



Ecological Advisory Programme

Standard Operating Procedure for Monitoring Ecological Hotspots in Hong Kong

Second edition

2009



Construction and demolition waste on privately owned farmlands at Tam Wat, Sai Kung

Standard Operating Procedure for Monitoring Ecological Hotspots in Hong Kong

Editors

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Introduction

- (1) The Ecological Advisory Programme (EAP) of Kadoorie Farm and Botanic Garden has actively monitored ecologically sensitive areas since 2000. Useful experiences and networking has been developed as a result of this role.
- (2) The aim of this procedure is to facilitate the monitoring and protection of ecologically sensitive areas and sensitive zones in statutory plans in Hong Kong. An ecologically sensitive area is defined as a place of high conservation or ecological value. Sensitive zones include Site of Special Scientific Interest (SSSI), Wetland Conservation Area (WCA), Wetland Buffer Area (WBA), Conservation Area (CA), Coastal Protection Area (CPA) and Green Belt (GB). Attention may also be given to prime farmland areas. Should you have any feedback related to this procedure, please feel free to contact the editors at fauna@kfbg.org
- (3) This procedure is also to outline possible actions to draw government department's attention to ecological degradation destruction cases. By reporting cases to the government, it is hoped that relevant ordinances or internal administration procedures could be enforced and thus stop the destruction. If it is possible, prosecution of the proponent in illegal cases and reinstatement of the site are encouraged.
- (4) The first edition of the present standard operating procedure was published in 2004 and since then, several government practices and ordinances in relation to the land use issues have been amended. The most striking change was the amendment of the Town Planning Ordinance, for which the public can now express their comments on planning/rezoning applications to the Town Planning Board. In considering such changes, a revision of the standard operating procedure was undertaken.
- (5) When preparing a letter of concern to the government, the following points should be included
 - The location of the subject area
 - Illustration of the site location
 - Description of the nature of the disturbance / destruction, preferably with a photo illustrating the disturbance / destruction
 - Indication of the ecological importance of the site, if necessary,
 - The desired actions, e.g. to stop disturbance / destruction, to reject planning application, and to restore the site
- (6) Always take a positive attitude toward problem solving. Confrontation or blaming others does not create an atmosphere of harmony and will not facilitate an appropriate solution.
- (7) However, any believed flaws in administrative procedures and ordinances can be pointed out.

Part 1 - Commenting on planning applications under the Town Planning Ordinance

- (1.1) Since 10th June 2005, all planning applications under Section 16, rezoning applications under Section 12a (i.e. amendment of statutory plans) and reviews of the Town Planning Board (TPB)'s Section 16 decision have been exhibited on the TPB website and newspapers for a 3 week period for public comments.
- (1.2) Members of the public can send their comments to the TPB during the public inspection period.
- (1.3) A summary with a site location plan about the area, zoning status and the scope of the application is available from the TPB website
Chinese: http://www.info.gov.hk/tpb/tc/plan_application/application_comment.html
Eng: http://www.info.gov.hk/tpb/en/plan_application/application_comment.html
- (1.4) A hard copy of the full planning statement of an application is available at the two planning enquiry counters at the North Point Headquarters and Shatin offices.

North Point 17/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong	Sha Tin 14/F, Sha Tin Government Offices, No.1, Sheung Wo Che Road, Sha Tin, New Territories
Opening Hours : Monday - Thursday 9:00 am - 5:30 pm (no lunch break) Friday 9:00 am - 6:00 pm (no lunch break) Closed on Saturday, Sunday & Public Holidays	

- (1.5) Making site visits to application sites situated or adjacent to sensitive zones is highly recommended. The aim of this visit is to preliminarily assess the ecological baseline condition of the subject area, and therefore to determine whether the subject area is appropriate for the proposed developments.
- (1.6) The TPB guideline (TPB PG-No.10) about developments at Green Belt is available at http://www.info.gov.hk/tpb/en/forms/Guidelines/pg10_e.pdf
- (1.7) A full list of the TPB guidelines are available at <http://www.info.gov.hk/tpb/en/forms/guideline.html>
- (1.8) Ecological and planning justifications should be referred to when preparing letter of concern or objection.
- (1.9) As local conservation groups have been well-established in Lantau and Sai Kung, it is recommended to inform them about relevant sensitive planning applications via these contacts

Location	Organization	Contact
Lantau	Green Lantau Association	peifan@netvigator.com
Lantau	Living Islands Movement	info@livingislands.org.hk
Sai Kung	Friends of Sai Kung	info@friendsofsaikung.org

Case 1 – Small house application in a “Green Belt” zone, Shap Long, South Lantau (A/SLC/85)

- (i) An application for two small houses in a Green Belt zone was made in May 2007. The subject area was adjacent to a slope. Unauthorized tree felling and slope cutting had been reported prior to the application in May 2007.



- (ii) EAP made a site visit in May with Green Lantau Association. The local community was alerted as well.
- (iii) A total of 20 objections from the public were received by the Towing Planning Board. Grounds of the objections were tree felling, slope safety, no development in Green Belt, environmental and drainage impacts, and being an undesirable precedent for similar applications.
- (iv) Civil Engineering and Development Department, Transport Department and Planning Department did not support the application for the development.
- (v) The Towing Planning Board rejected the application due to unmatched planning intention, geotechnical and landscape impacts, degradation of the function of the Green Belt zone and being an undesirable precedent.
- (vi) The meeting minutes are available at

Chinese: Page 40-43.

http://www.info.gov.hk/tpb/tc/meetings/RNTPC/Minutes/m351rnt_c.pdf

English: Page 46-50

http://www.info.gov.hk/tpb/en/meetings/RNTPC/Minutes/m351rnt_e.pdf

Part 2 – Commenting on inappropriate zoning decisions in Development Permission Area (DPA) and new or amended Outline Zoning Plans (OZP)

- (2.1) The Town Planning Board (TPB) announces the public inspection period for drafts or amendments to OZPs in the government gazette (lasting 2-3 months).
- (2.2) Checking gazettes every Friday is important.
- (2.3) If an OZP is under public inspection, check whether any ecologically sensitive areas recommended by The University of Hong Kong's Biodiversity Survey (<http://www.hku.hk/ecology/bs/index.htm>) and KFBG fall in the subject area.
- (2.4) Consult in-house experts to see whether there are any ecological sensitive areas.
- (2.5) If ecologically sensitive areas are not well protected by the proposed zoning in the draft, a letter of concern/objection can be prepared on condition that there is sufficient ecological information/principle to justify the concerns.
- (2.6) The letter should mention recommendations to the draft OZP, e.g. rezone "Village Type Development" (VTD) to "Conservation Area"
- (2.7) The letter should be duly signed with a return address and sent to the TPB at;

The Town Planning Board, 15/F, North Point Government Offices, North Point, Hong Kong Fax: 2877 0245 Email: tpbpd@pland.gov.hk

- (2.8) There will be preliminary comments by various government departments. A paper with summarized views of the government departments will be received usually one week before the hearing of objection meeting.
- (2.9) After the hearing of objection meeting, the TPB will consider all the views and announce the decision subsequently.

Case 2 - Objection against amendments to the Tin Shui Wai Outline Zoning Plan in 2007

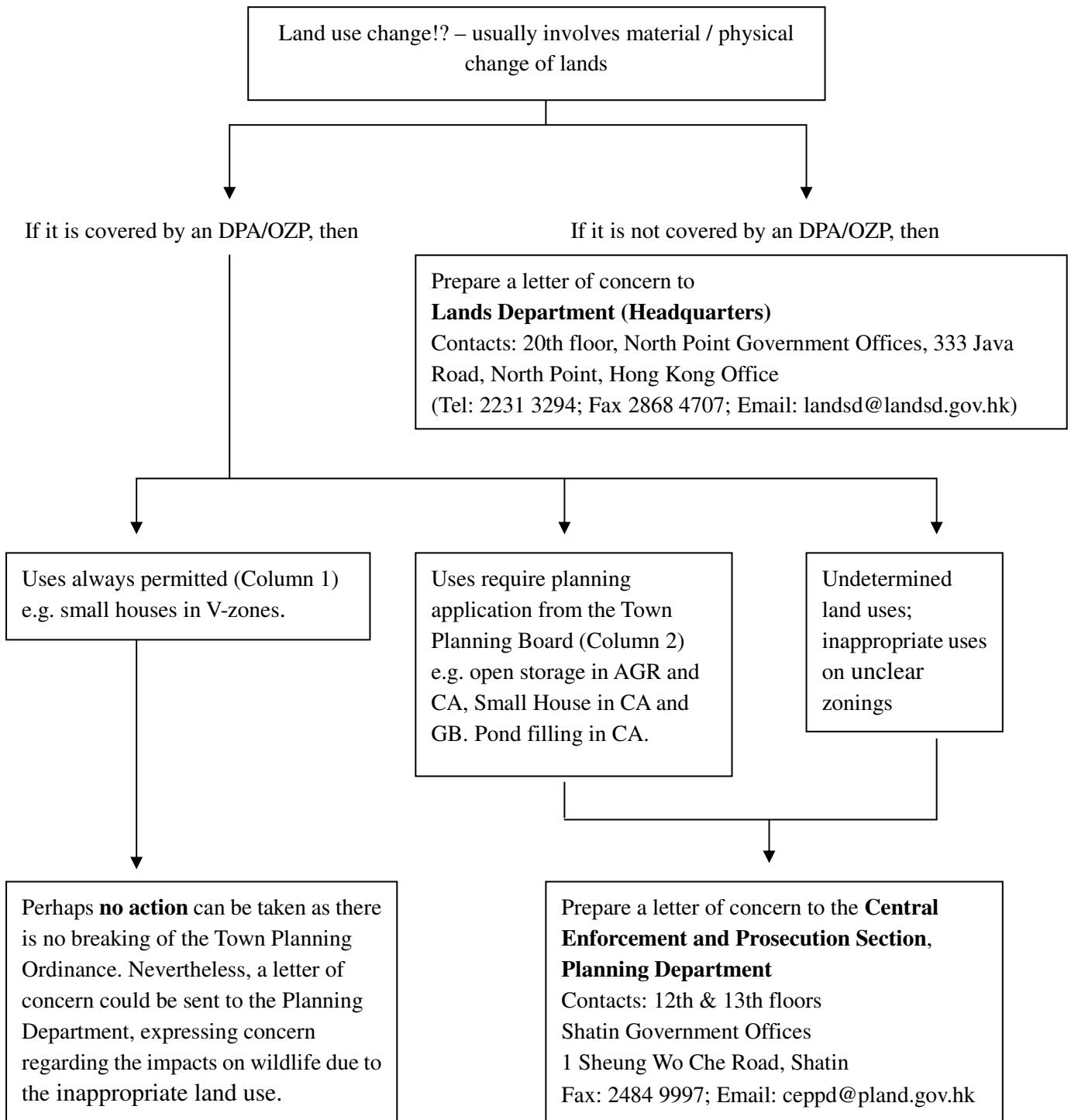
- (i) Background: rezoning three abandoned ponds from "Green Belt" to "Recreation". They were suspected to be abandoned fishponds. The ponds are close to Deep Bay.
- (ii) Comments were sent to the TPB on 24 December 2007. Concerns were that the ponds would be filled up in order to provide space for recreational facilities. The ponds were recommended to be retained and no pond filling be allowed.
- (iii) By studying the past aerial photos, it was found that the ponds were active fishponds at Tin Shui Wai. A field study in December 2007 by EAP also demonstrated that the ponds were utilized by 10 waterbird species.
- (iv) The Agriculture, Fisheries and Conservation Department agreed with the ecological value of these ponds. The Planning Department confirmed that the ponds were recognized as remaining fishponds after the Tin Shui Wai pond filling in the late 1980s.
- (v) The TPB approved the rezoning with conditions including no pond filling and identifying the fishpond nature of the subject area.

Part 3 – Land use change consideration

If works involve a change of land use,

- (3.1) Check whether the subject area is covered by an OZP and the zoning status. Website:
http://www.info.gov.hk/tpb/en/list_of_plans/coverage.html

Diagram 1. A flow chart summarizing the procedures for handling land use cases



- (3.2) Providing information concerning the ecological importance of the subject area is preferable but not essential. Such information could help the authority concerned to recognize the importance of the site. It is hoped that such information could facilitate the investigation process carried out by the government.

Case 3 - Open storage expansion near a Chinese Pond Heron colony at Mai Po Lung Village, San Tin

- (i) Date: August 2003
- (ii) Nature: from open space to open storage, and erected fence in close proximity to the heron colony prior to the approval of the planning application from the Town Planning Board (TPB)
- (iii) Zoning of the subject area: Residential D
- (iv) Ecological importance: the second largest colony of Chinese Pond Herons in Hong Kong
- (v) Authority concerned: (i) Central Enforcement and Prosecution Section, Planning Department (CEPS), (ii) Tuen Mun and Yuen Long District Planning Office, (iii) TPB, (iv) Agriculture, Fisheries and Conservation Department (AFCD)
- (vi) KFBG action: a letter of concern to CEPS to determine if the development is illegal or not, and whether the presence of the colony has been taken into consideration
- (vii) CEPS's reply: (i) did not know the presence of the colony, (ii) the expansion was in the planning application stage in the TPB, (iii) invited environmental NGOs to give comments on the application
- (viii) Outcome: TPB rejected the application in September 2003

Part 4 – Dumping of construction and demolition (C&D) materials at ecologically sensitive areas and sensitive zones on private farmlands

- (4.1) Prior to 2005, there was no clear definition of site formation on private farmlands for agriculture purpose in the Town Planning Ordinance. Planning permission was only sought for site formation in Conservation Area and Site of Special Scientific Interest zones. In other words, there was no restriction on filling ponds and farmlands with C&D materials in “Agriculture” and “Green Belt” zones, given that such filling was claimed as for agriculture purposes.
- (4.2) For instance, the freshwater marsh at Kam Tin and fallow farmland at Lam Tsuen have been degraded since 2003 due to this loop hole as the landowner claimed that the filling of land with C&D materials was for agriculture purposes.
- (4.3) Owing to the widely reported the Lam Tsuen farmland destruction case in 2003 and 2004, this abuse drew the public and government attention as the actual intention of such filling was to degrade ecological and landscape value, rather than the agricultural activities.

(4.4) The definition of site formation for agriculture in Agriculture zoning was revised in 2005. It states that all site formation in this zoning category requires official permission, except;

- laying of soil not exceeding 1.2m in thickness for cultivation; or
- construction of any agricultural structure with prior written approval issued by the Lands Department

(4.5) As only laying of soil not exceeding 1.2m is allowed, any filling of C&D materials may be considered as unauthorized development by the Planning Department. (Question No.8; http://www.pland.gov.hk/info_serv/cep/enforcement/enforce_e.htm#q19)

Trucks dumping construction waste onto ecologically sensitive areas and sensitive zones

First step –check the zoning

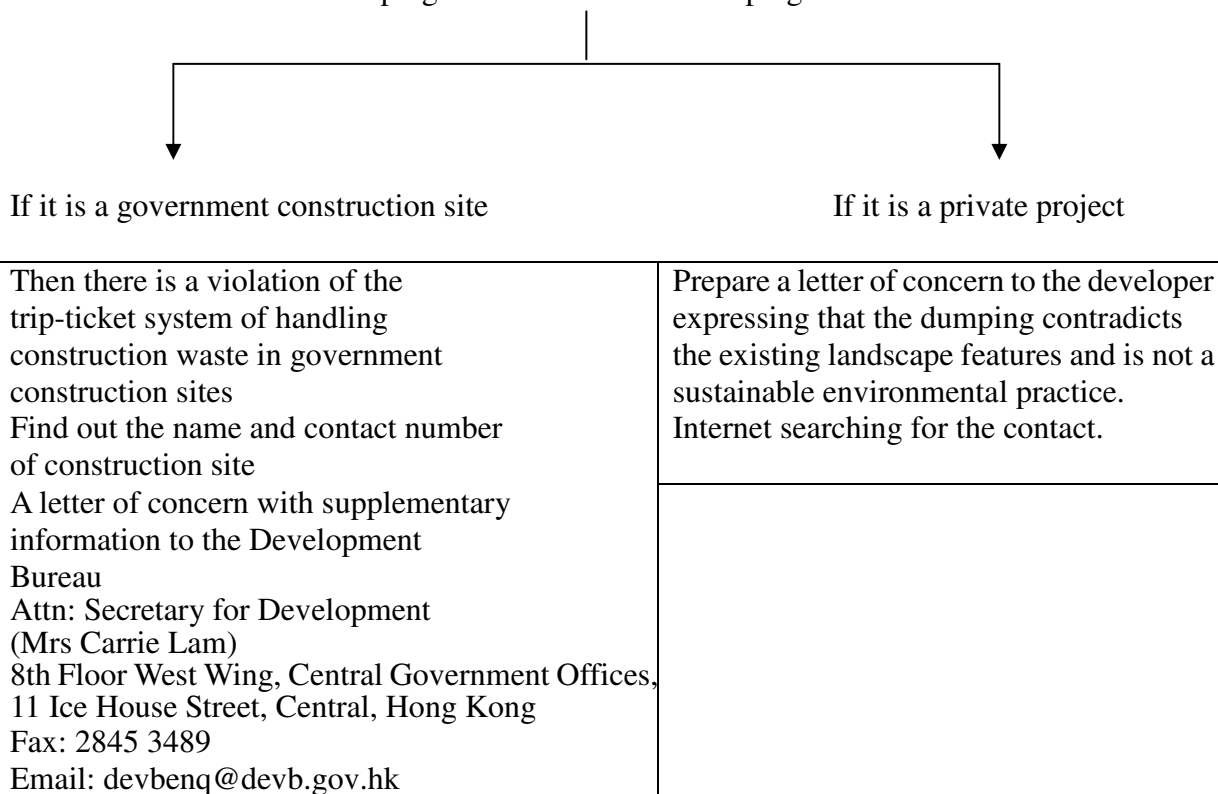
(4.6) Follow steps (3.1 and 3.2) in Part 3

(4.7) In most cases, the Planning Department cannot take any action to cease the dumping if it is not zoned as Agriculture, Green Belt, Coastal Protection Area, Conservation Area or Site of Special Scientific Interest and any Country Park within statutory plans.

(4.8) Environmental Protection Department (Waste Disposal Ordinance) will only be involved if the dumping activity is not permitted by the landowner. Please note that C&D materials are not considered as waste by law.

Diagram 2. A flow chart summarizing the procedures related to dumping case follow-up

Trace the source of dumping materials from the dumping site to the construction site



(4.9) If it is a designated project under the Environment Impact Assessment Ordinance (EIAO) (<http://www.epd.gov.hk/eia/>), a letter of concern to the Environmental Assessment Division, Environmental Protection Department asking if there is any violation of the Environmental Permit is necessary.

Contacts: 46th floor, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong
Fax: 2511 3658 Email: enquiry@epd.gov.hk

(4.10) Most large-scale projects are designated projects if they were approved after the enactment of the EIAO in April 1998.

(4.11) Only cc the letter to government departments and env-NGOs, never cc to consultants and contractors to avoid disclosure of personal information.

Case 4 - Shuen Wan marsh: waste from government construction sites dumped on conservation areas

- (i) On 12 May 2003, dumping of construction waste was seen in Shuen Wan marsh, which is zoned as Conservation Area. The first site visit was made.
- (ii) A letter of concern was sent to the Planning Department, but they worked very slowly and no action was taken.
- (iii) A resident of Shuen Wan found that the dumping materials were coming from two Architectural Services Department (ASD) construction sites in Tai Po.
- (iv) A second site visit was made with World Wide Fund for Nature (Hong Kong), The Hong Kong Bird Watching Society and the press on 22 May 2003.
- (v) The dumping was stopped immediately after the media report.
- (vi) Later, the then Works Policy of Environment, Transport, Works Bureau (ETWB) identified it was an issue as ASD and their contractor failed to fulfill the trip-ticket system, which governs the disposal of government construction waste.
- (vii) In August, ETWB invited green groups to have a discussion on the trip-ticket system. ETWB also welcomed such reporting if there are similar cases in the future.



Case 5 - Kam Tin marsh dumping in 2003: a successful case

- (i) A birdwatcher discovered dumping activity in the Kam Tin Buffalo Field on 20 October 2003.
- (ii) On 21 October 2003, a site visit was first made with Hong Kong Bird Watching Society (HKBWS) and Green Power (GP) at 9:30 am to trace the origin of the dumping

materials. It was found that they all came from a Drainage Services Department (DSD) construction site at Yuen Long.

- (iii) A phone call was made to Works Policy of the then Environment, Transport, Works Bureau. They immediately contacted DSD to stop the dumping. No dumping was seen subsequently.
- (iv) On 21 October 2003, KFBG, HKBWS and GP made a second site visit with the Press at 11:30 am. The report appeared in five major newspapers the next day.
- (v) DSD and their contractor admitted that they dumped the waste in the Buffalo Field.



Case 6. Lam Tsuen farmland destruction – loss of prime farmlands

- (i) Dumping was noted in the farmlands at She Shan Tsuen from April to August 2003
- (ii) The subject area is private lands and zoned as “Agriculture”.
- (iii) A letter of concern was sent to the Planning Department (PD)
- (iv) The rural committee and Tai Po District Council also reported their concern to relevant government departments
- (v) PD replied that no action can be taken as it is privately owned and the dumping activity is claimed to be an agricultural activity
- (vi) The dumping activity was seen again in October 2003.
- (vii) Surveillance on 24 October 2003 revealed that the trucks were coming from a construction site of a housing development in Fo Tan.
- (viii) The project proponent of this development asked the contractor to investigate and follow up the case. Eventually, no further dumping materials from the Fo Tan site to Lam Tsuen were noted.



Case 7 - Unsuccessful case – dumping at Ha Tam Sheung Hang, Sha Tau Kok for road construction

- (i) Dumping activity was seen at the captioned area on 23 February, 2002
- (ii) The subject area is private land situated within the Frontier Closed Area (FCA)
- (iii) A letter of concern was sent to Lands Department (LD) with cc to PD on 27 February
- (iv) LD replied that no action can be taken as it is a private land.

- (v) PD said that no statutory town plans cover the FCA. Therefore no planning enforcement action would be taken under the Town Planning Ordinance.

Part 5 – Tree felling

- (5.1) If tree felling is found in countryside outside the Country Park boundary, send a letter of concern to Land Department (LD), and cc it to Agriculture, Fisheries and Conservation Department (AFCD), as thin action could still be illegal.
- (5.2) If it is situated on government lands, LD or relevant government departments can take action.
- (5.3) If it is situated on private lands, action can be taken only if the tree felling violates the lease condition.
- (5.4) Very limited action can be undertaken by AFCD if the felling is situated within the boundary of private lands in Country Park.

Case 8 - Tree cutting at a Tai Po Kau orchard

- (i) In August 2001, a member of the public reported to KFBG that some ornamental trees in an orchard at Tai Po Kau were killed.
- (ii) A site visit was made on 21 August and revealed that about 30 trees were killed by poisoning and ring barking.
- (iii) A letter of concern was send to LD and cc to AFCD on 21 August.
- (iv) LD replied that the trees appear to be on both government and private lands. An appropriate warning letter to the owner of the private land was issued.
- (v) AFCD replied that they were concerned about the killing but as no witness or suspect could be identified, no action could be taken.



Part 6 – Environmental degradation and disturbance resulting from government and public utility works

- (6.1) If a place is disturbed by government/public construction projects, record the following:
- Project Proponent (i.e. which government department and public utility)
 - Contract No.
 - The nature of disturbance, e.g. stream pollution, and dumping of construction waste

- Site location

(6.2) It is still a work practice issue if the subject area is not an ecologically sensitive areas.

(6.3) A letter of concern can be sent to headquarters of the proponent department, and cc it to relevant enforcement departments (e.g. Environmental Protection Department, EPD) and major environmental NGOs

Case 9 - Pak Ngau Shek stream pollution

- (i) In February 2002, EAP received a report that the Pak Ngau Shek stream was polluted by channelization work by an unknown project proponent. The runoff of the work caused siltation of the down stream water.
- (ii) A letter of concern reporting the pollution was sent to EPD
- (iii) Telephone dialogue with a liaison officer of the Home Affairs Department (HAD) revealed that it was a stream maintenance work of HAD. A site visit with HAD engineers was carried out. During the visit, HAD engineers agreed that they would prevent water pollution by installing a silt trap
- (iv) After investigation, EPD advised the project proponent to reduce the water pollution by installing a proper silt reduction device.



Case 10 - Construction waste disposal at Sam A Tsuen wetland

- (i) In January 2002, KFBG received a report that the wetland at Sam A Tsuen was disturbed by construction work
- (ii) A site visit was made on 3 February 2002. It revealed that construction waste and fuel were seen to be dumped and stored on the wetland, respectively. It was also revealed that it was a HAD footpath improvement project
- (iii) A letter of concern was sent to HAD and a site visit was made later.
- (iv) During the site visit, HAD requested the contractor to properly dispose of the waste and fuel.
- (v) The site visit with HAD revealed that some of the waste was from The Electric



Company. A letter of concern was subsequently sent to The Electric Company expressing that the practice may cause environmental impact on this wetland of ecological importance

- (vi) The Electric Company replied that the waste was construction materials and was temporarily disposed there. They would remove the materials and properly store it.

Part 7 – Illegal collection of wild plants and animals

- (7.1) According to the Forestry Regulations of the Forests and Countryside Ordinance, all native orchids, camellias, rhododendrons and a variety of other species, are protected. No harvest is allowed.
- (7.2) All birds, mammals (except wild boars, rats, shrew and mice), all turtles and terrapins, two reptiles, three amphibians, one butterfly species are protected in Hong Kong by the Wild Animals Protection Ordinance.
- (7.3) There are generally two purposes related to illegal animal trapping: (1) as a wildlife delicacy, and (2) as a crop protection measure, e.g. mist-net trapping of birds and bats at flower farms in order to protect flower crops.
- (7.4) Government has zero tolerance related to any wildlife trapping for any purpose including crop protection.
- (7.5) **All wildlife trapping sightings should be reported to the Wetland and Fauna Conservation (Enforcement) Section, Agriculture, Fisheries and Conservation Department (AFCD) at (Tel) 2150 6921 or 2476 9430.**
- (7.6) In order to facilitate enforcement actions by Government, a sketch map of the subject area is essential. The streetlight post number or power line pole number also help to locate the subject area.

Case 11. Mist net trapping of bats at Ho Chung, Sai Kung

- (i) Bats and birds trapped using mist nets at several flower orchards at Ho Chung were discovered during a regular site visit in February 2008
- (ii) The sighting with a location map was reported to AFCD immediately.
- (iii) Acting upon our report, AFCD undertook enforcement actions. The nets were confiscated and the land owner was warned regarding illegal trapping of bats.



Abbreviations and websites:

AFCD	Agriculture, Fisheries and Conservation Department	http://www.afcd.gov.hk/
AGR	The “Agriculture” zone	http://www.info.gov.hk/tpb/en/forms/master_schedule.html
ASD	Architectural Services Department	http://www.archsd.gov.hk/
CA	The “Conservation Area” zone	http://www.info.gov.hk/tpb/en/forms/master_schedule.html
CEPS	Central Enforcement and Prosecution Section, Planning Department	http://www.pland.gov.hk/
DSD	Drainage Services Department	http://www.dsd.gov.hk/
DPA	Development Permission Area Plan	http://www.ozp.tpb.gov.hk/
EAP	Ecological Advisory Programme, Kadoorie Farm and Botanic Garden	http://www.kfbg.org/kfb/text1/image1.xml?fid=165&sid=195
EPD	Environmental Protection Department	http://www.epd.gov.hk/
ETWB	Environment, Transport and Works Bureau (2002-2007)	
GB	The “Green Belt” zone	http://www.info.gov.hk/tpb/en/forms/master_schedule.html
HAD	Home Affairs Department	http://www.had.gov.hk/
HKBWS	Hong Kong Bird Watching Society	http://www.hkbws.org.hk/
KFBG	Kadoorie Farm and Botanic Garden	http://www.kfbg.org
LD	Lands Department	http://www.landsd.gov.hk/
NGO	Non-Government Organization	
OZP	Outline Zoning Plan	http://www.ozp.tpb.gov.hk/
PD	Planning Department	http://www.pland.gov.hk/
SSSI	Site of Special Scientific Interest	http://www.info.gov.hk/tpb/en/forms/master_schedule.html
TPB	Town Planning Board	http://www.info.gov.hk/tpb/
VTD	The “Village Type Development” zone	http://www.info.gov.hk/tpb/en/forms/master_schedule.html
WWFHK	World Wide Fund for Nature (Hong Kong)	http://www.wwf.org.hk/eng/index.php

About Kadoorie Farm and Botanic Garden

Kadoorie Farm and Botanic Garden (KFBG) is situated on the northern slopes of Hong Kong's highest mountain – Tai Mo Shan (957 metres). Within KFBG are streams, woodlands, orchards and vegetable terraces – together with conservation and education facilities.

KFBG, today, is a unique public-private partnership, incorporated and designated as a conservation and education centre by Ordinance (Chapter 1156) in the Legislative Council of Hong Kong on 20th January, 1995. While KFBG is a public organisation, it is privately funded by the Kadoorie Foundation.

Since 1995, KFBG has focused on promoting conservation and sustainable living in Hong Kong and South China, with programmes on flora and fauna conservation and the promotion of organic agricultural practices.

KFBG's mission statement is "We exist to increase the awareness of our relationship with the environment and bring about positive change in the world through conservation and education".

To learn more about KFBG, please visit our website www.kfbg.org or contact us;

Kadoorie Farm and Botanic Garden
Lam Kam Road, Tai Po
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