

**Legislative Council Environmental Affairs Committee
Implementation of the new Nature Conservation Policy**

Public Submission

1. Sha Lo Tung is situated within the heart of Pat Sin Leng Country Park. Any right-thinking person would be shocked at the approval by the Environmental Protection Department of the columbarium and associated works planned for Sha Lo Tung and at the process by which this has been undertaken.
2. Sha Lo Tung has for more than 20 years been recognized as a site of outstanding natural beauty and a site of the highest ecological importance, in particular for its dragonflies which include several species new to science.
3. Any development here must be compatible with being in the core of a country park and with protecting the outstanding natural beauty and outstanding biodiversity, which is so sensitive to ecological damage.
4. It is wrong in principle to implement the Nature Conservation Policy in a manner which permits such a development - as was upheld by a 2001 High Court decision (HCAL no. 124 of 2000) which affirmed the importance of and the need to protect Sha Lo Tung as a whole to protect its biodiversity, and a judicial review in April 1992 (MP273 of 1992), which prevented the construction of a private golf course in the Country Park and made the associated residential development within the valley a non financially viable plan. See Conservancy Association 2000, paragraph 35 for some principles for ensuring pristine areas surrounded by Country Park or areas of highest landscape quality are protected.
5. For the EPD to approve a commercial development here, and to do so in secrecy, wilfully bypassing public consultation and Hong Kong's robust and respected statutory EIA system is to show no regard for the needs of Hong Kong people and the international standards to achieve that.
6. However an alternative and fully acceptable alternative exists. It is noted from the LegCo papers that non-in-situ land exchange has been proposed and the concept welcomed for the PPP proposal for Tai Ho.
7. Another strong precedent for such an exchange is the King Yin Lei mansion on Stubbs Road. If the Administration is prepared to protect second-string cultural heritage via land exchange, why not a top quality biodiversity site?
8. Since the site requirements for a columbarium are not difficult to meet, there is no reason why a similar exchange cannot be worked out for Sha Lo Tung that protects our outstanding biodiversity and the legitimate rights of the landowners.
9. Such a measure would also be warmly welcomed by the environmental NGOs. Past papers discussing such issues include the 2000 Conservancy Association paper "Achieving Conservation - A Conservation Policy for Hong Kong" paras 37-39 and Kadoorie Farm & Botanic Garden's "Restoring the Balance" paras 59-62 of 2002, and Civic Exchange, Conservation in Hong Kong, 2002. Many other NGO's have supported this for many years, as have I in detailed papers and submissions.

10. It is of great concern that no provision for protection of the site has been made through securing ownership of the land. There is a strong need for the land at Sha Lo Tung to be held in a Nature Conservation Trust with a high level of public participation.
11. The importance of such participation is enshrined in the Convention on Biological Diversity (which, it is noted in other papers for this meeting, the Administration is eager to implement) and the Rio Declaration on Sustainable Development.
12. In summary, EPD's secret decision to approve the columbarium at Sha Lo Tung contradicts the legitimate expectations of the public in compromising the natural beauty and biodiversity of the site, flies in the face of international principles for conservation, disregards the lessons learned in previous litigation leading to judgements in the High Court, deliberately avoids public consultation and the best framework for enforcement to protect the site from ecological damage by waiving the statutory EIA. It makes no provision to protect the site through securing ownership along the lines proposed in the Rio Declaration and the convention on Biological Diversity. To do this when workable solutions exist exposes this decision as the poisoned first fruits of the fundamentally flawed 2004 Nature Conservation Policy. It represents a step backwards, with no lessons learned since the first Sha Lo Tung case in 1992.
13. Sha Lo Tung is one of the most important areas of bio diversity in Hong Kong generally and thus in South China. A columbarium is not appropriate. The methods exist to make the Policy work towards real nature conservation for the public good. Honourable Members have the opportunity to implement nature conservation to international standards and show that Hong Kong can do better than this. Please call for a land exchange, use of the EIA Ordinance, international conservation standards and a nature conservation trust to hold and protect these essential assets for posterity.

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