

**URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY**  
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*The 2019/2020 Fred Kan & Co. Prize (for meritorious dissertation in the M. Sc. (Environmental Management) course, University of Hong Kong) was awarded to Ms. Lau Ka Hing for her dissertation: “Towards The Sustainability Of Nature Backyard: An Investigation On Cultural Services For Visitors”. Key features of the dissertation are reviewed in this edition.*

*The Editors*

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**CULTURAL SERVICES AND HONG KONG'S "NATURE BACKYARDS"**

*Introduction*

The somewhat unusual term “nature backyards” (NBYS) describes public land in Hong Kong which “provides a suitable environmental space for visitors to gain many social, cultural and health benefits through various activities”. These benefits are the “cultural services” the community derives from accessing and using NBYS. The author notes: “Many people look for alternative recreational area, such as nature backyard, which is hillside space that may not be intended for recreation but [is] used by nearby residents regularly.”

There are three kinds of NBYS:

- official sites
- semi-official sites
- unofficial sites.

The aim and objectives of Ms. Lau’s study and dissertation were “... to examine the importance of nature backyard to people and explore how society can better utilise and manage nature backyard with the goal of sustainability”. The author sought to “investigate the social, cultural and health benefits of nature backyard in the context of the cultural ecosystem services framework”.

*Cultural ecosystem services*

The author does not explain, or explain clearly enough, the meaning of this rather unfortunate term: “cultural ecosystem services” (CES). She says the “social, cultural and health benefits provided to city inhabitants” by NBYS (that is, by the inhabitants’ use of NBYS) constitute the CES, “which is a component of the ecosystem services that directly influence human well-being”.

The “ecosystem services approach seeks to understand the contribution of the ecosystem to human well-being, thereby helping to decide how nature is managed or used”, says the author. This observation (which reflects the underlying thrust of the entire dissertation) illustrates the anthropocentric approach taken in the study.

The term: “cultural ecosystem services” is generally taken to refer to: non-material benefits people obtain from natural ecosystems. These include: aesthetic inspiration; cultural identity;

sense of home; and spiritual experience related to the environment. So the “ecosystem” referred to in CES (and throughout the dissertation) is the local natural ecosystem(s). That is, the study concerned the use and value of NBYs in giving urban communities the opportunity to access and appreciate the natural environment. However, there is no mention of the equally important role of NBYs in helping to conserve – as far as that is realistic – the subject ecosystems and environment for their own sake.

### *Sustainability*

The author views “sustainability” in the context of the United Nations’ *Sustainable Development Goals* (2015). These 17 goals address a wide spectrum of objectives, mostly regarding human needs. They do not promote a “sustainable environment” for the sake of the environment itself. So the often over-used and misused “sustainable” in the dissertation has to be understood in that limited way.

The author says: “Sustainability is the study of how human use resources to sustain a modern way of life” which is, with respect, a complete misunderstanding of the true purpose of aiming for “sustainability”: namely, to live without significantly damaging or depleting the natural environment. That is, it is environmental health which has to be sustained, not our “modern way of life”.

### *Key role of NBYs*

The average population density of Hong Kong is 32,100 persons per square kilometre. Outdoor green space is at a premium, particularly in close proximity to residential centres. The per capita open space in Hong Kong’s is 2.7m<sup>2</sup>, which is significantly less than other Asian cities; e.g. Tokyo (7.8m<sup>2</sup>); Seoul (6.1m<sup>2</sup>); Shanghai (7.6m<sup>2</sup>); and Singapore (7.4m<sup>2</sup>).

Country parks (comprising 40% of Hong Kong’s land area) provide extensive recreational and green space, but they are generally not conveniently accessible, especially for the elderly and people with disabilities. NBYs are distinguished from country parks on the basis they are mostly located within, or close to, urban centres and so are comparatively more accessible to communities.

### *Nature backyards*

The author defences a NBY as “a hillside area with trees and vegetation near a residential area” and “located between rural and urban areas that regularly serve recreational purpose for the nearby residents”.

The dissertation includes helpful descriptions and photographs of well-known NBYs, such as: Tsing Yi Nature Trail, (Tsing Yi); Bowen Fitness Trail (Mid-levels); Mt. Davis (Kennedy Town); Garden Hill (Sham Shui Po/Shek Kip Mei); Lam Hang Shan (Lau Fau Shan); and Mt. Johnston (Ap Lei Chau).

Currently, most NBYs are not under direct government management. This has led to deterioration of facilities and occasional illegal occupation.

### *Survey of usage of NBYs*

The author conducted an on-line and on-site survey by written questionnaire, as well as personal interviews. The questionnaire covered: frequency of visiting NBYs; qualities associated with NBYs; activities engaged in while visiting NBYs; and the perceived benefits provided by NBYs. The questionnaire also referenced personal background and supplementary information, plus respondents’ opinions of the state of management of NBYs.

The author’s analysis of on-site surveys, for example, is as follows:

“Overall, 70% of the respondents lived in close proximity to their respective nature backyard (Table 10). This indicated that the three study sites of nature backyards mainly serve local residents. Of the three study sites, Lam Hang Shan was the most remote location and therefore most visitors to Lam Hang Shan lived nearby (81%). In contrast, Garden Hill is a popular site for photography and sightseeing and is located at the city core, so it attracted more visitors from other districts (40%). The results showed that the more remote sites likely serve mainly residents located in close proximity.

Table 10 showing the percentage of on-site visitors living near their respective nature backyard

<b>Nature backyard</b>	<b>District</b>	<b>Living in the district</b>	<b>Living in other districts</b>
Tsing Yi Nature Trail	Kwai Tsing	71 (68.27%)	33 (31.73%)
Garden Hill	Sham Shui Po	62 (59.62%)	42 (40.38%)
Lam Hang Shan	Yuen Long	84 (80.77%)	20 (19.23%)
Overall		217 (69.55%)	95 (30.45%)”

### *The author summarised “visit habits”:*

“Visitors were then asked a number of questions regarding their nature backyard visits. These results were then be compared to the results of a recent country park usage survey to reveal the differences in visit habits between nature backyard and the country park (HKUMed 2019). Figures 43-46 show the information related to visits to nature backyards: frequency of visit, method of travel, travel time, and length of stay. Most nature backyard visitors tend to visit frequently: 18% visit weekly, 11% fortnightly, 13% monthly, and 20% quarterly. In contrast, the HKUMed (2019) study revealed that nearly half of the respondents visited country parks 1-12 times over the period of a year. This implies that most respondents visit country parks less frequently and tend to visit on a monthly or yearly basis. The more frequent visits to nature backyards could be explained by the easy accessibility. Most visitors (65%) walk and the most common travel time from their home to the nature backyard

is only 15-30 minutes (66%). This is much shorter than the average travel time to country parks, which is 59.3 minutes. Visitors prefer short trips to the nature backyard as most of them only stay for 1-2 hours (23%) and 2-3 hours (24%). Visitors to country parks generally stay much longer, 5.34 hours on average. This could be because some country parks have long trails and camping venues that enable some visitors to go on long hikes or even stay overnight.”

A combination of the on-line and on-site surveys was set out in a table relating to “the visiting experience of nature backyard”:

Options of visiting experience	On-site survey	Online survey	Total
Option 1: Visited in the past 12 months	312	97	409
Option 2: Not visited in the past 12 months/Never been visited	0	26	26
Option 3: Not sure if there is nature backyard near home	0	25	25
Option 4: No nature backyard near home	0	10	10
Total:	312	158	470”

### Conclusions from survey results

Eight management options for NBYs were presented to respondents, ranging from status quo to land-use conversion. Conclusions drawn from responses to the survey include the following:

*“Visitors highly preferred the status quo (82%) and conservation (82%) options. The majority of nature backyard visitors looked for less disturbance of nature, harmony between humans and wildlife, and disagreed with intense development.*

*In general, visitors held positive opinions regarding the provision of passive facilities (63%). Many requested minor facilities such as resting shelters, directional signs, and better safety measures. In addition, visitors agreed with the importance of education (55%), especially in conveying the message of taking litter away with them. Despite the general support of provision for education-related information, the remainder preferred to keep the place secret and disagreed with any means of promotion that would increase the visitor load and adversely impact the environment.*

*Visitors held diverse opinions on improving accessibility and enhancing routine management. About half of the visitors supported the construction of pedestrian paths mainly for safety reasons (49%), while others were concerned about the over-artificialisation of the footpath explained in Chapter 4. For the management issues, visitors requested more proper management (48%) for the problems of illegal planting, security, and hill fire. Others, however, felt the management resources should be put into the more ecologically important nature reserves rather than into nature backyard.”*

The author commented on the value of NBYs to those visiting them as follows:

- *“Visitors’ aesthetic value is attached to the scenery in nature backyard.*
- *Educational value and nature awareness are highly related to the quality of wildlife in nature backyard. Visitors who like to watch wildlife, join field study and take photos are most interested in the educational value and nature awareness.*
- *Students and visitors with higher educational levels acknowledged the greater opportunities for education and self-learning in nature backyard.*
- *Visitors with higher level of interest and participation in nature-related activities have significantly higher nature awareness in nature backyard.*
- *Nature backyard could be the place to strengthen social bonding in the neighbourhood. The elderly have strong need to facilitate social relations in nature backyard.*
- *In general, visitors seek harmony between humans and wildlife and oppose the intensive change and development in nature backyard. Despite the strong opinions to maintain status quo, some visitors expect the improvement of accessibility, facilities, and regulation for the third type of nature backyard.”*

### Recommendations

The dissertation concludes with the author’s recommendation for our treatment of NBYs in the future. These are, briefly:

- *Enriching visitors’ experience*  
Establishing minor facilities could facilitate interaction between people and NBYs “to enrich the cultural services”: e.g. planting gardens or hanging out on retaining walls
- *Connecting community*  
Develop social networks to encourage higher use of NBYs: e.g. Chinese herbal medicine guided tours or nature photography workshops
- *Flexible approach*  
Adopt a flexible management approach to these informal natural areas.
- *Improve environmental management*  
Management measures should be aimed at improving conservation of the environment of the NBYs, such as planting trees/vegetations to increase habitat for indigenous wildlife.

- *Review management*  
Regularly review the efficiency of management plans
- *Specialised management*  
Appoint government staff who have relevant expertise (e.g. in managing conservation areas).
- *Review planning guidelines*
- NBYs should be considered as open or green space, but they also have unique recreational functions which should be recognised in applicable planning zones.

We congratulate Ms. Lau on her award and her thorough and well presented dissertation.

## TOWN PLANNING

### Draft Chai Wan Outline Zoning Plan approved

The Chief Executive in Council has approved the draft Chai Wan Outline Zoning Plan (OZP).

The planning scheme area, covering approximately 614 hectares, is located in the eastern part of Hong Kong Island and is generally bounded by Heng Fa Chuen, Tai Tam Country Park, and Shek O Country Park.

Chai Wan is predominately a residential area and also one of the major industrial areas on Hong Kong Island. It also has government, institutions, community facilities and public open space.

The approved OZP has mainly rezoned a site at the junction of Sun Yip Street and Siu Sai Wan Road from “Government, Institution or Community” (“G/IC”) to “G/IC(4)”, and rezoned a site at Cheung Man Road from “Green Belt” and an area shown as “Road” to “Residential (Group A)”.

Other zonings shown on the OZP are: “Comprehensive Development Area”; “Industrial”; “Open Space”; “Other Specified Uses” (“OU”) annotated “Business”; “OU” annotated “Cargo Handling Area”; “OU” annotated “Cemetery”; “OU” annotated “Columbarium”; “OU” annotated “Mass Transit Railway Comprehensive Development Area”; “OU” annotated “Refuse Transfer Station”; “OU” annotated “Oil Depot”; “OU” annotated “Petrol Filling Station”; “OU” annotated “Public Filling Barging Point”; “Coastal Protection Area”; and “Country Park”.

[Town Planning Board Press Release, 14/05/2021]

### Draft Tung Chung Town Centre Area Outline Zoning Plan approved

The Chief Executive in Council has approved the draft Tung Chung Town Centre Area Outline Zoning Plan (OZP).

The planning scheme area, covering a total area of approximately 341.66 hectares, is located on Lantau Island to the southeast of the Hong Kong International Airport at Chek Lap Kok. The area is the town centre of Tung Chung New Town. Tung Chung Town Centre Area is predominately residential as well as government, institutions and community facilities and public open space.

The approved OZP rezoned the Tung Chung Traction Substation cum Portal site and its adjoining land to “Residential (Group A) 8” to facilitate residential development.

Other zonings shown on the OZP are: “Commercial”; “Residential (Group A)”; “Residential (Group B)”; “Village Type Development”; “G/IC”; “Open Space”; “OU” annotated “Breakwater”; “OU” annotated “Petrol Filling Station”; “OU” annotated “Pier”; “OU” annotated “Railway Station”; “OU” annotated “Railway Ventilation and Other Associated Plants”; “OU” annotated “Sewage Pumping Station”; “OU” annotated “Stormwater Attenuation and Treatment Ponds”; “OU” annotated “Cable Car Terminal and related Commercial Development”; “Green Belt”; and “Conservation Area”.

[Town Planning Board Press Release, 18/06/2021]

## LEGISLATION DIGEST

### Air Pollution Control (Amendment Bill) 2021

On 16 March 2021, the Executive Council advised, and the Chief Executive ordered, that the *Air Pollution Control (Amendment) Bill 2021* (the “Amendment Bill”) be introduced into the Legislative Council.

According to Section 7A(2) of the Air Pollution Control Ordinance (Cap.311) (the “APCO”), the Secretary for the Environment (“SEN”) may review the *Air Quality Objectives* (“AQOs”) to ensure they are adequate for preserving the air quality of the subject air control zone (s).

The Amendment Bill has the following effects: -

- (1) to amend the 24-hour AQOs for SO<sub>2</sub>, 1-year and 24-hour AQOs for FSP/PM<sub>2.5</sub> prescribed in Schedule to the APCO, which will take effect on a day to be appointed by the Secretary for the Environment; and

- (2) to provide for transitional provisions in the Amendment Bill for the continued application of the pre-amended AQOs [i.e. the AQOs prescribed in Schedule 5 to the APCO as in force immediately before the commencement date for applications for variations of the conditions of Environmental Permits submitted within 36 months, beginning on the commencement date].

The Bill was published in the Gazette on 19 March 2021 and the First Reading and commencement of Second Reading debate was held on 24 March 2021. The resumption of Second Reading debate, Committee stage and Third Reading will be further notified in the future.

[Legislative Council Brief, 03/2021]

### **Introduction of Mercury Control Bill to control the use of mercury in Hong Kong**

On 13 April 2021, the Executive Council advised, and the Chief Executive ordered, that the *Mercury Control Bill* (the “Bill”) be introduced into the Legislative Council.

Mercury is a highly toxic natural substance. Since mercury stays in the environment in various forms and can be transported in the atmosphere to places at a distance, the United Nations Environment Programme developed the Minamata Convention (the “Convention”) to control anthropogenic releases of mercury. Some obligations under the Convention also apply in Hong Kong. In order to implement the Convention to its full effect, the introduction of the Bill aims to fulfill the following objectives: -

- (1) to restrict import and export of mercury mixtures and mercury alloys;
- (2) to phase out or restrict certain manufacturing processes in which mercury or mercury compounds are used;
- (3) to prohibit the manufacture, import and export of mercury-added products listed by the Convention and prevent the incorporation into assembled products of the said mercury-added products; and
- (4) to store mercury, mercury mixtures, mercury alloys and certain mercury compounds in an environmentally sound manner.

The Bill was published in the Gazette on 23 April 2021 and the First Reading and commencement of Second Reading debate was held on 5 May 2021. The resumption of Second Reading debate, Committee stage and Third Reading will be further notified in the future.

[Legislative Council Brief, 04/2021]

## **WEST KOWLOON CULTURAL DISTRICT**

### **Palace Museum presents the online Palace Museum Culture Lecture Series**

From April 2021 to May 2022, the Hong Kong Palace Museum at the West Kowloon Cultural District presents the online Palace Museum Culture Lecture Series, which involve leading experts from the Palace Museums in Beijing, Taipei and Hong Kong.

The lecture series will be presented in three instalments. The first instalment will be held online on 10 April, 8 May, and 12 June 2021. The second and third instalments of the series will be held in late 2021 and early 2022 respectively.

Online lecture series include: inviting the audience to travel in time and space to explore the history and culture of the Forbidden City; learn about the birth of calligraphy and painting masterpieces through a discussion of the painting’s creation, contents; and dissemination, as well as educational activities, such as exhibitions, research, and publications, as well as exploring the role of women in the formation of masterpieces of the history of Chinese painting and calligraphy.

[West Kowloon Newsroom, 08/04/2020]

### **West Kowloon Cultural District Authority names new CEO**

The West Kowloon Cultural District Authority announced today the appointment of Mrs. Betty Fung Ching Suk-ye as Chief Executive Officer, effective 15 October 2021, for a term of three years, after obtaining prior approval of the Chief Executive of the HKSAR, as required under the *West Kowloon Cultural District Authority Ordinance*.

Since 2009, Mrs. Fung has been involved in the development and promotion of arts and culture in her capacity as the Director of Leisure and Cultural Services. She has contributed significantly to the West Kowloon Cultural District (West Kowloon or the District) Project since 2014 as the Permanent Secretary for Home Affairs. Her contributions include supporting the launch of the Hong Kong Palace Museum project.

Mrs. Fung’s in-depth understanding of the WCD’s development was highly praised by the Honourable Henry Tang Ying-yen, Chairman of the Board of WKCD. The Board believes that Mrs Fung’s exceptional leadership and industry expertise in the fields of local arts and culture are invaluable to the development of the District to become the world’s leading arts and cultural hub.

Mrs. Fung said she was deeply honoured to have been given the opportunity to nurture and build an iconic cultural district in Hong Kong, with the aim of bringing it to the global stage, and especially to lead the WCD in the impending opening of two world-class museums, M+ and the Hong Kong Palace Museum.

[West Kowloon Newsroom, 18/06/2020]



## HONG KONG BRIEFING

### More jobs to be offered under the Green Employment Scheme

On 2nd June 2021, the Environment Bureau announced that 800 jobs will be created or subsidised under the Green Employment Scheme, including 500 time-limited jobs and 300 subsidised jobs under the government's subsidy programme for graduates.

In 2021, the government has set aside \$6.6 billion to create an additional 30,000 time-limited jobs. The full-time and part-time positions will last for about three months to a year and are suitable for candidates with different skills and qualifications. This Graduates Subsidy Programme will be open for applications from 2nd July 2021.

The programme covers areas related to environmental protection, ecological conservation, green energy and energy conservation, climate change as well as sustainable development to provide job opportunities for graduates interested in environment-related fields.

The subsidy programme will also subsidise private companies and suitable organisations to employ fresh graduates working in areas related to environmental protection. For eligible companies and organization who would like to be part of this subsidy programme should submit their application by September 30.

[*News.gov.hk*, 02/06/2021]

### New emission caps for power plants approved

The 9th Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences (the 9th TM) was approved by the Legislative Council on June 9. The objective of the 9th TM is to bring about a further reduction in green-house gas emissions from the power plants of The Hongkong Electric Company, Limited and CLP Power Hong Kong Limited.

The annual emissions allowances of sulphur dioxide, nitrogen oxides and respirable suspended particulates from 2026 and onwards were: 2,852 tonnes, 11,144 tonnes and 367 tonnes, respectively. By 9th TM, the emission level allowances of sulphur dioxide, nitrogen oxides and respirable suspended particulates has reduced by 9%, 10% and 6% respectively. The aim is to continuous to improve air quality in Hong Kong and the Pearl River Delta region.

In accordance with the Air Pollution Control Ordinance (Cap. 311), the emission allowances for power plants stipulated in the 9th TM will come into effect on 1st January 2026. The Environmental Protection Department will conduct a further review by 2023 to ensure the emission allowances are in compliance and on track.

[*Press Release of the Government of the Hong Kong Special Administrative Region*, 10/06/2021]

## ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

### Summary of minutes of the 245th meeting of the ACE held on 12 April 2021 at 2:30pm

One of the key topics in this meeting concerned the Hong Kong roadmap for the popularisation of electric vehicles (“EVs”).

#### *Targets for the adoption of EVs*

A member enquired about the justification for banning new registration of fuel-propelled private cars in 2035 or earlier. In reply, the government's spokesperson said the government is of the view that the objective is warranted as most leading economies have tentatively set the target for allowing only zero emission vehicles at between 2035 to 2040. Hong Kong does not manufacture vehicles, so following the global trend by aiming for a complete ban on new fossil fuel vehicles by 2035 would be prudent.

#### *Statistics for EVs*

A member enquired about the ratio of adoption of EVs out of the total new private cars in Hong Kong. The government replied that Norway has the highest EV adoption rate for new private cars in the world, with approximately 50% of new private cars being EVs there. Hong Kong, on the other hand, fares well in comparison with other economies. In particular, there has been a surge of adoption of EVs in Hong Kong in the past few years a recorded at 180 in 2010 and over 18,500 by the end of 2020.

Another member asked whether the government would consider providing statistics for the improvement of air quality and public health as a result of the increasing use of EVs. The government replied that they would consider gathering this information to publish in the next *Review of the Air Quality Objectives*.

#### *Handling of retired EVs batteries*

A member raised concern about how the government would handle retired EVs batteries and recycling the batteries. The government replied that the EVs batteries and recycling technologies have been evolving. Hence, whether and how batteries could be recycled or re-used largely depends on the state of relevant technology at that time. In the near future, the government will liaise with EVs suppliers and research institutions to explore viable options to be adopted in Hong Kong. To facilitate the development of the EVs battery technology, Green Tech Fund will also give priority to proposals that aim to facilitate second-life applications of EVs batteries.

## Carbon neutrality and climate change

A member expressed concern over the potential adverse impact on the environment brought by the increasing use of EVs. The government responded that there will be several plans in place, such as the Waste Blueprint for Hong Kong 2035, the Clean Air Plan for Hong Kong 2035 and the updated *Hong Kong's Climate Action Plan* for the government to monitor environmental issues under different perspectives.

## Vehicle scrapping

In light of increasing use of EVs, a member enquired whether the vehicle scrapping industry could cater for the potential increase in disposal of fuel-powered vehicles. The government responded that there have been no problems in this regard so far under the "One-for-One Replacement Scheme".

[*Hong Kong Roadmap on Popularisation of Electric Vehicles*, 03/2021; *Advisory Council on the Environment*, 12/04/2021]

# CLIMATE CHANGE

## NZ first to mandate climate disclosure

New Zealand has become the first country to introduce a law which requires the financial sector to disclose the effect of climate change on business and how they will manage the risks and opportunities. The move contrasts with the voluntary approach in Australia, although listed companies must comply with the continuous disclosure regimen.

The NZ legislation has been introduced to parliament and will receive its first reading this week. Commerce and Consumer Affairs Minister, David Clark, said it was important that every part of NZ's economy was helping to transition to a low-carbon future.

*"This legislation ensures that financial organisations disclose and ultimately take action against climate related risks and opportunities."* Dr Clark said. *"Becoming the first country in the world to introduce a law like this means we have an opportunity to show real leadership and pave the way for other countries to make climate related disclosures mandatory."*

In 2019 the Australian Securities and Investments Commission updated its guidance on climate change-related disclosure, finding in general that its existing, principles based approach was appropriate.

ASIC, however, highlighted that climate change was a systemic risk that could affect an entity's financial prospects and might need to be disclosed in a company's operating and financial review.

The regulator also clarified that the risk of directors being found liable for a misleading or deceptive forward-looking statement in an operating and financial review was minimal, provided that the statements were based on the best available evidence at the time, had a reasonable basis and there was ongoing compliance with the continuous disclosure obligations.

NZ Climate Change Minister, James Shaw, said the new law would bring climate risks into the heart of financial decision making. *"We simply cannot get to net zero carbon emissions by 2050 unless the financial sector knows what impact their investments are having on the climate,"* he said.

[*The Advertiser*, 15/04/2021]

## Europe's first climate change taxonomy legislation

To implement the Taxonomy Regulation (which took effect on 12 July 2020 in the European Union), the European Commission on 21 April 2021 published its first delegated act: *EU Taxonomy Climate Delegated Act* (the "Act"). The Act sets out technical screening criteria to define sustainable activities that contribute towards two (out of the six) environmental objectives under the *Taxonomy Regulation*: climate change adaptation and climate change mitigation. A second delegated act for the remaining four objectives will be published by December 2022.

In a nutshell, the EU Taxonomy regime sets out a classification system across the European Union according to which investors can assess whether certain economic activities are "sustainable". The aim is to redirect the flow of capital to companies engaged in sustainable activities so that the EU can meet its climate change goals: the European Green Deal (i.e. zero net emissions of greenhouse gases by 2050).

The Taxonomy Regulation prescribes four overarching conditions that an economic activity must meet to qualify as environmentally sustainable:

- making a substantial contribution to at least one environmental objective;
- doing no significant harm to any other environmental objective;
- complying with minimum social safeguards; and
- complying with the technical screening criteria.

The six environmental objectives established by the Taxonomy Regulation are as follows:

- climate change mitigation;
- climate change adaptation;
- sustainable use and protection of water and marine resources;
- transition to a circular economy;
- pollution prevention and control; and

- protection and restoration of biodiversity and ecosystems.

The technical screening criteria are contained in Annex I and Annex II of the Act, fleshing out in detail what it means for an economic activity to substantially contribute to a particular environmental objective. The technical screening criteria are based on scientific advice from the Technical Expert Group on sustainable finance. The Act is meant to be a living document to evolve in light of technological progress, and the criteria will be subject to regular review.

The publishing of the Act is only part of a wider package of other sustainable finance documents published also on 21 April 2021, such as a proposal for a Corporate Sustainability Reporting Directive, which aims to amend existing rules introduced by the Non-Financial Reporting Directive and create a set of rules that will – over time – bring about sustainability reporting on a par with financial reporting.

[*European Commission*, 21/04/2021]

### **Reducing methane emissions is cost-effective in slowing global warming**

Cutting methane emissions is one of the most cost-effective strategies to limit temperature rise to 1.5°C by the end of this century, according to a report produced by the UN and the Climate and Clean Air Coalition published on 6 May 2021 (the “Report”).

While human activity emits far less methane than carbon dioxide, methane is more powerful than carbon dioxide in warming the atmosphere. Methane has a half-life of roughly ten years, meaning that it degrades more quickly than carbon dioxide.

As a result, if new emissions can be reduced below the rate at which old emissions deplete, the concentration of methane in the atmosphere will fall, slowing global warming. The Intergovernmental Panel on Climate Change, has warned that methane emissions must fall by an average of 45% by 2030 in order to achieve the 1.5°C target.

According to the Report, methane emissions are mostly caused by 4 sources of human activities: livestock farming; rice cultivation; leakage from fossil fuel pipelines and rigs; and emissions from waste landfills.

The fossil fuel sector has the most potential for targeted mitigation by 2030. More than 80% of measures in the sector could be implemented at a low cost (less than US\$600 per tonne of methane) or negative cost (the measures pay for themselves quickly by saving money).

The harder task is to reduce emissions from the agricultural sector, since only dietary change (that is, people eating less meat) will encourage meaningful reduction of livestock emissions.

Governments around the world should implement both decarbonisation and methane mitigation strategies to combat climate change. According to the Report, the most significant potential in China is in the coal production and agricultural sectors.

[*United Nations Environmental Programme press release* 06/05/2021]

### **Oil giant ordered to reduce carbon emissions**

Milieudéfense (Friends of the Earth, Netherlands) and six other organisations plus 17,000 Dutch citizens brought an action against Royal Dutch Shell (a British-Dutch multinational with its headquarters in the Hague) to force the company to reduce its emissions of global warming gases. In a landmark victory for climate-change activists, the District Court of Hague ordered Shell to cut its net CO<sub>2</sub> emissions by 45% (compared to 2019 levels) by 2030. This judgment marks the first time that a corporation has been made legally obliged to align its policies with the Paris Agreement.

Shell is not only required to achieve the target in respect of emissions by Shell’s own operations (Scope 1 emissions), but is also required to use its best endeavours to reduce emissions produced by the operations of its suppliers (Scope 2 emissions) and its customers (Scope 3 emissions).

The basis for the direction for Shell to reduce its carbon emissions is the standard of care prescribed in the Dutch Civil Code, which is that conduct which is in conflict with what is generally accepted as reasonable conduct is unlawful. The court interprets the unwritten standard of care according to the “best available science on dangerous climate change and how to manage it”, and “the widespread international consensus that human rights offer protection against the impacts of dangerous climate change”. The court referred to the 2019 *Urgenda decision* (Urgenda is a climate activist group which sued the Netherlands government, arguing that the state must achieve a 25% reduction of CO<sub>2</sub> by 2020), which has established that Articles 2 and 8 of the European Convention on Human Rights offer protection against the effects of climate change.

The claimants filed their claim as a class action. A requirement for class action is that it must aim to protect similar interests. The court held that the interests of current and future generations of the world’s population cannot be bundled in a class action, since global population at various locations will suffer differently from global warming caused by CO<sub>2</sub> emissions. However, the court also ruled that the interests of current and future generations of Dutch residents and the inhabitants of the Wadden Sea area qualify for bundling in a class action.

It remains to be seen whether Shell will appeal this ruling to higher Dutch courts, and whether this decision will be overturned. Shell have said they will appeal. Regardless, this decision may encourage environmental groups elsewhere to bring lawsuits against major corporations to compel changes in corporate behaviour.

[*Lexology*, 27/05/2021]



## Counting the costs of climate change

Heat related hospital admissions will skyrocket, mosquito-borne disease will spread more easily, and more species will die out as a result of climate change, local experts warn.

A University of Adelaide study has looked at the cost burden of heat, using data on hospital admissions, the length of stay and related healthcare costs from SA Health.

*“There is already a substantial temperature-attributable impact on hospital admissions, length of stay and costs, which are estimated to increase due to climate change and an increasing age population,”* the authors concluded.

*“Unless effective climate and public health interventions are put into action, the costs of treating temperatures related admissions will be high.”* Healthcare costs due to heat are to rise significantly mid-century.

Public health authorities said heat contributed to dehydration, kidney disease, mental illness, cardiovascular disease and injuries. Mosquito-borne diseases, such as Ross River virus and Dengue fever, were also likely to become more common. The study of the severe heatwave of 2009, when Adelaide had six consecutive days above 40°C, showed higher death rates for adults aged 15 to 64. The number of heat-related hospital admissions was up to 14 times the average, ambulance call-outs rose by 16 per cent and workers compensation claims also increased.

Wildlife also suffer during extreme heat events, according to an expert from Flinders University. Extreme heat can push species to extinction. The effect of extinction cascades, as losing one species in a biological community can push dependant species toward extinction. For example, if a pollinating insect disappears, the flowering plants depending on it to reproduce will also soon go extinct, too.

Urban infrastructure – from roads and rail to electricity networks – is also vulnerable.

The Climate Council report, *Compound Costs: How climate change in damaging Australia’s economy*, presents a case for urgent action.

Low-lying properties near rivers and coastlines are among those at greatest risk, with flood risks increasing progressively and coastal inundation risks emerging as a major threat by 2050.

[*The Advertiser*, 12/06/2021]

## Activist backs UN alarm

STOCKHOLM: A draft UN report on the dangers posed by a warming planet will force the world to “*face the reality*” of climate change, Swedish activist Greta Thunberg said.

The Intergovernmental Panel on Climate Change report describes how species extinction spreading disease, fatal heatwaves, ecosystem collapse, rising seas and other devastating climate-change impacts are accelerating.

*“It confirms what we already knew; this situation is very dire and we need to act now”*, Ms. Thunberg said.

But she added she found it hopeful that “*many people are becoming more and more ready to tell it like it is*”.

She said the “*eye-opening*” report was preferable to false reassurances.

*“The worst thing is when people don’t want to talk about crisis...they try to smooth things over, make it sound more attractive.”*

[*The Advertiser*, 25/06/2021]

## REGIONAL & INTERNATIONAL

### AUSTRALIA

#### Murray River flows drop

An international expert in climate science, Professor Howden of Australian National University and vice-chair of the United Nations Intergovernmental Panel on Climate Change, has warned that river flows in Australia’s largest river system, the Murray Darling Basin, have dropped by 39% over the last 20 years, mainly due to climate change.

*“We are already at or below the worst case scenario predicted for 2050”*, said Professor Howden in a recent interview. He added: *“The system is showing stress when we’ve lost 39% of those river flows. And unfortunately, the projections are for further declines in the future.”*

The drastic drop in Murray/Darling flows means that plans for new dams to be built in the Basin should be shelved because there simply will not be enough water to fill them, according to Professor Howden.

[*The Age*, 09/06/2021]

## UNITED KINGDOM

### UK to ban destructive fishing methods

The UK government has announced plans to increase protection for wildlife habitats by banning fishing and other damaging activities from selected marine sites off the coast of England.

According to data published by the Guardian, more than 97% of British offshore marine protected areas (“MPAs”), have long been criticised by conservationists as ineffective “paper parks”.

As part of the pilot scheme, The Department for Environment, Food and Rural Affairs announced that at least five highly protected marine areas (“HPMAs”) will receive protection from fishing and other harmful activities. The Wildlife Trusts welcomed this initiative and described it as a “historic” move.

Other groups and conservationists stated that the proposal, while being a step in the right direction, lacked formal commitment and that the government was not acting fast enough to meet its own targets to protect 30% of oceans by 2030, or to mitigate the climate crisis.

The pilot scheme of HPMAs was the government’s response to the independent *Benyon Review*- which recommended that the introduction of HPMAs was essential for marine protection and recovery.

HPMAs are defined as “areas of the sea that allow the protection and recovery of marine ecosystems by prohibiting extractive, destructive and depositional uses and allowing only non-damaging levels of other activities to the extent permitted by international law”. The selected sites would be chosen by Natural England and the Joint Nature Conservation Committee with input from stakeholders during a formal consultation to be held next year.

Charles Clover from the Blue Marine Foundation welcomed the pilot scheme, saying that it would show the full potential for the recovery of our seas, provided the selected sites were large enough. Clover commented:-

*“They will, however, be proposed next year, two years after Lord Benyon’s review, so this is not actually very quick. There is also a danger that the creation of a few highly protected areas will distract from the enforcement of the existing network, which is lamentable, with the majority of protected areas – including all of those offshore – allowing damaging fishing methods such as trawling and dredging.”*

Jean-Luc Solandt, a specialist in MPAs at the Marine Conservation Society, said:-

*“There is little commitment in it. In order to be ecologically meaningful, they should be offshore, they should be comprehensive. At scale, you would get carbon storage, and you would secure animals in the seabed and in time, would spawn more fish.”*

Solandt called for the government to “just get on with the measures and put money into enforcement”.

On World Oceans Day, Greenpeace UK launched Operation Ocean Witness, a six-month operation patrolling Britain’s coasts. The Greenpeace vessel, the “Sea Beaver”, will “patrol the UK’s protected areas off the south coast and do what the government has so far failed to do – protect the UK’s marine protected areas from destructive fishing, a key Brexit promise which has been broken.”

Conservation group Oceana revealed that bottom trawlers spent 68,000 hours fishing in UK protected areas that were established in 2020 specifically to protect the seabed.

Professor Callum Roberts, a marine conservationist at the University of Exeter and a panel member for the Benyon Review, commented:-

*“We need to move a lot faster. The UK is leading on their charge to protect 30% of the oceans by 2030, but it is of little value unless the protection of these sites is sufficiently high. The question is whether it will slow progress rather than accelerate it. We said in the Benyon report that if the government wants to achieve its ambition of mitigating climate change and protecting biodiversity, it is going to have to go for high protection of large areas.”*

Chris Thorne, oceans campaigner at Greenpeace UK, said the scheme was “a small step in the right direction” but would need to be improved. In particular, he noted that:-

*“Highly protected marine areas will be vital to transforming our existing broken network of marine protected areas, where all forms of destructive fishing are still allowed to take place. They can restore habitats, revive fish populations, breathe life into struggling coastal communities and help us tackle the climate emergency.”*

[*The Guardian*, 09/06/2021]

## INTERNATIONAL

### Carbon dioxide levels hit a new high

The annual measurement of global heat-trapping carbon dioxide in the air has reached another milestone- the level is 50 percent higher than when the industrial age began. Scientists have reported that the current average rate of increase is faster than ever.

The National Oceanic and Atmospheric Administration said the average carbon dioxide level for May was 419.13 parts per million.

NOAA climate scientist Pieter Tans reported that:-

*“That’s 1.82 parts per million higher than May 2020 and 50 percent higher than the stable pre-industrial levels of 280 parts per million.”*

Every May, carbon dioxide levels peak just before plant life in the Northern Hemisphere blossoms. The vegetation sucks some of that carbon out of the atmosphere and into flowers, leaves, seeds and stems. However, emissions of carbon dioxide from burning coal, oil and natural gas for transportation and electricity far exceed the volume that plants can absorb, so greenhouse gas levels increase every year.

*“Reaching 50 percent higher carbon dioxide than preindustrial is really setting a new benchmark and not in a good way,”* said Cornell University climate scientist Natalie Mahowald. She added: *“If we want to avoid the worst consequences of climate change, we need to work much harder to cut carbon dioxide emissions and right away.”*

Climate change does more than increase temperatures. It makes extreme weather, such as storms, wildfires, floods and droughts, worse and more frequent and causes oceans to rise and become more acidic. There are also direct adverse health effects, including heat related deaths and respiratory illnesses from increased pollen levels. In 2015, the vast majority of the world’s nations signed the *Paris Agreement* to try to mitigate the climate crisis.

Scripps Institution of Oceanography geochemist Ralph Keeling stated that the one-year jump in carbon dioxide was not a record, mainly because of a La Nina weather pattern, when parts of the Pacific temporarily cool. Scripps, which calculates the numbers slightly differently method said the peak in May was 418.9.

Moreover, pandemic lockdowns slowed transportation, travel and other activity by about 7 percent. But that was too small to make a significant difference.

Carbon dioxide can stay in the air for 1,000 years or more, so year-to-year changes in emissions do not register much.

The 10-year average rate of increase also set a record, now up to 2.4 parts per million per year.

*“Carbon dioxide going up in a few decades like that is extremely unusual,” Tans said. He noted: “for example, when the Earth climbed out of the last ice age, carbon dioxide increased by about 80 parts per million and it took the Earth system, the natural system, 6,000 years. We have a much larger increase in the last few decades.”* In comparison, it has taken only 42 years, from 1979 to 2021, to increase carbon dioxide by that same amount.

Princeton University climate scientist Michael Oppenheimer commented that:-

*“The world is approaching the point where exceeding the Paris targets and entering a climate danger zone becomes almost inevitable.”*

[NBC, 08/06/2021]

### **G7 Summit’s disappointing climate pledges**

This year’s G7 summit made some progress, especially on heralding the demise of coal - the fuel that drove the industrial revolution and sent global warming emissions sky high.

Yet again, the G7 has failed to deliver on its promise to channel \$100 billion a year to poor nations coping with increasingly warmer climates. In 2009, developed countries promised to contribute \$100 billion a year in climate finance to poorer countries by 2020. But the target was not met, partly because of the Covid pandemic.

Whilst the G7 agreed to raise contributions to meet the target, Teresa Anderson, from Action Aid said:-

*“The G7’s reaffirmation of the previous \$100 billion a year target doesn’t come close to addressing the urgency and scale of the crisis.”*

Catherine Pettengell, director at Climate Action Network, commented:-

*“We had hoped that the leaders of the world’s richest nations would come away from this week having put their money their mouth is.”*

Climate change has been one of the key topics of discussion at the summit in Carbis Bay, Cornwall. The G7 - which is the UK, US, Canada, Japan, France, Germany and Italy –declared a collective goal to jointly mobilise \$100 billion a year from public and private sources, through to 2025.

The commitment to help nations move away from coal power, includes a plan to phase out coal burning unless it incorporates carbon capture technology.

The G7 will end the funding of new coal generation in developing countries and will offer to developing nations up to \$2.8 billion in the short term to stop using the fuel.

Coal is the world’s dirtiest major fuel and ending its use is a major step advocated by environmentalists. However, environmentalists also want a guarantee that rich countries will deliver on previous promises to help poorer nations cope with climate change.

In another announcement, the UK joined Germany and the US to declare it would spend hundreds of millions of pounds protecting the world’s vulnerable communities from climate change. Announcing the plan, UK Foreign Secretary Dominic Raab said:-

*“The funding will enable quicker responses to extreme weather and climate-linked disasters in countries bearing the brunt of climate change.”*

[BBC, 14/06/2021]

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**Convictions under environmental legislation:  
March to May 2021 (June 2021 data not  
available)**

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

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

***March 2021***

Forty-two convictions were recorded in March 2021 for breaches of legislation enforced by the Environmental Protection Department.

Two of the convictions were under the Air Pollution Control Ordinance, one was under the Environmental Impact Assessment Ordinance, one was under the Noise Control Ordinance, 23 were under the Public Cleansing and Prevention of Nuisances Regulation, one was under the Product Eco-responsibility Ordinance, 13 were under the Waste Disposal Ordinance and one was under the Water Pollution Control Ordinance.

A company was fined \$16,000, which was the heaviest fine in March, for importing controlled waste without a permit.

***April 2021***

Fifty-six convictions were recorded in April 2021 for breaches of legislation enforced by the Environmental Protection Department.

Five of the convictions were under the Air Pollution Control Ordinance, 7 were under the Noise Control Ordinance, 26 were under the Public Cleansing and Prevention of Nuisances Regulation, 2 were under the Product Eco-responsibility Ordinance, 14 were under the Waste Disposal Ordinance and 2 were under the Water Pollution Control Ordinance.

A company was fined \$20,000, which was the heaviest fine in April, for discharging waste/polluting matter into the water control zone.

***May 2021***

Seventy-three convictions were recorded in May 2021 for breaches of legislation enforced by the Environmental Protection Department.

Six of the convictions were under the Air Pollution Control Ordinance, 3 were under the Noise Control Ordinance, 43 were under the Public Cleansing and Prevention of Nuisances Regulation, 4 were under the Product Eco-responsibility Ordinance, 14 were under the Waste Disposal Ordinance and 3 were under the Water Pollution Control Ordinance.

A company was fined \$24,000, which was the heaviest fine in May, for failing to take measures to control air pollutant emission.

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