



40/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong
香港灣仔告士打道5號稅務大樓40樓

ACE Paper 14/2008
For discussion

Report of the Nature Conservation Subcommittee

**“New Nature Conservation Policy –
Pilot Scheme for Public-private Partnership”**

Purpose

At the meeting held on 9 April 2008, the Nature Conservation Subcommittee (NCSC) considered five applications under the Pilot Scheme for Public-private Partnership (PPP) of the New Nature Conservation Policy (NNCP). This paper invites the Council's views on the NCSC's recommendations.

Background

2. The Government is committed to nature conservation. In order to identify practicable ways to better achieve the nature conservation objectives, and in particular, to enhance conservation of ecologically important sites which are in private ownership, the Government conducted a comprehensive review of the nature conservation policy and measures and introduced the NNCP in November 2004.

3. The NNCP aims at regulating, protecting and managing natural resources that are important for the conservation of biological diversity of Hong Kong in a sustainable manner, taking into account economic and social considerations for the benefit and enjoyment of the present and future generations of the community. Under the Policy, 12 priority sites have been identified for enhanced conservation under a scoring system drawn up by an Expert Group with membership comprising key academics with expertise in ecology and major green/interest groups. Two new measures were proposed

for the conservation of these ecologically important sites, they are the Pilot Scheme for Management Agreements (MA) and PPP.

4. Under the MA Scheme, non-governmental organizations (NGOs), including green groups, educational institutions and community organizations, may apply for funding from the Government for entering into MAs with the landowners. The NGOs can provide the landowners with financial incentives in exchange for management rights over their land or their cooperation in enhancing conservation of the sites concerned. In this respect, the Government has sought the agreement of the Environment and Conservation Fund (ECF) to allocate \$5 million for implementation of the MA pilot projects. With grants of \$4.62 million from the ECF, three MA pilot projects were launched in end 2005 at Fung Yuen and Long Valley. Results of these MA projects are very encouraging and ECF has recently approved funds for these projects to be continued for another two years.

5. Under the PPP Pilot Scheme, development of an agreed scale will be allowed at the ecologically less sensitive portion of any of the 12 priority sites, provided that the project proponent undertakes to conserve and manage the rest of the site that is ecologically more sensitive on a long-term basis. In order to provide project proponents with the required flexibility, proposals involving non in-situ land exchange for development with full justifications may be considered, but they have to be examined and approved by the Executive Council on a case-by-case basis. We received a total of six applications, which involve land located at Sha Lo Tung, Tai Ho, Mui Tsz Lam & Mau Ping, Wu Kau Tang, Yung Shue O and Tin Fook Wai. Subsequently, the proponent of the Tin Fook Wai project withdrew its application.

6. An inter-departmental Task Force (Task Force), comprising representatives from the Environmental Protection Department, Agriculture, Fisheries and Conservation Department, Lands Department and Planning Department was set up to examine the applications in accordance with the vetting criteria set out in the Guide to Application. The criteria are:

- Net benefits of the proposal in enhancing conservation of the site and in evaluating the effectiveness of the PPP measure;
- Possible adverse environmental impacts arising from the proposed development;
- Sustainability of the proposal including recurrent costs involved,

and the long-term commitment of the proponent;

- Track record, capability and credibility of the proponent in implementing the proposal;
- Readiness of the proposal for implementation; and
- Resource implications, if any, for the Government.

The five proposals

Mui Tsz Lam and Mau Ping

7. Mui Tsz Lam and Mau Ping ranks sixth in terms of ecological significance among the 12 priority sites. The priority site is some 47 hectares, out of which 33 hectares are government land and 14 hectares are private land. Situated in the valley surrounded by the hills of Ma On Shan area, Mui Tsz Lam and Mau Ping are sheltered from extreme weather and hydrological conditions, which contribute to the luxuriant growth of vegetation there. The site supports 241 plant species with rare Fung Shui wood species and 17 species of mammals, including Chinese Pipistrelle (灰伏翼), Masked Palm Civet (果子狸) and Leopard Cat (豹貓) which are protected under the Wild Animals Protection Ordinance.

8. The proponent intends to develop five blocks of elderly homes (a total of 550 units) in Mui Tsz Lam. For nature conservation, a Nature Reserve of some 47 hectares covering the entire priority site of Mau Ping and Mui Tsz Lam (excluding the village area in Mui Tsz Lam) will be set up. Within the Nature Reserve, there will be an eco-education centre and a botanical theme garden. Moreover, the proponent undertakes to replant a piece of native woodland on abandoned agricultural land within the site. The setting up and operation of the Nature Reserve is intended to be funded by an elderly home development within the Nature Reserve.

9. Conservation work proposed by the proponent focuses primarily on Mui Tsz Lam as the proponent virtually owns no private land in Mau Ping. Apart from patrolling to reduce fire risk and vandalism as well as removal of rubbish and illegal traps, no major conservation enhancements are proposed for Mau Ping.

10. In addition, the proponent suggests establishing a trust to fund the

setting up and operation of the Nature Reserve. Details of the funding mechanism are, however, not provided.

Sha Lo Tung

11. Sha Lo Tung ranks second in terms of ecological significance among the 12 priority sites. The priority site is some 55 hectares, out of which some 29 hectares are government land and some 26 hectares are private land. The ecologically important habitats of the site are stream and marsh, and woodland. The site is an important breeding and development ground for dragonflies. The number of dragonfly species recorded in Sha Lo Tung valley is more than any other sites in Hong Kong. Currently, there are 72 species of dragonflies recorded in the area, out of a total of 112 known in Hong Kong. Many of the species recorded are stream specialists including the rare Hainan Hooktail (海南環尾春蜓) and the endangered Club-tailed Cruiser (天王大偽蜻). In addition, with the rich vegetation and food sources, the relatively unpolluted freshwater streams, marshes and natural / secondary woodland, the site offers a prime habitat for a multitude of freshwater fish, mammals, amphibians, reptiles and birds. Moreover, Sha Lo Tung is a prime habitat for butterflies in Hong Kong. Of the 102 species that have been recorded in the area, Forget-me-not (咖灰蝶), Colon Swift (無斑珂弄蝶) and the Yellow Coster (苧麻珍蝶) are rare species.

12. The proponent proposes to surrender all the land it owns in Sha Lo Tung valley (representing 96% of the private land in the valley) to the Government for the setting up of an Ecological Reserve. In exchange, it requests a piece of government land of some five hectares in the adjacent “Green Belt” for the development of a Multi-cultural Education Retreat cum Columbarium Complex and has agreed to pay full market premium to effect the exchange.

13. In order to enhance the ecological value of the site, the proponent intends to implement a comprehensive management plan for the Ecological Reserve. Under the plan, there are measures to conserve the dragonfly biodiversity through protecting the important habitats. Moreover, the proponent has agreed to implement measures to remove exotic vegetation, enhance the quality of secondary woodland, restore abandoned farmland, manage the proposed Nature Interpretation Centre and to promote conservation education. The proponent has undertaken to spend \$50 million to set up the Ecological Reserve and inject another \$120 million into a trust to finance the long-term operation of the Ecological Reserve of which the majority of trustees would be appointed by the Government.

14. In view of the additional traffic to be generated by the project, the proponent has agreed to carry out upgrading work to Sha Lo Tung Road and formulate a comprehensive traffic management plan to meet the transport, crowd control as well as fire safety standards. While the Sha Lo Tung Road will continue to be a public road, the proponent agrees to take up the management and maintenance responsibilities if entrusted by the Government should the project be implemented. To exercise control of crowd arising from the columbarium users, the niches of the columbarium will be divided into two categories* and be sold in phases spanning over several years, and the traffic management plan will be kept under regular monitoring and review in collaboration with the relevant government departments.

Tai Ho

15. Tai Ho is an area of high ecological value, which ranks third among the 12 priority sites identified for enhanced conservation under the NNCP.

16. The priority site is some 255 hectares, out of which 220 hectares are government land and some 35 hectares are private land. It covers the whole valley system which includes wooded area with a stream flowing into a tidal estuary. The stream, including part of the bay area, is a Site of Special Scientific Interest which supports the highest diversity of the freshwater fish species in Hong Kong and is the only spawning ground in the territory for the locally rare fish Ayu (香魚).

17. At present, Tai Ho valley is not covered by any outline zoning plan. To better preserve the valley, the proponent proposes to establish an Ecology Park of 225 hectares in Tai Ho. To do so, it will surrender its private land (which accounts for about 66% of the private land in the Park) in Tai Ho and inject funds into a trust for the setting up and operation of the Park. In exchange for the land it surrendered, it requests a residential development site in Tung Chung or elsewhere and is prepared to pay full market premium for the land exchange. Moreover, it proposes to freeze all new small house developments inside the valley. Presently, there are four villages in the

* Visitors under Category A are entitled to pay visit to the niches during the operation hours of the columbarium, including the Ching Ming and Chung Yeung Festival days whereas visitors under category B are not allowed to visit the niches on the two Festival days and the weekends near these two Festival days.

valley. The proponent claims that it has already reached an agreement with the villagers to provide some 160 new village house sites in an area near Pak Mong village which is less ecologically sensitive. The proponent mentions that it will form and service the area for allocation to eligible villagers where they can build their new village houses. By doing so, the existing villages inside the valley need not expand and can remain much as they are at present.

Wu Kau Tang

18. Wu Kau Tang ranks seventh in terms of ecological value among the 12 priority sites. The priority site is some 103 hectares, out of which 67 hectares are government land and 36 hectares are private land. It is a key butterfly and dragonfly habitat in Hong Kong. In particular, the marsh and stream area is a key dragonfly site in Hong Kong. There are several Fung Shui woods which serve as an important habitat for mammals. Hong Kong Paradise Fish (香港鬥魚) has been recorded in a stream in Wu Kau Tang.

19. The proponent intends to develop within the priority site a low density high-end spa hotel with over 100 villas. In addition, it aims to provide for a village extension area for 130 small houses and a private retirement village for the elderly with some 850 units. The proponent outlines in its proposal that it would develop a comprehensive park in the priority site. Within the park, there will be a Hakka heritage village, a herbal medicine exhibition garden, an experimental farm for traditional Chinese medicine research, a butterfly garden, a conservation education centre, and an organic farm. The proponent also indicates that it would collaborate with non-governmental organizations, green groups, research and educational institutes to implement the conservation measures and would use the income generated from the proposed development to fund the conservation work and activities.

Yung Shue O

20. Yung Shue O ranks tenth in ecological value among the 12 priority sites. The priority site is some 32 hectares, out of which some 16 hectares are government land and another 16 hectares are private land. It supports a relatively rich diversity of wetland vegetation. The Fung Shui wood and natural woodland bounding the village and the streams provide a good habitat for butterflies and over half of the local butterfly species are recorded at the site. The site also supports a moderate diversity of amphibians.

21. The proposal covers approximately 18 hectares of land (mostly private land). The proponent suggests developing a spa resort of no more than 100 rooms. However, the proposal does not contain much details on the development as well as the conservation part of the project.

Task Force's Assessment

22. The Task Force's assessments on the five projects are at **Annex**. In summary, the Task Force's recommendations are as follows:

- The Sha Lo Tung project should be supported as a worthwhile PPP proposal; and
- for the Tai Ho, Mui Tsz Lam & Mau Ping, Wu Kau Tang and Yung Shue O projects, they should not be supported in the present form.

The Subcommittee's deliberation

23. The five applications were discussed at the NCSC meeting on 9 April 2008. It heard the presentations by the proponents of Mui Tsz Lam & Mau Ping, Sha Lo Tung, Tai Ho and Wu Kau Tang projects (the proponent of Yung Shue O project declined the opportunity to make a presentation). The Subcommittee discussed the project one by one and had the following observations:

Mui Tsz Lam & Mau Ping

24. Noting that the proposed development in Mui Tsz Lam would encroach upon 1.7 hectares of woodland with moderate to high ecological value, Members were concerned about the adverse environmental impacts arising from the project. Members were also concerned whether the project proponent could effectively implement conservation measures in the priority site as it only owned about 70% of the private land in Mui Tsz Lam and none in Mau Ping.

Sha Lo Tung

25. Members noted the ecological merits of the proposal as the whole priority site would be developed into an Ecological Reserve whereas the

proposed development of a Multi-cultural Educational Retreat and the Columbarium would only be carried out in the adjacent Green Belt site which was of less ecological significance. Members also opined that the comprehensive management plan for the Ecological Reserve could enhance the ecological value of Sha Lo Tung. In addition, they noted the proponent's financial commitment to set up an Ecological Reserve, inject seed money to a Trust Fund and upgrade Sha Lo Tung Road. The majority landholdings by the proponent could also facilitate the implementation of the project. In general, Members welcomed the project from the nature conservation perspective. Members were informed that the proposed project was not a designated project under the Environmental Impact Assessment Ordinance (EIAO) because all the works associated with the project including the Multi-cultural Educational Retreat cum Columbarium Complex and the Sha Lo Tung Road had avoided the conservation areas and the site of special scientific interests. The project also did not include the development of crematoria or other facilities that could constitute a designated project. The design of the project is in line with the general policy for mitigating impacts on important habitat and wildlife. First priority should be given to avoidance of impacts.

26. In the course of discussion, Members had flagged the following issues which need to be addressed if and when the proposal is to be taken forward:

- a) how to cope with the significant increase in traffic in Sha Lo Tung Road arising from the proposed development of the Columbarium, particularly during Ching Ming and Chung Yeung Festivals;
- b) a robust mechanism and legally enforceable measures have to be put in place to ensure that the mitigating measures as promised by the proponent would be carried out to avoid adverse impact on the ecological sensitive areas of the proposed site during construction and subsequent operation of the project including the Multi-cultural Educational Retreat cum Columbarium Complex;
- c) measures that have to be put in place to ensure that the Multi-cultural Educational Retreat would not be turned into a massive accommodation-type facility as this would have adverse impact on the environment;
- d) the means to ensure that the Multi-cultural Educational Retreat

cum Columbarium Complex would be properly managed to maintain compatibility with the overall environment of the Ecological Reserve; and

- e) whether support from local indigenous villagers has been secured.

27. In response to such concerns, the project proponent has undertaken to widen Sha Lo Tung Road to a minimum of 4.5m wide carriageway with a 1.5 m wide footpath on one side to cater for the increase in traffic demand. In addition, niches will be sold under two categories [Class A (20,000 niches) and Class B (40,000 niches) with the former having the right to visit the columbarium during Ching Ming and Chung Yeung Festivals while the latter having visit restriction on Ching Ming and Chung Yeung Festival periods]. Special traffic management measures such as banning non-authorised vehicles would be introduced in Sha Lo Tung Road during the two festival periods while free shuttle bus services would be arranged by the project proponent to pick up visitors at the entrance of Sha Lo Tung Road and near Tai Wo Railway Station. The proponent is continuing its discussion with the Transport Department and the Police on detailed measures.

28. For (b) and (c), in the environmental assessment report (the report) submitted by the project proponent upon its own initiative, it is suggested that a number of design features and mitigation measures would be put in place to abate the environmental impacts arising from the construction and operation of the project so as to ensure compliance with the established environmental standards and guidelines. For example, the development site is strategically planned on the opposite side of the knoll to make use of the natural terrain to prevent any possible runoff to the sensitive stream course. During operation, burning of paper offerings would not be allowed and no adverse air quality impact is anticipated. The report has also addressed the likely environmental impacts arising from the accommodation to be provided at the Multi-cultural Educational Retreat, which is currently proposed to have a limited capacity of not more than 30.

29. The Subcommittee did discuss if this project fell under the EIAO as a designation project. While noting that the statutory EIAO procedures are not applicable on the basis of the current proposal, the Government would invite the proponent to undertake consultative meetings with EIA Sub-committee and other stakeholders to promote transparency and identify improvement measures for environmental and conservation purposes. Further consideration will be made to identify appropriate legally-binding instruments

(e.g. contractual agreements between the government and proponent) to ensure continuing compliance of any pledged measures.

30. For (d), the Multi-cultural Educational Retreat cum Columbarium Complex will in future be managed by a religious body, the Hong Kong Buddhist Education Foundation with funds generated from the sale of niches. Moreover, an annual fee would be charged on the niches sold to provide for regular income to cover the management and maintenance of the niches.

31. For (e), support from local villagers is essential for the implementation of the project. On this, the project proponent has advised that it has secured the support of the majority of the villagers and the Tai Po Rural Committee for the implementation of this project and has passed us a letter issued by the Tai Po Rural Committee to this effect.

Tai Ho

32. While Members generally agreed that the proposal had a good conservation management plan which could, if implemented, enhance the ecological value of the site, they however noted that the project had the following major encumbrances that made it difficult to proceed at its present form:

- a) relatively low percentage of landholdings owned by the project proponent on the proposed site;
- b) the lack of a secured partnership with a reputable green group for the planning and management of the proposed Ecology Park; and
- c) complicated land use and planning issues relating to village expansion and relocation as well as non in-situ land exchange that may cast doubt on the readiness and feasibility of the proposal.

33. On (a), the project proponent has only acquired some 66% of the private land in the proposed site while the remaining is still owned by local residents. As a substantial portion of land is not in the hands of the project proponent, this will add uncertainty to the ability of the proponent in securing full support of the remaining owners on complicated land use and planning negotiations; and the effective management of the proposed Ecology Park in the future.

34. On (b), although the project proponent has indicated that it had approached a number of green groups in Hong Kong to take up the conservation responsibility for the proposed Ecology Park, so far, no credible partner has been firmly secured. In the proposal, the project proponent suggests that a management contractor of the Ecology Park would be selected after the Park was formally established as a legal entity. Without any partnership with reputable green groups at the planning stage, some Members had raised considerable concern about the project proponent's capability in managing the Ecology Park with a significant site of some 225 hectares.

35. On (c), as currently Tai Ho Valley is not covered by any outline zoning plan, the proposal of freezing all small houses development in the existing four villages in Tai Ho Valley and setting up a new village expansion area in a site near Pak Mong needs not only careful and detailed planning, the mutual agreement of the villagers concerned, but also the formulation of an outline zoning plan, which has to be approved by the Town Planning Board.

36. Moreover, the project proponent has requested a residential site in Tung Chung or elsewhere to exchange for the land it surrendered in Tai Ho. While proposals involving non in-situ land exchange are not disallowed under the New Nature Conservation Policy, such exchange involves complicated land and planning policy implications that could only be considered on exceptional circumstances and with full justifications.

37. Notwithstanding the above, the Subcommittee noted that the project proponent was prepared to be flexible to take on its advice in refining its proposal so as to address the problems identified above.

Wu Kau Tang

38. Members were very concerned about the scale of development (including spa hotel, retirement village and village extension area), vis-à-vis the relative lack of conservation enhancement in the proposal.

Yung Shue O

39. Members agreed with the Task Force that the proposal did not contain much information about the project and lacked a detailed conservation management plan.

NCSC's Recommendation

40. After deliberation, the NCSC recommended that -

- (a) the Sha Lo Tung project should be supported from a nature conservation angle and the recommendation of the Task Force is endorsed. However, the following implementation issues will need to be addressed as the proposal is taken forward –
 - (i) the traffic management issue at Sha Lo Tung Road;
 - (ii) measures to ensure that the impact on the sensitive conservation area is kept to the minimum;
 - (iii) measures to ensure that the Multi-cultural Educational Retreat would not be turned into a massive accommodation-type facility;
 - (iv) sustainability of the Multi-cultural Education Retreat cum Columbarium Complex; and
 - (v) cementing the support of the local indigenous villagers.
- (b) the Tai Ho project is worthy of support from conservation perspective. However, the relatively low percentage of landholdings by the project proponent, the lack of an experienced partner to plan and manage the Ecology Park and the potentially complicated land related issues are problems that need to be addressed before the project can be seriously considered. In its present form, the project is not ready to be taken forward. The project proponent should be informed of the concerns of the Subcommittee and encouraged to refine the proposal and address the problems identified with the relevant government authorities; and
- (c) the Mui Tsz Lam & Mau Ping, Wu Kau Tang and Yung Shue O projects should not be recommended.

41. The Subcommittee proposed that the Sha Lo Tung project proponent be invited to give a presentation to the full Council at the coming meeting to be held on 14 April 2008.

Way Forward

42. Subject to the Council's endorsement of the NCSC's recommendation at paragraph 40 above, the five project proponents will be apprised of the recommendations. The successful project proponent(s) will need to comply with the relevant statutory requirements and take suitable measures to address the Council's comments in taking forward the project(s). The Environmental Protection Department will continue to coordinate efforts within the Government to provide assistance to the successful project proponent(s) in the process.