

New Nature Conservation Policy

Purpose

This paper briefs Members on the new nature conservation policy and the related implementation programme.

Background

Existing Situation

2. Our existing nature conservation policy seeks to conserve and enhance the natural environment by protecting existing conservation areas, identifying areas of high ecological importance for conservation, and compensating for areas which merit conservation but are inevitably lost to essential development projects. We have so far designated 23 Country Parks, 15 Special Areas (11 of them are within Country Parks) with a total area of about 41 600 hectares, and four Marine Parks and one Marine Reserve. Another 6 600 hectares of Hong Kong's land are subject to stringent planning and development controls under conservation zonings on statutory town plans including Site of Special Scientific Interest (SSSI), Conservation Area (CA) and Coastal Protection Area (CPA). In total, about 43% of Hong Kong's land area is under statutory protection. Establishment of these protected areas and other conservation efforts (including implementation of conservation plans for specific species) have contributed to the maintenance of a rich biodiversity in Hong Kong. Hong Kong compares favourably with many other places with similar economic development in terms of both the share of protected areas and biodiversity.

3. However, from time to time, there are debates on whether a site should be conserved especially when the nature conservation objective conflicts with development proposals. There are also criticisms about the inadequacy of the existing measures in conserving ecologically important sites under private ownership. We therefore reviewed the existing nature conservation policy and measures in 2003 with the objective of identifying practicable ways to better achieve the nature conservation

objectives, in particular to enhance the conservation of ecologically important sites which are in private ownership.

Public Consultation

4. After reviewing the existing nature conservation policy and measures, we consulted the public from July to October 2003 on –

- (a) introduction of a scoring system for assessing the relative ecological importance of sites with the objective of reaching a consensus within the community on the priority sites for enhanced conservation; and
- (b) practicable ways to better conserve ecologically important sites under private ownership within limited resources. In this regard, we stated in the public consultation document that the management agreement and public-private partnership (PPP) options were more practicable and hence should be further examined.

5. We received a total of 156 written submissions and attended a number of meetings during the public consultation. Most respondents supported the need to protect the natural environment and called for increased efforts in conserving our natural heritage. Among the written submissions on the improvement proposals of the scoring system, management agreements and PPP, 50% or above agreed with the proposals. The feedbacks are analysed in Table 1 below. While supporting the proposed scoring system, some respondents raised questions about the individual criteria and the weightings that should be attached to them. Some expressed concern over how the two improvement proposals would be implemented.

Table 1

Improvement Proposals	Scoring System	Management Agreements	PPP
No. of Submissions			
Support	58 (61.1%)	37 (50%)	53 (68.8%)
Object	8 (8.4%)	7 (9.5%)	5 (6.5%)
No clear indication of support or not	29 (30.5%)	30 (40.5%)	19 (24.7%)
Total	95 (100%)	74 (100%)	77 (100%)

6. About 40% of the submissions commented on the improvement options that we stated in the public consultation document as impracticable, viz. land resumption, land exchange, tightening of the existing measures relating to conservation zonings on town plans, off-site mitigation and transfer of development rights. Nearly 90% of them considered that the Government should retain these options though a few agreed that land resumption was not a sustainable option in view of its huge financial implications. Some respondents also commented on the policy statement, scope of the review and the institutional set-up, and highlighted the need for inter-bureaux/departmental efforts in pursuing nature conservation initiatives. Establishment of a conservation trust was also proposed by many respondents as a way to sustain nature conservation efforts.

7. A report summarising the major comments received is at **Annex A**.

New nature conservation policy and implementation programme

8. Taking account of the comments received, we have drawn up a more comprehensive nature conservation policy under which –

- (a) a new policy statement is promulgated to set out the vision and policy objectives in clearer terms;
- (b) a scoring system is adopted for assessing, in a more objective and systematic manner, the relative ecological importance of sites with the objective of drawing up a list of priority sites, which cannot be effectively protected with the existing conservation measures, for enhanced conservation;
- (c) the improvement proposals of management agreements with landowners (management agreements) and PPP will be adopted to enhance conservation of the priority sites identified under (b) above, and a pilot scheme will first be implemented to evaluate the two new measures;
- (d) the existing nature conservation measures, including designation of country parks, special areas, marine parks, marine reserves and conservation zonings, and implementation of conservation plans on important habitats and species will continue and be enhanced where appropriate;
- (e) the existing Wetland Advisory Committee (WAC) will be converted into a

conservation sub-committee of the Advisory Council on the Environment (ACE) with effect from 1 January 2005;

- (f) public education and publicity on the importance of conserving biological diversity, and conservation awareness among government departments will be strengthened; and
- (g) the establishment of a nature conservation trust to sustain conservation efforts will be explored.

Details are set out in the ensuing paragraphs.

New Policy Statement

9. The existing conservation policy statement was promulgated in the Second Review of the 1989 White Paper on “Pollution in Hong Kong – A Time to Act” published in 1993 –

“In simple terms, it seeks to conserve and enhance our natural environment by protecting existing conservation areas and heritage features¹, by identifying new areas for such conservation, and by compensating for areas which merit conservation but which are inevitably lost to essential development projects.”

10. To promote public understanding of the policy including the need to take into account the social and economic costs and benefits arising from implementation of a nature conservation initiative, and to garner public support, we see a need to elaborate on the policy statement by setting out the vision and objectives in clearer terms. Drawing reference from the Convention on Biological Diversity, we have revised the policy statement to –

“Our nature conservation policy is to regulate, protect and manage natural resources that are important for the conservation of biological diversity of Hong Kong in a sustainable manner, taking into account social and economic considerations, for the benefit and enjoyment of the present and future generations of the community. The policy objectives are –

- (a) to identify and monitor the important components of biological diversity;

¹ The protection of cultural heritage is under the policy portfolio of the Home Affairs Bureau and excluded from this exercise.

- (b) to identify, designate and manage a representative system of protected areas for the conservation of biological diversity;
- (c) to promote the protection of ecosystems and important habitats, and the maintenance of viable populations of species in natural surroundings;
- (d) to identify, monitor and assess activities that may have adverse impacts on biological diversity and to mitigate such impacts;
- (e) to rehabilitate degraded ecosystems and promote the recovery of threatened species where practicable;
- (f) to promote the protection and sustainable use of natural resources that are important for the conservation of biological diversity;
- (g) to provide opportunities for people to appreciate the natural environment;
- (h) to promote public awareness of nature conservation;
- (i) to collaborate with the private sector including the business community, non-governmental organisations and the academia to promote nature conservation, and to conduct research and surveys as well as to manage ecologically important sites for such purpose; and
- (j) to co-operate with and participate in regional and international efforts in nature conservation.”

Identification of Priority Sites for Enhanced Conservation through Scoring System

11. A scoring system is essential to the assessment of the relative ecological importance of different sites in a more objective and systematic manner and facilitates the identification of priority sites for attention. During the public consultation, there were diverse views on the proposed scoring system including the criteria and their weightings. We have therefore convened an Expert Group² involving prominent ecological experts and major green groups to discuss and revise the scoring system

² The Expert Group comprises key academics with expertise in ecology and major green/interest groups including the World Wide Fund for the Nature, Conservancy Association, Friends of the Earth, Green Power and Kadoorie Farm and Botanic Garden. The Chairman of ACE was the moderator of the meetings.

solely based on ecological principles in the first instance. Following that, the Expert Group has discussed and agreed, based on the agreed scoring system at **Annex B** and existing available ecological information, the list of priority sites at **Annex C** for enhanced conservation. Information profiles of these sites including the scoring under each criterion are available at the webpages of the Environment, Transport and Works Bureau (ETWB) and the Agriculture, Fisheries and Conservation Department (AFCD).

12. When more or new ecological information becomes available in the future, we will consult the Expert Group on whether additional sites should be included in the priority list by making reference to the assessment based on the scoring system and sites on the current list. Public criticisms or concerns about the inclusion or exclusion of any site from the priority list will be referred to the conservation authority, i.e. AFCD, which will consult the Expert Group and ACE, and make changes as appropriate.

13. The scoring system is not designed to measure the absolute ecological value of a site. It is drawn up for assessing the relative ecological importance of sites that cannot be protected effectively under the existing system so as to facilitate the allocation of the Government's limited resources to the most deserving sites. It is inappropriate to set any "passing mark" below which a site would be classified as having no ecological and hence conservation value. Application of the scoring system will not change the uses/developments allowable at the sites concerned according to their respective land use zonings and land leases. The scoring system should also not be used for purposes other than what it is designed for. For example, it should not be adopted in the existing town planning system or the Environmental Impact Assessment process to assess the ecological value of a site.

Implementation of Management Agreements and PPP

14. We have reviewed the improvement options mentioned in the consultation document released in 2003 in the light of the comments received. In view of the financial and land resource implications, and the implementation complexities and difficulties involved, we still consider that the land resumption, land exchange, and off-site mitigation options are impracticable. Since the sites concerned are mainly held under agricultural leases under which the landowners are not entitled to any development rights, the option of transferring development rights is not applicable either. Keeping these options open may raise false hopes among the landowners concerned and impede the implementation of the two more practicable improvement options, viz. management agreements and PPP. To better evaluate the effectiveness of these two options, we will conduct a pilot scheme first. As regards the option of

tightening the existing measures relating to conservation zonings on town plans, we agree that it should be retained and further tried out. We will discuss this in greater detail in paragraph 25 below.

Management Agreements

15. Under this new measure, non-governmental organisations (NGOs) may apply for funding from the Government for entering into management agreements with the landowners. The NGOs will provide the landowners with financial incentives in exchange for management rights over their land or their co-operation in enhancing conservation of the sites concerned. For example, the NGOs may employ a landowner to implement measures to enhance the ecological value of his land or the NGOs may jointly organise revenue-generating activities (e.g. eco-tours) with landowners and share the income with them on the condition that the ecological value of the land will be conserved or enhanced. We have sought the Environment and Conservation Fund (ECF) Committee's agreement to allocate \$5 million from ECF³ for implementation of pilot management agreement projects. NGOs, including green groups, educational institutions and community organisations, may submit funding applications for implementing pilot management agreement projects for the sites at Annex C during the period from 1 December 2004 to 31 May 2005. All applications received will firstly be vetted by ETWB/AFCD in consultation with other relevant departments and ACE (or its subcommittee) where appropriate. The recommendations will then be submitted to the ECF Committee for endorsement.

16. In examining an application, due consideration will be given to –

- (a) the benefits that the proposed project will bring to the efforts in enhancing the conservation of the site concerned and in better achieving the nature conservation objective;
- (b) the sustainability of the proposed project including its resource implications, participation of the landowner and local community, the nature and enforceability of the management agreement concerned;
- (c) whether the proposed budget is reasonable and realistic, and whether the

³ ECF was established in 1994 under the ECF Ordinance, under which the Secretary for the Environment, Transport and Works, being the trustee, shall hold the fund and apply it in such manner and to such extent as the ECF Committee may advise for the purposes of funding educational, research and other projects and activities in relation to environmental and conservation matters.

project is cost effective; and

- (d) the technical and project management capability, and track record of the applicant. In this regard, NGOs may seek assistance or support from other relevant professional bodies where necessary.

The Guide to Application setting out the detailed funding criteria and the monitoring and budgetary control mechanism endorsed by the ECF Committee is available in ETWB/AFCD offices and district offices, and at the webpages of ETWB and AFCD. It is drawn up by making reference to those currently adopted for ECF projects and taking into account the need to allow more flexibility so as to make the pilot scheme more attractive. The support and capability of NGOs as well as cooperation of the landowners are vital to the success of this new measure. The pilot scheme is drawn up for evaluating how well the new measure is implemented and received by the stakeholders.

PPP

17. Under this new measure, developments at an agreed scale will be allowed at the less ecologically sensitive portion of a site provided that the developer undertakes to conserve and manage the rest of the site that is ecologically more sensitive on a long-term basis. In order to provide potential proponents with the required flexibility, proposals involving non in-situ land exchange for development with full justifications may also be considered, but they have to be examined and approved by the Executive Council on a case-by-case basis.

18. The practicability of this option will very much depend on the private sector's initiative to submit proposals and support of the key stakeholders including green groups and the landowners. Whether a particular proposal is feasible and sustainable has to be examined on its own merits. In the light of the complexities and uncertainties involved, we will proceed with a few pilot projects first.

19. We will allow six months (from 1 December 2004 to 31 May 2005) for submission of PPP proposals for the sites at Annex C. An Inter-departmental Task Force to be chaired by ETWB and comprising representatives from other relevant bureaux/departments will be set up to examine the submissions with a view to identifying the pilot projects as well as facilitating and overseeing their early implementation. ACE (or its subcommittee) will be consulted on the Task Force's recommendations. Each selected PPP pilot project will be submitted to the Executive

Council for approval. Sub-group(s) involving the relevant departments will be set up under the Task Force to oversee the implementation of individual pilot projects.

20. In identifying PPP proposals that are worth supporting under the pilot scheme, due consideration will be given to the following factors –

- (a) the net benefits that a proposal will bring in enhancing the conservation of the site concerned and in better achieving the nature conservation objectives. The possible environmental impacts arising from the proposed development will be taken into account;
- (b) the sustainability of a proposal, in particular the proponent's commitment to the long-term conservation of the site and its reliability and enforceability of the terms, etc.;
- (c) the capability and track record of the proponent;
- (d) the readiness of a proposal for implementation including its comprehensiveness, complexities and sensitivity, e.g. land issue involved; and
- (e) resource implications for the Government.

21. To implement a selected PPP pilot project, the proponent will still be required to fulfill the statutory requirements including application for change of land use zoning or application for planning permission where appropriate in accordance with the Town Planning Ordinance, and application for an environmental permit under the Environmental Impact Assessment Ordinance (EIAO) where the proposed development involves designated projects as defined in the Ordinance. With the necessary planning approvals and agreement of the parameters for the proposed development, the proponent will also need to obtain approval from the Lands Department for the necessary land exchange or lease modification where appropriate. The Inter-departmental Task Force will examine ways to streamline the process as far as possible.

Review

22. A review on the implementation of management agreements and PPP, including the approval process, the monitoring mechanism and above all, their effectiveness in enhancing conservation of the sites concerned, will be conducted in two

to three years' time, depending on the commencement dates and duration of the pilot projects. Based on the experience gained from the pilot projects, we will review the implementation framework and decide on the way forward, having regard to, among others, the resources available.

Enhancement of Existing Conservation Measures

23. The policy review has confirmed the effectiveness of the existing conservation measures. In the light of the comments received during the public consultation, we will continue to pursue the existing conservation tools, including designation of country parks, special areas, marine parks, marine reserves and conservation zonings, and implementation of conservation plans for important habitats and species. In addition, we will continue to actively participate in the global efforts in conservation of biodiversity and to fulfill the obligations under the following conservation-related international conventions that have been extended to Hong Kong –

- (a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora that aims to protect endangered species from over-exploitation by regulating international trade;
- (b) the Convention on Wetlands of International Importance, Especially as Waterfowl Habitat (i.e. the Ramsar Convention) that provides for the conservation and wise use of wetlands. We have listed the Mai Po and Inner Deep Bay as a Ramsar Site under the Convention since 1995; and
- (c) the Convention on the Conservation of Migratory Species of Wild Animals that provides for the protection of migratory species by conserving and restoring their habitats.

We have also obtained the Central People's Government's agreement in principle to extend the Convention on Biological Diversity and the Cartagena Protocol on Biosafety to Hong Kong. We are working on the new legislation for the implementation of the Protocol requirements on the control over trans-boundary movement of living modified organisms and aim to extend the Convention and the Protocol to Hong Kong in 2005-06 after completing all the necessary preparatory work.

24. AFCD is conducting ecological surveys and is working towards establishing a comprehensive ecological database for Hong Kong by 2005. AFCD is also reviewing sites that have been identified as having conservation value by previous studies such as

the Biodiversity Survey conducted by the University of Hong Kong in 1996-97 with a view to identifying appropriate measures to protect the sites under the existing system. Working group meetings involving experts from local organisations and tertiary institutions are being convened by AFCD to review its assessment on species rarity and site protection, and to develop conservation plans for rare species. Information about the conservation value of different sites will be made available to other government departments and the public as appropriate for the purposes of facilitating land use and development planning when the ecological database is established.

25. In addition, we have re-visited the option of tightening the existing measures related to conservation zonings on town plans. Taking into account the public comments received, we agree that this option may also strengthen the protection of ecologically important sites including those under private ownership. AFCD will review the existing land use zonings of ecologically important sites to see whether there is scope (e.g. removing incompatible land uses set out in Columns 1 or 2 of the town plans concerned) for reviewing the permitted uses under the zonings so as to better conserve the sites.

Strengthening ACE's Advisory Role in Nature Conservation

26. Apart from ACE, there have been three advisory committees dealing with nature conservation issues, viz. the Country and Marine Parks Board, the Endangered Species Advisory Committee and WAC. The former two are statutory bodies with specific functions stipulated under the respective ordinances, whereas WAC is a non-statutory committee formed to advise AFCD on matters concerning the implementation of the Ramsar Convention, the management of the Mai Po Inner Deep Bay Ramsar Site and other matters relating to wetland conservation.

27. ACE is the major government advisory committee on environmental issues including those relating to nature conservation. At present, two subcommittees, viz. the EIA Subcommittee and Waste Subcommittee, are set up to assist the Council in dealing with EIA (in particular EIA reports submitted under the EIAO) and waste issues respectively. To enhance ACE's advisory role in nature conservation and further streamline the existing advisory structure, we will subsume WAC under ACE to become its nature conservation subcommittee with effect from its new term commencing on 1 January 2005. Like the current Waste Subcommittee, the Nature Conservation Subcommittee will comprise ACE members and co-opted members to be appointed by the Secretary for the Environment, Transport and Works.

Conservation Education and Publicity

28. Over the years, we have been focusing our education and publicity efforts mainly on the recreational value of the sites with conservation value such as country parks. To tie in with our new policy statement, we consider that public education and publicity on the importance and significance of conserving biological diversity, and the correct attitude towards wildlife should be enhanced.

29. In addition, subjects falling within the purview of other bureaux/departments, such as rural land use planning and management, may have a direct impact on conservation of our natural heritage. Their support and cooperation are important in our pursuit of the nature conservation objectives. We will work closely with NGOs in enhancing conservation education for the public, and will also work together with the relevant bureaux/departments to raise their nature conservation awareness.

Conservation Trust

30. Establishment of a nature conservation trust can facilitate pooling of funds from all sectors including donations from individuals and private companies for protection and conservation of the natural heritage of Hong Kong. It will provide an alternative source of funding to sustain the nature conservation efforts. Although sustainability and cost-effectiveness of the fund would be issues of concern, we consider that the idea is worth further examination. Establishment of a trust by the developer to finance the long-term management of the conserved site under the PPP option is one possibility. Its feasibility can be further explored when the pilot PPP projects are implemented.

Financial, civil service, economic, environmental and sustainability implications

Financial and Civil Service Implications

31. A sum of \$5 million has been allocated from the ECF for implementing the pilot scheme for the management agreement option. We will take into account the experience gained from the pilot projects and the resources available in determining the way forward for the long term. Implementation of the option as a long-term measure may incur significant recurrent expenditure for providing subsidies to NGOs to enter into management agreements with the landowners, which can only be assessed at a later stage.

32. Proposals submitted under the PPP option will be examined on their individual merits. Each recommended PPP pilot project will be submitted to the Executive Council for approval and the resource implications will be assessed on a case-by-case basis.

33. Any additional workload and recurrent cost arising from implementing the new policy including issue of guidelines and processing of applications for the pilot schemes for the management agreement and PPP options, and enhancement of existing conservation measures, conservation education and publicity will be absorbed within the existing resources of the relevant bureaux and departments.

Economic Implications

34. The new nature conservation policy and implementation programme will in general provide a better framework for balancing the benefit and cost considerations. Adoption of a scoring system will help direct the limited available resources to the priority sites. The two new conservation measures, viz. management agreement and PPP, will provide opportunities for introducing economic incentives to encourage the landowners concerned to better protect sites with conservation value, although the effectiveness will have to be judged on a case-by-case basis.

Environmental Implications

35. Implementation of the new policy will enhance conservation of our natural heritage, in particular conservation of ecologically important sites under private ownership. The cumulative environmental impacts including impacts arising from the operational stage of the pilot projects implemented under both the management agreement and PPP options and other supporting infrastructure relating to these projects, if any, will be assessed. Any developments will need to fulfill the statutory and administrative requirements including EIAO if designated projects are involved.

Sustainability Implications

36. The new policy statement is in line with the sustainability principle of maintaining the biodiversity of Hong Kong. The establishment of the Expert Group together with the scoring system has provided a more objective and participatory mechanism for identifying a list of priority sites for enhanced conservation. The sustainability implications of the nature conservation trust will be examined when we further explore the idea.

37. The two new measures, viz. management agreement and PPP, aim to encourage support and participation of key stakeholders, including landowners, developers and NGOs, in conserving ecologically important sites, and are consistent with the “partnership” principle of sustainable development. However, their precise sustainability implications could only be assessed when the implementation details are drawn up if it is decided to implement the two measures on a long-term basis. Notwithstanding that, a number of sensitive issues involving land, planning and environmental matters will require early attention. The potential conflict between the prevailing land policy and the PPP option in cases where non-in-situ land exchange is involved, and the associated implications on land premium is a concern. Moreover, effective means have to be put in place to avoid possible abuse by private landowners or developers while incentives are provided to attract them into implementing the options. Other issues of concern include the possible impacts of development-related infrastructure, if any, on the natural environment and the need for capacity building of the parties concerned in habitat conservation and running management agreements.

38. Given the complexities of the issues involved, we will thoroughly review the pilot projects and address the above issues before deciding the way forward for the longer term. Individual pilot PPP projects will be subject to sustainability assessment such that their impacts on the long-term sustainable development of Hong Kong can be ascertained before they will be submitted to the Executive Council for approval.

Way forward

39. We will continue our efforts in conserving the natural heritage. We believe that implementation of the new nature conservation policy can enable us to better achieve the nature conservation objectives including conservation of ecologically important sites that are under private ownership by building up the partnership among the Government, the business sector, NGOs, the academia and the general public.

Environment, Transport and Works Bureau
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