



嘉道理農場暨植物園公司  
Kadoorie Farm & Botanic Garden Corporation

**Legislative Council Panel on Environmental Affairs**

**New Nature Conservation Policy November 2004  
Response from Kadoorie Farm and Botanic Garden  
19<sup>th</sup> November, 2004**

**1. Introduction**

- 1.1 The following document represents the submission of Kadoorie Farm and Botanic Garden Corporation on the newly nature conservation policy.
- 1.2 Kadoorie Farm and Botanic Garden Corporation (KFBG) was created by a Legislative Council Ordinance in 1995<sup>1</sup>. For many years before, and since, it has made a major practical contribution to biodiversity conservation and the rural environment in Hong Kong and Southern China through a range of agricultural aid, training, education and survey programmes, wild animal rescue and rehabilitation and establishing breeding populations of threatened species. In addition, KFBG has published papers articles and books on a range of ecological, agricultural, rural economy (including organic farming), and environmental issues.
- 1.3 In addition to the above, KFBG's current work includes research into rural land use, land administration and enforcement, planning for conservation and ecological footprinting.
- 1.4 KFBG has played an active role in the public consultation for this nature conservation policy including:
  - Attendance at the Administration's initial briefing session
  - The formulation of a written submission<sup>2</sup>
  - Support for the joint submission by environmental NGOs<sup>3</sup>
  - Preparing a Consensus document summarising the work of environmental NGOs in relation to nature conservation policy in the last twenty years<sup>4</sup>
  - Making a presentation at a Tai Po Environmental Association event
  - Encouraging and supporting KFBG staff and various organisations in preparing their submissions
  - Attendance at the Administration's briefing on extending the Convention on Biological Diversity and the Cartagena Protocol to Hong Kong

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<sup>1</sup> Kadoorie Farm and Botanic Garden Corporation Bill (cap1156): "To establish a body corporate to manage and control the Kadoorie Farm and Botanic Garden for the public benefit as a centre for conservation and education."

<sup>2</sup> Please see Attachment A

<sup>3</sup> Please see Attachment B

<sup>4</sup> Please see Attachment C

## **2 The Policy Formulation Process**

- 2.1 As Albert Lai, Chairman of Conservancy Association recently pointed out, consultation should be a core competence of the Administration, particularly during the policy-making process. It is clear that the approach and transparency differs markedly from one government body to another. It is regrettable that the recent public consultation on the nature conservation policy is an example of outdated and unsatisfactory consultation.
- 2.2 Given Hong Kong's claim of being a world class city, we regret that the Administration has chosen not to implement the consultation and formulation procedures laid out in the Convention on Biological Diversity<sup>5</sup> (CBD), which is recognized as the international standard for the review and development of biodiversity conservation policies.
- 2.3 Instead the Administration has adopted a policy formulation and consultation process that was secretive, non-participative, provided little opportunity for dialogue and has taken little account of the comments of the public<sup>6</sup>.
- 2.4 However, we welcome the formation of expert groups to discuss the scoring system and taxa groups as creating an environment to foster greater exchange of information between the Administration and experts in those specific fields.
- 2.5 We regret that such a consultative approach was not adopted for the drafting of a broader framework for nature conservation<sup>7</sup>.

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<sup>5</sup> While KFBCG welcomes the proposed extension of the Convention to Hong Kong, we remain mystified as to why Conventions guidelines for implementation have been ignored in the current study

<sup>6</sup> Please refer Chapter 7 (pages 10 -12) to the KFBCG submission in Attachment A

<sup>7</sup> We commend in particular the greater breadth and depth of dialogue generated by the "pilot area" consultations of the Council for Sustainable Development's "Making Choices for our Future" July 2004

### **3 The New Policy**

3.1 KFBG welcomes the beginning of the process of introducing a Conservation policy for Hong Kong.

3.2 Given Hong Kong's aspiration to be Asia's World City<sup>8</sup>, KFBG expected the Administration would seek to adopt global best practices to formulate a new nature conservation policy for Hong Kong. As a result we believed the Administration would implement the CBD, which sets the global standard for nature conservation policy development.

3.3 KFBG notes, with regret, that this is not the case. Instead the new policy statement focuses almost entirely on the issue of sites of high ecological value that are located on private land.

3.4 In this respect we **recognize**:

- a. The important role played by the Country Parks in securing land against other forms of development
- b. The importance of resolving the issue of sites of high ecological value on private land
- c. The incremental improvement in technical proficiency in ecology and biodiversity within the Administration
- d. The value of greater multi-sectoral involvement through Private Public Partnerships (PPP) and management agreements

3.5 We **welcome**:

- a. The opportunity for non-in-situ development options within the PPP proposal and applaud their inclusion.
- b. Further exploration of the role of an independent Conservation Trust to hold and manage land of high ecological value.

3.6 We **regret**:

- No attempt has been made to articulate a holistic policy providing clear cross-sectoral guidelines to the Administration and the community on biodiversity conservation as proposed in the Rio Declaration and Chapter 6b of the CBD.
- A clear objective of “no net loss of biodiversity at a habitat species and genetic level” has not been included.
- The Administration has offered no additional funding to support the new policy, although it has “allocated” up to HK\$5 million from the Environment Conservation Fund – money already set aside for conservation! This provides a sad insight into the true level of commitment of the Administration to Biodiversity Conservation

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<sup>8</sup> Chief Executive's Policy Address 1999

- The acknowledgement implicit in the new policy that since the Administration is not willing to offer financial support for nature conservation, the private sector must do so. This has serious implications for the security and integrity of several ecologically sensitive sites
- No action plan or strategic plan has been formulated which outline the implementation of the statements made in the policy objectives
- Many elements that might reasonably be expected to appear in a nature conservation policy have been ignored<sup>9</sup>
- The unwillingness of the Administration to consider proposals and methods widely adopted in other countries.
- There is no attempt to consider Nature conservation in its context of the Hong Kong countryside, where it interfaces directly with agriculture, recreation, landscape, and open space in addition to increasing pressure from legitimate, unauthorised and illegal developments.

### 3.7 We **look forward to**

- Further consultation and dialogue on the establishment of a Conservation Trust to hold and manage sites of high ecological value
- Implementation of non in-situ land exchange. **In particular we would welcome the opportunity to discuss a model for securing privately held land of high ecological value**
- Reviewing and participating in the Administration's plans for strengthening enforcement and protection of sites, habitats, species, populations and ecosystems of high ecological value
- Participating in a re-evaluation of the Administration's financial commitment to biodiversity conservation

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<sup>9</sup> Please see Attachment B



## NATURE OUTLOOK: REVIEW OF CONSERVATION POLICY

### Submission of Kadoorie Farm and Botanic Garden Corporation

#### 1. Introduction

- 1.1 The following document represents the submission of Kadoorie Farm and Botanic Garden Corporation in the public consultation exercise for the HKSAR Administration's 2003 Conservation Policy Review.
- 1.2 A Legislative Council Ordinance created Kadoorie Farm and Botanic Garden Corporation (KFBG) in 1995<sup>1</sup>. For many years before, and since then, it has made a major practical contribution to biodiversity conservation and the rural environment in Hong Kong and South China through a range of training education and survey programmes, wild animal rescue and rehabilitation and establishing breeding populations of threatened species. In addition, KFBG has published papers articles and books on a wide range of ecological, agricultural and environmental issues.
- 1.3 KFBG's current staff includes eminent experts in several species groups including bats, moths, herpetofauna, freshwater fish, orchids and other plants. The expertise of several staff members is reflected in their membership of international species specialist groups. Others hold wide experience in global conservation bodies and national biodiversity planning.
- 1.4 KFBG has played an active role in the current consultation, including the following events:
  - First briefing meeting for NGOs chaired by Rita Lau, Environment, Transport and Works Bureau (ETWB)
  - Numerous "informal" sessions with representatives from AFCD and ETWB.
  - Our proposal to organise a workshop to explore cross-sectoral implications of conservation was rejected by ETWB on the grounds that this had already been done internally.

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<sup>1</sup> Kadoorie Farm and Botanic Garden Corporation Bill (cap1156): "To establish a body corporate to manage and control the Kadoorie Farm and Botanic Garden for the public benefit as a centre for conservation and education."

- Presentation on aspects of the current conservation policy consultation at a workshop hosted by Tai Po Environmental Association on 11<sup>th</sup> October, 2003

## **1.5 The Review**

The nature conservation policy review is the first attempt by the Administration to evolve a conservation policy for Hong Kong through public participation. The introduction of a comprehensive conservation policy would represent a major opportunity to improve Hong Kong's overall sustainability and to realise the Chief Executive's vision of Hong Kong as "Asia's World City<sup>2</sup>". In this spirit, we offer the following comments on the conservation policy review.

- 1.6 Overall, we are surprised that the scope of the consultation is so limited, and that a number of key considerations appear to have been entirely omitted. Furthermore, we believe that these omissions leave Hong Kong some way short of international standards and best practices, in particular the Convention on Biological Diversity, the UN Millennium Goals (Goal 7) and the Johannesburg Declaration on Sustainable Development, and these omissions must be addressed as a matter of urgency.

## **2. The Significance of Nature Conservation for Hong Kong's Sustainable Development**

- 2.1 As noted above, the Administration has made explicit statements about the importance of conservation of our ecological and environmental assets. We agree that conservation carries enormous value for Hong Kong as the city in which we all live and work. Key elements include:
- i. The conservation of our coastlines, uplands and forests provides a verdant support system to the life of our city and immediate access to the countryside unrivalled by Beijing, Shanghai, Tokyo or Singapore;
  - ii. Hong Kong's natural assets, in particular the deep-water port, represent the longest-serving sources of our competitive advantage – and Victoria Harbour is our most recognized tourist attraction;
  - iii. Our zoogeographical position and the diversity of habitats have given us a high proportion of China's biodiversity in relation to our size.
  - iv. The country park and protected areas network are vital in absorption of pollutants; securing space for recreation and relaxation, water catchments, contributing to the physical and mental health of our densely populated high-pressure lifestyle.
  - v. The countryside as a whole provides a diverse range of habitats for wildlife and acts as a buffer against disease and infection
  - vi. Our biodiversity is a pool of untapped resources for our nascent biotechnology industry.

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<sup>2</sup> Chief Executive's Policy Address (1999)

- vii. The cultural heritage and socio-economic benefits of the farming and fishing industries
- 2.2 The principles of sustainable development<sup>3</sup> is gaining increasing support from government, the private sector, NGOs and community leaders worldwide<sup>4,5,6,7,8,9,10</sup>. These principles, which are enshrined in international treaties, declarations and national commitments, accord a greater value to ecological conservation and environmental protection<sup>11</sup>. Latterly the financial sector has begun to acknowledge the positive financial value of socially and environmentally responsible corporations; they consistently show higher stock prices than the markets they are traded in. Furthermore, a dominant majority of banks offering private project finance including HSBC and Standard Chartered have signed up to the Equator Principles<sup>12</sup>, which ties access to capital to the same sustainability principles.
- 2.3 Sadly this is not the case in Hong Kong. Ecological and environmental concerns are continually subjugated to economic development – a mindset that must change if Hong Kong is to be sincere in its espousal of sustainability. The task of establishing a legal, policy, and administrative framework for nature conservation as an equal partner with economic development rests firmly with the Administration.

### 3. Conservation Needs

- 3.1 Having established the importance of conservation for Hong Kong, the next step must be to determine Hong Kong's conservation needs. This must begin with establishing a baseline of our ecological assets. We believe that this needs to be carried out at three levels: ecosystem, species and genetic (consistent with the Convention on Biological Diversity, to which China is a Party).
- 3.2 A great deal of work has been done in this field by a number of academic institutions and environmental NGOs including the Department of Ecology and Biodiversity, of the University of Hong Kong, KFBG, Civic Exchange and the Hong Kong Bird Watching Society and World Wide Fund For Nature (Hong Kong). Some of this work has been commissioned by the Administration, but almost all has relied on expertise outside the public sector.

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<sup>3</sup> "Sustainable development is that which meets the needs of the present without compromising the ability of future generations to meet their own needs." *World Commission on Environment and Development 1987*

<sup>4</sup> Basel Convention on Control of Transboundary Movements of Hazardous Wastes and their Disposal 1989

<sup>5</sup> Agenda 21 UN Earth Summit Rio De Janeiro 1993

<sup>6</sup> Rio Declaration: UN Earth Summit Rio De Janeiro 1993

<sup>7</sup> United Nations Framework Convention on Climate Change 1993

<sup>8</sup> UN Conference on Human Settlements 1996

<sup>9</sup> United Nations Millennium Goals: Goal 7: Ensure Environmental Sustainability United Nations 2000

<sup>10</sup> Johannesburg Declaration on Sustainable Development, United Nations 2002

<sup>11</sup> Convention on Biological Diversity 1993

<sup>12</sup> Equator Principles: World Bank International Finance Corporation 2003

- 3.3 Many of Hong Kong's endemic and/or globally threatened species are not protected and no conservation plans have been drawn up for their protection. These include all freshwater fish, most insects, most herpetofauna and a huge range of plants<sup>13</sup>. We believe independent sources and reputable scientific bodies have gathered sufficient baseline information on the well-studied groups<sup>14,15</sup>.
- 3.4 The shortage of land in Hong Kong, and the favouring of property and infrastructure development over conservation concerns, a substantial proportion of habitats also face grave threats. Some protected habitats are also faced with increasing fragmentation caused by infrastructure and housing developments. Of major significance is the risk of total terrestrial fragmentation of Hong Kong from the rest of China if the Frontier Closed Area is opened for uncontrolled development
- 3.5 As "Asia's World City" enjoying high levels of economic prosperity, our responsibilities (otherwise known as "ecological footprint") stretch beyond the borders of the HKSAR. Hong Kong's global rating for consumption of fossil fuels, turtles, live and dried seafood, paper and forest products is disproportionate to the size of the population.
- 3.6 KFBG's own work in this area confirms that Hong Kong is a major consumer of wild animals, in particular turtles and a hub for the transshipment of rare and endangered animals to wildlife markets in South China<sup>16</sup>. In order to continue to make use of these resources, we must review our consumption patterns and reconsider our responsibilities. Similarly the translocation of Hong Kong's polluting industries to the Pearl River Delta has further aggravated the negative impacts of Hong Kong's economic success.
- 3.7 Hong Kong's conservation needs are constantly changing as new influencing factors come into play. One such new influence is the issue of biosafety and genetically-modified organisms. The Biosafety Protocol of the Convention on Biological Diversity governs the transfer, handling and storage of materials containing genetically modified organisms. This issue is already of concern to the Hong Kong public, and has been the subject of much work into GM labelling by NGOs in recent months.
- 3.8.1 Hong Kong's physical and political proximity to southern China cannot be ignored, particularly when China's protected areas and biodiversity are faced with even greater pressures and lack of resources than Hong Kong's. As a result, it is

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<sup>13</sup> **Hong Kong Vascular Plants: Distribution and Status** Corlett *et al.* Memoirs of the Hong Kong Natural History Society No 23. June 2000

<sup>14</sup> **Wild Animals to Watch: Terrestrial and Freshwater Fauna of Conservation Concern in Hong Kong** Fellowes *et al.* Memoirs of the Hong Kong Natural History Society No 25, pp 123 – 161. June 2002

<sup>15</sup> **Conserving Biodiversity in Protected Areas: Recommendations for the expansion of Protected Areas in Hong Kong.** Jackie Yin Yip. Department of Ecology and Biodiversity, University of Hong Kong. June 2000

<sup>16</sup> **Turtles in Crisis: The Asian Food Markets.** IUCN 2001



essential that the integrity of our existing ecosystems, both inside and outside protected areas is preserved.

- 3.8.2 As a result of surveys carried out throughout South East China, KFBG is uniquely qualified to comment on the severity of threats to biodiversity in this region. Through its long experience and expertise in Hong Kong biodiversity we are also in a position to assert the huge importance of Hong Kong in conserving the biodiversity of the region as a whole.
- 3.8.3 In this context we note with concern the unsustainability of the current suite of land use policies and administrative measures and practices which characterise rural landuse planning in Hong Kong including:
- Small House Policy,
  - Other Uses (Rural Uses) zoning designation, and
  - The freedom with which the Town Planning Board and Planning Department appears willing to surrender rural land zoned for conservation and agricultural uses for development.
- 3.8.4 We therefore believe that, in addition to identifying and designating ecological hotspots (many of which lie in close proximity to or are surrounded by protected areas), that buffer zones should be established around the boundaries of all country parks and ecological hotspots which limit land uses to those compatible with protecting and enhancing the ecological integrity and inter-connectivity of areas of high ecological value. (Please refer to our proposal in Section 8)
- 3.8.5 In this way Hong Kong can play an effective role in contributing to China's observance of its commitments to the Convention on Biological Diversity, even though the Convention's principles are yet to be adopted or implemented by this Administration.

#### **4. Review of the Administration's Existing Policies**

- 4.1 The Review outlines the role the Administration has played in protecting habitats of importance for conserving Hong Kong's biodiversity and natural environment. In particular it profiles:
- AFCD and the Country Parks
  - Wild Animals Protection Ordinance 1976 (cap 170)
  - Town Planning Board-administered land use zoning system
  - Environmental Impact Assessment Ordinance 1998 (cap 499)(EIAO).
- 4.2 In the absence of a comprehensive policy these ordinances and measures have served as a de-facto framework for conservation, albeit a weak and disjunct one, handled with little in the way of co-ordination by several different departments<sup>17</sup>. However, the Review presents neither a balanced picture of the state of our

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<sup>17</sup> See Appendix A: Hong Kong Environmental Legislation

biodiversity nor of the effectiveness of current conservation initiatives in dealing with the continuing threats and degradation.

- 4.3 Furthermore the Review does not touch on the current administrative structure for conservation. Under the current structure the Environment, Transport and Works Bureau hold responsibility at the policy level, but the Agriculture, Fisheries and Conservation Department (which reports to the Economic Services Bureau), is responsible for most of the implementation of conservation actions in Hong Kong. No indication is made of the role of District Councils – the key element of decentralised government in Hong Kong.

## **5. Current Conservation Measures**

### **5.1 AFCD and Country Parks**

Since 1976 Hong Kong has had an extensive network of Country Parks and Special Areas that protect substantial areas of habitat, particularly grassland, shrubland and woodland, covering some 40% of our total land area. Hong Kong has deservedly received much international acclaim for the establishment of a system of protected areas.

- 5.1.1 We recognize that the Country Parks play an important role in protecting our ecological resources, and also serve as an invaluable amenity for recreation and relaxation that contributes significantly to the general health of the community.
- 5.1.2 However, we note that the Country Parks were not established, nor are they managed primarily to conserve or increase Hong Kong's biodiversity. We believe that the Administration has for too long rested on its laurels, hiding a lack of proactive engagement in conservation behind a measure that was agreed upon almost 30 years ago!
- 5.1.3 Conservation is a relatively new element of the portfolio of AFCD and, at the time it was added, few additional resources were added to empower the Department to fulfil this new mandate. With no policy direction and few resources it is hardly surprising that little has been done to proactively conserve and enhance Hong Kong's biodiversity and meet the needs expressed in Section 3.
- 5.1.4 It seems that this review is being conducted on the assumption that implementation will be determined by the present level of resources and expertise in AFCD. Once this is understood it becomes much easier to understand why some of the proposals put forward over the last ten years by environmental NGOs and other stakeholders have been rejected and why the proposals for improvement are so limited.

### **5.2 Conservation plans for important species**

Conservation plans have been created for some flagship species, but the importance of a range of others, sometimes entire groups, does not appear to have been considered. Under international guidelines (especially IUCN Red List) a

number of these qualify for designation as threatened species and for protected status. A protocol for identifying species and drawing up species conservation plans should be included in the Conservation policy

5.3 **Wild Animals Protection Ordinance (Cap 170)**, could be a key tool. However, the relative weakness of Cap 170 as a tool for protecting wildlife is an ongoing concern. The current review provides the ideal opportunity for strengthening the enforcement mechanism and investigation and prosecution of unlawful acts. It is unnecessarily biased towards protecting species of commercial value.

#### 5.4.1 **EIAO implementation**

Hong Kong's EIA system is in many ways rather successful and has received wide recognition. However, serious problems remain in addressing strategic environmental assessment, cumulative impact, and the shortcomings of onsite mitigation.

5.4.2 However, the EIA system is designed for assessing site-specific project level impacts. There is a need within the Review to update the EIAO standards:

- Strategic environmental assessment
- Cumulative impacts
- Regional (cross-border) impacts
- Monitoring

While doing so the Administration may refer to Article 14 of CBD and various decisions endorsed by China and other Parties at various meetings of the Conference of the Parties of CBD.

5.4.3 Further problems are caused by:

- Low standards of ecological consultancy
- The Administration's contract tendering system, which emphasises financial competitiveness over professional expertise.
- The lack of independence afforded to consultants in producing EIA reports.
- Weaknesses in the public consultation process. This is due to limiting public consultation to the end of the process, when great savings and benefits can be derived from consultation at the feasibility and even pre-feasibility stage.

5.5 The landuse zoning mechanism plays an important role in conserving sites of ecological importance. However, serious issues remain with certain zoning mechanisms including Conservation Area and OU(RU)<sup>18</sup>.

#### 5.6 **Legislation not referred to by the Administration**

For unknown reasons the Review has not referred to the body of environmental laws (see Appendix A: Hong Kong Environmental Legislation) relevant to conservation, in particular

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<sup>18</sup> KFBG Paper "Restoring the Balance" 2003

- Water Pollution Control Ordinance (Cap.358)
- Waste Disposal Ordinance (Cap.354)
- Dumping at Sea Ordinance (Cap.466)

## **6. The Administration’s Improvement Proposals**

It must be clearly stated that under this consultation exercise, the Administration has failed to propose a new conservation policy. It is very much hoped that this consultation exercise is intended to represent the Administration’s first attempt to address one of the most important issues for biodiversity conservation in Hong Kong – sites of high ecological value of privately-held land. It is hoped that a comprehensive policy will be the ultimate aim of the Administration.

### **6.1 Scoring system**

It is understood the scoring system is intended to provide an objective determination of the sites of high ecological importance that should be prioritised for conservation action.

We believe that the proposed scoring system is flawed in terms of the above objectives:

- Several of the criteria are rather subjective. This is likely to lead to more arguments about ecological value, not fewer.
- Disturbance needs to be distinguished from “threat”. The existence of an identified threat to a given species or habitat, should suggest a higher priority for action.

Refer to Appendix B for KFBG’s proposed alternative scoring system.

### **6.2. Management agreements with landowners**

This is a mechanism to offer funding and support to NGOs to manage sites of high ecological value on private land in co-operation with landowners.

However, many uncertainties remain. We submit that these must be addressed before such a measure can be meaningfully considered:

- a. It is not clear what incentive landowners will have to co-operate with NGOs,
- b. The nature or size of funding available is not known,
- c. The capacity and competence of NGOs to successfully manage such habitats
- d. The capacity and competence of AFCD to oversee the work of the partnerships
- e. Eligibility criteria in applying for subvention
- f. No timeframe has been proposed

### **6.3. Public-private partnerships**

This proposal endorses the “Fung Lok Wai model” of concentrating the entire plot ratio of a site of high ecological value into a small, less sensitive area of the site and managing the remainder for conservation purposes. It also leaves open the door for non in-situ land exchange (which is welcomed by KFBG).

While private developers have welcomed this model, it suggests that the only method for securing sites for conservation is where development will occur on at least part of the site, or where conservation will occur only as a means to facilitate private development. In certain sites any development may have serious landscape or ecological impacts. It is hoped that the Administration will consider proposals for how to deal with such sites. This option is not suitable for pristine areas or small hotspots where any development would cause unacceptable impacts.

#### **6.4.1 Options considered impracticable**

The Administration has rejected without public consultation the following options as impractical, because they are considered too complex to implement or too costly:

- Land Resumption
- Land Exchange
- Tightening of Existing Conservation Measures
- Off-site mitigation
- Transfer of Development Rights

6.4.2 Some of the above measures have been successfully adopted in developed countries. Further, many of the leading environmental groups and professional bodies in Hong Kong have called for adaptation of these measures to suit Hong Kong’s conservation needs<sup>1920</sup>. By rejecting the above options the Administration has closed the doors for innovative and creative solutions, which could enrich the consultation process.

6.4.3 It is our understanding that one of the goals of the Review is to find new ways for conservation of biodiversity on privately-held lands. The uniqueness of each site suggests that site-by-site solutions must be found. By rejecting the above options the Administration has unknowingly surrendered several policy instruments which have already been proven effective in Hong Kong<sup>21</sup> and other jurisdictions.

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<sup>19</sup> KFBG Paper “Restoring the Balance” 2002

<sup>20</sup> Consensus Paper: Main Points for Hong Kong Conservation Policy based on common issues raised by green groups over last 20 years. KFBG 2003

<sup>21</sup> The Marine Parks Ordinance (cap476) Section 16 (resumption of land)

(1) Where the Chief Executive in Council decides that the resumption of any land is required for the purpose of any marine park or marine reserve, the Chief Executive may order the resumption thereof in accordance with the provisions of the Lands Resumption Ordinance (Cap 124). (Amended 34 of 2000 s. 3)

(2) A resumption in pursuance of an order under subsection (1) shall be deemed to be a resumption for a public purpose within the meaning of the Lands Resumption Ordinance (Cap 124).

## **7. Improving the Conservation Policy Review**

- 7.1.1 KFBBG believes that both the Administration and Hong Kong would benefit by revisiting the methodology for the nature conservation policy review. We believe that the principles and accumulated learnings of the Convention on Biological Diversity (CBD) propose a widely-adopted methodology for planning and implementing a national biodiversity conservation policy.
- 7.1.2 A great deal of global experience has been accumulated all over the world in planning and implementing biodiversity conservation policies<sup>22</sup>. Based on our understanding of the best practices in this field we suggest that Hong Kong adopts the following six step sequence<sup>23</sup>:

### **Step One: Assessment of Current Nature Conservation Policy:**

The assessment should be carried out at the following levels:

- Hong Kong Government's 1993 Conservation Policy, taking full cognizance of the Chief Executive 1999 Policy address.
- Effectiveness and harmonisation of legislation, including the following:
  - a. Wild Animals Protection Ordinance
  - b. Environmental Impact Assessment Ordinance (inc. consultation protocol)
  - c. Country and Marine Parks Ordinance
  - d. Town Planning Ordinance (including consultation protocol)
  - e. Small House Policy
  - f. Land Resumption Ordinance
- China's conservation policies, promulgated legislation to the extent it is relevant to Hong Kong<sup>24</sup>.
- Against Hong Kong's obligations under regional and international treaties to which it or China is Party, in particular
  - Convention on Biological Diversity (1993)
  - Convention on the conservation of migratory species of wild animals (Bonn Convention) (1982)
  - Convention on International Trade in Endangered Species (1976)
  - Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (1971)

### **Step Two: Reshaping conservation policy**

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<sup>22</sup> Information on conservation policies in other countries is widely available, particularly on the Internet. (the Administration is referred in particular to that of New Zealand, a planned implemented and mature Conservation Policy, which demonstrates how conservation can be fully integrated into national policy planning; see Appendix C)

<sup>23</sup> China Biodiversity Conservation Action Plan 1994

<sup>24</sup> For a list of major relevant laws, measures and regulations for conserving biodiversity in China refer to Biodiversity Planning in Asia, IUCN 2003 Page 344.

Since conservation is multi-sectoral and people driven it is essential to reach consensus. A vision statement is the key tool in setting the focus and key agenda for the policy. The statement should encompass all sectors of Hong Kong society and address Hong Kong's global responsibilities. We propose "No net loss of biodiversity at a ecosystem, species and genetic level" as a minimum standard.

- Publish for public consultation recommendations for filling identified gaps
- Conduct and publish minutes of public forums and focus group consultations to propose solutions (cf. Legco Bills Committee)
- Produce a fully articulated, draft comprehensive conservation policy document and submit it for review and comment (with comments published on Web for all to see) by the public.

### **Step 3: Strategy and Action Plan**

#### **Strategy Development**

Strategy development requires specification of goals and operational objectives; and selection of specific measures to close the gaps identified in the baseline assessment. Further consultations and dialogue should be held until consensus is reached on acceptable targets and mechanisms for action.

#### **Action Plan**

Identify the public and private organizations and groups that will implement the activities listed in the strategy, in which location or region, by what means, and with which people, institutions, facilities, and funds, and set a timetable for action.

### **Step 4: Implementation**

Launch practical activities and policies so that partners take charge of particular elements of the plan and stakeholders. In other words, individuals from the key bureaux and departments, NGOs, communities, business, and industries with self-group, or business interests move forward to seek results from their action plans.

### **Step 5: Monitoring and Evaluation**

The implementation of a Conservation policy and related strategies and action plans should be monitored over the foreseeable future. This could be achieved by evaluations conducted by independent parties.

### **Step 6: Reporting**

In order to manifest the importance the Administration attaches to nature conservation it is important to create an effective and transparent reporting system. We propose that a two-tiered reporting system be established:

- **Internal reporting:** The newly established Council for Sustainable Development is ideally placed to co-ordinate every sector of the

community in developing and implementing the nature conservation policy, priorities, programmes and actions<sup>25</sup>(see figure 1).

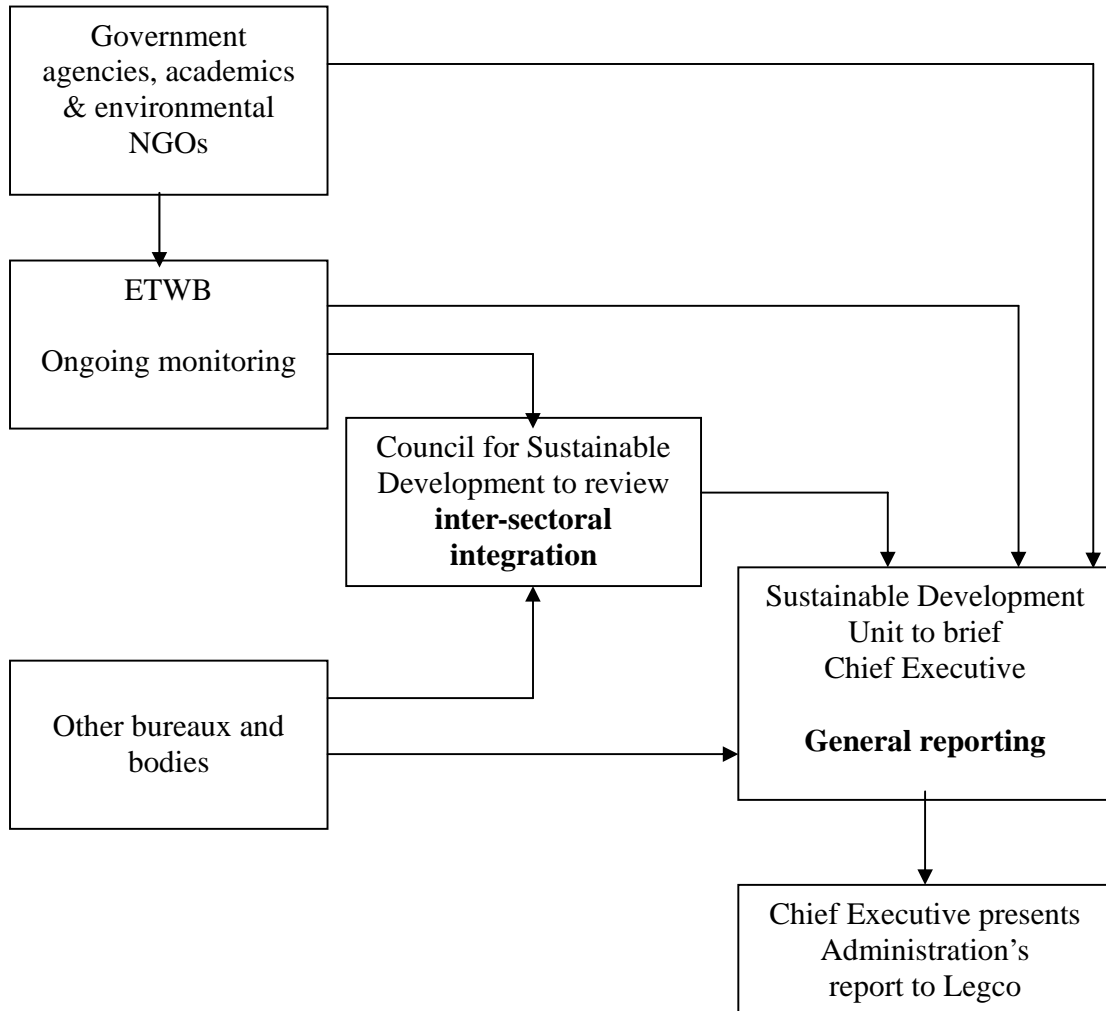
- **External reporting:** Under CBD article 26 all contracting parties are required to report on their accomplishments in fulfilling the three objectives of the convention – namely conservation of biodiversity, sustainable use of its components and equitable and fair access to genetic resources. China has submitted two national reports to the Convention. It is proposed that Hong Kong makes use of future Conferences of the Parties to highlight its achievements.

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<sup>25</sup> NB Cross-sectoral integration is explicitly required in article 6b of the Convention on Biological Diversity



**Figure1: KFBG Proposed Conservation Policy Reporting Structure  
(Consistent with Convention on Biological Diversity)**



## **8. Practicable Proposal for improving protection of sites on private land**

### **8.1 Potential conservation areas**

Potential conservation areas are referred to in Chapter 10 of the Planning Standards and Guidelines (current edition, 1994) Section 3.3 “Preparing Plans to Conserve Natural Landscapes and Habitats” paragraphs 3.3.1:

“It is important that existing designated conservation areas are shown on plans clearly and accurately, *and that potential conservation areas are also shown whenever possible so that opportunities to conserve are not overlooked.*”

### **8.2** and paragraph 3.3.3.

“Non-statutory plans and supporting planning documents should also be used to express the planning intention to protect conservation areas. At the sub-regional level, broad conservation sites should be identified and an overall framework of conservation should be reflected in development statements. At the district level Outline Development Plans and Layout Plans are prepared at scales, which enable small sites to be shown. *In cases where the planned use of the sites needs to be zoned on the plans, relevant symbols should be used to annotate the following different categories of conservation sites:*

- i. existing designated conservation areas; and
- ii. *potential conservation areas*

**8.3** To our knowledge these potential conservation areas are not currently illustrated on either statutory or non-statutory plans. Since this requirement is already enshrined in Planning Department’s own guidelines, we believe that actually implementing an existing but neglected procedure is a relatively easy and low cost step, which will contribute to better planning for conservation.

**8.4** It should be noted that we do not consider the identification of “Country Park Extension” adequately covers the requirement as few, if any, of such designations have been made with clear conservation goals as the primary intention. However, with proper consultation with appropriate government and non-government biodiversity experts and authorities there is no reason why they should not.

## APPENDIX A

### Hong Kong Environmental Legislation

(in alphabetical order)

- Air Pollution Control Ordinance (Cap 311)
- Country Parks Ordinance (Cap 208)
- Animals and Plants (Protection of Endangered Species) Ordinance (Cap 187)
- Environment and Conservation Fund Ordinance (Cap 450)
- Environmental Impact Assessment Ordinance (Cap.499)
- Summary Offences Ordinance (Cap 228) s 32
- Fisheries Protection Ordinance (Cap 171)
- Foreshore and Sea-bed (Reclamations) Ordinance (Cap 127)
- Forests and Countryside Ordinance (Cap 96)
- Noise Control Ordinance (Cap 400)
- Civil Aviation (Aircraft Noise) Ordinance (Cap 312)
- Merchant Shipping (Liability & Compensation for Oil Pollution) Ordinance (Cap 414)
- Oil Pollution (Land Use and Requisition) Ordinance (Cap 247)
- Ozone Layer Protection Ordinance (Cap.403)
- Plant (Importation and Pest Control) Ordinance (Cap 207)
- Protected Places (Safety) Ordinance (Cap 260)
- Radiation Ordinance (Cap 303)
- Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap 95)
- Waste Disposal Ordinance (Cap 354)
- Water Pollution Control Ordinance (Cap 358)
- Wild Animals Protection Ordinance (Cap 170)

**Source: Bilingual Laws Information System (BLIS) at Department of Justice of the Hong Kong Special Administrative Region (HKSAR) Government of the People's Republic of China.**

## **APPENDIX B: Proposed KFBG Scoring System**

### **1.1 Scoring System – General Comments**

KFBG welcomes the concept of a scoring system that will provide an objective assessment of the ecological value of sites and species for conservation. Our reservations about the Administration's current proposal are given above and are not addressed here.

- 1.2 KFBG recognises that much work has been done by experts (i.e. KFBG, HKBWS, HKU-DEB) outside the public sector in collecting biodiversity data.
- 1.3 In recent years staffs from AFCDC have begun to develop expertise and experience under the auspices of their internal data collection exercise.
- 1.4 However, since the bulk of these data have been neither published nor peer reviewed, one cannot make any assumptions about either methodologies or the accuracy of records. It is hoped that a transparent cross-sector exchange of information will address this situation.

### **2.1 KFBG Scoring system: scope of utilization**

KFBG proposes that all sites identified by the Hong Kong University Department of Ecology and Biodiversity Survey and that supplementary sites identified by KFBG should be evaluated.

- 2.2 Over the last few months KFBG has worked with WWF (HK) to develop an alternative scoring system. Work on this began before the current consultation exercise, but has been adapted to take into account:
  - the clear focus of AFCDC on data collection in Country Parks.
  - the requirement to focus on areas of high ecological value and
  - the need to prioritise sites for immediate conservation action.

- 2.3 KFBG proposes an assessment based on the following criteria:

#### **3.1.1 Irreplaceability of habitat (or species)**

This refers to the total area of a specific habitat type, the proportion of that habitat which a site represents, in relation to the number of other sites of the same habitat type or holding the same species. The fewer the sites with this habitat or species, the higher the score.

- 3.1.2 For example unpolluted lowland riparian habitat of more than 500 metres would score very highly, as only one or two examples remain. Conversely, grassland habitat, which is abundant and readily regenerates, would earn a much lower score.

3.1.3 The same holds true for species; species with endemic, small or concentrated populations would score more highly than common and widely distributed species.

**4.1.1 Proportion or percentage of habitat (or species) outside protected areas**

It is assumed that habitats within protected areas (Country Parks, Special Areas, and Coastal Protection Areas) enjoy a high degree of protection from planned development. However, it is noted that in practice many sites of high ecological value lie outside such areas, and some land-use zonings, ostensibly intended for conservation purposes, in reality offer little protection.

4.1.2 Our second criteria, therefore, determines the proportion of habitat (or of a population of a species) which occurs outside the protected area system. The higher the proportion of a species or habitat outside the protected areas, the higher, will be the priority for conservation.

4.1.3 For both the above criteria where more than one species of conservation importance occurs, the highest scoring for any habitat or species will be used to determine the priority for action. Other species and their scores maybe listed, but it is the highest ranking which determines the priority for action.

5.0 We do not propose adding together the scores of several species, as this may cause sites with large assemblages of less common species to be ranked higher sites with just one or two species of more critical conservation concern.

Calculating a score:

No of sites	Score (habitat = a) (species = c)	Proportion unprotected	Score (habitat = b) (species = d)
1	5	80-100%	0
2	4	60-79%	1
3-4	3	40-59%	2
5-8	2	20-39%	3
9-16	1	0-19%	4

5.1 The following formula is used with reference to the table above:  
For any site its value as a **habitat** (h) is calculated by subtracting the score for proportion of sites of this habitat type that lie outside protected areas (b), from the score for the number of sites (a). So the habitat score is expressed: (a-b) = h.

5.2 The same calculation is made for **species of conservation importance** (s) on the site. Hence the species value is expressed: (c-d) = s.

5.3 We do not propose to add the scores together as once again this may cause dilution of the key element of concern, which might be **either** a certain species **or** a certain habitat, **but not necessarily both**.

#### 6.0 **Threat and Vulnerability Criteria**

A number of criteria have been developed by WWF(HK) to assess the threat and vulnerability of sites. This assessment process should indicate a greater priority for conservation in accordance with the degree of threat or vulnerability faced. These broadly fit the categories outlined below.

##### 6.1 **Accessibility**

The degree of access, in particular by road, to a site often correlates directly to the threat for unauthorised, ad-hoc and illegal impacts to a site. Remote or restricted sites would score lower than sites close to roads or accessible by boat.

##### 6.2 **Identified threats**

Any currently harmful practice (which could range from ad-hoc dumping of construction materials, to smothering by *mikania*, to the planned channelisation of all lowland watercourses) affecting a particular site or species would be documented and a degree of seriousness ascribed. The greater the threat the higher the priority that would be ascribed.

##### 6.3 **Potential and current protection status**

This criterion would ascribe priority based on the efficacy for conservation of current or potential land-use zonings. Land-use zonings play an important but limited role in protecting sites of high ecological value. While it is acknowledged that such zonings can be changed on application to the Town Planning Board, they provide an important measure of protection from planned development.

7.0 KFBBG further propose that a gazette be prepared which records threats and impacts on areas of high biodiversity which is shared with environmental NGOs.

## APPENDIX C

### **New Zealand Environment 2010 strategy: A statement of the government's strategy on the environment**

Environment 2010 Strategy provides a **strategic overview** of New Zealand's environmental policies and legislation and a framework of the government's strategy for the environment within which the private sector and local government can carry out their strategic and operational planning.

**Chapter 1** sets out the **government's vision** for the New Zealand environment to the year 2010; this vision is **holistic**, recognizing the interdependence and interaction of people and the natural and physical environment.

**Chapter 2** discusses **environmental values in a market economy** and the need to minimize or resolve conflicts between objectives of economic growth and environmental quality.

**Chapter 3** outlines **12 principles for integrating environment and economy**:

- sustainable management;
- environmental bottom lines;
- internalization of environmental costs;
- environmental compensation;
- sustainable property rights;
- least-cost policy tools;
- social costs;
- pricing of infrastructure;
- science, research and technology;
- "the precautionary principle;"
- defining the limits of natural resource use;
- and protecting New Zealand's international competitiveness.

**Chapter 4** examines **New Zealand's environment today** in terms of:

- natural advantages,
- strengths,
- current problems,
- opportunities, and threats.

**Chapters 5 and 6** present **goals and proposed actions**, respectively, for nine priority issues:

- protecting indigenous habitats and biological diversity;
- managing pests, weeds and diseases;
- managing pollution, waste and hazardous substances;
- managing land resources;
- managing New Zealand's water resources;
- sustainable fisheries;

- managing the environmental impacts of energy services; responding to the risk of climate change;
- and restoring the ozone layer. Case studies are included.

**Chapter 7** discusses the **need for comparative risk assessment** for each priority area and how the results will be used.

**Chapter 8** identifies **governmental and nongovernmental groups and their roles** in implementing Environment 2010 Strategy.

**Chapter 9** lists **conditions which must be met to achieve the vision** presented in Chapter 1, and

**Chapter 10** presents a five-part **environmental management agenda** to help achieve the vision.

**Chapter 11** illustrates the **process of setting priorities for the environment and monitoring outcomes**.

A glossary of terms is included.

<http://www.mfe.govt.nz/>

**Sources:**      **World Resource Institute website**  
                    **New Zealand Environment Ministry website**



## **Attachment B**

The Secretary,  
Environment, Transport and Works Bureau  
10/F, Citibank Tower  
3 Garden Road  
Central Hong Kong

By Mail and Fax: 21363321

17 October 2003

Dear Dr. Liao,

### **Nature Outlook: Public Consultation on Review of Nature Conservation Policy**

In view of the importance of the Hong Kong Conservation Policy, various local environmental NGOs met and discussed their comments and concerns on the consultation document on 8 October 2003. The current submission is an output of this round-table meeting which summarizes the common concerns and views of the undersigned groups. Please note that each group will very likely have its own independent submission to this consultation paper.

First of all, we welcome this consultation document which has focused on important ecological sites on private lands in Hong Kong. We highly commend the extensive protected areas in Hong Kong although we believe that there is still room for further improvement. We are of the view that the existing protected areas, especially the country parks, are very important to Hong Kong for the multiple roles they are playing viz. biodiversity conservation, landscape preservation, watershed protection and countryside recreation.

Regarding the Hong Kong Nature Conservation Policy, we feel that there is a need for a more appropriate policy statement. We hereby propose the following as the Hong Kong Nature Conservation Policy Statement:

*“To conserve the current biodiversity and restore degraded and loss biodiversity of Hong Kong at the ecosystem, species and genetic levels”*

To achieve this policy statement, there are a number of outstanding conservation issues pending to be addressed:

1. International impacts & responsibilities

Hong Kong remains a significant wildlife trade centre of global concern. The wild bird trade and reef fish trade in Hong Kong are still rampant and not receiving any serious attention from the authority.

2. Insufficient protection and management of important ecological sites under public and private ownership

Certain important ecological sites on public lands are not adequately protected, e.g. the summer breeding site of various tern species on Shek Ngau Chau, Sai Kung; the type locality of the endemic Bogadek’s Burrowing Lizard *Dibamus bogadeki*. In addition, most of the lowland streams and rivers have been turned into concrete channels under the culprit of flooding. On the other hand, many important ecological sites on private lands, notably wet agricultural lands and fishponds (even though certain areas of fishponds are included in the Ramsar Site or in the Wetland Buffer Area around it) are not protected at all.

3. Insufficient protection of rare and endangered species in Hong Kong

Certain legally protected species are not well looked after. For example, trapping of turtles especially the Three-banded Box Terrapin *Cuora trifasciata* is still serious in our countryside. Certain species of conservation concern are not even protected by Hong Kong Laws e.g. Indian Muntjac *Muntiacus muntjak*, the endemic Bogadek's Burrowing Lizard.

4. The lack of comprehensive plans to restore degraded or loss habitats in Hong Kong

Whilst Hong Kong planted up to a million trees a year in the last decade, tree planting remains an ad hoc exercise. There isn't a comprehensive forest restoration plan for Hong Kong. Wetlands continue to be degraded in Hong Kong. Despite the commissioning of consultancy study on wetland in Hong Kong a few years ago, a strategic plan to protect and restore Hong Kong's wetland is still lacking.

5. Effective and prompt actions in law enforcement

We have a rather comprehensive set of laws to look after our natural environment and biodiversity despite some minor inadequacies. However, law enforcement has long been considered weak and inadequate e.g. illegal dumping in Sha Po Marsh, Kam Tin was not stopped promptly such that serious long term damages were made.

6. Insufficient support to fill in the gap of knowledge in Hong Kong's biodiversity

Hong Kong is considered the best studied 1,000 km<sup>2</sup> in the tropics in terms of biodiversity distribution. However, the current information focuses more or less on plants, vertebrates and a few insect groups. We do not know much about many other taxa groups in Hong Kong especially the invertebrates and insects. Except a few charismatic species such as Black-faced Spoonbill and Romer's Tree Frog, there are very few studies on the ecology of the species of conservation importance in Hong Kong.

7. Lack of review of marine biodiversity in Hong Kong

The current consultation document has focused only on terrestrial biodiversity. The rich marine biodiversity in Hong Kong is also facing various types of threats, which should be addressed.

We strongly urge the government to address all the outstanding conservation issues we have listed above in the new Hong Kong Nature Conservation Policy. We wish to point out that the biodiversity conservation templates and frameworks outlined in the Convention on Biological Diversity (CBD) and related documents were formed after thorough discussions between experts worldwide. We highly recommend the authority to refer to the CBD in formulating the new Hong Kong Nature Conservation Policy.

Regarding the "Scoring system" in the consultation document, we do not have unanimous views on the technical details, the undersigned groups will comment on this system in their individual submissions. However, we are of the view that whatever the details of the scoring system will be eventually, it can only be used to priorities sites for taking conservation actions as proposed in the consultation document i.e. "management agreements with landowners" and "private-public

partnership". We believe that the criteria in the proposed scoring system are not appropriate for evaluating the ecological value of any other sites in Hong Kong.

We support in principle to use the "management agreements with landowners" option as a practical way to enhance conservation on important ecological sites on private land. However, our full support to this option is conditional upon the issue of a set of satisfactory implementation guidelines. It is essential that only organizations with good track records in organizing environmental conservation and education programmes in Hong Kong are allowed to participate in this option. There should also be a transparent monitoring system and adequate legal framework to govern the implementation of this option. The Government should also provide sufficient incentive and resources to instrument NGOs and landowners to enter into management agreement for conservation.

We also support, only with conditions, the "private-public partnership" option as one of the practical methods to enhance conservation on private ecological sites. We wish to point out that this option must be applied with extreme care to avoid potential violation of conservation principles and the implementation of this option on any site should get prior consent from all stakeholders.

Finally, we would like to reiterate that there is a need for a comprehensive review of the conservation policy after this public consultation. Firstly, all submissions in this consultation exercise should be made available to the public on-line. Apart from these comments from the public, international treaties and conventions should be taken into account while formulating the Hong Kong Nature Conservation Policy in the comprehensive review. Public forums should be organized while formulating the new policy and it should include a framework to assess its implementation.

We wish to point out that what was proposed in the government consultation paper represents a limited step towards a satisfactory conservation policy. We look forward to seeing many bolder steps by the government in formulating a comprehensive nature conservation policy which will lead Hong Kong to a sustainable path.

Yours sincerely,

Lister Cheung

Chief Executive of Conservancy Association

On behalf of

Conservancy Association

Friends of the Earth (Hong Kong)

Green Lantau Association

The Hong Kong Bird Watching Society

Hong Kong Organic Farming Association

Kadoorie Farm and Botanic Garden

Produce Green Foundation

Tai Po Environmental Association

World Wide Fund for Nature Hong Kong



**Consensus Paper: Main Points for Hong Kong Conservation Policy based on common issues raised by green groups over last 20 years.**

1. **International principles, conventions and agreements for conservation** and sustainable development such as those agreed at the Earth Summit 1992 and 2002 should be **formally signed, adopted and implemented** by the Hong Kong Government (or the Central Govt on behalf of Hong Kong specifically).

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Reference:

Advocated by CA and FoE since 1992 and 1993:

- “A new Policy for Conservation and the Country side in Hong Kong” FoE April 1993 pages 3-5 (Background history), Application (pp 6-8)
- Report by Mr Hung Wing Tat of CA to the ECC in June 1992, which recommended Hong Kong sign the Earth Summit Conventions and Agreements, see paragraph 8.

2. It is not sufficient to acknowledge and endorse the treaties as the Secretary of Planning, Environment and Lands for the Administration did on 2<sup>nd</sup> Dec, 1992.

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Reference:

- FoE 1993 page 4.

- They should be **binding**, not voluntary, optional or at the discretion of decision makers and vested interests. **HK has a high concentration of China’s biodiversity and thus has a significant responsibility to the Motherland to conserve biological diversity in order to permit the Nation to fulfil its international obligations,**

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Reference:

- KFBG Concept Paper on HK Government Conservation Review, December 2001.

3. Hong Kong should use and **comply with internationally accepted definitions** in its public vocabulary on conservation and sustainable development. Hong Kong must not reinterpret internationally accepted definitions or apply different and lower standards.

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Reference:

- IUCN definition of conservation in CA’s “Achieving Conservation” August 2000 para 9.

4. Hong Kong must now **comply with internationally accepted norms** and must not depart from its stated assertions and policies, made in Legco, Policy Documents and various policy statements since 1992.

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Reference:

- See FOE 1993 page 8
  - Speech of Dr. The Honourable Leung Chi Hung in Legco 2<sup>nd</sup> December 1992 in support of the **LegCo Motion** which was passed “That this Council urges the Administration to review the priorities of its environmental protection programs, to adopt the two Conventions endorsed by the Earth Summit 1992 and to draw up a comprehensive conservation policy with a target of achieving sustainable development.”
  - “The Hong Kong Environment: A Green Challenge for the Community, Second Review of the 1989 White Paper Pollution in Hong Kong - A Time to Act of November 1993,” The HK Government must now comply with this request,
5. This requires the current international approach, that of providing **sustenance to the fabric or web of life** of which we are just a part and which we depend on for physical, mental and spiritual well being, our sense of place and balance. Simply put this refers to the Quality of Life which makes HK, our home, the best place in Asia to live and work. As a result HK attracts innovative and economically useful people and hence sustains the value of the real estate and our competitive advantage over places like Shanghai and Singapore, none of which have anything like our wonderful landscape and biodiversity on their door steps.
6. When the Chief Executive has a vision that HK is Asia’s World City and leader in terms of Quality of Life, this vision needs to be supported by observable proof. This implies conservation up to the standards and according to the principles accepted by the best practitioners in the rest of the world. Furthermore, a comprehensive **Conservation policy is an ecological approach to design plan and develop the physical, administrative, social, and corporate infrastructure in an effort to build Hong Kong into a world class city.**”

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Reference:

- CA 2000, paragraph 1.
- **1999 Policy Address** by the Chief Executive Mr Tung Chee Hwa: “Making Hong Kong an ideal home...Every citizen, every business, every government department and bureau need to start working in partnership to achieve what is known as “sustainable development”.



7. The Chief Executive is right to consider that the attractive image of Hong Kong relies on its visible landscape and the environment of its countryside. Beautiful images showing a healthy and natural landscape project a view in dramatic contrast with our high urban density. This image of Hong Kong is not just public relations, it is a reality which is vital for investment, tourism, and our whole economy. Furthermore, is the right of Hong Kong people to have and enjoy and thus their obligation to conserve.

8. Proper appreciation of the sustainable development terms now applied internationally means that **Conservation and property development should not be seen as competing interests but as mutually supportive.** The Balance that is required is not achieved by continuously providing land for property development from the “land bank” of unprotected government or private land. Instead, genuine sustainable development is achieved by plans which encourage conservation and realistically limit development in quantity and location to prevent further losses of biological diversity and areas of scenic, amenity, farming, recreation, tourism and education value.

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Reference:

- CA 2000 at para 11.

9. These visions require the **Comprehensive** conservation policy which was originally promised by the Chief Executive, **and the concept has widespread support.** The current, highly focused consultation clearly does not meet this goal.

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Reference:

- CA 2000 para.11,
- Note the strength of support contained in CA “Environment Resources and Drivers for Change 2002”.

10. The failure to set out a comprehensive policy ensures **that most of the population remains in the dark** as to Governments real intentions for protection and development of the countryside. A comprehensive policy would need to consider the impact on the countryside of :
- a) changes in zoning and land uses such as OU(RU) which facilitate conversion of large areas of the NT from Agricultural Land (with no development rights) into development land
  - b) the ongoing Small House Policy Review
- Both may have serious negative impacts on the countryside unless considered and planned in conjunction with Conservation Policy. Piecemeal consulting on one piece of the picture without providing the whole picture will:
- a) mislead the public and
  - b) lead to distorted results, overbuilding and urban sprawl in the countryside.
  - c) We will lose an opportunity to build a system of mechanisms which can work together to conserve as well as develop responsibly, as would be expected of true sustainable development.

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Reference:

- “Review of Rural Land Uses in Northern NT” Planning Department (2001)

11. **The present framework is not effective for conservation.** It must be strengthened considerably so as to promote the new ethics and principles contained within our international obligations and responsibilities, and hence provide the balance needed for conservation to withstand the pressures for development for profit.

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Reference:

- FoE 1993
- CA 2000,
- CE 2002

12. **A Department, with conservation as its primary objective and function is required.** AFCD should become the Conservation and Countryside Protection Department. It should be charged with creating a Hong Kong national park by connecting the country parks by protected wildlife corridors. This will achieve a conservation area of an adequate size to sustain genetically viable populations of species. AFCD must not be a property development facilitator, mostly servicing and processing development plans for other departments. Instead, its mandate should be the guardian of the public natural resources and natural heritage, and only act with the main objective of conservation.

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Reference:

- FoE 1993
- CA 2000

13. The Preamble to the Convention on Biological Diversity should be complied with. **The Preamble acknowledges the value and importance of biological diversity for maintaining life sustaining systems of the biosphere** and affirms that the conservation of biological diversity is a common concern of human kind and hence Hong Kong.

14. **The Preamble notes that it is vital to anticipate, prevent and attack the causes of significant reduction of loss of biological diversity at source.** It notes the urgency for protection by adopting a **precautionary principle**, namely that where there is threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing a measure to avoid or minimize such a threat. In Hong Kong, this means taking action now, rather than waiting until databases and even more information are compiled which may require years of further surveying. **Sufficient data to begin to act for protection** of the hotspots of biodiversity value in HK was obtained by the HKU Biodiversity Survey in 1996-1997. HK is one of the best-studied areas in East or SE Asia. While more surveying can continue, this should not hold up protection now or at least a temporary form of protection against the degradation-led development that prevails in HK.

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Reference:

- KFBG 2001

15. Article 6 of the Convention requires countries to develop or adapt plans for the conservation and sustainable use of biological diversity and **to integrate the conservation and sustainable use of biological diversity into its plans and policies.** For Hong Kong, this ought to be a main aim of a conservation policy. It should be integrated into its crucial decision-making in many departments, not only EPD or AFCD. All government departments and bureaux, especially Planning, Lands, Transport, Architectural Services, LCSO, HAD, WSD, TDD and Home Affairs Bureau etc must be legally bound to expressly consider the conservation and biological diversity implications of their actions. Decisions and mechanisms should be in place for referral to specialist departments and NGOs for further consideration, consultation and advice. Conservation cannot be limited to the responsibility of one small and under-resourced AFCD.

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Reference:

- Chief Executive Policy Address 1999
- CA 2000
- Restoring the Balance in the Countryside by 11 Green Groups 2002

16. **Conservation should be integral with Town and Country Planning**, with strategic environmental and ecological assessments being required in the course of all planning before decisions are made on infrastructure, housing developments and other schemes. Article 6 of TPO is to be read with Article 7 of CBD, which provides the country to identify and monitor their own biological diversity.
17. After identification of key sites, continuous **Monitoring** is required to determine whether diversity has diminished, so that appropriate action to reverse the loss is taken. Monitoring should not be limited to protected areas but to Hong Kong as a whole, including non-protected areas, which are vulnerable to infrastructure or property development. This is an essential **check and balance mechanism** against over-development.
18. **A presumption against development** must be created in areas of conservation value, and **conservation should be provided as a key land use objective** and purpose, to be actively achieved and worked towards, not just a passive description in a zoning. The Planning Department has Standards and Guidelines for Conservation, and must have an articulated action plan for its 4 Principles of Conservation to be implemented into all its decisions and plans, especially Rural Land Use and Small House Policy and related issues. These 4 Principles, such as compensation for areas lost to development, must be the responsibility of Planning Department and Lands Department, not just the AFCD or EPD.
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- Reference:
- CA 2000
  - Planning Standards & Guidelines Chapter 10 Conservation 1994
19. Article 8 of the Convention on Biological Diversity, which in conjunction with the Preamble requires **In-situ conservation as the primary or fundamental method for conservation**, must be similarly accepted and enforced in Hong Kong. Ex-situ conservation, the transport and enrichment and other artificial habitat creation exercises is important but should be considered where in-situ conservation is impossible because of loss of relevant habitat and other unavoidable losses have occurred.
20. As noted above, conservation cannot proceed separate from or isolated from decision-making especially that of proper rural planning. The failure to do so and its consequences have been analyzed in several papers.

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Reference:

- Joint Objection against the Proposed OU(RU) Zoning. 11 Green Groups (14th November 2002)
- Objections to the Proposal to convert Agricultural land to other specified uses by the Planning Department under their Review of Rural Land Uses in the Northern New Territories. 11 Green Groups, July 2001

- Proposals for Integrated Strategic Planning and Implementing Conservation Policy Mechanisms-Restoring the Balance in the Countryside, 2002.

21. **The 4 Principles of Conservation** as set out in Chapter 10 of the Planning Standards and Guidelines (Planning Department 1994) should be applied. This shows that conservation is linked not only to biological diversity, which is of paramount importance, but also to **the retention of landscapes, heritage, coastlines, and sustainable agriculture, in a holistic approach to conservation.** This recognizing that areas with a diversity of values have added importance for conservation, and thus supplement the value of biological diversity conservation in this regard. Areas of biological diversity with scenic landscape and heritage features such as Sha Lo Tung, Luk Keng, Nam Chung and Tai Long Wan derive added value from their current state of integrity or intact beauty from mountain top to valley bottom or from mountain top to seashore. Conservation should thus not just conserve biodiversity but include and consider the **separate and cumulative gains when one conserves landscape, shoreline, history, rural and cultural values.**

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Reference:

- FoE 1993,
- CA 2000 para 24,
- KFBG 2001,
- Restoring the Balance 2002.

22. The Planning Department in its Review of Rural Land Uses in Northern NT of 2001 has planned for a major change in the NT whereby 1,400 hectares or 2/3 of the Agricultural Land in the Northern NT could be developed into sub-urban housing under the OU(RU) zoning mechanism. Such intentions must be resisted as this will lead to a serious degradation of the environment over much of the non-protected areas of Hong Kong see. In the context of such large-scale conversion of the countryside into housing, the need for more protection of what is left, especially near country parks is even more essential. **Any Conservation Policy cannot ignore these other plans for huge loss of Agricultural Land and the plans for the Small House Policy review.**

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Reference:

- Restoring the Balance 2002

23. **A National Park and conservation ought to be a “public purpose”.** Payment of financial compensation in appropriate and important or deserving cases must be considered. This is provided for even in the Country Parks Ordinance and it would be just to extend it to non-country park areas. There are several pristine “pocket” areas in the heart of Hong Kong’s country parks. Their position at the heart of unspoiled landscapes makes them national treasures, vital wildlife corridors and breeding areas. They clearly justify the expense, particularly as the

area is limited, and HKU Biodiversity Survey estimates that extending the area of our Country Park system by just 1% in specific areas would achieve conservation of a substantial amount of the natural habitat and threatened biodiversity. It is probably wrong for the Executive Summary of the Policy to give the impression that the country park system contains all of the biodiversity of HK. If the private land is Agricultural Land with limited access and limited infrastructure, it is likely to have a low actual value and not the huge figure postulated which is based on Government's artificially high figures for ex-gratia payments for infrastructure etc. Biodiversity conservation is of international concern. **Hence Conservation must be considered to be in the public interest hence a "public purpose" and thus the Land Resumption Ordinance should be applied to pay appropriate compensation in some cases.**

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Reference:

- CA 2000 para30

24. **Incentive measures** pursuant to Article 11 of CBD should be adopted. Hong Kong should adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of the components of biological diversity. The incentive measures to protect habitats should be flexible and appropriate, acknowledging that different places, types of ownership, and different needs or requirements usually require different solutions and methods. **The principles and methods** outlined in the Green Groups Proposals on referred to above from paragraph 52 are suggested.

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Reference:

- KFBG 2001
- **Restoring the Balance in the Countryside, para52**
- Achieving Conservation CA, 2000
- Conservation in HK, Civic Exchange 2002

25. There must be **an end to degradation-led development**. There must be a reduction in the hope value attached to private land or even government land so that the owner or government is not tempted to permit degradation so that development becomes the feasible option. Areas of lower priority or conservation and landscape quality can be considered for the options involving development compatible with conservation.

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Reference:

- CA 2000 para 27
- Restoring the Balance 2002

26. Instead, there should be **conservation-led Development** in appropriate areas only. Development should not be permitted in pristine areas where biological diversity

or landscape of high quality or integrity could be destroyed by even small developments; examples include Sha Lo Tung and Tai Long Wan.

27. **Criteria** for such an approach such as in are essential, and must include
- Not in pristine areas or areas of high landscape quality;
  - No net loss of ecological or heritage function;
  - Confined to non-sensitive areas;
  - The Development will generate sufficient contributions to a sustainable solution to support the long term management and enhancement of the habitat and heritage;
  - The impact of possible cumulative effects of similar cases or nearby developments is fully assessed and deemed acceptable.

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Reference:

- CA 2000 para 34-35

28. Methods for securing protection by assembling land should not be discarded because for Hong Kong they may be new and require administrative skills and work. Such devices such as **land exchange and re-grant are common** for the purposes of assembling land for development projects and are feasible for assembling land for conservation as well. Coupled with incentive measures, these exchanges can lead to land of conservation or landscape value being exchanged and protected in return for enhancing the development potentials of other areas not near biological diversity or landscape value.

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Reference:

- Civic Exchange 2002 Creating Opportunities–Saving Hong Kong’s Natural Heritage

29. **Land transfer for conservation** can be devised. This involves a creation of development rights in areas of degraded land but which have development potential, in exchange for other land which has conservation or landscape value. This creates a positive and beneficial market for agricultural land of ecological or conservation value and would encourage active conservation. If the ecological value is significant, those development rights so created at the degraded site could be enhanced by means of increase in plot ratio, gross floor area or upzoning.

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Reference:

- CA 2000 para 37-39
- Restoring the Balance 2002 para 59-62.
- Civic Exchange 2002

30. The precedent for this has been created by the OU(RU) zoning idea whereby degraded Agricultural Land can be upzoned. This scheme by itself is defective in that it rewards degradation-led development providing no community benefit.

However OU(RU) can be improved to benefit the public interest in conservation and release land for development as follows:

- a) Developer applies for a development right on suitable degraded land in a suitable location, ie non-protected private land;
- a) He has no development right, only a potential, but to secure the development right, the applicant developer has to provide and transfer, in exchange, land which has ecological or conservation value;
- b) This land can be adjacent or in different sites and preferably should be areas which are important sites such as Sha Lo Tung for maximum public benefit;
- c) The ecologically valuable land can be surrendered to Government as Country Park extension, within CP, or entrusted to a Conservation Trust or managed on behalf of the public by a suitably qualified NGO or agent for conservation purposes only;
- d) The quantities and ratios for exchange will be based on the potential development value of the land applied for, as against the measured ecological or conservation value of the exchanged land, measured by rating mechanisms to be established.
- e) The greater the ecological or conservation value of the land given to the public, the less that is needed to secure the development right. The more that is exchanged, then more plot ratio or upzoning can be considered on a case by case basis. The details can be provided administratively and via a technical memorandum.

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Reference:

- Restoring the Balance, 2002 paragraph 62.

31. Areas should be declared or zoned Special Areas, SSSI or Conservation Areas, with continuing systems for so doing as the degree of knowledge improves and more species are found. Continuous monitoring should provide data for future conservation areas. Areas should be provisionally declared (potential conservation areas) so as to pre-empt poorly conceived plans, which may damage areas before formal declaration.
32. The **10 Foundation Stones** or Principles for Protecting our Environment, set out in A Green Challenge Chapter 4 1993, should be acted upon and implemented.
33. The **existing Conservation Policy** set out in Chapter 5, page 39 of A Green Challenge, 1993, should be **acted upon** and implemented and expanded.
34. **A Strategic Action Plan to implement the Convention on Biodiversity is needed.** Such was discussed in 1994, and developed to the extent of a Consultancy Brief for Development of a strategy and action plan for the implementation of the CBD but subsequent progress needs to be followed up. Was there no action on the action plan? If this current policy is part of an action plan, then it is not a complete or comprehensive action plan.



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Reference:

- Michael Leven Porcupine! No.18 Dec 1998, Focus on Farmlands
- WWF(HK) April 2003

35. **An agricultural policy** which actively subsidizes and supports organic and sustainable agriculture compatible with ecological gains and country parks should be developed in tandem with the conservation policy in recognition of the fact that farmlands and fishponds, if farmed sustainably, can be ecologically beneficial.

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Reference:

- FoE 1993
- HOFA, and KFBG1999
- KFBG 2001

36. **Sustainability principles are a key to protecting our natural heritage.** Otherwise continuing non-sustainable demands for development, will consume what remains of Hong Kong's non protected green lands, whether government or private, until it is all concrete with fringes or isolated patches of steep hillside as country park 'green backdrop' for property developments. It is important that demands for land for the Small House Policy, currently under review, be contained. It will not be acceptable to assess land for conservation and if it is found lacking in unique species, simply allocate this for private housing development in areas of landscape value.

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Reference:

- CA 2000 para 47-49
- FoE 1993

37. **Multiple and cumulative benefits and values** reflect this, and the proper integrated approach per. Many sectors have an interest in conserving Hong Kong as they derive considerable benefit with considerable financial value from the countryside as it currently exists. A proper consultation should assess and consult the benefits and their value to numerous other stakeholders. The countryside is used by the medical and health community for physical and mental health rehabilitation and benefits, spiritual movements, the elderly and retired, the highly active and recreation fields, charity walks, those keen on culture, history, wildlife, photography all of which generate much economic value in the community from learned books to tourism, as well as increasing our Quality of Life. See CE 2002 which values the countryside at billions per year. The recent SARS epidemic has reinforced the public's awareness of the economic and health values of a healthy lifestyle and clean places for recreation and fresh air and the need for Hong Kong to project a healthy and green image in order to protect its economy.

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Reference:

- CBD Article 6

38. **A Conservation Trust for HK, and a National Nature Reserve in Hong Kong affiliated to the Chinese protected area system** is required for long term planning and sustainable community financing to supplement funding from Government. It provides a vision for the future which all can share.