulations for –

- (i) registration and deregistration of prescribed retailers;
- (ii) exemption of part of the area of a registered retail outlet from the requirement on the prescribed levy;
- (iii) submission of returns and payments of levies by registered retailers;
- (iv) records and documents to be kept by registered retailers; and
- (v) any supplemental, ancillary or incidental matters.

[SCMP, 12/08/08]

New height limits on Swire’s plans

Swire Properties’ plans to redevelop its buildings in Taikoo Place suffered a setback as the government imposed height restrictions in the district in July 2008.

The government put a cap on the height and floor areas of buildings in Taikoo Shing and waterfront of Sai Wan Ho. The new limits will especially hit Swire as it is the only company with major redevelopment plans in those areas.

The government’s decision came one month after Swire’s alternative plans to turn Somerset House into a 246.6-metre tower and Warwick House and Cornwall House into two 270-metre towers were rejected due to their proposed heights exceeding nearby developments and urban design guideline limits.

Under the new rules, buildings on the sites of Somerset House and Cornwall House will be limited to 130 and 200 metres above the sea level, and those on the Warwick House site will be limited to 160 metres. The restrictions aim to protect Hong Kong’s unique visual environment, with the mountain ranges providing a natural background to the city on both sides of Victoria Harbour.

[SCMP, 26/07/08]

“Water Cube” for Kennedy Town

Kennedy Town is about to get a swimming pool featuring the technology used in Beijing’s innovative “Water Cube” Olympic swimming stadium.

The roof of the complex, designed and to be built by the MTR Corporation, will be made of ETFE film, the membrane that forms the outside covering of the Olympic aquatics venue in Beijing.

According to the MTR, the roof would be very transparent, providing the maximum amount of natural light while minimizing heat gain and keeping reflections to low levels to reduce disturbance to neighbours.

The existing pool will be demolished to make way for the West Island Line after the new pool is open. The outdoor pool will be ready by 2010, and the indoor one will be ready by 2015. The layout of complex was accepted by the Central and Western District Council in April 2008.

[SCMP, 29/07/08]

Developer revises the mega project in Wan Chai

Hopewell Holdings is poised to unveil its new plan for its controversial Mega Tower project in Wan Chai. The developer was considering lowering the density by about 5 percent. They said the plan would be pushed ahead after the Legislative Council elections this year. Sources also disclosed that the company had abandoned efforts to obtain a land swap and now intended to acquire government land for the project by paying a premium.

However, the developer warned that if these negotiations failed, Hopewell might sue the government for blocking the long-delayed project, which was originally approved by the Town Planning Board in 1994.

On the other hand, opponents- including residents, district councilors and lawmakers- are concerned that the tall block will obstruct air flow and views from the Mid-Levels as well as causing traffic congestion. They have urged the government not to proceed with the land swap. Earlier on, the government estimated that the Mega Tower would increase traffic on Kennedy Road by 25 percent and on Queen’s Road by 8 percent.

A Wan Chai District councilor also said that unless the developer could come up with a satisfactory infrastructure plan, she would be inclined not to support the development.

[SCMP, 09/08/08]

Cheung Kong’s residential development in Tai Po likely to threaten insects

Cheung Kong (Holdings) (“**Cheung Kong**”) submitted a revised residential development proposal to the Town Planning Board (the “**Board**”) in which eight housing blocks, with more than 200 houses and covering 18.37 hectares, are proposed for a site south of the Fung Yuen Valley. However, environmentalists say the development will be only 50 metres from a butterfly haven in Tai Po and is therefore likely to threaten the survival of the insects’ habitat. Cheung Kong, however, denied the claims.

TOWN PLANNING

Promenade in Western unlikely

The government told western districts residents, who would like to have a waterfront promenade in an area now used for cargo handling, that the area was in demand as a key port for loading cargo for shipment to the outlying islands.

Community Ambassadors for Town Planning, a group that supports transformation of the area into a public promenade, says its present use is a waste of resources because there are only a few operators using it, whilst the Marine Department said the area was still in heavy demand.

[SCMP, 25/06/08]

Hospital eyes new site for high-rise

After its proposal to build a 38-storey high-rise at its present site in Happy Valley was rejected in early August because of height limits, the Hong Kong Sanatorium and Hospital is eyeing a new location to double its capacity to 1,000 beds.

The hospital’s plan to demolish an eight-storey building and replace it with a 38-storey tower was rejected by the Town Planning Board, which would not relax a recent 12-storey height restriction on new buildings in Happy Valley.

However, the hospital has yet to submit the land swap application. Meanwhile, it is also planning to go to the Town Planning Appeal Board to ask it to relax the height restrictions.

An original development plan was approved by the Board in 2000 authorizing Cheung Kong to build a "comprehensive development zone," but Cheung Kong submitted a drastically revised layout plan later on, adding 212 individual houses, while reducing the number of blocks from 12 to eight, with a maximum of 28 storeys.

[Ming Pao, 18/08/08]

Jockey Club's offer to conserve the Central Police Station compound

The government approved the Hong Kong Jockey Club's HK\$1.8 billion offer to conserve the Central Police Station compound but it ordered changes to the height of the structure and other facilities. The government insisted that the changes were not a complete departure from the original plans, but there will no longer be an observation deck in the redevelopment.

The Jockey Club pointed out that cutting down the size of the building would reduce not only construction costs, but also the income to be generated from the project in the future. However, all the profits derived from the redevelopment site would be injected into heritage work in the city. The club will also run the project on a self-financing basis and undertake all renovation, conversion and new building works, as well as management, operation and maintenance expenses, although the building will not belong to the Jockey Club nor will it have any naming rights for the various facilities.

[The Standard, 16/07/08]

Wedding Card street redevelopment

According to the Urban Renewal Authority (the "Authority"), the biggest redevelopment project in Lee Tung Street in Wanchai (also known as Wedding Card Street) will be put to tender within two to three months.

The Authority and the MTR Corporation have discussed building a tunnel (which will take three to four years to build) costing HK\$150 million near the Southorn Playground area in Johnston Road for a new exit at Wedding Card Street. The MTR will be responsible for building the tunnel, but the cost will be met by the Authority.

The Authority will revitalize the Lee Tung Street-McGregor Street area to provide about 800,000 square feet for residential use; 100,000 square feet for commercial use and 30,000 square feet for a proposed "wedding arcade".

[Sing Tao Daily, 14/07/08]

Landmark building in Kwun Tong

The Urban Renewal Authority has announced that the landmark building in the proposed Kwun Tong Town Centre renewal project will be 280 metres high as it has to be high enough to be seen even from Hong Kong Island, despite the fact the Town Planning Board has said that it is too high.

The Authority said the building is not too high when compared to International Financial Centre 2, which stands at 300 metres, and International Commerce Centre at 400 metres.

The project, estimated to cost HK\$30 billion, covers 570,000 square feet, affects about 1,656 property interests and 5,000 people, and will be developed in four phases over 12 years.

[The Standard, 14/07/08]

Piazza comparable to Trafalgar

According to the tourism commissioner, the new Tsim Sha Tsui Piazza, which will be built at the Star Ferry Pier bus terminus (whilst the Clock Tower, pier and the five flagpoles will be retained) and completed by 2012, will be comparable to London's Trafalgar Square.

The government wants buildings up to 15 metres high to occupy not more than 10 percent of the proposed piazza, which will include facilities for open-air concerts and shopping malls.

[The Standard, 24/06/08]

Beach hotel plan for Repulse Bay opposed

According to the government, the three-story Seaview Building, which has been a government-owned beachfront building on Repulse Bay for about 60 years, has the potential to be developed

into a tourist facility. This could be achieved by rezoning that site of the Seaview Building, plus an adjacent public car park, for hotel or commercial use, thereby providing a gross floor area of 4,300 square metres. The government proposes that the current height restriction for the site be relaxed.

The combined site would have an area of about 4,420 square metres and stretch a third of the length of the beach. As well, a public lane is planned to be constructed through the site to allow for public beach access.

Government officials said development of the site would not create a massive building that would create traffic congestion. However, residents opposed the plan and said the government should preserve the building as it is and asked why it should be demolished and not refurbished. They also said the development would bring noise and air pollution to the area and adversely affect their quality of life.

[SCMP, 03/09/08]

A revised HK\$30 billion blueprint for the Kwun Tong Town Centre redevelopment

A revised blueprint has been submitted by the Urban Renewal Authority to the Town Planning Board. According to the Authority, improvements to the original plan include removal of stores at the minibus station to improve accessibility and ventilation, whilst the cooling system would use fresh water instead of seawater.

The Authority will begin in December acquiring the 1,656 affected properties at an estimated cost of HK\$14 billion. The redevelopment includes: a 61-story, 280-metre commercial building; a bus and minibus terminal; a multipurpose building that will house government offices; and a large civic square.

The design focuses on the sustainability of development and prevention of a "wall-effect" with different heights of building. More than usual numbers of ramps, lifts and guide signs will be installed to help the disabled.

[The Standard, 10/09/08]

WEST KOWLOON CULTURAL DISTRICT (WKCD)

Foreign role in M+ museum 'not welcomed'

The Secretary for Home Affairs, Tsang Tak-sing, yesterday ruled out overseas operators running the M+ super museum in the West Kowloon Cultural District. Mr Tsang said the museum's vision would not be achieved and it would lose Hong Kong's unique cultural character and curatorial freedom if it were run by international operators.

[South China Morning Post, 28/06/2008]

Concerns for Hub's tree management

An environmentalist claims that the government's management of trees in urban areas is haphazard and wasteful.

There was a public outcry this week after about 100 young trees lining a road leading to the future West Kowloon Cultural District were cut down. The pavement was formerly lined with wild white popinacs, some about 3 metres tall. Removal of the trees occurred outside the construction site of a future MTR station.

A Development Bureau spokeswoman said the trees were removed to allow road widening. She also said white popinacs were highly invasive and detrimental to indigenous species.

[South China Morning Post, 02/06/2008]

HONG KONG BRIEFING

Progress of work of the Urban Renewal Authority

Background

The Urban Renewal Authority (URA) was established in May 2001 to carry out urban renewal. URA regenerates older urban areas to improve the living environment of the residents in those areas.

Redevelopment Projects

1 April 2007 to 31 March 2008

The URA commenced six new redevelopments in Central, Wong Tai Sin, Mong Kok, Ma Tau Kok, To Kwa Wan and Tai Kok Tsui in 2007/8. Overall, it is estimated that about 760 properties are involved and about 940 households are affected by the projects.

During the past year, the URA has continued with the work of property acquisition, clearance and re-housing for eight redevelopment projects. Over 70 households accepted re-housing in estates of the Hong Kong Housing Authority (HKHA) and the Hong Kong Housing Society (HKHS). Over 170 households accepted cash compensation.

During 2007/8, the URA conducted tender exercises and appointed a joint venture partner for redevelopment of a site at Pine Street/Anchor Street in Tai Kok Tsui.

May 2001 to 31 March 2008

The URA has carried out or continues to implement 45 redevelopment projects and 2 preservation cum-revitalization projects since 2001, providing about 17,000 new flats, 585,000m² of commercial space, 56,000m² of Government/ Institution/ Community facilities and 32,000m² of open space.

Preservation

As at the end of its 2007/8 year, the URA had commenced 35 redevelopment projects and two preservation projects. The URA has supported the Development Bureau in revitalising some of the older parts of Wan Chai. On the preservation front, the URA has made considerable efforts to preserve the core elements of the Wan Chai Market, a grade III historical building. The URA has sought the private developer's agreement to preserve the major character-defining elements of the Market building that would have been demolished and lost forever under the original plan.

Rehabilitation

The purposes of building rehabilitation are to improve the environment and living conditions in residential buildings. Three initiatives have been undertaken, namely: materials incentive scheme; building rehabilitation loan scheme; and hardship grants.

Materials Incentive Scheme

A Materials Incentive Scheme targets building managed by owners/occupiers with a view to encouraging owners to form OCs (Ownership Corporations) and to promote sustained maintenance and management after rehabilitation.

Building Rehabilitation Loan Scheme

The URA also continued to operate the interest-free Building Rehabilitation Loan Scheme to cover buildings that are not subject to statutory orders. Loans are arranged through OCs to individual domestic property owners for up to \$100,000 per domestic unit for a term of up to five years.

Hardship Grants

Elderly owners with low incomes, who are unable to contribute to the overall rehabilitation costs of their building, may discourage or prevent other owners from going ahead. Hardship Grants have been introduced to assist such owners. Grants may be up to \$10,000 per domestic unit, or 100% of the share of costs attributable to that unit, whichever is lower.

Revitalisation

During the year, street revitalisation works were completed in Tai Tsun Street and Ivy Street, Tai Kok Tsui; Hanoi Road, Bristol Avenue and Minden Row, Tsim Sha Shui; and Ho Pui Road, Tsuen Wan, whilst improvement works began in Tung Street, Sheung Wan and Nelson Street, Mong Kok.

Community Relations

The URA appreciates owners and tenants, especially the elderly, might face difficulties in setting up new homes elsewhere. Practical assistance provided by URA includes: providing 30% down payments; helping to arrange a bridging bank loan; gathering market information on home-buying and mortgages; helping out with house moving; and providing temporary storage for household items. Further, the URA and the HKHS have appointed six district-based social service teams (SST) to provide affected residents with counseling and advice services. The SSTs have provided assistance to about 190 cases in 2007/8.

URA's Work Plan

In February 2008, the Financial Secretary approved the URA's Corporate Plan for 2008/9-2012-13 and its 2008/9 Business Plan. These plans include: new redevelopment projects; new preservation projects; rehabilitation programs; and revitalisation

initiatives within the URA's Action Areas. Further, the URA is working on preserving up to 48 pre-war shophouses of Cantonese verandah-type by way of compulsory purchase, voluntary acquisition and other types of assistance.

[Hong Kong Government News, 24/06/2008]

August sunnier and drier than normal

The Hong Kong Observatory says August this year was sunnier and drier than usual, with 215.5 hours of sunshine (14% above normal) and 317mm of rain (127.6mm below normal).

The Observatory reported that, with long periods of sunshine, the monthly total global solar radiation in August was 564.48 megajoules per square metre, the second highest for August since records began.

[Hong Kong Government News, 03/09/2008]

Hong Kong put on green alert

According to industry players, urban greening can moderate temperatures and reduce noise and pollution levels. Plants not only improve aesthetics, they also help remove pollutants from the air. Vegetation not only acts as an effective barricade to solar radiation, it also shields buildings from external heating. According to an assistant professor at Hong Kong University's Architecture Department, Carol Leung, a government Green Master Plan has a positive impact on communal, psychological and social aspects of living in metropolitan, high-density cities.

She said greater public recognition of urban greening as a basic requirement in the city's development was also vital. Without that, developers and end-users would rather spend more on building or buying more usable indoor areas.

[South China Morning Post, 05/09/2008]

Decline and fall

Hong Kong now places more emphasis on greening the urban landscape and caring for landmark trees. A landscape architect, Lau Hing-tat, says efforts to care for trees are ineffective without a coordinating authority.

Trees growing along the same road could come under different organisations' jurisdictions. Many roadside trees are managed either by the Lands or Highways Departments. Those in and around urban parks come under the Leisure and Cultural Services Department (LCSD), and trees on public housing estates are managed by the Housing Authority.

Hong Kong lags behind Singapore and many mainland cities, which have "greening bureaus" to develop and implement tree-management programs, and to ensure green space is kept in new construction projects.

[South China Morning Post, 29/08/2008]

Wall of resistance

Developers' desire to extract a higher premium from flats and offices with views has turned the space behind them into ovens. A resident, who lives in a building opposite the North Point developments, said flats in his block have already become stuffier. A resident in a 15-storey building in Tai Kok Tsui said now he feels like he is living in an oven after the high-rise complex, Metro Harbour View, was built in 2003.

A Green Sense study found that the ambient temperature in Tsuen Wan town centre was three to four degrees Celsius higher than at the waterfront.

Developers have turned apathetic professionals into determined campaigners. The proposal to build a 54-storey apartment block on Seymour Road spurred an actuary and his neighbours to form the Mid-Levels West Concern Group. Activists criticise the Town Planning Board for not doing enough to safeguard public interest and to ensure the building projects do not ignore rules.

An architecture professor at the Chinese University of Hong Kong, Edward Ng Yan-yung, said restrictions on building heights in relation to the size of nearby streets and distances between structures were removed in the 1990s, resulting in the construction of densely packed, hyper-tall structures.

Neighbourhood campaigns have brought together several groups on Hong Kong Island under the Community Alliance for Urban Planning. An Alliance spokeswoman said members realised they face a long-term battle against Hong Kong-skewed development,

but hope they will improve the situation as people demand a better quality for life.

[South China Morning Post, 26/08/2008]

Green plan for delta's environmental improvement

The Chief Executive, Donald Tsang Yam-kuen, and Guangdong governor, Huang Huahua, have unveiled their plan for a "green greater Pearl River Delta quality living circle". The green delta agenda will extend the scope of cooperation to: producing clean energy; launching recycling industries; enhancing clean production measures; and making a joint effort in natural conservation and public education.

Researchers from the Chinese Academy for Environmental Planning recently visited Guangdong, Hong Kong and Macau. The research is expected to result in a green blueprint for the greater Pearl River Delta.

[South China Morning Post, 20/08/2008]

Don't delay cleanup

Hong Kong must plan how to improve air quality for the East Asian Games and the Asian Games to be held in Hong Kong in November 2009 and 2010 respectively.

Despite valiant efforts, it was not easy to clear the smog in Beijing in time for the Olympic Games. The Capital Iron and Steel Group was relocated from Beijing to a new site in Tanshan as one of the government's key efforts to reduce air pollution for the Games. Electroplating, cement and paper plants were shut down or suspended early last year.

The city also issued an air-pollution control notice in April so that some factories stopped operating for three months. Just before the Games, the city introduced an odd-and-even licence plate system that allowed only half the city's vehicles on the road each day.

Green groups criticised the "blue sky efforts" as short term, but acknowledged that the Games had opened a door for long-term improvements.

For Hong Kong, there is an immediate need to study pollution data and emissions sources, and to trial model control measures to see which may be the most effective.

[South China Morning Post, 14/08/2008]

Housing projects 'poses threat to butterfly haven'

A proposed residential development is likely to threaten a butterfly haven in Tai Po. The project, proposed by Cheung Kong (Holdings), covers 18.37 hectares and lies south of the Fung Yuen Valley, a government listed "site of special scientific interest".

The master layout plan was approved by the Town Planning Board in 2004. But the developer submitted a drastically revised layout plan last month, adding 212 individual houses in buildings with a maximum of 28 storeys. In its planning statement submitted to the Town Planning Board, the developer said constraints meant a low-rise development was impossible and tall blocks would need to be retained. But few details were given on how the revised layout would affect the environment.

The Chairman of the Hong Kong Entomological Society, Yiu Vor, said the presence of concrete would change the micro-climate for butterflies. He is also worried about the narrowness of the buffer zone for butterflies between their sensitive habitat and the proposed development. He said the Environmental Protection Department should reconsider the revised project with care.

[South China Morning Post, 04/08/2008]

Heatstroke fear cited in campaign against idling ban

Taxi, minibus and bus drivers demanded the government to put off plans for a law next year prohibiting idling engines.

The Motor Transport Workers General Union said temperatures inside the vehicles could at times top 40 degree Celsius. The Union's second vice-chairman, Chung Lin-wah, said the Union had urged the government to ensure a decent and safe working environment for drivers. He said the legislative plan does not consider the potential dangers to drivers in overheated vehicles.

He also appealed to the Kowloon Motor Bus Company to speed up the replacement of its non-air-conditioned buses. A director of the New World First Bus branch of the union, Chan Pun-din, said

more drivers had been calling in sick over the past week because of the heatwave.

An Environment Bureau spokesman said the government was still analysing opinion on the proposed ban on idling engines.

[South China Morning Post, 31/07/2008]

Architect takes dim view of groundscraper legacy

Hong Kong Urban Design Alliance convenor, Vincent Ng Wing-shun, said more attention needed to be paid to a proposed landscaped deck connecting Connaught Road to the waterfront. Mr Ng said the visual corridor from Statue Square to the Star Ferry pier would be blocked by a larger deck. He also urged the government to reduce the scale of the road and adjust its alignment to allow a more integrated design of open space and arts facilities.

Lawmaker and member of the Antiquities Advisory Board, Patrick Lau Sau-shing, said Queen's Pier would not be completely restored if it was relocated to the new waterfront as proposed.

[South China Morning Post, 08/07/2008]

Fixed fine for smoking violators

According to a bill passed in the Legislative Council yesterday, smokers who light up in non-smoking areas will face a fixed penalty of HK\$1,500. Currently, violators face a maximum fine of \$5,000.

But the Secretary for Health, Welfare and Food, York Chow Yat-ngok, said there is no timetable to enforce the fixed penalty. Mr Chow said police and officers of the Leisure and Cultural Services Department, the Food and Environmental Hygiene Department and the Housing Department, apart from the Office of Tobacco Control, will be authorised to hand out tickets.

[The Standard, 03/07/2008]

We must now protect Soko Islands

WWF welcomes the news of our chief executive's successful conclusion to the negotiations guaranteeing 20 years' supply of energy to Hong Kong ("More gas for HK in deal with mainland", August 29).

We hope this is the first step towards a comprehensive regional energy strategy. We urge both governments to set out a balanced plan for cleaner energy.

We appreciate the decision was not easy, but it is a decision based on longer-term needs of and benefits to Hong Kong and the region.

We are encouraged that Secretary for the Environment Edward Yau Tang-wah is focusing on carbon dioxide emissions, a serious concern that has been overlooked in the past.

Our government also has an excellent opportunity to declare the Soko Islands a marine protected area (MPA), where dredging, reclamation and all forms of fishing are banned.

The islands are a known spawning and nursery zone and the establishment of an MPA will be a vital first step towards the rejuvenation of our formerly vibrant marine environment and fishing community.

Eric A. Bohm, chief executive officer, WWF Hong Kong (letter to SCMP, 03/09/2008)

University paper trail cuts swathe through forests

The world lost close to 3,000 trees so that Hong Kong's eight universities could produce promotional and registration material for its student recruitment in July and August, according to a study by *Consumers Acting for People and the Environment*.

"That is enough trees to cover Hong Kong Stadium's sports field seven times over," Carol Kwok Wai-ling, a project manager with CAPE, said yesterday.

Each university's registration pack was put on display for emphasis - and some were as thick as nine centimeters. For this year's recruitment period, the universities went through 122 tonnes of paper, compared with 233 tonnes last year, and 150 tonnes in 2006.

The study found that Chinese University and Hong Kong University were the biggest paper consumers, whilst Baptist and Hong Kong University of Science and Technology used the least.

Chinese University's registration pack weighed 1.7 kilograms, whereas Baptist's weighed only 15 grams. Chinese University has been the number one consumer of paper in each of the three years the study has been carried out. Kwok said Baptist University reduced waste by sending students several documents which listed links to information and forms posted online.

She called for other universities – all of which have registration and promotional content on their websites – to make greater use of the internet. Kwok also urged schools to use recycled paper, which requires significantly less energy and water to produce than paper made from trees grown on plantations or cut from native forests. CAPE estimated that 4, 148 tonnes of carbon dioxide were released to produce this year's university documents.

Citing the unavailability of recycling bins at schools, Kwok said she hoped schools would do a better job educating students about the need for environmentalism and conservation.

[The Standard, 02/09/2008]

HK diners spur decline in spawning fish species

Consumer demand for coral fish in Hong Kong is contributing to the disappearance of spawning schools of fish in the Indo-Pacific, a study (which shows a systematic decline in such species across the region) reveals.

The study, published in the *Conservation Biology* journal last week, found that 79 per cent of spawning schools of fish in the tropics were in decline due to uncontrolled fishing. Forty-four per cent of these reef fish gatherings in the Indo-Pacific region – which are major sources of the live seafood supply for Hong Kong – could disappear.

Fishermen have been taking advantage of the spawning schools, which gather at certain locations and times in the year, making it easier to catch them. But the practice is unsustainable because it jeopardises the reproduction cycle of the fish species.

The study was conducted between 2003 and 2006 by six scientists, and involved interviewing fishermen across the region and reviewing information on spawning schools of fish. Of the studied species, humphead wrasse, squaretail coral trout, camouflage grouper and leopard coral trout were popular items served on dining tables in Hong Kong. They are also listed as species that consumers should avoid, in a guide issued recently by WWF Hong Kong.

University of Hong Kong's Yvonne Sadovy, director of the *Society for the Conservation of Reef Fish Aggregations*, who led the study, said that whilst consumer demand for coral fish was part of the problem, fish traders also had a role.

"Better practices by live fish traders in which they agree not to buy fish caught in [spawning schools] would be a positive step," Professor Sadovy said. She said some Hong Kong businesses might be directly involved in the fishing of spawning schools in Papua New Guinea and the Solomon Islands.

In the Philippines and Indonesia, which have 27 per cent of the world's coral reefs, it was hard to find any spawning schools of fish at all.

The study called for better management of spawning fish, which the researchers believed could also result in increased economic benefits.

Andy Cornish, of WWF Hong Kong and a co-author of the study, urged the city's seafood lovers to rethink their behaviour. "Any individual can be part of the solution to tackle the problem of unsustainable fisheries and aquaculture," he said.

Hong Kong imported 16 tonnes of humphead wrasse in the first six months of this year, compared with 20 tonnes in the whole of last year.

[SCMP, 27/08/2008]

ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

Study on Land Use Planning for the Closed Area Draft Concept Plan (ACE Paper 18/2008)

BACKGROUND

In September 2006, the government announced the results of the review of the use of the Frontier Closed Area (FCA). The main

recommendation is to reduce the FCA land coverage from about 2,800 ha to about 800 ha.

In September to November 2006, the government consulted stakeholders on the review results. Taking account of feedback received during the consultation exercise, the government announced in January 2008 the finalised plan for further reducing the FCA coverage to about 400 ha. In order to formulate a planning framework to guide the conservation and development of the large area which now will be excluded from the FCA, the Planning Department commenced a study to examine the development potential and constraints of the area. The study aims to provide a framework for preparation of statutory town plans before the new FCA boundary comes into effect. The study also includes a Strategic Environmental Assessment to be undertaken in parallel to provide inputs into the formulation of an environmentally acceptable planning framework.

DRAFT CONCEPT PLAN

Taking into account the public views in the initial community consultation, the results of the baseline reviews and analysis of development potential and constraints, consultants have prepared a draft Concept Plan, with the vision of promoting the Study Area as a "Belt of Conservation, Cultural Heritage and Sustainable Uses between Hong Kong and Shenzhen". Based on this vision, the consultants have put forward a number of conceptual proposals under three themes: (a) Theme 1: Strengthening Nature Conservation; (b) Theme 2: Conserving Cultural Heritage Resources; (c) Theme 3: Promoting Sustainable Uses.

COMMUNITY ENGAGEMENT PROGRAMME

The Study will adopt a two-stage community engagement programme: the first stage concerning the draft Concept Plan, which ran from mid-May to August 2008; and the second stage, dealing with a draft Development Plan. Taking into account public comments received during the first stage community engagement, the proposals in the draft Concept Plan will be refined. Detailed technical assessments will be undertaken to formulate a Draft Development Plan for the second stage community engagement, which is scheduled to be held in early 2009. The entire Study is scheduled for completion in mid-2009.

Report on the 103rd Environmental Impact Assessment Subcommittee Meeting (ACE Paper 19/2008)

INTRODUCTION

In May 2008, the Environmental Impact Assessment (EIA) Subcommittee considered the EIA report on "Proposed Comprehensive Development at Wo Shang Wai, Yuen Long" (ACE-EIA Paper 3/2008 refers) submitted by Profit Point Enterprises Limited.

VIEWS OF THE SUBCOMMITTEE

Need for the Project

The purpose of the project is to provide a residential development with the provision of a Wetland Restoration Area (WRA) as a buffer to the Wetland Conservation Area to the north of the site.

Description of the project

The project area covers approximately 21 ha. As revealed in the Study of the Ecological Value of Fishponds in 1997, all fishponds in the project area were filled in by 1991. Since then, the north-eastern side of the site has been used as open storage while the remaining area has remained vacant. The existing site consists of: open storage for containers and parking for trucks; bare ground; grassland; and seasonal and fresh water marsh and drainage ditches. The site is abutted by residential developments – Palm Springs, Royal Palms and Wo Shang Wai Village.

The project comprises the following key features –

- a low-rise residential development containing about 350 units of 2 to 4-storey houses;
- a WRA of about 4.74 ha to the north of the project area; and
- associated works such as roads and drains within the project area.

The project is classified as a designated project under Item P1, Schedule 2 of the EIA Ordinance (EIAO), i.e. "A residential or recreational development, other than New Territories exempted houses within Deep Bay Buffer Zone 1 or 2".

The EIA study has considered alternative development

arrangements by taking into account the bird flight path data gathered from the ecological survey and the consideration of the effects of various building heights and layout arrangements on bird flight paths. Disturbance to the proposed wetland will be minimised through screening and buffering, and consideration of the permitted plot ratio in respect of the surrounding developments and skyline. Visual intrusion of the buildings in respect of the neighbouring communities was also considered.

MEMBERS' VIEWS

Members agreed that the discussion should focus on the options of: development layout plan; landscape and visual impacts; construction phase impacts; water quality impacts; and the wetland restoration plan.

Options of development layout plan

On the options of development layout plan, the project proponent team explained that the project started with over 30 development concepts by taking into consideration key defining features, including ecological, planning, landscape and site constraints of the site. The "bubble diagram" in the EIA report set out the development principles and framework of relationship of key components within the site. Development layout plans considered included "rectangular", "linear", "horseshoes" and "finger" layouts. The initial "finger" concept involved streams of water from the wetland penetrating into the residential development.

Having consulted experts and green groups, it was found that there were operational difficulties with the fingers design, such as mosquito breeding in stagnant water and the need for frequent mechanical pumping. The areas between the "fingers" of residential development were changed to landscape planting. While the landscape planting was not part of the WRA, it could serve additional ecological functions, such as attracting butterflies, dragonflies and other ecological elements. The preferred option aimed to provide a balanced development by maximising utilisation of ecological resources and complying with the planning intent and framework.

Some members considered that a square rather than an elongated configuration of the WRA would better serve the purpose of enhancing the ecological value and wetland species. The project proponent team explained that the proposed design of the WRA in linear shape was to meet the requirement of the Study Brief for providing a buffer between residential development and the Wetland Conservation Area. Moreover, the WRA was not in isolation and it was a part of the wetland system in the whole area. The design of the WRA would fully achieve the requirement.

Landscape and visual impacts

On the design and layout of buildings within the residential area, the project proponent advised that a number of factors were taken into consideration in the design, including: ecological resources in the area; height and form of buildings in the planning context; harmony with the wetland area; and aspirations of people in the vicinity, as well as the planning requirement that new buildings should be located as far away from Deep Bay as possible.

The maximum building height permitted under the approved outline zoning plan is 6 storeys, including car park. Feedback in the public consultation process showed that nearby residents and green groups were not in favour of 6-storey buildings. The building height was trimmed to 2.5 to 4 storeys which was more compatible with the development in the area.

Some members considered that increasing the height of the buildings to 6 storeys could reduce the footprint and would enlarge the wetland area, similar to the proposed high-rise buildings at Fung Lok Wai in Yuen Long which would not impose adverse impacts on the natural environment. The project proponent explained that the configuration of the two developments was very different. The Fung Lok Wai development is on a hillside whereas the Wo Shang Wai development is in the middle of a flat plain. Increasing the height of the residential development at Wo Shang Wai to 6 storeys would have ecological and other impacts. For example, the flight path of birds would be affected and the visual and noise impacts to neighbouring developments would be increased.

On the distribution of buildings with different heights in the preferred option, the project proponent explained that the buildings had taken into account visual impacts on neighbouring developments and feedback received in the public consultation process.

The height and density of the buildings decreased gradually towards the WRA to minimise disturbance to the area near the

WRA. The 4-storey buildings mainly clustered in the centre of the core development area and on the boundaries of the eastern and south-western sides of the site. A line of 2.5/3-storey buildings were put at the southern site boundary to screen the visual impacts of the 4-storey buildings in the core area on the adjacent development in Wo Shang Wai village on the southern side. The 4-storey buildings at the boundaries near Royal Palms at the eastern side and near Palm Springs at the south-western side were compatible with the layout and orientation of the houses, with their side walls facing the development site.

Some members were concerned about the proposed mitigation measures of tree planting along the boundary of the development site. The project proponent explained that the landscape plan for the site was designed in the context of adjacent residential developments and existing landscape features. The buildings along the boundary were set back as far as possible to allow a landscape buffer for a mix of shrubs and trees to provide screening effect. Moreover, the buildings were villas in the form of detached houses which would not form a continuous building wall.

Construction phase impacts

On the impacts of construction on the wetlands, the project proponent advised that the experience learnt from the construction of the Lok Ma Chau Spur Line was very useful and would be employed in the current project. To minimise disturbance to the wetland, the construction of the WRA would be scheduled at the commencement of the construction period, not only to reduce the duration of disturbance impacts but also to minimise the duration of temporary habitat loss within the project site. A temporary impermeable barrier would be put between the wetland and the construction site to minimise visual intrusion to wildlife. Birds were more sensitive to observing sudden physical activities and less sensitive to regular noise impacts. Human activities would be kept out of the wetland area by ensuring good site practice by the construction team.

In answer to concerns about the relatively long construction period and possible disturbance so caused, the project proponent explained that the construction period of about five years was required in view of the relatively large works -site and the need to divide the work into smaller areas to minimise the extent of disturbance at any one time. A series of mitigation measures would be adopted to minimise possible disturbance, including suitable programming of works and selection of quiet powered mechanical equipment. To meet the special ecological and landscape requirements of the construction works, a barrier of various heights, to a maximum of 10 metres, made up of translucent and non-reflective materials would be used.

On possible runoff of wastewater from the construction site to the WRA, the project proponent advised that wastewater would be collected and other mitigation measures-- such as boundary bunds-- would be put in place to prevent runoff from the site. Wastewater will be reused as far as possible, such as for dust suppression during dry seasons. This was in line with the principle of sustainable development adopted by the project in both construction and operation phases.

Water quality impacts

On the control of storm water discharge during rainy seasons, the project proponent advised that a drainage management plan would be put in place under the Environmental Management and Audit (EM&A) programme to prevent potential impacts of storm water runoff and possible flooding. Measures would include the use of boundary bunds, site levelling and profiling.

Some members raised concerns about surface-runoff from the car wash service centre on the site. The project proponent explained that the designation of a specific car washing area for residents would restrict the locations of car washing and related activities, such as repairing and maintenance of engines. This was considered the best way to control surface-runoff and possible penetration of polluted water from various parts of the residential development. As well, the soft landscaping in areas between the "fingers" of residential development would also serve as a retention point for absorbing surface-runoff due to severe storms.

Wetland restoration plan

On the area of loss of wetland habitats, AFCD advised that the 4.69 ha of wetland habitats affected (0.69 ha of seasonal marsh and 4 ha of freshwater marsh/reed bed) was based on ecological studies conducted by the project proponent in both wet and dry seasons taking into account indicative elements of a wetland such as hydrology, soil and vegetation type in the area. The EIA recommended a 4.74 ha WRA to compensate for the loss of wetland habitats due to the proposed development.

On the application of the planning guidelines of the Deep Bay area, AFCD advised that according to the "Town Planning Board Guidelines for Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance" TPB PG-No.12B promulgated in 1999, the land use planning control in Deep Bay area was carried out through designation of Wetland Conservation Area and Wetland Buffer Area. The Wetland Conservation Area consisted of existing continuous and adjoining fishponds and was more important in terms of ecological value, where the planning principle of "no-net-loss in wetland" should be applied.

The Wetland Buffer Area included some degraded wetlands. By allowing a limited scale of residential or recreational development in the Wetland Buffer Area, the private sector was encouraged to restore the degraded/lost wetlands in the target areas identified as Other Specified Uses (Comprehensive Development and Wetland Restoration Area) zone. Wo Shang Wai was one of the target areas and the proposed development was within the Wetland Buffer Area. The planning principle of "no-net-loss in wetland" was not required to be applied. The project proponent tried to adopt this principle on a voluntary basis.

On the viability and sustainability of the proposed management plan for the WRA, the project proponent team explained that under the wetland restoration plan, management proposals included the options of: placing the WRA in the ownership of an independent Trust; having the project proponent retain that part of the project area demarcated as WRA in accordance with all the approval requirements; and having the land retained as "common area" managed by future owners of the residential development which would have collective responsibility to manage and maintain the WRA in accordance with the various statutory approvals and as required by the Deed of Mutual Covenant.

Members noted the comments expressed by a council member about the cumulative impact of development projects around the Deep Bay area. The member considered that there was a pressing need for the Government to develop a conservation plan for the Deep Bay area. There were concerns from the public that the increasing number of development projects around Deep Bay might pose cumulative impacts on the wetland and associated fauna, particularly water birds in the region. A "master plan" for conserving fish ponds and other habitats would help to protect the overall biodiversity and reduce the cumulative impact of development projects around Deep Bay. Based on the principles of no-net-loss and wise use of wetland, such a plan could be developed with inputs from a variety of stakeholders (e.g. environmental non-government organisations, public, private companies, local communities, etc).

RECOMMENDATION OF THE SUBCOMMITTEE

Having regard to the findings and recommendations of the EIA report and information provided by the project proponent, members agreed to recommend to the full Council that the EIA report could be endorsed with the following proposed conditions –

- the project proponent should be responsible for the construction of the WRA as part of the development and should provide an undertaking to take sole responsibility for management until a successor could be found to the satisfaction of the EPD, in consultation with the Advisory Council on the Environment (ACE);
- the project proponent should submit reports of the EM&A results on ecological aspects during the construction phase to the EIA Subcommittee of the ACE on a bi-annual basis and those reports during the operation phase on an annual basis;
- the project proponent should put in place a five-yearly review programme for the wetland restoration plan and implementation programme, and the review reports should be submitted to the ACE, the EPD and AFCD; and
- the project proponent should adopt a trip-ticket system for managing the construction and demolition waste.

Separately, the Subcommittee considered that the issue on the need for the government to develop a conservation plan for the Deep Bay area in view of the cumulative impacts of development projects around the Deep Bay area was outside the scope of the current EIA report and should be considered by the full Council as a general issue.

Harbour Area Treatment Scheme (HATS) Planning Parameters for the Commencement of the Design and Construction of HATS Stage 2B (ACE Paper 21/2008)

BACKGROUND

In a paper submitted to the Panel on Environmental Affairs of the Legislative Council in 2005, the government has indicated that we will report regularly to the Advisory Council on the Environment (ACE) on the trends and levels of the planning parameters and the timing for the review of the design and construction of the HATS Stage 2B.

In 2004, the EPD consulted the ACE on various issues on HATS Stage 2 including: the preferred option; acceptability of chlorination disinfection; centralisation vs. decentralisation; phased implementation approach; choice of biological treatment technology; need for nutrient removal; sludge handling; and the findings of trials and studies relating to HATS Stage 2.

In 2005, the EPD further consulted the ACE on the proposed implementation programme and the results of the public consultation for Stage 2. In October 2007, the ACE endorsed the EIA report with conditions for the advance disinfection facilities under Stage 2A.

HATS Stage 2 is being implemented in two phases, namely Stage 2A and Stage 2B, with centralised treatment at Stonecutters Island.

Stage 2A comprises a deep tunnel system: to convey the currently virtually untreated sewage from eight preliminary treatment works around the northern and southwestern shores of Hong Kong Island to Stonecutters Island; the expansion of the existing chemical treatment facilities at Stonecutters Island Sewage Treatment Works (SCISTW); and the provision of disinfection facilities. Completion of Stage 2A is targeted for 2014 and the design is well underway.

An EIA study is being conducted for Stage 2A. Part of the disinfection facilities has been advanced for completion in 2009 in order to improve water quality in the western harbour and facilitate the re-opening of four beaches in Tsuen Wan which have been closed since 2003. Construction of the advance disinfection facilities commenced in April 2008.

Stage 2B will further upgrade the sewage treatment level by the addition of a biological treatment plant adjacent to the SCISTW. A site has been proposed and a study on co-use of the land for the biological treatment plant and other container and port related uses commenced in May 2008. The programme will also depend upon a review of key planning parameters for Stage 2B planned for 2010/11.

In deciding to build Stage 2 of HATS in phases, the government was conscious of the fact that the impacts of the treated sewage on the receiving environment would change with time as sewage flows build up. Consequently, the government undertook to monitor the situation closely in order to be well informed of the likely direction of future trends and factor this into the planning process for the implementation timetable for Stage 2B.

PLANNING PARAMETERS FOR HATS STAGE 2B

Key planning parameters to be considered when reviewing the implementation timetable for HATS Stage 2B are sewage flow and unionised ammonia and dissolved oxygen (DO), which were the key parameters established in the "Environmental and Engineering Feasibility Assessment Studies in relation to the way forward for the Harbour Area Treatment Scheme" (the EEFS), highlighted in the paper submitted to the Panel on Environmental Affairs in 2005.

Sewage flow needs to be tracked as a means of ensuring that the polluting load is not building up faster than predicted. Similarly, the key water quality parameters need to be closely monitored to check for signs of unexpected early deterioration in the receiving water environment. The key water quality parameters are those for which earlier studies indicated that there could be a risk of a breach of the water quality objectives in the future.

Sewage flow is a function of population and economic activity and is made up of flows from housing, industry, commercial facilities, schools, and other sources. In developing the flow projections for HATS service areas, reference was made to the population projections and planning data in Planning Department's "Year 2030 Planning Data for HATS" covering all known development and redevelopment proposals within the territory from various sources. Data have been used on the basis of the full development potential that can be achieved in the HATS service areas at some unspecified future date. On this basis, the ultimate sewage flow currently being used for the design of HATS Stage 2A is estimated to be 2.44 million m³/day, a rise of some 32% over the 2003 sewage flow of 1.85 million m³/day for the whole HATS service areas.

Also, the sewage flows for 2010, 2020 and 2030 are estimated to be 1.96 million m³/day, 2.12 million m³/day and 2.32 million

m3/day respectively, rises of 6%, 15% and 25%. This represents a very modest projected average annual increase of less than 1% although it must be emphasised that the changes may not be linear.

At the moment, the measured flows at the SCISTW are quite steady, as is demonstrated by the relevant data. This "steady state" is reflected in the BOD1 and ammonia-nitrogen loading discharged from HATS Stage 1.

Since 2006, the EPD has conducted dedicated annual marine surveys in the western harbour waters which receive the HATS discharge. This has allowed the EPD to assess compliance with water quality criteria (WQC), including the 4-day average unionised ammonia and minimum dissolved oxygen criteria. These two criteria provide benchmarks for unacceptable short-term impacts. The surveys are designed to have intensive and frequent sampling at critical tidal and seasonal conditions with a view to capturing the potentially worst field conditions which reflect the most adverse short-term impacts caused by the discharge of treated effluent from HATS Stage 1.

The 2006 and 2007 results for these dedicated surveys indicate that the 4-day average unionised ammonia level met the WQC and was equivalent to some 15% of the criterion value. Therefore there is no indication of any adverse short-term impact caused by the current HATS discharge during the critical tidal and seasonal conditions.

For a number of years, the EPD has also conducted a routine programme of compliance monitoring for marine Water Quality Objectives. Whilst it does not capture the worst case conditions, the data give an indication of general trends.

The monitoring data for unionised ammonia and DO from 20024 to 2007 in the vicinity of the HATS Stage 1 outfall are presented graphically in the relevant figures in the Paper. Analysis of these data indicates no statistically significant trends, and the EPD therefore concludes that water quality in the western harbour has neither improved nor deteriorated in the past few years.

CONCLUSION

On the prevailing trends and projections in the planning parameters for HATS Stage 2B described above, it is concluded that it remains appropriate to review the programme for the commencement of the design of HATS Stage 2B in 2010/11. The EPD will monitor the development of the project and any changing circumstances.

Report on the 105th Environmental Impact Assessment Subcommittee Meeting (ACE Paper 25/2008)

INTRODUCTION

On 18 September 2008, the Environmental Impact Assessment (EIA) Subcommittee considered the following EIA reports –

- (a) Proposed Development at Fung Lok Wai, Yuen Long at Lot 1457 R.P. in D.D. 123 (submitted by the Mutual Luck Investment Ltd.); and
- (b) Harbour Area Treatment Scheme (HATS) Stage 2A – Investigation (submitted by the Drainage Services Department).

VIEWS OF THE SUBCOMMITTEE

Proposed Development at Fung Lok Wai, Yuen Long at Lot 1457 R.P. in D.D. 123 (ACE-EIA Paper 6/2008)

Need for the Project

The purpose of the project is to develop a residential development and a Wetland Nature Reserve (WNR) at Fung Lok Wai, Yuen Long.

Description of the Project

The project area, located to the south of the Inner Deep Bay between Yuen Long Industrial Estate and Hong Kong Wetland Park, is now mainly fish ponds. It covers an area of about 80 ha. The northern half of the project area lies within the boundary of the Mai Po Inner Deep Bay Ramsar Site while the whole site falls within the Deep Bay Buffer Zones. To meet an objection lodged against a gazetted Outline Zoning Plan, the Town Planning Board decided in March 2000 to amend the Outline Zoning Plan and rezone the project area from "Conservation Area" to "Other Specified Uses (Comprehensive Development and Wetland Enhancement Area)". The project comprises a residential development of about 2,860 units taking up about 4 ha (5%) of the project area, a Wetland

Nature Reserve (WNR) of about 76 ha (95%) to be developed in the rest of the project area and an access road via the existing Fuk Shun Street to be upgraded through improvement works.

The project is classified as a designated project under Item P1, Schedule 2 of the EIA Ordinance: "A residential or recreational development, other than New Territories exempted houses within Deep Bay Buffer Zone 1 or 2".

MEMBERS' VIEWS

Members noted that a letter from the World Wide Fund for Nature Hong Kong (WWF), the conservation partner of the project, was tabled for members' information. WWF explained their involvement in the project and reasons for supporting the project. WWF highlighted that their interest in the project was purely conservation with no financial benefit involved.

After the meeting, a member registered his disagreement to the EIA report in view of the concerns about the cumulative impacts of the current and future developments in the area on the birds, potential risk of outbreak of bird flu on nearby residents, visual impact and public access to the WNR.

RECOMMENDATION OF THE SUBCOMMITTEE

Having regard to the findings and recommendations of the EIA report and information provided by the project proponent, members agreed to recommend to the full Council that the EIA report could be endorsed with the following conditions –

- (a) the project proponent should be responsible for the construction of the WNR as part of the development and should provide an undertaking to take sole responsibility for the management of the WNR until a successor could be found to the satisfaction of the EPD. The project proponent should consult the Advisory Council on the Environment (ACE) during the identification of the successor;
- (b) prior to the construction of the WNR, the project proponent should set up an independent Environmental Monitoring Committee to supervise the implementation and monitor the effectiveness of the proposed mitigation measures of the project, in a proactive manner, according to the Habitat Creation and Management Plan (HCMP), the EIA report and the Environmental Monitoring and Audit (EM&A) Manual;
- (c) the project proponent should submit the final HCMP for the WNR (which should include a plan on the financial arrangement for the proper long-term operation of the WNR for information) to the ACE, EPD and the Agriculture, Fisheries and Conservation Department (AFCD) for endorsement before the construction of the WNR;
- (d) the WNR should not be used for any other purpose except for those specified in the HCMP;
- (e) the project proponent should put in place a five-yearly review programme for the HCMP, and the review reports should be submitted to the ACE, EPD and AFCD for endorsement;
- (f) the project proponent should submit reports of the environmental monitoring and audit results during the construction phase to the EIA Subcommittee of the ACE on a half-yearly basis and those reports during the operational phase on an annual basis until the end of the third year after full operation. The need for future submissions would be subject to review; and
- (g) the project proponent should submit a proposal on environmental-friendly management of the residential portion of the development to the EPD and AFCD to ensure that, among other things, chemicals and pesticides to be used (if necessary) in the residential portion of the development would not have any unacceptable environmental impact on the WNR.

The Subcommittee also recommended that the EPD should follow up with the project proponent to provide an undertaking to ensure that the parent companies (Cheung Kong (Holdings) Ltd., Sun Hung Kai & Co. Ltd. and Far East Consortium International Ltd.) of the project proponent would take up the responsibility mentioned in paragraph (a) above if the project proponent failed to do so.

REGIONAL & INTERNATIONAL

CHINA

Guangdong's air and water dirtier despite factory closures

Despite the closure of thousands of polluting factories in the Pearl River Delta, water pollution in Guangdong worsened in the first half of the year.

A report released yesterday by the Guangdong Environmental Protection Bureau showed that acid rain accounted for a total of 53.4 per cent of the province's rainfall in the first six months, a 7.1 percentage point rise over the same time last year. Two-thirds of the 21 cities in the province were affected by acid rain. Guangzhou, Shenzhen, Dongguan, Zhuhai, Foshan, Maoming, Zhaoqing, Huizhou and Zhongshan were among the worst-hit.

Provincial meteorologists said the average pH level of rain, which measured the acidity, was 4.81 in Guangdong during the period. Rain with a pH level below 5.6 is regarded as acidic. Acid rain increases the acidity of soil and water, lowers crop output and kills animals in rivers and lakes.

Guangdong authorities have pledged to cut emissions of sulfur dioxide, the main cause of acid rain, by 4 per cent, and chemical oxygen demand, a measure of water pollution, by 3.5 per cent this year. The bureau's report said sulfur dioxide emissions in 13 cities had dropped, but did not say by how much. Guangdong also recorded an 8 per cent drop in acid rain last year, but the bureau did not explain why levels had risen this year.

Chinese Academy of Sciences researchers said acid rain in the Pearl River Delta was caused by high levels of vehicle fumes and sulfur dioxide emissions from power plants and polluting factories, as a result of rapid economic development.

According to the research, when Guangdong authorities shut down all the province's coal mines at the end of 2005 for safety inspection, there was a big reduction in acid rain. And in 2006 and 2007, when Guangdong ordered its industrial sector to use imported coal, a lower level of sulfur dioxide emissions resulted. However, the re-opening of coal mines and power plants led to an increase in acid rain in Guangdong this year.

Researchers are not optimistic that Guangdong would see reductions in acid rain or improvements in air quality, even though authorities had moved many high-polluting factories from the Pearl River Delta, as many of those factories simply moved to neighbouring locations, like west and north Guangdong, Hunan and Jiangxi provinces. To make things worse, those local governments did not have as strict environmental protection regulations.

[South China Morning Post, 04/09/2008]

Beijing allots 42 billion yuan for green projects

Beijing has earmarked 41.8 billion yuan (HK\$47.8 billion) from government bond issuance and revenue and 27 billion yuan of special-purpose funds to fund energy conservation and pollution reduction projects.

According to the National Development and Reform Commission (NDRC), the State Council and related departments have recently come up with a number of measures to strengthen the initiatives' implementation in order to realise the energy conservation and pollution reduction targets.

The goal this year is to have an annual energy saving equivalent to 35 million tonnes of coal consumption. The country consumed 2.7 billion tonnes of coal last year. Small and inefficient power, cement, steel and aluminium plants have already been closed during the past few years.

Officials also named and shamed 74 companies which failed to meet energy conservation targets. The number decreased from nearly 1,000 companies in 2006. Of 953 companies being appraised, 879, or 92.2 per cent, have met or exceeded the annual targets set for last year, whilst 74 or 7.8 per cent have not. The other 45 were not assessed. Most of those failing to meet targets are in the power, steel, non-ferrous metals and chemicals sectors.

Together the 953 firms saved energy equivalent to 38.17 million tonnes of coal last year, during which time they invested some 50 billion yuan into energy conservation technology and infrastructure upgrades.

The State Council has ruled that energy conservation

accomplishment become a key part of state-owned enterprises bosses' annual performance assessment. Companies which fail to meet targets must come up with a rectification proposal, including an implementation time-line, within a month. As well, they will be denied participation in government support schemes and their new energy-intensive investment projects and industrial land-use applications would not be approved. On the other hand, companies with effective energy saving and pollution-cutting projects would be eligible for profit and value-added tax cuts.

Beijing also reiterated its long-term goal of raising domestic energy prices to international levels and using tax incentives to meet its goal of cutting energy consumption per unit of GDP by 20 per cent by 2010.

The NDRC said it would "actively and carefully" implement reform of energy prices so they would be determined by market forces and reflective of resource scarcity.

[*South China Morning Post*, 06/09/2008]

China's environment watchdog warns local leaders of penalties for pollution

The Ministry of Environment Protection was established in March from its predecessor, the State Environmental Protection Administration. It completed an expansion in August, which was reported to be aimed at reinforcing its role in the prevention and control of water pollution.

In August, the Ministry submitted a proposal to the National People's Congress, China's top law-making body. The Ministry asked for powers to detain for up to 15 days people responsible for illegally discharging dangerous chemicals into water and those responsible for discharges of poisonous, radioactive and erosive substances, or pathogens or for illegally disposing of dangerous substances.

The Ministry has recently warned the leaders of 21 provincial-level governments that they would be held accountable for continued pollution of seven main waterways.

The Ministry announced the measures at a national meeting on water pollution prevention in east China's Jinan. The meeting was attended by officials from the National Development and Reform Commission and the ministries of supervision, finance, housing and urban-rural development.

The Environmental Protection Minister announced that the new measures would take effect early next year. No penalties were specified in the proposal, which should be determined according to the severity of the illegal action.

The 21 governments had given the Ministry annual targets in their plans for pollution prevention in the basins of the Huaihe, Haihe, Liaohe, Songhua rivers, the middle and upper streams of the Yangtze and Yellow rivers as well as the Chaohe and Dianchi lakes. The plans were based on a five-year national guideline from 2006 to 2010.

Officials will be responsible for any failures to meet the targets. But there were no disclosures of which provinces failing to meet the target for the past two years.

Local environmental watchdogs nationwide will report water pollution cases every other day and local governments were also required to publish their annual goals for public scrutiny. The number of reports by local environmental watchdogs had increased by 30 per cent in the first half year from the same period of last year.

Under the proposal, staff and senior officials from environmental agencies that fail to transfer or report those suspected of water pollution could face warnings, demerits, demotions, or dismissal.

According to the minister, the Ministry will reinforce its supervision of local government implementation of the state's environmental protection objectives through this evaluation system. He reiterated that the reduction in pollution discharges to water bodies was the fundamental step to improving the environment.

The Chinese government has set a target of reducing major water pollutant emissions by 10 per cent from 2005 levels by 2010. According to the minister, emissions had fallen by only 2.3 per cent in the past two years. A total of 7.7 per cent of further reduction was required in less than three years.

[*BBC Monitoring Asia Pacific*, 11/09/2008]

MALAYSIA

Enzymes to 'clean' Burung landfill

Biodegradable enzymes will soon be used to dissolve organic garbage in landfills and rivers in Malaysia. The use of enzymes to eliminate organic waste will be experimented at the Pulau Burung landfill.

A non-governmental organisation, the Society of Sudarshan Kriya, has the expertise. Once the Penang government receives permission allowing the organisation access to the landfill, the organisation will oversee the project.

The state government will consider introducing the enzyme to factories to eliminate sewage discharge and factory pollution. The Chief Minister considered it to be a boost for the environment, in terms of cleanliness, after attending a talk on "Garbage enzyme saves our planet" organised by the society at the Tanjung Bunga community hall.

An enzyme specialist said the liquid-based enzyme was a concoction of water, brown sugar and discarded fruit skin and could be used to eliminate organic waste in drains and rivers. She learnt the basic skills of mixing the concoction in Thailand two years ago. The enzyme could also be blended with dish-washing agents in households without causing any harmful effect to consumers.

The enzyme has been proven to be effective when used in several rivers in Pahang, Sabah and Sarawak. The enzyme can dissolve harmful organic components in five minutes.

[*New Straits Times*, 02/09/2008]

UNITED ARAB EMIRATES

More eco-friendly ways to clean cars

Washing a car consumes over 100 litres of water. Motorists in Dubai now have a chance to save water. Now the Emirates National Oil Company (Enoc) is offering an alternative to high pressure water cleaning facilities, as part of a go-green waterless car wash initiative. The initiative permits car owners to have their cars cleaned and shined without using a drop of water.

The new "No-Wet" technique, an all-in-one eco-friendly car wash liquid, saves water and prevents detergents from polluting the environment. It is made from 17 ingredients, including kaolin clay and carnauba wax. It is sprayed on in a fine mist and is effective for cleaning dirt and other contaminants. The liquid is wiped off with a soft terry towel, without damaging the surface of the car. This process leaves a fine film of polish and wax on the surface, which can then be buffed with a micro fibre cloth.

According to the Enoc Group Chief Executive, the No-Wet technique can save up to 150 litres of water per manual car wash.

The washing takes 20 minutes and costs Dh50 for saloon cars and Dh55 for four-wheel drives. There are at present only two Enoc stations offering the service in Mirdif and the Gardens.

Bio Wash Waterless Car Care launched another waterless car cleaner last week. It will soon be available in supermarkets.

[*Gulf News, Dubai*, 31/08/2008]

Plastic bags could be banned in Dubai

The issue of banning plastic bags was recently discussed by officials, in a move gradually to eliminate plastic bags by 15 per cent every year.

In a discussion organised by the Ministry of Environment and Water, a plan to reduce the use of polythene bags by 15 per cent per year until they disappear from use completely was considered; 1,600 tonnes of plastic and approximately 14 million plastic bags can be saved each day if a complete ban is achieved.

According to the director of the Waste Management Department, it is not difficult at all to ban plastic bags in Dubai. It can be done by implementing regulations for all customers to provide their own bags, made of paper or other biodegradable materials. The Ministry of Environment recently decided to study alternatives to plastic bags.

Besides banning plastic bags, Dubai is currently working with an international consultant to study and implement a waste-to-energy project that will utilise municipal waste to produce electricity. The project is still in its early stages, hence details such as location, capacity, and technology are currently under study.

[*Gulf News, Dubai*, 30/08/2008]

UNITED KINGDOM

You can help to keep your streets clean

Staff from the Chronicle's parent company, ncjMedia, gave up office hours to help Newcastle City Council workers to tidy up around the Bigg Market in response to the Go Green Campaign.

Newcastle Council workers collect at least 27 tonnes of litter and dumped waste every day, which has been discarded on streets by shoppers, tourists and commuters. The tidy-up groups cover all hours of the day and night to ensure that there is always someone to keep the city clean.

Elsewhere, volunteers from Newcastle City Council, Scotswood Natural Community Garden (SNCG) and The Community Foundation carried out a litter blitz to boost regeneration plans in the West End. The 50-strong taskforce tidied a 16-acre site of allotments in West Benwell, clearing undergrowth and removing unsightly litter which has plagued the area, spoiling it for local residents.

A fund manager for the Community Foundation considered it a great opportunity to work in partnership to improve the environment locally and benefit the community. They have done their tiny part. A welfare benefits adviser thought that it was important to do this because if an area looks attractive people will tend to look after it better.

In Wallsend, North Tyneside Council neighbourhood patrol officers picked up litter, helped by local volunteers, while Metro operator Nexus staged a blitz on Wallsend Metro station.

Staff from the Environment Agency's North East office, in Newcastle, also helped Easington District Council staff with a litter-pick in the centre of Murton in County Durham.

The Environment Agency, lead partner in the Go Green campaign, said that they were pleased to be supporting Easington District Council in the event as it was the start of an ongoing programme of events to improve local environments within Easington.

[*Newcastle-upon-Tyne (UK)*, 02/09/2008]

AUSTRALIA

Queensland bans shale-oil mining

Queensland has banned shale-oil mining for 20 years, blocking a plan for a strip-mine 10 km from the nation's World Heritage-listed Great Barrier Reef.

The government blocked plans by Queensland Energy Resources, owner of the McFarlane deposit, to dig up about 400,000 tonnes of rock for testing. The company sought urgent talks with the state government over the proposal to mine more than 1.6 billion barrels of oil over the next 40 years, it said. Oil's advance to a record US\$147 a barrel has made extracting crude from unconventional sources profitable, pitching resource companies against environmentalists.

The amount of pollution Queensland Energy's plan would cause makes the proposal lunacy, Greenpeace said. Greenpeace said the proposed mine would have created as much as 40 million tonnes a year of greenhouse gases, equivalent to 25 per cent of Queensland's annual emissions.

The Great Barrier Reef is the world's largest coral reef, and contributed in 2007 more than A\$5.4 billion (HK\$36.58 billion) in tourism income to the Australian economy.

Queensland Energy's proposal would have cleared an area 3 km wide and 7 km long.

[*SCMP*, 26/08/2008]

ISRAEL

Unending thirst for fresh water draining the Sea of Galilee

The waters of the Sea of Galilee are now at their lowest on record and, officials say, are set to fall even lower. The crisis is both natural and man-made. Four years of drought, with rainfall less than half the annual average, and a lack of snow on the peaks of Mount Hermon, have led to the shortage. At the same time, Israel's relentless pumping of water to irrigate farmland and supply homes has been massively worsening the situation.

The Israeli government, environmentalists say, seems oblivious

to the damage being caused to the largest lake in the country. Despite the water falling below the lowest red line, which denotes serious hazard, pumping has continued until it is due to reach an even lower black line, seen previously as a point of no return.

Friends of the Earth, Middle East, says: "There is a very real danger that this could lead to oversalination. The lower red line indicated the level at which the lake's sustainability is threatened. We are certainly very alarmed by the authorities' willingness to go to the black line. This development could well be irreversible."

The main factor driving the unending thirst is Israel's projection of itself as a country of pioneering farmers who made the desert bloom whilst the previous Palestinian owners of the land were prepared to live in a barren environment without seeking "progress".

Analysts say that attempts by the Israeli government to bring in strict restrictions on water usage would be politically suicidal as there is an election on the horizon. No party would be willing to put forward such proposals against the interests of the powerful farming lobby.

Israeli farmers consume 40 per cent of the country's fresh water, using some of it, environmental campaigners point out, to grow fruit such as bananas and types of berries alien to the desert, for export to the west. That constitutes the perverse equation, they say, of water being exported from the parched Middle East to wet Europe.

The Sea of Galilee has now also taken on another international strategic dimension. The next round of the fledgling talks between Israel and Syria is due to begin and, according to Walid al-Moualem, the foreign minister in Damascus, control of the sea's shoreline is a bone of contention.

At the kibbutz of Ein Gev, beside the sea, from where ferries run to Tiberias, Leon Segal, a tourists guide, sees Syria's hand is behind part of the problem. "Our cousins – I say that because the Bible says we are cousins – have been drilling in areas they should not, and this is diverting the water. This is the politics of the Middle East."

Mr. Segal did acknowledge that the Israeli government should be doing a lot more to alleviate the situation. "They should be setting up many desalination plants to get water from other sources. They're using Israeli expertise in these matters all over the world but this is the one country which isn't using it enough. I don't think it would be possible to deprive the farmers of their water, so what is needed is alternative sources, it's that simple."

The Galilee region had been verdant through the ages with a ribbon of flourishing towns and villages beside the lake. The historian Flavius Josephus was so taken with the area that he wrote, in the 1st century: "One may call this place the ambition of nature." He reported 230 fishing boats working each day.

Ari Binyamin, a fisherman, said he wished he was living in that time: "We used to say, even a few years ago, that one place where you couldn't go wrong fishing was Kinneret [the Hebrew name for the Sea of Galilee] but now it is getting very, very hard because the stocks are so low. Many fishermen fear for their livelihood and so do I. But it seems no one really cares about us."

"The country has found itself, through circumstances, as the keeper of some of the most precious things in the world, made by man and by nature. It has a responsibility to the rest of mankind to look after these things. They are failing to do this here, at the Sea of Galilee."

[SCMP, 30/08/2008]

WORLD

Coastal 'dead zones' spread worldwide

"Dead zones" in coastal waters – regions of ocean floor so deprived of oxygen that most marine life cannot survive – are spreading worldwide at an alarming pace, scientists say.

Driving the trend is contamination by nitrogen and phosphorus from chemical agricultural fertilisers that leach into coastal waters, according to a study published in the journal *Science*.

Nitrogen compounds from burning fossil fuels, particularly from power plants and cars, also settle back into the ground and eventually wash into coastal waters, the study says.

This decade alone, the number of coastal dead zones has risen by about a third to 405 worldwide, with clusters on the coasts of the United States and Europe. Combined, they take up an area of at

least 250,000 sq km.

The biggest one, measuring about 80,000 sq km, is in the Baltic Sea, the researchers say. This is followed in size by one in the Gulf of Mexico, starting at the mouth of the Mississippi River, and one at the mouth of the Yangtze River in the East China Sea.

"It's not sort of a local or regional problem, which is how it was thought of in the past," Robert Diaz of the College of William and Mary's Virginia Institute of Marine Science said. "It is actually a global problem."

The number of dead zones started to more or less double every 10 years from the 1960s, the researchers said. There were 301 such dead zones at the end of the 1990s, 132 at the end of the 1980s, 63 at the end of the 1970s and 39 at the end of the 1960s, Professor Diaz said.

"Dead zones" must be considered an important source of stress on marine ecosystems, ranking alongside overfishing, habitat loss from human development, and harmful algal blooms as global environmental problems.

Dead zones are formed when excess nutrients – mostly nitrogen and phosphorus – enter coastal waters and help fertilise blooms of algae. When these tiny plants die and sink to the sea bottom, they provide a food source for bacteria, which consume dissolved oxygen from surrounding waters. As a result, there are large areas of sea floor with insufficient oxygen to support most marine life.

Meanwhile, a separate study has warned that climate change and the subsequent acidification of the oceans will significantly reduce the successful fertilisation of certain marine species by the year 2100.

The report by Australian and Swedish scientists published in *Current Biology* said the effect of climate change might eventually wipe out colonies of sea urchins, lobsters, mussels and oysters.

The surface of the ocean absorbs up to 30 per cent of the world's yearly emissions of carbon dioxide. Absorbed carbon dioxide forms a weak acid that is gradually increasing the acidity of the oceans.

Lead scientist, Jane Williamson of Australia's Macquarie University, said such acidity levels were already occurring in patches of ocean off the west coast of the US. "If you look at projected rates [of acidity] for the year 2100, we are finding a likely 25 per cent reduction in fertilisation."

[SCMP, 16/08/2008]

EUROPE

Where have all the birds?

Ornithologists have discovered during the past few months that the European world of birds is shrinking. This is particularly evident in Eastern Germany and Eastern Europe where some species of birds, and their numbers, are decreasing dramatically due to the proliferation of chemical farming practices.

A method to avoid further bird deaths is to rapidly expand organic farming practices, something the European Union has been planning, but has yet to act on.

Meadowlarks, field sparrows, gold finches and other once-plentiful varieties of birds in Germany's farming areas have now become a rarity. South-west Germany has seen the numbers of meadowlarks decline to the point where they are now scarce. Kiewits, meadow pipers and other meadow birds also are close to extinction, as are many shore birds.

A different farming policy, a landscape without pesticides and chemical poisons, could save the once-plentiful flora and fauna in farming areas from extinction.

During the UN Convention on Biological Diversity in Bonn in May this year, the German Chancellor promised millions in funding to protect global forests. This, however, will not protect birds in the fields, meadows and pastures. Money alone cannot guarantee the survival of these species in Europe.

The rise in cultivation of chemically-enhanced crops for bio-fuel production is taking up unused sections of land that had provided a paradise for birds, insects and plants. Protecting fallow lands, nature preserves and organic farming acreages is necessary to preserve Europe's manifold variety of species.

Fortunately, the European Union already has 26,000 nature preserves, amounting to 20 per cent of the member states' land

area. The reserves are crucial in order to preserve a variety of species on which the existence of many living beings is based.

Genetic engineering, some ornithologists say, will also spell the demise of many bird species, as will climate change and the resulting increase in desertification, the loss of rainforests and overgrazing practices in the Sudan, Sahel and elsewhere.

[*The Epoch Times*, 18-24/09/2008]

This Quarterly Report does not constitute legal advice given on any particular matter. Whilst all effort has been made to ensure completeness and accuracy at the time of publication, no responsibility is accepted for errors and omissions. Further information and enquiries in respect of this quarterly should be directed to Fred Kan & Co.

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Convictions under environmental legislation: July to October 2008

[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:

July 2008

Forty-four convictions were recorded in July for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Twenty-two of the convictions were under the Waste Disposal Ordinance, 16 under the Air Pollution Control Ordinance, 3 under the Noise Control Ordinance and 3 under the Water Pollution Control Ordinance.

The heaviest fine in July was \$25,000, assessed against two companies which imported controlled waste without a permit, and an owners' corporation which discharged waste/polluting matter into the water control zone.

August 2008

Thirty-one convictions were recorded in August for breaches of anti-pollution legislation enforced by the Environmental Protection Department (EPD).

Fourteen of the convictions were under the Waste Disposal Ordinance, 10 under the Air Pollution Control Ordinance, 3 under the Noise Control Ordinance, 3 under the Water Pollution Control Ordinance, and 1 under the Ozone Layer Protection Ordinance.

The heaviest fine for waste import offences under the Waste Disposal Ordinance was handed down in August. A company was convicted after trial and fined \$100,000 for importing waste lead-acid batteries from Jamaica in December 2007 without a waste import permit. About 21,900 kg of waste lead-acid batteries were found by EPD officers in the course of a container examination. The hazardous waste was returned to Jamaica in the same month following the requirement of the International Basel Convention.

"The heavy fine by the court imparts an unequivocal message that smuggling of hazardous waste into Hong Kong is a serious offence. The HKSAR Government is committed to enforcing stringent waste import and export control in order to protect the environment," an EPD spokesman said.

September 2008

Thirty-five convictions were recorded in September for breaches of anti-pollution legislation enforced by the Environmental Protection Department (EPD).

Eighteen of the convictions were under the Waste Disposal Ordinance, 13 under the Air Pollution Control Ordinance, 1 under the Noise Control Ordinance, and 3 under the Water Pollution Control Ordinance.

The court imposed one of the heaviest penalties under the Waste Disposal Ordinance (WDO) in a waste export case in September. On June 4, 2008, a Hong Kong vessel loaded with a large quantity of waste computer monitors and heading towards the Mainland was intercepted by the Marine Police near the eastern marine border. Four mainlanders involving in the smuggling act were subsequently prosecuted for attempting to export controlled waste and/or failing to engage the service of a licensed collector for chemical waste under the WDO. While the smuggling act also contravened the Import and Export Ordinance (IEO), they were also charged for attempting to export unmanifested cargo. All four defendants were convicted after trial and sentenced to 2 to 3 months imprisonment for the two WDO offences and 8 to 9 months imprisonment for the offence under the IEO, with terms running concurrently.

"The court has continued to hand down heavy penalties in waste import and export cases recently; this represents a stark message that smuggling of controlled waste is a serious offence which needs to be punished significantly for deterrence effect. By all means, the HKSAR Government is committed to stringently enforcing border control against smuggling of controlled waste in order to protect the environment" an EPD spokesman said.

October 2008

Thirty-nine convictions were recorded in October for breaches of anti-pollution legislation enforced by the Environmental Protection Department (EPD).

Eighteen of the convictions were under the Waste Disposal Ordinance, 9 under the Air Pollution Control Ordinance, 6 under the Noise Control Ordinance, and 6 under the Water Pollution Control Ordinance.

The heaviest fine in October was \$30,000, assessed against a company that imported controlled waste without a permit.

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