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# PUBLIC CONSULTATION ON REVIEW OF NATURE CONSERVATION POLICY

## CONSULTATION REPORT

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# CHAPTER 1

## INTRODUCTION

### Background

1.1 Over the years, we have been adopting a policy to conserve and enhance our natural environment by protecting existing conservation areas, by identifying new areas for conservation, and by compensating for areas which merit conservation but which are inevitably lost to essential development projects. A variety of legislative and administrative measures have been implemented under this policy to protect ecologically sensitive habitats and important species. Among them include designation of country parks, special areas and conservation zonings that in total cover over 40% of the total land area of Hong Kong; designation of marine parks and marine reserve; and implementation of conservation plans on specific species.

1.2 However, from time to time, there are debates on whether a site should be conserved especially when the nature conservation objectives conflict with development proposals. There are also criticisms about the inadequacy of the existing measures in conserving ecologically important sites under private ownership. The Administration therefore conducted a review of the existing nature conservation policy and measures in 2003 with the objective of identifying areas for improvement.

1.3 Findings of the review have confirmed the effectiveness of the existing policy and measures in protecting important components of the biodiversity in the territory. There are, however, pockets of ecologically important sites under private ownership that may be subject to adverse impacts of human activities that are incompatible with our nature conservation objectives and which cannot be fully controlled under the existing mechanism due to their private land status. We also lack an objective system for evaluating the ecological importance of individual sites and identifying priority sites for enhanced conservation.

1.4 In order to address those limitations, the review recommends introduction of a scoring system for assessing the relative ecological importance of sites under private ownership in a more objective and systematic manner with a view to identifying a list of priority sites for enhanced conservation by new measures. In this regard, the review has examined a number of possible improvement measures among which the options of management agreements between non-governmental organisations (NGOs) and landowners, and private-public partnership are considered more practicable and worthy of further examination for application to the sites identified by the scoring system for enhanced conservation.

1.5 A public consultation exercise was carried out from 17 July to 18 October in 2003 on the findings and recommendations of the review.

## Public Consultation

1.6 A consultation document entitled “Nature Outlook” was issued to explain the findings of the policy review and our recommendations. The document was widely distributed through district offices, and was also uploaded onto the webpage of the Environment, Transport and Works Bureau (ETWB) and the Agriculture, Fisheries and Conservation Department (AFCD). Publicity materials including leaflets and posters were produced for distribution at various locations and occasions. An Announcement of Public Interest was broadcast on both television and radio during the public consultation period to invite views on the review and to enhance public awareness of nature conservation. Moreover, a roving exhibition was held at popular shopping malls to introduce Hong Kong’s rich natural assets, educate the public on the importance of nature conservation and encourage their support and participation in the consultation exercise.

1.7 During the consultation period, we arranged a number of briefing sessions and working meetings to exchange views with major stakeholders including environmental groups, professional bodies, academics and District Councillors. We also consulted the Heung Yee Kuk, the Legislative Council Panel on Environmental Affairs and relevant advisory committees including the Advisory Council on the Environment, the Country and Marine Parks Board, the Wetland Advisory Committee and the Town Planning Board. In addition,

we attended a meeting of the Hong Kong General Chamber of Commerce and a discussion forum held by the Tai Po Environmental Association to explain the contents of the consultation document and exchange views with the participants.

1.8 We received a total of 156 written submissions from 153 different parties by mail, electronic mail or facsimile. Over half of the submissions were made by individual members of the public in their personal capacity without naming their affiliation to any professional disciplines or bodies. The other submissions were made by individuals or organisations of various interests in society including Legislators, District Councillors, academics, environmental groups, professional bodies, Heung Yee Kuk, political parties, private companies and trade associations.

## CHAPTER 2

### SUMMARY OF PUBLIC RESPONSES

2.1 We have carefully examined all the submissions received and views collected during the public consultation. Nearly all respondents agreed that the natural environment is the precious resource of Hong Kong and increased efforts should be made to protect this invaluable asset. In respect of the Administration's proposals to introduce a scoring system and to implement the management agreement and the private-public partnership (PPP) options for enhancing conservation of the sites identified by the scoring system for enhanced conservation, the main views received are summarised in the ensuing paragraphs.

#### Scoring System

2.2 The respondents generally supported the idea of introducing a scoring system to facilitate a more objective comparison of the ecological values of different sites. Of those who commented on the proposed scoring system, over 60% indicated support for it but views were diverse regarding the proposed assessment criteria and their relative weightings.

2.3 The scoring system as proposed comprised assessment criteria falling under two major categories, namely habitat and biodiversity, with a relative weighting of 60% and 40% respectively. Many respondents considered that the biodiversity criteria, especially the one on "Species rarity and endemism" with a weighting of 20%, should be assigned a higher weighting so as to adequately reflect the importance of sites with rare and/or important species. Some respondents were concerned that, under the proposed system, sites with a single important plant or animal species would score very low and hence would not receive the priority protection that they deserved.

2.4 Many respondents expressed reservation about the proposed "Habitat" criteria including "Naturalness", "Non-recreatability", "Habitat diversity", "Size" and "Degree of disturbance". There were concerns that man-made habitats like farmland that could carry important ecological functions would be

rated very low because of the low scores under the criteria on “Naturalness” and “Non-recreatability”. Some also considered that the criteria on “Habitat diversity” and “Size” might favor larger sites, and that the delineation of the boundary for a site could be arbitrary and would in turn affect the scoring of a site under those two criteria. In respect of the proposed criterion on “Degree of disturbance”, some respondents opined that disturbed sites should score higher because of the need for immediate action to enhance their protection, as opposed to the rationale behind the proposed scoring system which was to provide a means for assessing the ecological value of a site as it was. Recognising that the “Habitat” criteria did provide indicators for assessing the ecological value of a site, some respondents suggested that their weighting should be reduced in the light of the concerns raised.

2.5 Some respondents including individual members of the public and organisations suggested revising the scoring system by including additional assessment criteria. These included the rarity, irreplaceability, connectivity and protection status of a particular site, whether it was an important feeding/nursery ground, whether it was represented in the areas that were currently under protection, its landscape and recreational values and benefits to people. A few suggested that a wider range of scores (e.g. from 0 to 5) should be adopted to better distinguish the scoring of each site under an assessment criterion.

2.6 A number of respondents were concerned about the application of the scoring system in practice. Of particular concern to them was the party/body that would be responsible for conducting the assessment and giving scores to individual sites, since the process would unavoidably involve a certain degree of subjective interpretation and judgment. Some suggested that an independent committee comprising relevant experts should be established for that purpose. Apart from that, there were also questions on how to select sites for assessment under the scoring system and whether passing marks should be set for determining which sites were qualified for inclusion in the priority list. A few respondents stressed the need for consultation with stakeholders during the assessment process and consensus building on the selection of the priority sites. There was also suggestion for the provision of an appeal channel to deal with objections to the priority list to be identified by the scoring system. In addition, a few respondents cautioned against the possible misuse of the scoring system by some to assess sites that were currently under protection, e.g.

country parks and areas under conservation zonings, with the objective of pressing for the release of sites with lower scores for development. They opined that the application of the proposed scoring system should be clearly defined in order to avoid possible abuse.

2.7 A few respondents sought clarifications on how the operation of the scoring system would affect decisions by the Town Planning Board on the zoning status and planning applications relating to specific sites, and decisions by the Director of Environmental Protection on environmental impact assessment reports.

## Management Agreements

2.8 The respondents were generally receptive to the concept of encouraging partnership with landowners in conserving their land in the management agreement option. Of those who commented on this proposal, about half of them indicated support for the idea. However, in the absence of detailed information about the implementation of the option in the consultation document, many raised concerns about the role of the Government, NGOs and landowners in this partnership, the financial support available from the Government, and potential difficulties anticipated in bringing the option to success.

2.9 Many respondents were concerned that NGOs in Hong Kong generally lacked the required resources, experience and practical knowledge in habitat management work and hence the capability in running such management agreements. They considered that the Government should play a more active role by providing financial support and other necessary assistance to NGOs such as capacity building for habitat management and overseeing the effective implementation of the management agreements concerned through a proper monitoring and audit system. Some were worried that both NGOs and AFCD lacked the competence in managing and overseeing the agreements entered into with the landowners concerned and the associated habitat enhancement works. A number of respondents were doubtful whether the landowners concerned would be interested in entering into such voluntary agreements unless sufficient incentives were provided.

2.10 Many respondents considered that the Government should state clearly the amount of funding that it was ready to commit for implementing the option, the security of tenure (which depended on the availability of government funding on a continuous basis and the willingness of the landowners to enter into such kinds of management agreements), the funding system including the assessment and funding criteria, and measures adopted to measure the performance. Some also raised questions regarding the actions that would be taken in the event of non-compliance by either party to an agreement.

### Private-public Partnership

2.11 The concept of private-public partnership (PPP) was generally well received by the public. It was supported by nearly 70% of those who commented on this proposal in their submissions, though a few respondents considered that the option might not be applicable to some sites due to their unique geographical setting and ecological sensitivity. As for the management agreement option, many respondents were keen to know about the detailed implementation programme which was inherently more complicated due to the co-existence of nature conservation and development elements in a PPP Proposal and the planning and land issues involved.

2.12 The proposed PPP approach is currently applicable to Wetland Conservation Area and Wetland Buffer Area in the northwest New Territories. Under the existing arrangements, proposals being formulated in this regard have to be processed according to established statutory and administrative procedures in the areas of town planning, environmental impact assessment and land administration; and the proponents have to obtain the necessary approval in those respective areas before they can be implemented. Some respondents expressed concern about how these various procedures could be formalised and streamlined if the PPP option was adopted under the new nature conservation policy and hence applicable to sites outside the Deep Bay area. To protect the ecologically sensitive areas of the sites concerned, some respondents suggested that clear guidelines and conditions should be laid down to ensure the long-term conservation of the sites, that was the prime objective of the PPP proposals, by, say, regulating actions of the developers, overseeing the implementation of agreed conservation plans, and imposing penalties should any party fail to observe its undertaking. The availability of a reliable source



of funding to support the long-term habitat management was another important factor determining the acceptability of a PPP proposal.

2.13 Some respondents highlighted the need to provide adequate incentives to encourage private sector's participation in the scheme. A number of respondents considered that the Government should allow for concessionary premium at the developable part of the site, otherwise the option would not be attractive or viable. There was also concern about the competence of the developers/NGOs to manage the habitats concerned and that of AFCD to play an effective monitoring role.

## Other Comments

2.14 Apart from offering views on the recommendations set out in the consultation document, most submissions made comments on other aspects of the nature conservation work. The major views are summarised in the ensuing paragraphs.

### Scope of review

2.15 Many respondents expressed disappointment with the limited scope of the policy review that was mainly focused on the problems in conserving ecologically important sites under private ownership, and its lack of any reference to marine conservation issues. The environmental groups in particular considered that a range of other conservation issues should also be covered in the review. Those include conservation of ecologically sensitive habitats on Government land, updating of the protected species lists, implementation of conservation plans for species of global, regional and local importance (e.g. the Bogadek's Legless Lizard and the White-bellied Sea Eagle), restoration of degraded habitats such as lowland streams and wetlands, the need for enhanced enforcement and tighter controls over wildlife trade especially in birds.

2.16 Some considered that the review should cover Hong Kong's international obligations in protection of our natural assets. They opined that a biodiversity strategy and action plan should be prepared for Hong Kong in line with the requirement of the Convention on Biological Diversity, and that

the other provisions of the Convention should be complied with in Hong Kong as well.

### Policy statement

2.17 Some respondents, academics and environmental groups in particular, considered that following the policy review, the Government should draw up and promulgate a clear policy statement supported by a set of policy objectives and an action plan. It should then form the basis for developing enhanced conservation measures and establishing the standards for evaluating the results afterwards. “No net loss of biodiversity” was suggested to be adopted as a guiding principle for the future nature conservation policy in a few submissions.

### Conservation Authority

2.18 Some respondents advocated the establishment of a Conservation Authority to take the lead in implementing the management agreement and PPP options and other conservation measures, since these would likely cut across different departmental purviews, and hence would require a central authority to resolve differences and coordinate among different interests. A few respondents were of the view that the Authority should take an integrated approach in dealing with all conservation-related issues involving rural landscape and cultural heritage as well.

### Conservation trust

2.19 Conservation trust was mentioned in some of the submissions. It was suggested that a conservation trust should be established initially by seed capital provided by the Government and then donations from the private sector and the general public. In general, the respondents would like to have the trust to provide funding for implementing the management agreement and PPP options as well as other improvement options for enhancing conservation of ecologically important sites under private ownership including land resumption.

## Ecological surveys

2.20 The respondents generally welcomed the conduct of ecological surveys by AFCD for compilation of a comprehensive ecological database for Hong Kong. To promote public knowledge of the ecological assets of Hong Kong and to facilitate planning by developers, most of the respondents proposed that members of the public should be allowed access to the database.

2.21 Some respondents, however, considered that there was already abundant ecological information available, and that Government should take urgent action to protect the ecological hotspots identified by the Hong Kong University Biodiversity Survey and the Kadoorie Farm & Botanic Garden, e.g. reviewing the land use zoning of the sites.

## Options considered impracticable in the review - land resumption, land exchange, tightening of existing conservation measures, off-site mitigation and transfer of development rights

2.22 About one third of the submissions received opined that these options should not be ruled out at the present stage. Instead, the Government should consider them as a basket of possible tools and give further consideration to their merits and viability in enhancing conservation of important habitats.

## Ecological footprint

2.23 A few respondents suggested that the policy review should address the high ecological footprint problem of Hong Kong, which reflects that our consumption patterns (notably in seafood and forest products) has imposed considerable pressure on natural resources elsewhere. As a responsible global citizen, they considered that Hong Kong should deal with this problem.