

For Discussion on
9 June 2011

ECF Paper 14/2011-12

Environment and Conservation Fund

Arrangements to Implement Conservation and Development Proposals Involving the Priority Sites for Enhanced Conservation and Review of the Management Agreement Scheme

PURPOSE

This paper seeks to inform members of the arrangements we would pursue to implement the public-private partnership (PPP) scheme, and the Administration's review of the management agreement (MA) scheme. Both schemes were promulgated under the New Nature Conservation Policy (NNCP) in 2004.

BACKGROUND

A 2. Under the NNCP, we identified 12 priority sites of high ecological importance for enhanced conservation, at Annex A. A substantial portion of these sites is in private ownership. To better protect these sites, we have launched the MA and PPP schemes.

3. Under the MA scheme, funding support would be granted under the Environment and Conservation Fund (ECF) to enable competent non-profit making organizations to enter into agreements with landowners of the priority sites for conservation of the sites concerned. Since 2005, three MA projects were implemented at Long Valley and Fung Yuen with funding support from the ECF, which resulted not only in substantially increasing the number of butterfly, bird and wetland-dependent species found in the sites but also in promoting appreciation of nature conservation and biodiversity. A summary of the MA is at Annex B.

B 4. As regards the PPP scheme, developments of an agreed scale would be allowed at the less ecologically sensitive portions of the priority sites provided that the developer undertakes to conserve and manage the rest of the

site that is ecologically more sensitive on a long-term basis. Under the PPP scheme, the Advisory Council on the Environment (ACE) supported the project proposal in respect of Sha Lo Tung from the nature conservation angle. Separately, a development proposal of Fung Lok Wai, which comprises sites in the Ramsar Site and Deep Bay Wetland outside Ramsar Site, which are amongst the 12 priority sites, is taken forward by the developer before the promulgation of PPP.

PPP SCHEME - DEVELOPMENT PROPOSALS FOR PRIORITY SITES

5. When the ACE considered the Fung Lok Wai and Sha Lo Tung proposals and their Environmental Impact Assessment (EIA) /Environmental Assessment (EA) Reports, it had asked the Government to develop necessary mechanism to ensure the ecological mitigation and enhancement measures proposed in their Reports are fully implemented and sustained. To this end, we have drawn up a funding and land management framework as set out below to sustain the long-term management of the ecologically sensitive portion of the priority sites.

Proposed funding arrangement

6. Both the Fung Lok Wai and Sha Lo Tung developers have undertaken in their EIA/EA reports to be fully responsible for the construction, creation, enhancement, maintenance and proper management of the Wetland Nature Reserve / Ecological Reserve proposed in the EIA reports. While the two project proponents have indicated that they are willing to set aside certain funds as seed money to support the long term conservation of the ecologically sensitive portions, concerns have been raised on how the funding support can be sustained particularly when the developments are completed and sold to small individual owners. Having considered various options including that made by the developers to set up a private trust, we consider that an upfront lump sum donation sufficient to generate recurrent incomes to support the pledged conservation programmes could be made to the ECF, which is established under the ECF Ordinance (Cap. 450) and is under the oversight of Secretary for the Environment as the trustee. The ECF provides funding to education and research as well as other projects which are related to environmental protection and conservation. As a statutory trust, the ECF has

in place a credible and accountable mechanism for holding the donations by the project proponents. As regards the amount of the upfront donation to the ECF, it will be derived having regard to the estimated expenditure for conserving the ecologically sensitive portion of the site, and the assumed long-term rate of investment return of the ECF. The ECF Investment Committee, whose membership includes experts in the private investment sector and a representative of the Director of Accounting Services, will be invited to review its investment strategies with a view to generating incomes to support the recurrent funding requirements of the conservation programmes as pledged for the specific sites in the long term.

7. To ensure that the conservation works are properly conducted, the developers will be required to identify competent bodies (e.g. green groups) as their conservation agents to manage the ecologically sensitive portion of the concerned sites. The developers should advise their conservation agents to apply for funding support from the ECF for carrying out conservation projects, the details of which should be consistent with that in the approved EIA reports and set out in their ECF applications. Moreover, the conservation agent should demonstrate in the application that members of the public will be allowed access to the ecologically sensitive site under private ownership, for nature appreciation or education purposes with suitable control such that the ecological features of the site would not be adversely affected. The approved funding will be time-limited but may be renewed, provided the application continues to meet the applicable criteria of the ECF¹. The ECF Committee will decide on the funding applications having regard to various factors including the performance/capability of the conservation agents, as well as whether the amount of funds applied for is reasonable. In the event that the project proponent could not identify a competent conservation agent, or the ECF Committee disapproves the applications of the conservation agents identified by the project proponents, the Agriculture, Fisheries and Conservation Department (AFCD) will be prepared to identify competent agencies to apply for funding from the ECF, and will take up such work as the conservation agents during the interim period if necessary.

¹ The existing MA proposals are first vetted by the Environmental Protection Department (EPD) and Agriculture, Fisheries and Conservation Department (AFCD), and then the ACE Nature Conservation Subcommittee. Upon endorsement by the Subcommittee, the funding applications would be submitted to the ECF Committee for approval. In accordance with the existing arrangement, the funding is time-limited. The MA project proponent would need to apply for funds again when the funding period ends.

Proposed Land arrangement

8. In line with our prevailing policy that there should not be land resumption for nature conservation per se, all private land including the ecologically important parts would remain under private ownership. To provide economic incentives to project proponents to carry out PPP projects, when a project proponent proposing development with suggested conservation measures to be carried out in one of the 12 priority sites, the developer acting in the capacity of the lessee of the private land concerned may apply to LandsD for a land exchange involving privately owned land and government land, if available, required and justified for the development portion of the priority site with full market land premium to be paid by the developer for such a land exchange involving only the development portion. In parallel a lease modification² will be executed for the privately owned land within the ecologically sensitive portion of the site, which will remain in the lessee's ownership. In the modified lease for the privately owned land within the conservation portion, alienation would be restricted except as a whole and unless with the prior approval of the Director of Lands to ensure that the land will remain in the ownership of the project proponent. The project proponent as the lessee would also be required to provide unrestricted access to the conservation agents and government departments concerned to carry out conservation management work and inspection respectively.

9. In addition to the 12 priority sites at **Annex A**, there can be other sites that are in private ownership and are considered to have ecological merits as indicated in their respective land use zonings. The above funding and land arrangement could also be extended to cover them though each case would need to be assessed on its merits.

REVIEW OF THE MANAGEMENT AGREEMENT SCHEME

10. Under the MA scheme, non-profit making organizations³ may apply for funding from the ECF for entering into MAs with the landowners of the 12 priority sites. They can provide the landowners with financial incentives (e.g. rents/fees) in exchange for management rights over their land or their

² The lease will need to be modified, and it may take the form of lease modification or a land exchange involving surrender of the land and regrant of the land even without changing the land boundary.

³ Including green groups, educational institutions and community organizations.

cooperation in enhancing conservation of the sites concerned. Pilot projects under the MA scheme have been implemented at two private sites, namely Long Valley and Fung Yuen. The ECF has granted a total of \$21 million for the projects since 2005, which will last until 2012-13. The projects have protected the natural habitats, and increased the quantity as well as number of species at the two sites. Besides, the projects are successful in raising public awareness in nature conservation through engaging the local villagers in the management of the sites and various public education and volunteer programmes. We consider that such works should continue.

The need to fund the MAs on a long term basis

11. Experience in the past five years shows that it would be very unlikely for these conservation projects to be self-financing. Most of the activities being carried out under the MA scheme are for the purpose of conserving and enhancing the natural environment rather than generating income. Subsidies through the MA are the key support provided by the Government to sustain conservation of private land of ecological importance. Conservation activities are by nature almost inevitably not profitable. Funding incurred is to provide a rent/fee for the land concerned, hiring of farmers to plant crops that attract bird species, clearing invasive species for the protection of the habitats, and conducting surveys to track the effectiveness of the projects. Human resources, overheads, administrative fees etc. are also required to run these projects. Although the applicants have developed and implemented various income generating activities, such as eco-tours, selling of agricultural produces and souvenirs, the income so generated only represents a very modest percentage (less than 3%) of the fund required to operate the conservation activities. Also, in order to preserve the ecological values of the sites, while we encourage the applicants to organize eco-tours and other educational activities, these income-generating activities must be confined to within appropriate limits. It is therefore impracticable to expect the MA to become self-sufficient even in the long term.

12. The ECF guidelines have a standing requirement that the funding support to projects should be on a time-limited basis and projects involving recurrent expenditure should have the potential of becoming self-sufficient in

the longer term⁴. We note that the pilot MA projects had been renewed twice and such a pattern was not compatible with the supposedly time-limited nature MA projects funded by the ECF. Having regard to the nature of conservation activities and because the Government places much importance on nature conservation, we recommend amending the ECF funding guideline to expressly provide continuing support to MA under the scheme.

13. Notwithstanding the removal of the self-sufficiency requirements, all applications will be supported on a time-limited basis (generally not longer than 3 years) and each application, including applications to renew the existing applications, has to be assessed on its own merits.

Extending the MA scheme to cover private land in country parks and private land in country park enclaves

14. Following the Sai Wan case in July 2010, there have been increased public concerns over the protection of country park enclaves against incompatible land use⁵. The 2010-11 Policy Address has announced the Government's plan to bring these areas under statutory protection through designating them as part of country parks or by including them into Development Permission Area (DPA) plans. Apart from the statutory control measures, we consider it necessary to better engage the private land owners to support nature conservation activities on their sites. The MA scheme has proven to be a successful *modus operandi* to bring non-profit making organizations and landowners together to conserve private land. We propose extending the current scope of the scheme to cover private land in country park enclaves and in country parks. Conservation activities compatible with the land uses and country park objectives could be undertaken by non-profit making organizations. If these private landowners can be incentivized to undertake conservation activities, it would be conducive to enhancing the overall conservation and scenic values of the country parks. We suggest that the eligibility to apply to ECF would remain the same as that in the existing guideline, i.e. only non-profit making

⁴ Paragraph 2.6 (g) of the ECF Guide to Application for Nature Conservation MA Projects states that one of the vetting criteria is, if recurrent expenditure is incurred, whether the proposed project has potential to become self-sufficient after a certain period of time.

⁵ Country park enclaves are sites that are surrounded by or are adjacent to country parks, but are not part of the country parks. Currently, there are 77 country park enclaves, with a total area of 2,076 hectares. Most of these enclaves comprise both private and government land. Most of them are presently not under statutory protection against incompatible uses and development.

organizations are eligible. These organizations may join hands with local villagers to run an MA project.

15. We have consulted the Nature Conservation Subcommittee under the ACE on the review of the MA scheme at its meeting on 26 May 2011. Members supported the proposal.

WAY FORWARD

16. Subject to the views of this Committee, the relevant authorities shall continue to liaise with the developers of the projects at Sha Lo Tung and Fung Lok Wai on the implementation of the projects. Regarding the MA scheme, we shall revise the ECF guidelines to reflect the results of the review of the scheme, and shall continue to promote the scheme with a view to attract more non-profit making organizations to participate in the scheme.

ADVICE SOUGHT

17. Members are invited to offer views on the above proposals.

Environmental Protection Department
May 2011

12 Priority Sites Identified under the New Nature Conservation Policy

Ramsar Site

Sha Lo Tung

Tai Ho

Fung Yuen

Luk Keng Marsh

Mui Tsz Lam and Mau Ping

Wu Kau Tang

Long Valley and Ho Sheung Heung

Deep Bay Wetland outside Ramsar Site

Cheung Sheung

Yung Shue O

Sham Chung

The Management Agreement projects

	Fung Yuen project	Long Valley project
Project proponent	Tai Po Environmental Association	Conservancy Association in collaboration with the Hong Kong Bird Watching Society
Objective	To conserve and enhance the natural habitat of butterflies in the Fung Yuen Valley Site of Specific Scientific Interest through management agreement with local landowners	To enhance conservation of Long Valley and Ho Sheung Heung area by collaborating with landowners, tenant farmers and local villagers.
Start date	Nov 2005	Nov 2005
Land managed	2 ha	14 ha (increased from around 10 ha in 2005)
Funds granted by ECF	Total: \$9,630,000 <i>(Accumulative funds granted in 2005, 2007 and 2009. The funding will last till 2013)</i>	Total: \$11,440,000 <i>(Accumulative funds granted in 2005, 2007 and 2009. The funding will last till 2012)</i>
Achievements	Butterfly species found there increased over 20% since the launch of the project. Over 80% of the butterfly species in Hong Kong could be found. The place received over 110,000 visitors and held seminars for over 12,000 students from primary and secondary schools, as well as tertiary institutions.	Bird species found there increased over 30% since the launch of the project. Over 50% of the bird species in Hong Kong could be found. Wetland dependent species also increased since the launch. With publicity activities in place, public awareness has also been raised on the need for conservation.