



THE HONG KONG BIRD WATCHING SOCIETY LIMITED

Approved Charitable Institution of Public Character
GPO BOX 12460, HONG KONG.

Subcommittee of the Legislative Council Country Parks (Designation) (Consolidation) (Amendment) Order 2010

Comments and Recommendations of Hong Kong Bird Watching Society

Honorable Members are invited to consider:

1. Is it in the best interests of the Country Parks to:
 - a. approve the new boundary with no compensation for loss of land, or
 - b. to require the boundary to include “no net loss” compensation of area.
2. Is it reasonable for environmental groups and the Country & Marine Parks Board (CMPB) to request that the integrity of the Country Parks network be protected by ensuring that any land taken should be compensated by an equal or larger area of land with equal or better ecological and recreational value?
3. Is it reasonable to expect that the department responsible for protecting our environment and the department responsible for managing our country parks should work together to provide compensation when a project of the former negatively impacts the land under the management of the latter?
4. Is it appropriate for the Environmental Protection Department (EPD) to have so little respect for the Country Parks that it tries twice in 20 years to use land in a Country Park without compensation and outside the stipulated purpose of the Country Parks Ordinance?
5. Is it appropriate for EPD to have so little respect for the rule of law and legitimate public consultation that:
 - a. it tried to avoid the issue of whether it had acted unlawfully by claiming that the Government is not bound by the Country Parks Ordinance (CPO)?
 - b. it claims to have a policy of not compensating for land taken from the Parks, and yet fails to provide a copy of this policy or any other genuine impediment to compensation in four years of “continuous public involvement”?
 - c. It fails to take account or advise of the precedents for compensation?
6. Is it appropriate for EPD to follow procedures (premature approval in principal, failure to consult the public, application for non-conforming use of country park land) that were criticized by the ombudsman when it attempted to secure 15 hectares from the same country park for landfill in 1993?

7. It is acceptable for the Country Parks Authority (CPA) and CMPB to consider and approve a request for a nonconforming use of Country Park land when it has known since 1992 that there is no legal mechanism for it to do so¹?
8. Is it conducive to good management of the Country Parks for CPA and CMPB to surrender Country Park land without securing appropriate compensation?
9. Is it acceptable that some 16 months after CMPB requested the CPA to identify land that could be added to the country park in compensation for the land excised, CPA has still not complied with this request.
10. Is it appropriate for the CPA to suggest that land of better ecological and recreational value at Razor Hill is not appropriate because it is not contiguous with the current boundary, when the park is already divided into five parts, three of which are smaller than the land at Razor Hill?
11. If you believe that actions taken by these departments are not appropriate or acceptable would it be appropriate to order a review of the Country Parks Ordinance and for LegCo to launch an inquiry into the whole matter?
12. This might be especially appropriate given the fact that a review of the CPO recommended in 1993 by the ombudsman to address the unlawful approval of non-conforming uses of Country Parks has never been conducted – and is the cause for much of the present controversy.
13. HKBWS requests that the present excision be delayed until such time as appropriate compensation be identified and designated for:
 - a. The five hectares proposed for excision under the current Order before this subcommittee.
 - b. The fifteen hectares of Country Park land currently being “temporarily” used for landfill to be excised from the park.
14. **IMPORTANT:** no-one loses if compensation is required

Note: supporting documentation can be supplied to Members on request.

Mike Kilburn
Vice Chairman
12 July 2010

¹ HKBWS does not believe the current process for excision to be unlawful, but the initial approach of EPD was to seek to use land within Clearwater Bay Country Park for a non-conforming use without excising it, for which there is no provision under the Country Parks Ordinance. It was under this unlawful approach that the approval of CMPB was obtained.