

OPENING REMARKS TO THE MORNING SESSION OF THE 2015 NELA CONFERENCE

1. A focus on anthropogenic climate change has returned to the international spotlight with the imminent commencement of the Paris Climate Conference on 30 November 2015.¹
2. The urgency for universal and sustained action by all actors (developed and developing, individual and corporate) against climate change has never been greater.
3. Let me give you some not-so-fun scientific facts:
 - (a) if the Antarctic icesheets continue to melt at the current rate over the next 60 years, global sea levels are projected to rise by 3m.² The consequences of a rise in sea levels of this magnitude will be diverse, undefined, but above all else, devastating;
 - (b) the third ever global coral bleaching event has occurred,³ increasing the vulnerability of coral reefs to mortality, together with an attendant loss in marine biodiversity and ecosystems; and
 - (c) continued human habitation of the Arabian Gulf is uncertain, given that the human body has a threshold limit to heat stress which, under a 'business-as-usual' scenario to greenhouse gas emissions, will be exceeded.⁴

¹ <http://www.cop21.gouv.fr/en>.

² J Feldmann and A Levermann, "Collapse of the West Antarctic Ice Sheet after local destabilization of the Amundsen Basin", (2 November 2015) *Proceedings of the National Academy of Sciences*.

³ <http://www.noaa.gov/stories/2015/100815-noaa-declares-third-ever-global-coral-bleaching-event.html>.

⁴ JS Pal and EAB Eltahir, "Future temperature in south-west Asia projected to exceed a threshold for human adaptability" (26 October 2015) *Nature Climate Change*.

4. A further consequence is that climate change threatens global food security,⁵ impinging in a very real way upon the national security of sovereign states.
5. Moreover, climate change refugees are already becoming a reality. This will continue and accelerate.
6. Underscoring these problems is our complex dependant relationship with fossil fuels and greenhouse gas emissions they produce. It is an issue embedded in the present ecological and economic paradigm governing us, namely, that we live in the environment yet we seemingly, and paradoxically, need continued growth, development, and consumption of finite resources for prosperity. Are these two concepts inseparable? Are they mutually exclusive? Can a desperately needed new paradigm emerge?
7. Despite these seemingly intractable problems and depressing facts, cautious optimism about a top-down / bottom-up approach to addressing climate change should, in my view, exist. For example:
 - (a) Australia's Foreign Minister, the Hon Julie Bishop MP, has indicated that the Turnbull Government will bid to co-chair the Green Climate Fund,⁶ an entity that had previously been derided by the former Prime Minister as "Bob Brown's Bank", thereby signalling a significant shift in policy in respect of climate change;
 - (b) China, the world's greatest emitter of carbon dioxide, has released joint press statements on climate change, together with the USA⁷

⁵ <http://www.un.org/apps/news/story.asp?NewsID=52454#.VjqK8PmulMD>.

⁶ <http://www.theguardian.com/australia-news/2015/oct/31/julie-bishop-wants-to-co-chair-green-climate-fund-derided-by-tony-abbott>.

⁷ <https://www.whitehouse.gov/the-press-office/2015/09/25/us-china-joint-presidential-statement-climate-change>.

(the second greatest emitter of carbon dioxide), as well as France⁸ (which, as part of the European Union, is the third greatest emitter of carbon dioxide), the central message of which is a commitment to leading the world in transitioning to green, low-carbon, climate-resilient economies;

(c) 81 American companies representing more than \$3 trillion in annual revenue have signed the American Business Act on Climate Pledge, voicing their support for a strong Paris outcome⁹; and

(d) on 24 June 2015, in *Urgenda Foundation v State of the Netherlands* C/09/456689 / HA ZA 13-1396, the Hague District Court (Chamber for Commercial Affairs) ruled that the Dutch State had a legal obligation to the plaintiff, Urgenda Foundation, and the individuals it represented, to place further limits on greenhouse gas emissions, particularly CO₂ emissions, above those mooted by the Dutch Government. The State was ordered to ensure that Dutch emissions by the year 2020 will be at least 25% lower than those in 1990.

8. Equally significant is that, of the 196 parties to the United Nations Framework Convention on Climate Change, 156 parties have already submitted their Intended Nationally Determined Contribution. This, along with the successful release of a comprehensive Draft Agreement at Bonn in October,¹⁰ hints at the possibility of global cooperation and commitment in Paris.

⁸ <http://diplomatie.gouv.fr/en/french-foreign-policy/climate/2015-paris-climate-conference-cop21/article/china-and-france-joint-presidential-statement-on-climate-change-beijing-02-11>

⁹ <https://www.whitehouse.gov/the-press-office/2015/10/19/fact-sheet-white-house-announces-commitments-american-business-act>.

¹⁰ <http://unfccc.int/files/bodies/application/pdf/ws1and2@2330.pdf>.

9. While it is unlikely that Paris will deliver an outcome of 2°C (more like 3°C), we can be hopeful that the Paris process, and momentum it generates, ultimately will. Because there can be no doubt that, as Lord Stern has recently remarked, decisions taken at the Paris summit will be critical to “whether we can live in our cities – breath in them, move in them – all of this will be defined by the decisions we take” in Paris and over the next two decades.
10. Today’s NELA conference, with its focus on planning, climate, and environmental law, highlights not only the multidisciplinary nature of any solution to anthropogenic climate change but, also, the central role that the law will play at all levels, from the international stage down to the local council level, to arrive at a sustainable future.
11. These are the challenges that face us, and these are the challenges that face our speakers in this morning’s session of the 2015 NELA conference.
12. I have no doubt they will be met head on, and I have no doubt that you will find this morning’s presentations engaging and insightful, and that, as a consequence, you will leave today with a much greater sense of “where to from here”.

13 November 2015

**Justice Rachel Pepper
Land and Environment Court of New South Wales**