

郊野公園及海岸公園委員會

擬議紅花嶺郊野公園的顧問研究

一 研究總結及建議

1. 目的

1.1 本文件旨在向委員簡述有關由漁農自然護理署(漁護署)展開的“擬議紅花嶺郊野公園詳細顧問研究—規劃、設計及諮詢”(研究)的總結及建議，並尋求郊野公園及海岸公園委員會對啟動指定擬議紅花嶺郊野公園法定程序的支持。

2. 背景

2.1 漁護署根據郊野公園及海岸公園委員會於二〇一一年修訂並批准的郊野公園評審原則及準則，評估紅花嶺是否適宜指定為郊野公園，並於二〇一六年十月十四日的郊野公園委員會會議向委員講述評估結果，而委員會於該次會議上支持指定佔地約500公頃的紅花嶺地區為郊野公園的建議。隨後，漁護署於二〇一七年六月委託香港環境資源管理顧問有限公司(顧問)進行研究，為擬議紅花嶺郊野公園檢視基線資料、進行規劃、設計、諮詢工作，並制定管理和運作計劃。

2.2 在二〇一八年五月十六日的郊野公園委員會會議上，漁護署及顧問曾向委員簡述有關研究的工作進度，其中包括檢視基線資料所得結果，以及擬議紅花嶺郊野公園的初步設計概念和管理措施方案。自二〇一八年七月起，顧問舉辦了持份者參與工作坊和一系列會議，向相關村代表、鄉事委員會及環保團體進行諮詢，收集持份者對擬議紅花嶺郊野公園的規劃、管理及運作的意見。二〇一九年五月二十七日，漁護署向郊野公園委員會匯報研究工作進度及從持份者參與和諮詢工作收集所得的意見。整體而言，郊野公園委員會支持漁護署繼續推進計劃，將紅花嶺約500公頃的範圍指定為郊野公園。

2.3 漁護署已於二〇一九年六月十三日就擬議紅花嶺郊野公園計劃向北區區議會進行諮詢，並正計劃於二〇一九年七月十二日向鄉議局鄉郊可持續發展委員會進行諮詢。

3. 研究總結

3.1 檢視基線資料

3.1.1 二〇一八年二月，顧問就擬議紅花嶺郊野公園的環境、生態和歷史／文化概況及生態旅遊資源完成全面檢視基線資料的工作。有關工作亦涵蓋檢視本地和國際間在發展和管理郊野公園方面的做法和經驗，以及這些做法和經驗是否適用於擬議紅花嶺郊野公園。

3.2 持份者參與和諮詢工作

3.2.1 二〇一八年六月，顧問為擬議紅花嶺郊野公園制定了諮詢計劃。二〇一八年七月至二〇一九年七月，漁護署進行涵蓋各相關政府部門、環保團體、學術機構、專業團體、關注小組、村代表、鄉事委員會、區議會和諮詢機構等的持份者參與和諮詢工作。

a) 徵詢相關政府部門的意見

漁護署就擬議紅花嶺郊野公園的公共交通、遠足安全、流動通訊網絡的覆蓋、緊急救援及邊境安全等事宜徵詢相關政府部門的意見。漁護署將繼續聯同相關部門跟進有關事宜。

b) 持份者參與工作坊

二〇一八年七月四日，漁護署舉辦了一場持份者參與工作坊，以收集來自自然保育、古蹟文化保育、生態旅遊營運、學術、專業、康樂體育及青年團體等不同界別的持份者對擬議紅花嶺郊野公園成立的目的、界線、建議的康樂活動和設施，以至生態和文化遺產資源保護措施等各方面的意見。當日，共有28名來自21個團體的代表參與該工作坊。

c) 向鄉事界別及地區人士進行的諮詢

在二〇一八年八月至二〇一九年二月期間，漁護署向沙頭角區及打鼓嶺區共19條鄉村的村代表及居民進行諮詢。此外，漁護署分別於二〇一九年四月二十六日及五月七日向沙頭角區鄉事委員會和打鼓嶺鄉事委員會進行諮詢。漁護署隨後於六月十三日諮詢了北區區議會，並正計劃於七月十二日諮詢鄉議局鄉郊可持續發展委員會。

d) 向環保團體進行的諮詢

漁護署於二〇一九年二月二十八日與環保團體進行諮詢會議，向他們講述有關紅花嶺郊野公園的研究結果。當日，共有12個環保團體派代表參加諮詢會議，其中部分團體於會後個別提交書面意見。此外，6個環保團體於二〇一九年五月十日發出聯合聲明，建議擴大紅花嶺郊野公園的界線至涵蓋共約1120公頃的土地範圍。

3.2.2 從各持份者參與和諮詢工作收集所得的主要意見及所有書面意見，已詳列於附件 A。

3.3 **制定管理和運作計劃**

3.3.1 完成檢視基線資料的工作，並綜合考慮在持份者參與和諮詢工作中收集所得的所有意見及建議後，顧問正修訂管理和運作計劃，就擬議紅花嶺郊野公園的設計概念和管理措施方案提供詳細資料。該管理和運作計劃包括了保育管理計劃，以及康樂和教育管理計劃。

a) 保育管理計劃

保育管理計劃旨在保育及保護現有的生態和文化資源，並在擬議紅花嶺郊野公園內進行適當的優化工作。計劃亦包括強化擬議紅花嶺郊野公園作為具有深圳與香港保護區之間生態走廊功能的保育措施。

b) 康樂和教育管理

提供康樂和教育功能也是指定擬議紅花嶺郊野公園的關鍵目標。由於擬議郊野公園大部分範圍相對未受干擾，因此該郊野公園只會推廣靜態的康樂活動，例如遠足、欣賞大自然、觀光、觀賞雀鳥／野生動植物等。如有需要，亦會向公眾提供一般康樂設施和遊客資訊。對自然環境或鄰近鄉郊社區造成嚴重滋擾的活動或用途，則不會獲得准許。

3.3.2 上述計劃的主要範疇摘錄於**附件B**。首份管理和運作計劃將為擬議紅花嶺郊野公園提供管理框架。不過，管理和運作計劃會因應環境和社會情況而有所變動，並會根據監察結果和當地社區、公園遊客及其他持份者反映的意見，不時予以適切檢討。

4 漁護署考慮的主要議題

4.1 擬議界線的劃定

私人土地

4.1.1 在諮詢鄉事界別時，村代表及鄉事委員會委員皆強烈反對將任何私人土地納入擬議紅花嶺郊野公園。相反，部分環保團體則指出，擬議紅花嶺郊野公園山坡周圍的私人農地與郊野公園環境相容，不應自動被排除在擬議紅花嶺郊野公園之外。他們認為漁護署沒有考慮《指定新郊野公園或擴闊現有郊野公園的修訂原則及準則》。

4.1.2 擬議紅花嶺郊野公園的界線主要以基於規劃署在二〇一〇年發表的《邊境禁區的土地規劃研究》(2010研究)，其中提出紅花嶺約480公頃的土地適合指定為郊野公園。2010研究亦記錄了當地社區反對將私人土地納入擬議郊野公園的訴求。漁護署主要以基於2010研究的建議草擬紅花嶺郊野公園的界線，並建議根據現時顧問研究的結果及諮詢過程中收集所得的意見作出適當修訂。

4.1.3 我們最近進行的檢視基線資料工作顯示，由於頻繁的山火影響和人為干擾，紅花嶺南坡私人土地的生態價值一般有限。目前，該處的私人土地大部分被草地及灌木叢覆蓋，並已

根據分區計劃大綱圖劃分為綠化或農業地帶。漁護署認為目前的法定圖則地位對控制擬議紅花嶺郊野公園附近私人土地的土地用途已經合宜。

4.1.4 更重要的是，由於鄉事界別明確表示強烈反對將任何私人土地納入郊野公園，因此在擬議紅花嶺郊野公園中加入任何私人土地，均會引起當地社區強烈反對，以致日後擬議紅花嶺郊野公園的管理會遇到很大困難。鼓勵當地村民參與，為保育自然和鄉郊及管理郊野公園而共同努力，將是更理想的方法。

認可殯葬區

4.1.5 鄉事界別亦強烈表示，認可殯葬區不應被納入擬議紅花嶺郊野公園內。相反，部分環保團體則建議漁護署將圍繞紅花嶺的所有認可殯葬區納入擬議紅花嶺郊野公園內，因為那些殯葬區皆位於政府土地，而且部分殯葬區(例如新桂田)已長期荒廢。

4.1.6 雖然所有認可殯葬區皆位於政府土地，但根據一九八三年起實施的山邊殯葬政策，這項傳統村民權益必須予以尊重。此外，根據郊野公園管理經驗，殯葬區經常出現殯葬及掃墓活動，這類土地用途亦與戶外康樂／自然保育的原則有所衝突。因此，一般認為殯葬區與郊野公園成立的目的並不配合。將殯葬區納入擬議紅花嶺郊野公園不會帶來規劃效益，因為殯葬區的景觀及保育價值會隨時改變，而該處的康樂潛力亦十分有限。目前，認可殯葬區大多在相關的分區計劃大綱圖中劃為綠化地帶。漁護署認為，現行的法定土地類別能適當地管制毗連擬議紅花嶺郊野公園的認可殯葬區的土地用途。

4.1.7 我們最近進行的檢視基線資料工作確認，由於山火及人為干擾頻繁，因此紅花嶺南坡上各沙頭角鄉村後方認可殯葬區的生態和景觀價值有限。與上文有關私人土地的考慮因素相類似，漁護署認為把任何認可殯葬區納入擬議紅花嶺郊野公園並非理想做法。

風水林

4.1.8 部分環保團體亦建議把山咀、木棉頭、塘肚、麻雀嶺、凹下、蓮麻坑和香園圍各條鄉村附近的風水林納入擬議紅花嶺郊野公園，以便提供更佳的保護。不過，上述風水林全都緊貼鄉村後方，與擬議紅花嶺郊野公園界線隔着殯葬區。如把這些風水林納入擬議郊野公園範圍，但又不包括殯葬區，則會形成數片遠離主體的零星郊野公園土地，不利公園的整體管理。

4.1.9 事實上，這些風水林已在相關的分區計劃大綱圖中劃為“保育地帶”或“綠化地帶”，受到相關土地用途管制的保護。為加強保護紅花嶺郊野公園附近的風水林，漁護署人員在紅花嶺郊野公園進行日常巡邏時，會一併視察有關風水林，如有需要，會就發現的違規情況通知相關部門，以便採取跟進行動。

擬議紅花嶺郊野公園與認可殯葬區／私人土地之間的緩衝區

4.1.10 現時不少郊野公園，在緊接其界線以外的範圍通常設有如“綠化地帶”的緩衝區，以期把郊野公園與不相容的土地用途之間出現直接衝突的機會減至最少。就擬議紅花嶺郊野公園而言，部分環保團體質疑該郊野公園與認可殯葬區／私人土地之間是否有需要設立緩衝區。檢視過該地點的狀況後，漁護署考慮如情況許可，會盡量縮減緩衝範圍，並因應情況沿等高線和現有自然地貌微調界線。不過，如上文所述，認可殯葬區和私人土地將不會納入擬議紅花嶺郊野公園。

進一步擴大紅花嶺郊野公園的界線

4.1.11 部分環保團體建議漁護署擴大擬議紅花嶺郊野公園的界線，以涵蓋更多鄰近香園圍、蓮麻坑、新桂田及禾徑山的土地，加強保護上述地點的自然生境。這樣做亦可提升紅花嶺郊野公園與內地梧桐山國家森林公園組成生態走廊的功能。漁護署認為，上述大規模擴展至約 1 120 公頃的建議，會使原本建議的公園面積倍增。這樣會大幅偏離擬議紅花嶺郊野公園的建議界線，以及二〇一七年《施政報告》中所述的措施，即“為進一步保護高生態價值的地點，政府將開展指定約 500 公頃的紅花嶺為郊野公園的工作”。如擬探索上述大規模擴展規模是否可行，必須進行額外的詳細研究，並且廣泛諮詢持份者，不過，這項工作超出現時所述研究的工作範圍。

4.1.12 有關擬議紅花嶺郊野公園作為深圳梧桐山與新界北部的自然保護區(例如八仙嶺郊野公園)之間的生態走廊功能，我們會加強與梧桐山國家森林公園人員的溝通，就雙方的生態資源交換資料，並透過保育生境和特殊物種，合作建設跨境生態走廊。

4.2 管理及營運問題

管理目標

4.2.1 大部分持份者認為，擬議紅花嶺郊野公園的重點應放在自然保育，並應只推廣遠足和欣賞大自然等靜態康樂活動，以保護自然生境。其他可能有違自然保育原則的康樂活動應盡可能避免。鑑於擬議紅花嶺郊野公園具備高生態價值和潛力成為連接本港與深圳自然保護區的生態走廊，漁護署同意自然保育是成立該郊野公園的主要目標。然而，漁護署亦認為有需要在這個新郊野公園內妥善維持自然保育、郊野康樂與戶外教育之間的平衡，讓市民也可以因指定該郊野公園而有所得益。

防止山火

4.2.2 當地村民和環保團體均對擬議紅花嶺郊野公園內頻繁發生山火可能對村民、郊野公園遊客和自然生境構成影響表示憂慮。部分環保團體又認為，郊野公園的管理措施可更有效管理掃墓活動，從而有助減少山火，並更有效保育自然環境。

4.2.3 漁護署亦有同樣的憂慮，並會在管理和營運計劃中加入多項預防山火的措施。在旱季開始前，漁護署會在有較高山火風險的山坡上進行剪草，在擬議紅花嶺郊野公園與認可殯葬區之間設置有效的防火帶。漁護署亦會考慮在策略性地點種植闊葉樹木帶，以助防止山火蔓延。在清明節和重陽節期間，漁護署會因應情況與有關部門、非政府機構及當地社區合作，在沙頭角各村落大規模宣傳掃墓的良好做法，以期在認可殯葬區減少發生山火，以及防止山火蔓延至擬議紅花嶺郊野公園。最後，漁護署並沒有計劃在擬議紅花嶺郊野公園內提供任何燒烤場地和露營設施，希望藉此盡量減少郊野公園遊客引起山火的風險。

保護重要生態環境

4.2.4 環保人士認為，具有生態重要性的自然生境應受保育及保護，如大草鶯(*Graminicola striatus*)棲息的高地草原生境和蝙蝠群落的棲息地蓮麻坑鉛礦洞。部分環保團體亦認為擬議紅花嶺郊野公園的範圍應擴展至涵蓋紅花嶺的草原生境，並應將該生境與蓮麻坑、香園圍、禾徑山和萬屋邊連接，以加強對大草鶯的保護。

4.2.5 漁護署贊同上述有關保護重要生境的意見。雖然如上文第 4.1.11 段所解釋，建議擴展擬議紅花嶺郊野公園的範圍超出了目前研究的工作範圍，不過，有關範圍大多屬綠化地帶，受到法定保護。此外，漁護署會繼續致力監察和保護具保育價值的大草鶯，以及郊野公園範圍內外的相關生境。根據漁護署的記錄，在最近錄得大草鶯的 19 個地點中，有 16 個已被納入郊野公園的範圍內因而受到保護，而紅花嶺一帶的土地亦即將被納入擬議紅花嶺郊野公園。漁護署會致力保護和護理擬議紅花嶺郊野公園內的高地草原生境，而有關工作屬漁護署保育管理計劃的一部分。

4.2.6 整個蓮麻坑鉛礦洞屬具特別科學價值的地點，並已納入擬議紅花嶺郊野公園。漁護署亦計劃邀請相關的生態及岩土工程專家參與活化計劃，以期在安全的情況下，將鉛礦洞的上洞有限度開放予公眾參觀，而不會對在礦洞裏棲息的蝙蝠群落的整體生態保育造成負面影響。

4.3 易達程度及交通安排

遠足徑網絡

4.3.1 顧問查找了多條現時遠足人士前往紅花嶺所使用的非正式遠足徑。在諮詢過程中，部分村民要求不要指示遊客穿過村民活動頻繁的村落，而環保團體則提醒遠足路線應避免穿過生態易受破壞的地區。漁護署在考慮上述的關注事宜後，將會致力推介對遊客安全、在環境方面可持續發展、連接到吸引的地點，以及能為市民提供優質康樂體驗的遠足徑。我們已為擬議紅花嶺郊野公園物色四個主要入口及關鍵遠足路線，有關路線載於圖 1。

公共交通服務

4.3.2 由於前往擬議紅花嶺郊野公園的遊客人數或會有所增加，區內對交通的需求因而變大，沙頭角區鄉事委員會及打鼓嶺區鄉事委員會均對此表示憂慮。漁護署會繼續與有關部門合作，改善配套設施和服務，以應付日後交通需求和遊客流量的增長。據悉，新開通的龍山隧道和香園圍高速公路，以及已計劃進行的擴闊蓮麻坑路工程，可提供更多接達擬議紅花嶺郊野公園的交通網絡。

4.4 遊客服務及當地村民的參與

遊客資訊

4.4.1 各持份者團體建議，漁護署應保護並加深市民對擬議紅花嶺郊野公園範圍內或附近的天然資源、具保育價值的動植物、戰爭時期及鉛礦的遺跡，以及各村傳統客家文化的認識。漁護署在制訂擬議紅花嶺郊野公園的管理和營運計劃時，已考慮上述建議，並會通過不同渠道向市民提供遊客資訊，讓他們對紅花嶺及其周邊範圍的生態、文化及歷史元素更有興趣和增加了解。我們會尋求專家的意見，以確保戰爭遺跡安全無損，並輔以合適的傳意牌，以供市民觀賞。

遊客安全

4.4.2 當地村民和遠足團體均要求漁護署提高遊客在擬議紅花嶺郊野公園內的安全。漁護署十分重視這方面的工作，並會繼續與有關部門合作，擴大流動通訊網絡覆蓋範圍、制訂緊急救援規程、查找和消除蓮麻坑鉛礦洞廢棄通風井及被棄置和散布於邊境禁區山上的劃界倒刺鐵線等構成的潛在危險。

當地村民的參與

4.4.3 部分當地村民表示，支持使用廢置的村校校舍作為擬議紅花嶺郊野公園的資訊樞紐。漁護署歡迎有關建議，並會積極邀請當地居民及其他可能合適的持份者參與，以及在主要遠足徑入口附近設立資訊樞紐，以推廣擬議紅花嶺郊野公園並發放遊客資訊。我們亦可與當地居民合作，安排導賞服務，介紹附近鄉村豐富多采的文化、歷史故事。

4.5 遵守《香港生物多樣性策略及行動計劃》(《計劃》)

4.5.1 指定紅花嶺為郊野公園是二〇一六年公布的首份《計劃》中所列其中一項行動。不過，部分環保團體指出，漁護署並沒有遵守這項行動的要求，因為新桂田並沒有被納入擬議紅花嶺郊野公園的界線範圍內，以致產生了一幅新的郊野公園不包括的土地。

4.5.2 新桂田大部分土地是認可殯葬區，另有若干私人土地地段。考慮到鄉事界別強烈要求不應把認可殯葬區及私人土地納入擬議紅花嶺郊野公園，漁護署認為在目前情況下，不宜把新

桂田納入擬議紅花嶺郊野公園。由於整幅土地已在相關的分區計劃大綱圖中劃為“綠化地帶”，受到法定保護，因此新桂田不會在指定紅花嶺郊野公園後成為新的郊野公園不包括的土地。為加強保護，漁護署人員在巡邏紅花嶺郊野公園時，會一併視察該區。

5. 建議

5.1 修訂擬議紅花嶺郊野公園的界線

5.1.1 考慮過持份者就擬議紅花嶺郊野公園的界線所提出的意見，以及所有其他相關考慮因素後，漁護署建議在擬議紅花嶺郊野公園界線作出以下修訂(見圖 2)：

- a) 把石涌凹與塘肚坪村之間的一條次生林帶納入擬議紅花嶺郊野公園。該處完全屬政府土地，而漁護署正計劃在該處為遠足路線建造策略性出入口，直接連接沙頭角道；以及
- b) 調整擬議紅花嶺郊野公園的界線，以盡量縮減擬議紅花嶺郊野公園與認可殯葬區／私人土地之間的緩衝範圍。為方便日後管理，經修訂的界線會因應情況沿等高線和現有天然地貌作出微調。

5.1.2 根據經修訂的界線，漁護署會按照郊野公園及海岸公園委員會於二〇一一年修訂並批准的原則及準則，就紅花嶺是否適宜指定為郊野公園所作的評估作更新。

5.2 建議的管理和運作計劃

5.2.1 根據全面檢視和評估從持份者參與和諮詢活動收集所得的意見後，顧問正進一步修訂擬議紅花嶺郊野公園的管理和運作計劃，而建議的主要範疇摘錄於附件 B。漁護署建議接納經修訂的管理和運作計劃，作為擬議紅花嶺郊野公園的啟動框架，但日後仍會定期進行檢討，並向持份者收集意見。

5.3 就擬備未定案地圖尋求指示

5.3.1 在完成擬議紅花嶺郊野公園的綜合顧問研究(涵蓋詳細規劃、設計及諮詢)後，漁護署認為現時適宜尋求委員會原則上的支持，以便啟動《郊野公園條例》(第 208 章)所訂明的法定程序。如獲委員會支持，漁護署會就擬備顯示擬議紅花嶺郊野公園的未定案地圖尋求行政長官的指示。待備妥未定案地圖後，漁護署會再諮詢委員會，然後在憲報公布，供公眾查閱。

6. 徵詢意見

6.1 請委員就本委員會文件所作出的研究總結及建議提供意見。

郊野公園及海岸公園管理局
漁農自然護理署
二〇一九年七月

I. 就擬議紅花嶺郊野公園與相關政府部門進行諮詢時的主要商討事宜

政府部門	事宜／議題
北區民政事務處	<ul style="list-style-type: none"> • 地區諮詢的安排和支援 • 日後郊野公園範圍外遠足徑的建造、管理和維修
北區地政處	<ul style="list-style-type: none"> • 土地類別的資料 • 松山牌 • 禾徑山“維修道路”的交通管制建議
古物古蹟辦事處	<ul style="list-style-type: none"> • 擬議紅花嶺郊野公園及鄰近地區內文化古蹟的保育
警務處邊境分區(沙頭角)	<ul style="list-style-type: none"> • 邊境保安 • 禾徑山“維修道路”的管理
建築署	<ul style="list-style-type: none"> • 禾徑山“維修道路”的維修
土木工程拓展署土力工程處	<ul style="list-style-type: none"> • 蓮麻坑礦洞的安全、採礦歷史和地質闡釋
運輸署	<ul style="list-style-type: none"> • 改善區內交通配套設施，以便遊客能更容易到達紅花嶺郊野公園
路政署	<ul style="list-style-type: none"> • 蓮麻坑路(東段)擴闊工程
通訊事務管理辦公室	<ul style="list-style-type: none"> • 擬議紅花嶺郊野公園內流動通訊網絡的覆蓋範圍
消防處	<ul style="list-style-type: none"> • 攀山救援及山火撲滅行動
政府飛行服務隊	<ul style="list-style-type: none"> • 攀山救援及山火撲滅行動

II. 持份者參與及諮詢活動所收集的主要意見

論壇／團體	主要議題／意見
持份者參與工作坊	<ul style="list-style-type: none"> • 漁護署在為擬議紅花嶺郊野公園制訂管理策略時，應該優先考慮自然保育的因素，任何可能有違自然保育原則的康樂活動應盡可能避免。 • 應該保育及保護具有高生態價值的生境，例如紅花嶺的高地草原是大草鶯(<i>Graminicola striatus</i>)的重要生境，而蓮麻坑鉛礦洞具特殊科學價值地點是本地蝙蝠群落的重要棲息地。 • 部分持份者表示蓮麻坑鉛礦洞的蝙蝠棲息地應受保育並應限制公眾進入，提議考慮採用許可證制度或導遊制度管制公眾進入。他們亦提議開放供公眾進入之前，應先為蓮麻坑鉛礦洞進行詳細的安全評估。 • 部分持份者建議應透過以下措施加強擬議紅花嶺郊野公園作為香港與深圳保護區之間的生態走廊功能： <ul style="list-style-type: none"> - 與深圳有關的公園管理單位溝通； - 研究提供實體的野生動物通道以連接擬議紅花嶺郊野公園與梧桐山。 • 部分學術界代表提醒漁護署應以由下而上的方式，讓鄰近紅花嶺的當地社區和鄉村參與日後紅花嶺郊野公園的管理和運作。 • 部分學術界代表建議擬議紅花嶺郊野公園亦應強調向公眾推廣附近村落特有的傳統客家文化及生活遺產，包括鄉村生活、風水林和日常生活中自然資源的可持續利用等。
<u>沙頭角及打鼓嶺地區村代表</u>	<ul style="list-style-type: none"> • 私人土地和認可殯葬區不應納入擬議紅花嶺郊野公園；

	<ul style="list-style-type: none"> • 松山牌賦予個別鄉村的權利，不應因擬議紅花嶺郊野公園而有所影響； • 村民可繼續於擬議紅花嶺郊野公園範圍內的現有墳墓進行修葺及清理活動； • 村民的日常生活不應因遊客及紅花嶺郊野公園的運作而受到干擾； • 政府應提供足夠的基礎建設及相關的配套設施，以應付日後因指定紅花嶺郊野公園而增加的交通需求及遊客量； • 政府應詳加規劃通往擬議紅花嶺郊野公園的遠足路線，以盡量減少對鄰近村落構成滋擾；以及 • 大部分村代表對透過紅花嶺郊野公園向大眾推廣及介紹客家文化表示歡迎。他們亦不反對利用蓮麻坑敬修學校及上担水坑群雅學校舊址作為提供遊客資訊及服務之用。
<p>沙頭角區鄉事委員會和打鼓嶺鄉事委員會</p>	<ul style="list-style-type: none"> • 鄉事委員會表達與上述村代表所提類似的關注； • 普遍原則上支持指定紅花嶺郊野公園，但前提是漁護署會繼續與有關部門合作，改善沙頭角及打鼓嶺地區的公共運輸服務，以緩解因指定紅花嶺郊野公園而對當區公共交通構成的影響；以及 • 打鼓嶺鄉事委員會進一步要求漁護署繼續就指定郊野公園與相關持份者進行所需的諮詢。
<p>北區區議會</p>	<ul style="list-style-type: none"> • 北區區議會議員普遍贊成設立紅花嶺郊野公園；

	<ul style="list-style-type: none"> • 部分議員表達與上述村代表所提類似的關注； • 北區區議會亦同意村代表及鄉事委員會的意見，認為有需要改善沙頭角及打鼓嶺地區的公共運輸服務，以應付預期增加的需求； • 漁護署應採取適當管理措施以控制及預防山火，保障遠足人士安全； • 部分議員提出禾徑山“維修道路”存在安全問題，並不適合公共車輛行使。漁護署應考慮對該路實施交通控制，確保公眾安全。 • 擬議紅花嶺郊野公園部分範圍沒有流動通訊網絡覆蓋。有議員要求加強該新郊野公園的流動通訊網絡覆蓋或安裝緊急電話，以確保遠足人士安全。
環保團體	<ul style="list-style-type: none"> • 基於保育的重要性，以及文化／歷史／景觀價值及康樂發展潛力等因素，環保團體普遍支持指定紅花嶺郊野公園。 • 部分環保團體建議重劃界線，以擴大紅花嶺郊野公園的範圍至涵蓋禾徑山、香園圍、新桂田，以及沙頭角和打鼓嶺地區內的風水林、認可殯葬區和部分私人土地等共約1 120公頃的土地。 • 部分環保團體認為漁護署在劃定擬議紅花嶺郊野公園界線時未有嚴格遵守二〇一一年修訂的《指定郊野公園的原則及準則》(2011準則)，並特別提出以下要求： <ul style="list-style-type: none"> - 具重要生態及景觀價值的地方如蓮麻坑、新桂田、香園圍東面、禾徑山、山咀、上担水坑、紅花嶺南面及數座風水林應被納入擬議紅花嶺郊野公園； - 認可殯葬區位於政府土地，而現時亦有不少認可殯葬區位處郊野公園範

圍內。2011 準則沒有規定把認可殯葬區排除在新郊野公園之外；

- 擬議紅花嶺郊野公園四周山坡的棄耕私人農地與郊野公園環境相容，因此應被納入擬議紅花嶺郊野公園；
 - 擬議紅花嶺郊野公園與私人土地及認可殯葬區之間的緩衝區並非必須的。2011 準則沒有指明新郊野公園與其他土地用途之間須設緩衝區；以及
 - 位於石涌坳與塘肚坪村之間一片狹長的次生林地屬政府土地，應被納入擬議紅花嶺郊野公園。
- 部分環保團體提出漁護署在指定擬議紅花嶺郊野公園的工作未有遵守香港生物多樣性策略及行動計劃的行動2b。他們認為政府應優先擴展郊野公園，以便將適當的“不包括土地”納入郊野公園。然而，漁護署的擬議紅花嶺郊野公園卻未有包括新桂田，即變相產生了一幅新的“不包括土地”。
 - 部分環保團體亦認為香園圍、蓮麻坑及新桂田一帶的次生林地及天然溪流應被納入擬議紅花嶺郊野公園，以增強該公園作為連接深港兩地天然生境的生態廊道之功能。
 - 部分環保團體還敦促漁護署保護具有生態重要性的天然生境(即大草鶯於紅花嶺的高地草原生境及蓮麻坑鉛礦洞內的蝙蝠棲息地)。他們還要求將蓮麻坑、香園圍、禾徑山及萬屋邊的草地生境納入擬議紅花嶺郊野公園，以加強保護大草鶯。
 - 部分環保團體指出紅花嶺附近部分戰事遺址未被納入擬議紅花嶺郊野公園，並促漁護署擴展擬議紅花嶺郊野公園，以保護上述具有歷史價值的文化遺產資源。

- | | |
|--|--|
| | <ul style="list-style-type: none">• 部分環保團體敦促漁護署應小心規劃山徑路線，以適當覆蓋擬議紅花嶺郊野公園，同時又避開生態敏感地區。康樂設施亦不應影響擬議紅花嶺郊野公園的自然景觀。• 部分環保團體認為現有的墳墓和認可殯葬區應被納入擬議紅花嶺郊野公園，以便更妥善地管理和規管掃墓活動，以防止山火。 |
|--|--|

III. 持份者對對擬議紅花嶺郊野公園的書面意見

目錄表

編號	書面意見	日期
1.	香港越野跑步總會電郵	7.7.2018
2.	世界自然基金會(香港)信件	7.9.2018
3.	世界自然基金會(香港-)信件	30.4.2019
4.	嘉道理農場和植物園信件	30.4.2019
5.	長春社信件	30.4.2019
6.	創建香港電郵	30.4.2019
7.	香港鄉郊基金信件	2.5.2019
8.	Temple Chambers信件	3.5.2019
9.	香港觀鳥會信件	6.5.2019
10.	綠色力量信件	6.5.2019
11.	環保團體聯合聲明	10.5.2019
12.	嘉道理農場和植物園電郵 (附件與4號書面意見相同)	26.6.2019
13.	Temple Chambers信件	27.6.2019
14.	Temple Chambers信件 (附件與8號書面意見相同)	27.6.2019

From: Ng S H Janet <contact@trahk.org>
Sent: Saturday, July 07, 2018 9:34 AM
To: Grace Yang
Cc: yn_ngar@afcd.gov.hk; faifai_yeung@afcd.gov.hk; Ying Ming Lee
Subject: Re: 擬議紅花嶺郊野公園 - 持份者諮詢研討會邀請 Invitation to Stakeholder Engagement Workshop for Detailed Study of the Proposed Robin's Nest Country Park

Follow Up Flag: Follow up
Flag Status: Completed

Hi Grace,

Thank you for inviting me to the talk and workshop. It was really great to hear from the experts, learn about our heritage and I feel that I've gained a lot!

I just want to share with you some photos I took from the Cwm Idwal national park in Snowdonia (Wales) that have some lovely wooden plaques identifying the surrounding hills.

It would be great to consider using this type of material for signage in hopefully our new country park.

Have a great weekend and thanks a lot!

Regards,
Janet



Janet Ng
President
Trail Runners Association of Hong Kong
Tel: +852 90431560











世界自然基金會
香港分會

WWF-Hong Kong

香港新界葵涌葵昌路 8 號
萬泰中心 15 樓
15/F, Manhattan Centre
8 Kwai Cheong Road
Kwai Chung, N.T., Hong Kong

電話 Tel: +852 2526 1011
傳真 Fax: +852 2845 2764
wwf@wwf.org.hk
wwf.org.hk

7 September 2018

Agriculture, Fisheries and Conservation Department
5/F, Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road, Kowloon
(E-mail: mailbox@afcd.gov.hk)

By E-mail ONLY

Dear Sir/Madam,

Re: Detailed Study of the Proposed Robin's Nest Country Park

In respect to the stakeholder workshop that WWF attended on 4 July 2018, we would like to provide our comments on the proposed Robin's Nest Country Park (RNCP) as follows:

Ecological conservation should be at the highest priority

The proposed Robin's Nest Country Park covers area of very high ecological and conservation value. Robin's Nest is an important habitat for Chinese Grassbird *Graminicola striatus* in Hong Kong. Chinese Grassbird is considered as "Vulnerable" species by IUCN¹ and BirdLife International². Its global distribution is restricted and its overall population size is suspected to be low, i.e. less than 2,500 mature individuals³. According to the latest available information from the study conducted by AFCD in 2012, its population size in Hong Kong is estimated to be 490 individuals⁴. Among the sites with records of Chinese Grassbird under the same study, Robin's Nest is the only site located outside Country Parks. Therefore, WWF supports the designation of Robin's Nest Country Park for protecting Chinese Grassbird which will contribute to secure the conservation status of this globally-threatened species. We opine that ecological conservation, in particular to the

¹ BirdLife International. 2016. *Graminicola striatus*. The IUCN Red List of Threatened Species 2016: e.T103870381A104200555. <http://dx.doi.org/10.2305/IUCN.UK.2016-3.RLTS.T103870381A104200555.en>. Downloaded on **05 September 2018**.

² BirdLife International (2018) Species factsheet: *Graminicola striatus*. Downloaded from <http://www.birdlife.org> on 05/09/2018.

³ *Ibid*

⁴ So I. W. Y., Wan J. H. C., Lee W. H. and Cheng W. W. W. 2012. Study on the distribution and habitat characteristics of the Chinese Grassbird *Graminicola striatus* in Hong Kong. *Hong Kong Biodiversity* 22: 1-9.

together possible.

贊助人：香港特別行政區行政長官
林鄭月娥女士、大家新聞、GBS
主席：何國達先生
行政總裁：江偉智先生

義務核數師：香港立信德豪會計師事務所有限公司
義務公司秘書：嘉信秘書服務有限公司
義務律師：孖士打律師行
義務司庫：匯豐銀行
註冊慈善機構

Patron: The Honourable Mrs Carrie Lam Cheng Yuet-ngor, GBM, GBS
The Chief Executive of the HKSAR
Chairman: Mr Edward M. Ho
CEO: Mr Peter Cornthwaite

Honorary Auditors: BDO Limited
Honorary Company Secretary:
McCabe Secretarial Services Limited
Honorary Solicitors: Mayer Brown JSM
Honorary Treasurer: HSBC
Registered Charity
(Incorporated With Limited Liability)

註冊名稱 Registered Name: 世界自然(香港)基金會 World Wide Fund For Nature Hong Kong
(於香港註冊成立的擔保有限公司 Incorporated in Hong Kong with limited liability by guarantee)

protection of Chinese Grassbird habitat, should be at the highest priority.

Impacts of the New Territories North development on RNCP

In the “Hong Kong 2030+ - Towards a Planning Vision and Strategy Transcending 2030” (“HK2030+”) study, New Territories North (NTN) is identified by the government as one of the Strategic Growth Area of Hong Kong after 2030. It is expected that large-scale comprehensive development will be carried out in the extensive NTN area. We notice that the proposed RNCP is in very close proximity to the potential development boundary of NTN. The NTN development might impose impacts on the planning and management of the RNCP. For example, improvement of transportation network within the NTN Development and increasing connection of NTN Development to other areas of Hong Kong and Shenzhen will increase visitors that might cause disturbance to the important habitats in the RNCP. Therefore, we opine that AFCD needs to consider the potential impacts imposed by the NTN Development and formulate appropriate measures to avoid and minimize the identified impacts during the early design stage of the RNCP.

Concerns on detailed designs:

a. Location of visitor centres

As per the presentation made by AFCD’s consultant in the workshop, visitor centres were proposed at Lin Ma Hang and Sheung Tam Shui Hang. We consider that the potential direct and indirect ecological impacts imposed by the proposed visitor centres should be carefully assessed during the site selection process. For example, we are of grave concern that the designation of the RNCP will become one of the justifications to approve the widening of Lin Ma Hang Road, which is now under the EIA process (ESB-264/2013), if visitor centres were built at Lin Ma Hang. We worry the widening of Lin Ma Hang Road will trigger development and destruction at secondary woodlands, abandoned agricultural lands, wetlands, Lin Ma Hang SSSI and other important habitats along Lin Ma Hang Road. Therefore, AFCD should carefully assess the direct and indirect ecological impacts of the locations of visitor centres. The RNCP designation should not cause any adverse ripple effects to surrounding ecology.

b. Location of entry points

6 entry points are proposed by the AFCD for the visitors to enter the RNCP. We opine that the locations of entry points should be carefully considered by assessing the potential ecological impacts brought by increasing visitors to the RNCP and surrounding ecological important habitats near the entry points. Carrying capacity of the RNCP should be considered when deciding the number of entry points to be provided so that disturbance of increasing visitors to ecologically important habitats could be avoided and minimized.

c. Prohibit motorcycling activities

Motorcycling activity is a significant environmental concern to the proposed RNCP. Future promotion of RNCP designation might trigger more motorcycling activities within the country parks. Not only creating disturbance to the visitors and wildlife in the RNCP, off-track motorcycling activities will also cause serious damage to the vegetation. The ecological impact will even be more significant if off-track motorcycling encroached onto upland grassland which is the habitat of the globally-threatened Chinese Grassbird. We opine that motorcycling should be prohibited within the RNCP by setting up barriers and blockades at all the entry points. Patrolling is also essential to detect any illegal motorcycling activities.

d. Location and design of viewing platforms and pavilions

Viewing platforms and pavilions are proposed in the RNCP. Since the environment within the RNCP and its surroundings are largely natural, we opine that the locations and designs of viewing platforms and pavilions should be compatible to the natural environment and avoid ecologically sensitive areas. Ecological and landscape impacts of these facilities should also be prevented.

Public consultation before gazette

Continual dialogue and communication with stakeholders and the public is essential in improving the design, management and operation of the future RNCP. To achieve this, we opine that public consultation should be conducted before the gazettal of the RNCP. Besides, engagement activities with stakeholders, e.g. green groups, hiking groups and etc., should be carried out during the planning and designing process.

We would be grateful if our comments could be considered by your Department.

Yours faithfully,



cc.

ERM

The Conservancy Association

Designing Hong Kong

Green Power

Hong Kong Bird Watching Society

Kadoorie Farm and Botanic Garden



世界自然基金會
香港分會

WWF-Hong Kong

香港新界葵涌葵昌路 8 號
萬泰中心 15 樓
15/F, Manhattan Centre
8 Kwai Cheong Road
Kwai Chung, N.T., Hong Kong

電話 Tel: +852 2526 1011
傳真 Fax: +852 2845 2764
wwf@wwf.org.hk
wwf.org.hk

30 April 2019

Ms. NGAR Yuen Ngor
Senior Country Parks Officer (Management 2)
Agriculture, Fisheries and Conservation Department
5/F, Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road, Kowloon
(E-mail: yn_ngar@afcd.gov.hk)

By E-mail ONLY

Dear Ms. NGAR,

Re: Recommendations on Detailed Study of the Proposed Robin's Nest Country Park – Planning, Design and Consultation (Ref. AFCD/SQ/3/17)

In respect to the stakeholder meeting with green groups that WWF had attended on 28 February 2019, we would like to provide our recommendations on the proposed Robin's Nest Country Park (RNCP) as follows:

Support the designation of Robin's Nest Country Park

WWF supports the designation of RNCP as it covers area of very high ecological and conservation value. According to the AFCD's Assessment of the Suitability of Designating Robin's Nest Country Park¹ (hereafter called "the AFCD's Assessment"), total 205 flora species were recorded in the proposed RNCP which accounts for 10% of local flora species in Hong Kong. Among them are 12 flora species of conservation interest including locally protected plant species such as *Rhododendron simsii*, *Aquilaria sinensis*, *Enkianthus quinqueflorus* and *Lilium brownii*. The herb *Euonymus tsoi*, which is listed in "Rare and Precious Plants of Hong Kong" and considered as "Endangered" species in China², was also recorded under the AFCD's Assessment. Besides, the captioned study recorded a very rare orchid species *Ludisia discolor*, which is also listed in "Rare and Precious Plants of

¹ As cited in the AFCD's Final Review Report on the Provision of Consultancy Services on Detailed Study of the Proposed Robin's Nest Country Park – Planning, Design and Consultation

² AFCD. (2003). *Rare and Precious Plants of Hong Kong*. Downloaded on:

<http://www.herbarium.gov.hk/PublicationsPreface.aspx?BookNameId=1&ContentId=48&SectionId=3> (Last Access: 29/04/2019)

together possible.

贊助人：香港特別行政區行政長官
林鄭月娥女士, 大家新聞, GBS
主席：何國達先生
行政總裁：江偉智先生

義務核數師：香港立信德豪會計師事務所有限公司
義務公司秘書：嘉信秘書服務有限公司
義務律師：孖士打律師行
義務司庫：匯豐銀行
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Honorary Treasurer: HSBC
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Hong Kong” and considered as “Endangered” species in China³, in the proposed RNCP. Thus, we consider the designation of RNCP is needed to protect these flora species of conservation importance and the rich plant diversity.

Besides, Robin’s Nest is an important habitat for Chinese Grassbird *Graminicola striatus* in Hong Kong. This species is considered “Vulnerable” by IUCN⁴ and BirdLife International⁵. Its global distribution is restricted and its overall population size is suspected to be low, i.e. less than 2,500 mature individuals⁶. According to the latest available information from the study conducted by AFCD in 2012, its population size in Hong Kong is estimated to be 490 individuals⁷, accounting for about 20% of its global population. Therefore, we support the designation of RNCP as it will protect the habitat of Chinese Grassbird and contribute to secure the conservation status of this globally-threatened species.

Apart from Chinese Grassbird, the AFCD’s Assessment⁸ has recorded various fauna species of conservation interest in the proposed RNCP. One of them is White-bellied Sea Eagle *Haliaeetus leucogaster* which suggests the proposed RNCP is its important ecological corridor that links to Starling Inlet. Bonelli’s Eagle *Aquila fasciata*, which is a scarce resident in Hong Kong⁹, was also recorded within the proposed RNCP as per the AFCD’s Assessment. As such, we support the designation of RNCP to protect these species of conservation interest. We opine that ecological conservation should be at the highest priority in the designation and future management of the RNCP.

³ AFCD. (2003). *Rare and Precious Plants of Hong Kong*. Downloaded on: <http://www.herbarium.gov.hk/PublicationsPreface.aspx?BookNameId=1&ContentId=100&SectionId=3> (Last Access: 29/04/2019)

⁴ BirdLife International. (2016). *Graminicola striatus*. The IUCN Red List of Threatened Species 2016: e.T103870381A104200555. Downloaded on: <http://dx.doi.org/10.2305/IUCN.UK.2016-3.RLTS.T103870381A104200555.en>. (Last Access: 26/04/2019).

⁵ BirdLife International (2019) Species factsheet: *Graminicola striatus*. Downloaded on: <http://www.birdlife.org> (Last Access: 26/04/2019).

⁶ *Ibid*

⁷ So I. W. Y., Wan J. H. C., Lee W. H. and Cheng W. W. W. (2012). Study on the distribution and habitat characteristics of the Chinese Grassbird *Graminicola striatus* in Hong Kong. *Hong Kong Biodiversity* 22: 1-9. Downloaded on: https://www.afcd.gov.hk/english/publications/publications_con/files/IssueNo22.pdf (Last Access: 26/04/2019).

⁸ As cited in the AFCD’s Final Review Report on the Provision of Consultancy Services on Detailed Study of the Proposed Robin’s Nest Country Park – Planning, Design and Consultation.

⁹ Viney, C., Phillipps, K. & Lam, C.Y. (2005). *The Birds of Hong Kong and South China* (8th Edition, pp. 68). Hong Kong SAR: Information Services Department.

Incorporate San Kwai Tin into Robin's Nest Country Park

According to the AFCD's Final Review Report dated on 27 February 2018, San Kwai Tin is dominated by secondary woodland¹⁰. The Lin Ma Hang Lead Mine SSSI is located to the west of San Kwai Tin. This SSSI is designated for protecting one of the most important bat colonies in Hong Kong and their undisturbed nesting, roosting and wintering ground. Due to close proximity, we opine that the undisturbed secondary woodland in San Kwai Tin should also be used by bats from Lin Ma Hang Lead Mine SSSI and thus should be incorporated in RNCP for comprehensive conservation. Besides, putting San Kwai Tin into RNCP can enhance ecological linkage between the areas of Pak Kung Au and Lin Ma Hang Lead Mine SSSI. Also, potential direct fire impact to the Lin Ma Hang Lead Mine SSSI caused by burial ground in San Kwai Tin can be avoided if San Kwai Tin is incorporated in RNCP. With the reasons above, we consider that San Kwai Tin area must be included in the RNCP (Fig. 1).

Better planning of hiking routes to avoid disturbance to highly sensitive area

To avoid disturbance to high ecologically sensitive area, e.g. habitat of Chinese Grassbird, caused by visitors to Robin's Nest, we consider that the design of hiking trails should keep visitors off these areas. We opine that no-go area should be set up at high ecologically sensitive areas and existing hiking routes in future no-go area should be blocked. Disturbance to species of conservation interest has to be considered when planning future hiking routes.

We would be grateful if our comments could be considered by your Department.

Yours faithfully,



¹⁰ Fig. 3.2 of the AFCD's Final Review Report of the Provision of Consultancy Services on Detailed Study of the Proposed Robin's Nest Country Park – Planning, Design and Consultation

cc.

ERM

The Conservancy Association

Designing Hong Kong

Green Power

Hong Kong Bird Watching Society

Hong Kong Countryside Foundation

Kadoorie Farm and Botanic Garden

Fig. 1 San Kwai Tin area should be included into the proposed RNCP¹¹



¹¹ Map extracted from Fig. 3.2 of the AFCD's Final Review Report of the Provision of Consultancy Services on Detailed Study of the Proposed Robin's Nest Country Park – Planning, Design and Consultation



Director
Agriculture, Fisheries and Conservation Department
7/F, Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road, Kowloon
(Email: dafcoffice@afcd.gov.hk)
(cc: patrick_cc_lai@afcd.gov.hk; yn_ngar@afcd.gov.hk)

30th April, 2019.

By email only

Dear Sir/ Madam,

Proposed Robin's Nest Country Park (2019)

1. We refer to the captioned.
2. The Robin's Nest Country Park (RNCP) has been planned for decades^{1, 2}. Recently, we have been informed that it will be designated soon³, and were invited to attend a consultation meeting in February 2019. While we are grateful that this Country Park (CP) would be designated after so many years of planning, after seeing the proposed boundary in the meeting, we were very concerned, and very disappointed. Many areas of known ecological and conservation importance, high landscape value and recreation potential have been completely excluded from the proposed CP boundary, with no valid reasons given. Some conservation management measures were proposed; but our view is that these measures are self-defeating – they would negatively impact on the conservation value of Robin's Nest. Overall, we consider the current proposal to be contrary to the revised 'Principles and Criteria for Designating New Country Parks or Extending Existing Country Parks (hereafter called the '2011 Principles and Criteria')⁴ and the Biodiversity Strategy and Action Plan (BSAP) Policy; and the proposed boundary also cannot adequately protect the interests of the public (e.g., recreation value of the future CP, conservation of biodiversity and protection of heritage sites). We therefore need to emphasize that we do not agree with the proposed boundary. Our views and recommendations are presented below in details.

¹ https://www.pland.gov.hk/pland_en/p_study/comp_s/swnt/final-report/figures/fig1-7.gif

² <http://paper.wenweipo.com/2008/05/14/HK0805140016.htm>

³ <https://www.enb.gov.hk/en/sens-blog/blog20181213.html>

⁴ https://www.afcd.gov.hk/english/aboutus/abt_adv/files/common/WP_CMPB_6_2011eng.pdf

A. Conservation Value, Landscape Value and Recreation Potential of Excluded Areas

3. Robin's Nest is the name of a hill in the northeastern New Territories. Its eastern face adjoins Starling Inlet, and the western face naturally connects with Wo Keng Shan and Heung Yuen Wai. Its northern boundary can be marked by the border between Hong Kong and Shenzhen, and the Sha Tau Kok Road/ the coastline of Starling Inlet can be considered as its southern boundary.

4. Along the Sha Tau Kok Road there are many rural villages, such as Shan Tsui and Tam Shui Hang; the Lin Ma Hang Village and Heung Yuen Wai Village are located to the west of Robin's Nest. Ruins are also scattered within and around San Kwai Tin. Despite these man-made settings, there are still many natural habitats in between, and from ecological, recreational and landscape perspectives, these areas are well-connected with the core area of Robin's Nest in fact providing important ecological corridors. Unfortunately, many of these areas are now excluded from the proposed RNCP. In the below paragraphs, we would first like to highlight the conservation value, landscape and aesthetic value and recreation potential of these excluded areas, which seem to have been completely overlooked or omitted during the decision-making process for the proposed RNCP.

A.1 Ecological and conservation importance of some excluded areas – Findings of Kadoorie Farm and Botanic Garden's Study

5. A large part of the Robin's Nest area and its surroundings were within the Frontier Closed Area (FCA) in the past and thus as can be expected there was little ecological research conducted. However, in 2003, a systematic and comprehensive ecological study was carried out by the ecologists of Kadoorie Farm and Botanic Garden (KFBG) and the results were documented in 2004⁵. Under this KFBG Study, the following species of conservation importance were identified.

⁵<https://www.kfbg.org/upload/Documents/Free-Resources-Download/Report-and-Document/FCA-report-final.pdf>

Table 1. Species of conservation importance recorded at Lin Ma Hang (not including the bat species that roost at the lead mine and would also forage in Robin's Nest)

	Conservation status	Habitats where the species were recorded/ suitable for the species
Flora species		
<i>Brainea insignis</i>	Restricted fern in Hong Kong; also protected in China	Fung shui woodland
<i>Alsophila spinulosa</i>	Restricted fern in Hong Kong; also protected in China	Hillside secondary woodland
<i>Gymnosphaera metteniana</i>	A very rare fern and protected in China (not recorded in Hong Kong before the study)	Hillside secondary woodland
<i>Aquilaria sinensis</i>	Protected species	Fung shui and secondary woodlands
<i>Goodyera viridiflora</i>	Restricted and protected in Hong Kong	Secondary woodland
Non-flying mammal species		
<i>Hystrix brachyura</i> (East Asian Porcupine)	Potential Global Concern	Woodland and vegetated areas
<i>Manis pentadactyla</i> (Chinese Pangolin)	Globally Critically Endangered under the IUCN Redlist	Woodland and vegetated areas (burrows were found adjacent to an abandoned building but this species in general inhabits woodland/ vegetated areas)
Bird species		
<i>Ardeola bacchus</i> (Chinese Pond Heron)	Potential Regional Concern	Wetlands, farmland
<i>Spilornis cheela</i> (Crested Serpent Eagle)	Protected species in China	Woodland and vegetated hillside areas
<i>Accipiter trivirgatus</i>	Protected species in China	Primarily woodland

	Conservation status	Habitats where the species were recorded/ suitable for the species
(Crested Goshawk)		
<i>Centropus sinensis</i> (Greater Coucal)	Protected species in China	Woodland, shrubland and vegetated areas
<i>Centropus bengalensis</i> (Lesser Coucal)	Protected species in China	Shrubland and vegetated areas
<i>Saxicola ferrea</i> (Grey Bushchat)	Local Concern	Woodland, shrubland and vegetated areas
<i>Zoothera citrinus</i> (Orange-headed Thrush)	Local Concern	Woodland (woodland-dependent species)
Fish species		
<i>Rasbora steineri</i>	Highly restricted and rare in Hong Kong (Lin Ma Hang Stream would be the only healthy habitat for this species in Hong Kong)	Natural and clean lowland streams
<i>Mastacembelus armatus</i>	Restricted and rare in Hong Kong	Natural lowland stream and reservoirs
Butterfly species		
<i>Eurema brigitta</i>	Local Concern	Woodland edge
<i>Graphium cloanthus</i>	Local Concern	Village/ stream
Dragonfly species		
<i>Idionyx victor</i>	Local Concern	Stream

Table 2. Species of conservation importance recorded at San Kwai Tin

	Conservation status	Habitats where the species were recorded/ suitable for the species
Flora species		
<i>Aquilaria sinensis</i>	Protected species	Secondary woodland
<i>Toona rubriflora</i>	Highly restricted in Hong Kong (not known from Hong Kong before the study)	Secondary woodland
<i>Acacia pennata</i>	Rare in Hong Kong	A large colony was found in the woodland
Reptile species		
<i>Opisthotropis andersonii</i> (Anderson's Stream Snake)	Potential Global Concern	Stream
<i>Sinonatrix aequifasciata</i> (Diamond-backed Water Snake)	Local Concern	Stream
<i>Lycodon ruhstrati</i> (Mountain Wolf Snake)	Local Concern	Riparian woodland
Dragonfly species		
<i>Gynacantha subinterrupta</i>	Local Concern	Stream
Moth species		
<i>Cerynea discontenta</i>	Endemic to Hong Kong	Tall shrubs
<i>Luceria striata</i>	Endemic to Hong Kong (Local Concern)	Tall shrubs
<i>Ugia purpurea</i>	Endemic to Hong Kong	Tall shrubs

6. The FCA study undertaken by KFBG also highlights/ recommends the following:

Lin Ma Hang

*‘A total of five forest specialist birds including the Chestnut Bulbul (*Hypsipetes castanonotus*), Orange-headed Thrush (*Zoothera citrinus*), Greater Necklaced Laughing Thrush (*Garrulax pectoralis*), Black-throated Laughing Thrush (*Garrulax chinensis*) and Asian Stubtail (*Urosphena squameiceps*) were recorded at Lin Ma Hang secondary forest, indicating that the forest is of rather high integrity.’*

*‘At Lin Ma Hang, botanical hotspots included the feng shui woods and secondary forest, where forest-dependent birds including the Orange-headed Thrush were recorded. *Gymnosphaera metteniana*, a new fern species to Hong Kong, was recorded in the secondary forest. The present survey also reinforces earlier findings of high ecological value of lowland streams for freshwater fish, and lowland habitats for bats. A dragonfly, *Idionyx victor*, of “Local Concern”, was also recorded.’*

*‘This secondary forest is of conservation concern as the rare fern, *Gymnosphaera metteniana*, has been discovered here. An infrared camera trapping exercise in July 2003 also revealed that a wide range of wildlife makes use of the forest, including the Indian Muntjac (*Muntiacus muntjak*), of “Potential Regional Concern”, and the Orange headed Thrush (*Zoothera citrinus*) of “Local Concern”.’*

San Kwai Tin

*‘.....earlier surveys in 1999 and December 2003 (S. C. Ng, pers. comm.) recorded extensive cover of secondary forest dominated by *Schefflera heptaphylla*, *Syzygium hancei*, *Machilus breviflora*, *Sterculia lanceolata*, *Ilex viridus*, and *Ardisia quinquegona* (Plate 7). Canopy of the forest ranged from 6 to 15m tall. The forest has probably regenerated for the last 30-40 years.’*

*‘At San Kwai Tin, the Anderson’s Stream Snake (*Opisthotropis andersonii*) of “Potential Global Concern” and Diamond-backed Water Snake (*Sinonatrix aequifasciata*) of “Local Concern” are found in streams, while the Mountain Wolf Snake (*Lycodon ruhstrati*), a species of “Local Concern”, was found at the riparian forest. The Mountain Wolf Snake was previously recorded in only five sites in Hong Kong.’*

7. The KFBG Report goes on to recommend the authorities **to designate Lin Ma Hang, San Kwai Tin and Robin's Nest as a new Country Park:**

'Our preliminary surveys indicate that feng shui woods and secondary forest at Lin Ma Hang and San Kwai Tin are of high ecological value due to their rich plant diversity. The stream at Lin Ma Hang is also of very high biodiversity value. Robin's Nest was identified as a potential country park in the Territorial Development Strategy Review study in 1993 (Anon 1993). However, there was no time schedule for the designation as no immediate threats were identified and part of the sites fell within the FCA. In view of the likely threats posed by the opening up of FCA and various infrastructure development planned, this area is no longer protected by its remoteness. It is recommended that a higher conservation priority should be given to this area. Specifically we propose considering the designation of Lin Ma Hang, San Kwai Tin and Robin's Nest as a new Country Park. The proposed country park will not only protect rich plant diversity and other terrestrial wildlife, but also provide a "green corridor" between the adjacent Wutongshan National Forest Park in Shenzhen and Hong Kong, the last such corridor!

8. The above Study highlights the ecological and conservation importance of Lin Ma Hang and San Kwai Tin, and specifically urges for the inclusion of these two areas into the CP system. But, as shown in the current proposal, **the two places are excluded from the Government's 2019 plan.**

A.2 Ecological and conservation importance of some excluded areas – Findings of the Planning Department's FCA Study

9. The Government announced in 2008 that the extent of the FCA would be reduced⁶, and afterwards the Planning Department (PlanD) started to prepare land use zoning plans for this area. A planning study was then commissioned by the PlanD and the findings were documented in 2010⁷. In this PlanD FCA Study, the Robin's Nest and its surroundings have been divided into 'Planning Areas 4 to 6', and the ecological value of the habitats within these areas have been assessed (based on survey findings and literature review); the following are

⁶ https://www.police.gov.hk/ppp_en/11_useful_info/licences/remind.html

⁷ [https://www.pland.gov.hk/pland_en/misc/FCA/files_072010/Executive%20Summary%20of%20Final%20Report\(Eng\).pdf](https://www.pland.gov.hk/pland_en/misc/FCA/files_072010/Executive%20Summary%20of%20Final%20Report(Eng).pdf)

some descriptions of the ecological context of these areas.

Heung Yuen Wai and surroundings (in Planning Area 4)

‘A longer natural stream network that shows very little evidence of human impact is located near Heung Yuen Wai and Pak Fu Shan. Riparian vegetation along this stream is generally well-developed with little disturbance, and includes some areas of secondary woodland.....This network of streams is of sufficient ecological value to be added to the AFCD register of Ecologically Important Stream.’

*‘Upland grassland in Planning Area 4 occurs on the low hills south of Tsung Yuen Ha, on the slopes east of Heung Yuen Wai and on Pak Fu Shan. **These are directly connected to the lower slopes of Robin’s Nest, where extensive grassland habitat is present.** Similar habitat is common in Hong Kong upland areas but it is relatively unusual for this to reach the low altitudes that it does in this area. This is generally a poor habitat for wildlife in Hong Kong, but this area has very low levels of human activity. As a result some relatively uncommon bird species are present; Bright-capped Cisticola is relatively frequent, while Eurasian Eagle Owl and Bonelli’s Eagle have been recorded. Large Grass Warbler has been recorded at Robin’s Nest and in lowland grassland at Tsung Yuen Ha, so can be expected to occur in upland grassland habitats in this area.’*

*‘Some areas on the hill slopes have developed into shrubland habitats. Within Planning Area 4, the largest areas are located near Tsung Yuen Ha, at Pak Fu Shan and on hills between Heung Yuen Wai and Lin Ma Hang. Although these patches area relatively isolated from each other, the intervening habitats (including woodland and grassland/shrubland) area suitable for dispersal of shrubland species. Furthermore, **these shrubland patches provide dispersal corridors for woodland species between Wutongshan and woodland habitats in Hong Kong;** this corridor will increase in value as shrubland matures into secondary woodland.’*

‘The fung shui woodland at Heung Yuen Wai is of moderate to high ecological value. Its overstorey is around 12 to 15 m (in) height.....’

Lin Ma Hang (in Planning Area 5)

‘The Lin Ma Hang valley is surrounded by diverse and relatively undisturbed shrubland and woodland that has grown since abandonment of agricultural and other activities such as tree-felling. While some areas of abandoned lowland agriculture remain as grassland,

others have begun the successional process leading to the development of shrubland. Areas bordering the mature woodland that surrounds the valley have more shrubland and less grassland.'

'A fung shui woodland is located at Lin Ma Hang village, though its close linkage with contiguous secondary woodland means that defining the area is difficult. With a mature, closed canopy of over 15 m high, this woodland is dominated by common large tree species.'

10. The ecological assessments for the habitats within these Planning Areas are presented below.

Table 3. Ecological value and linkage of some habitats within and around Robin's Nest as identified in the PlanD FCA Study

	Ecological value	Ecological linkage
Planning Area 4 (including Heung Yuen Wai)		
Streams at Heung Yuen Wai	High	Riparian vegetation shows good linkage to other nearby habitats (including woodland and grassland habitats)
Lowland grassland	Moderate	Strong ecological linkage to upland grassland and some linkages also to shrubland
Upland grassland	Moderate	Very strong ecological linkage to lowland grassland and some linkage to shrubland
Shrubland	Moderate (which will increase as shrubland matures into woodland)	Strong ecological linkages with nearby grassland/shrubland and woodland habitats, including woodland outside the FCA and woodland at Wutongshan
Fung shui woodland at Heung Yuen Wai	Moderate to High	Direct linkage with the adjacent hilly shrubby grassland and forest habitats

	Ecological value	Ecological linkage
Planning Area 5 (including Lin Ma Hang and San Kwai Tin)		
Riparian grassland/ shrubland and streams	High	The stream system has strong linkage with forested upstream areas
Closed-canopy shrubland and secondary woodland	High	Important linkage with similar habitat at Wutongshan Forest Park, Shenzhen, which provides the <u>only obvious corridor</u> for the movement of vagile fauna between Guangdong and Hong Kong (remarks: besides Lin Ma Hang this description can also be applied to San Kwai Tin which is within Planning Area 5)
Fung shui woodland at Lin Ma Hang	Moderate	Direct linkage with the adjacent hilly shrubland and grassland and forest habitats; some ecological linkage with Lin Ma Hang Stream.
Planning Area 6 (from Tong To to Shan Tsui and Sheung Tam Sheung Hang)		
Closed-canopy shrubland and secondary woodland	High	Important linkage with similar habitat at Wutongshan Forest Park, Shenzhen, which provides the <u>only obvious corridor</u> for the movement of vagile fauna between Guangdong and Hong Kong
Fung Shui woodland at Muk Min Tau	High	Some ecological linkage with adjacent shrubby grassland and hilly woodland
Fung Shui woodland at Tong To	Moderate	Some ecological linkage with adjacent shrubby grassland and hilly woodland
Fung Shui woodland at Sheung Tam Shui Hang	Moderate	Ecological linked with the adjoining lowland forest and shrubby shrubland

11. The above table and description clearly highlights the ecological importance and linkage of several areas within and around Robin's Nest. As shown above, in addition to the core area of Robin's Nest, importantly, the Heung Yuen Wai area has also been considered ecologically

linked with the Wutongshan mountain and its habitats in Shenzhen. However, most of the above habitats in Heung Yuen Wai, Lin Ma Hang, San Kwai Tin and on the southern and eastern sides of Robin's Nest are excluded from the proposed RNCP. That means these habitats of moderate to high ecological value (and also their ecological linkages with the mainland of China) would not be appropriately safeguarded and protected by the CP system.

A.3 Ecological and conservation importance of some excluded areas – Recent 'Detailed Study' of the proposed RNCP commissioned by AFCD

12. During the aforementioned meeting concerning the RNCP held in 2019, findings of a 'Detailed Study of the proposed RNCP' of 2018, as commissioned by the AFCD were presented, and later this report (hereafter called the 2018 Report) was sent to attendees for reference. Although we were disappointed that the KFBG FCA Report was not cited or included in references, we are comforted to see the following findings included in the 2018 Report:

- 'Secondary woodland and the freshwater streams on the north facing slope, stretching from east of Lin Ma Hang to west of Sha Tau Kok' are areas of 'High Ecological Value'.
- 'The proposed RNCP is generally considered to be ecologically isolated (particularly the wildlife) from the Pat Sin Leng/ Plover Cove Country Park and Wutongshan National Forest Park in Shenzhen due to existing development/ facilities.'

13. The above descriptions simply reveal that **the continuous woodland and all the streams on the northern slope of Robin's Nest, such as those in Lin Ma Hang and San Kwai Tin, should be appropriately protected; and there is an actual need to amend the proposed RNCP boundary, in order to improve/ enhance the ecological connectivity and appropriately protect existing ecological corridors** (also see discussion in paragraphs 32 and 33 below).

14. In the 2018 Report, some findings of AFCD's ecological surveys have also been documented, and the following areas are the locations where several fauna species of conservation importance have been recorded.

Table 4. Locations of several fauna species of conservation interest recorded by AFCD

Species	Some identified locations
Mammal species	
Crab-eating Mongoose	<ol style="list-style-type: none"> 1. An extensive area from Lin Ma Hang to San Kwai Tin 2. An extensive area on the eastern side of Robin's Nest (covering Sheung Tam Shui Hang, Ha Tam Shui Hang and Shan Tsui)
Whiskered Myotis	Mainly found within San Kwai Tin
Yellow-bellied Weasel	<ol style="list-style-type: none"> 1. Within and around Sheung Tam Shui Hang 2. An extensive area from the east of Lin Ma Hang to the west of San Kwai Tin
Bird species	
Crested Goshawk	<ol style="list-style-type: none"> 1. Area to the northwest of Sheung Tam Shui Hang 2. Area to the northeast of Lap Wo Tsuen 3. The northeastern slope of Wo Keng Shan 4. An extensive area from the east of Lin Ma Hang to San Kwai Tin
Reptile species	
Banded Stream Snake	Area to the northwest of Ma Tseuk Leng Tsuen
Butterfly species	
<ol style="list-style-type: none"> 1. Common Onyx 2. Common Dart 	Areas to the northwest and to the north of Sheung Tam Shui Hang
<ol style="list-style-type: none"> 1. Centaur Oak Blue 2. Lesser Band Dart 3. Grey Scrub Hopper 	Areas within and/ or around Tong To
Swallowtail	Area to the north of Man Uk Pin
Common Onyx	The northeastern slope of Wo Keng Shan
Grey Scrub Hopper	San Kwai Tin
Dragonfly species	
Chinese Tiger	Area to the northeast of Man Uk Pin

15. However, despite the findings in the AFCD commissioned study of 2018, the woodland to the east of Lin Ma Hang, the San Kwai Tin area and the woodlands to the west of Sha Tau Kok (e.g., those near Sheung Tam Shui Hang and Shan Tsui) as well as the locations (entire or in part) mentioned in Table 4 **are all excluded from the proposed RNCP.**

A.4 Landscape value and characteristics of Robin's Nest and its surroundings

16. According to the 'Landscape Value Map' of the PlanD, the landscape value of Robin's Nest and its surroundings are in general considered to be **moderate to high**⁸.

17. In addition, the landscape characters of some of the areas of concern are also documented in the Explanatory Statements of the relevant Outline Zoning Plans (OZPs), and these texts are reproduced, as follows:

Approved Lin Ma Hang OZP (covering Lin Ma Hang and San Kwai Tin)

'The Area comprises...large tracts of dense and undisturbed lowland forest and 'fung-shui' woods with high scenic value...The natural vegetation together with the rugged topographic backdrops provides a picturesque landscape forming an integral part of the natural environment that should be conserved.'

Approved Sha Tau Kok OZP (covering the eastern and southern sides of Robin's Nest)

'Large tracts of dense and undisturbed woodland and lowland forests can be found in the hillslopes in the Area. There are various types of habitats, including natural streams from Robin's Nest towards the coastal lowland in the east, mangrove and fishponds aligned at the edge of the Starling Inlet, and the Muk Min Tau Fung Shui Wood which are worthy of conservation.....'

Approved Ta Kwu Ling North OZP (covering Heung Yuen Wai)

'The Area comprises large tracts of dense and undisturbed woodland, ponds and 'fung-shui' woods. The natural vegetation together with the rugged topographic backdrops provides a picturesque landscape forming an integral part of the natural environment that should be preserved.'

⁸ https://www.pland.gov.hk/pland_en/p_study/prog_s/landscape/landscape_final/fig_6.27.htm

Approved Wo Keng Shan OZP (covering the southwestern part of Robin's Nest and also Wo Keng Shan)

'.....hill slopes of the Robin's Nest (Hung Fa Leng) and Wo Keng Shan have composed a unique upland landscape to the Area.'

18. Undoubtedly, the undisturbed and extensive vegetated areas (e.g., woodlands) at Heung Yuen Wai, Lin Ma Hang and San Kwai Tin as well as those on the eastern and southern sides of Robin's Nest are of considerable landscape value (e.g., *picturesque landscape*) and should be preserved. Unfortunately, despite the findings mentioned in the PlanD's documents, these areas are excluded from the proposed RNCP.

A.5 Recreation potential and historical interest of excluded areas

19. At present, although Robin's Nest is not a very popular hiking/ picnic site, there should be no doubt that hiking activities have become intense in this area after the reduction of FCA (e.g., see 9, 10, 11, 12). However, some of the existing hiking routes in the area and even their entry/ exit points are not entirely covered by the proposed RNCP. Figure 7.1 of the 2018 Report illustrates this unusual situation – a large part of the 'revised proposed hiking routes' and even the proposed visitor centres/ management offices are outside the proposed RNCP. We do not see how the proposed hiking routes can be properly managed and maintained, as a whole, if they are not entirely covered by the CP system. We understand that it would be the responsibility of the Home Affairs Department (HAD) to manage those excluded areas (i.e., rural or countryside areas outside CPs), but their works (and products) are often not compatible with the countryside settings, and some would even create significant environmental and landscape impacts (e.g., see 13); that means these hiking routes should better be maintained and

⁹ https://www.oasistrek.com/robins_nest.php

¹⁰ <http://www.thinkhk.com/article/2018-12/21/31907.html>

¹¹ <https://www.hk01.com/%E5%8D%B3%E6%99%82%E9%AB%94%E8%82%B2/272482/%E6%96%B0%E7%95%8C%E6%9D%B1%E5%8C%97%E8%A1%8C%E5%B1%B1%E8%B7%AF%E7%B7%9A-%E6%8E%A2%E9%81%8A%E8%93%AE%E9%BA%BB%E5%9D%91%E7%A4%A6%E6%B4%9E-%E5%B4%8E%5%B6%87%E5%B1%B1%E8%B7%AF%E7%B9%9E%E7%A6%81%E5%8D%80%E5%85%A5%E9%9A%B1%E4%B8%96%E6%9D%91%E8%90%BD>

¹² <http://paktamau.blogspot.com/2019/02/2019.html>

¹³ <https://www.hk01.com/%E7%A4%BE%E6%9C%83%E6%96%B0%E8%81%9E/106333/%E8%8D%94%E6%9E%9D%E7%AA%A9%E6%AD%A5%E9%81%93%E5%B7%A5%E7%A8%8B%E6%B6%89%E6%AF%>

managed by the CP authority. It is also undesirable that the visitor centre/ management office of a CP is located far away from the CP boundary.

20. Figure 3.7 of the 2018 Report highlights the sites/ areas with cultural heritage importance within and around the proposed RNCP. As shown, the war-time structures at Shan Tsui, the MacIntosh Fort at Kong Shan (on the eastern side of Lin Ma Hang), and the two old schools at Shan Tsui and Lin Ma Hang (which are proposed as visitor centres and/ or management offices of the RNCP) are all outside the proposed boundary. Tong To Shan site of archaeological interest and the Tong To Old Footpath, which has been proposed in the 2018 Report to be hiking route connecting with Robin's Nest, are also excluded.

B. Requirements of AFCD's 2011 Principles and Criteria and BSAP are NOT Followed

B.1 AFCD's 2011 Principles and Criteria for designating new CPs are not being followed

21. In general, the 2011 Principles and Criteria, which have been comprehensively discussed and endorsed by the Country and Marine Parks Board (CMPB)¹⁴, should be the most important paper in guiding the designation of new CPs (in which 'Conservation Value', 'Landscape and Aesthetic Value' and 'Recreation Potential' are considered as the three 'Key Themes' and 'Intrinsic Criteria'), or to provide reference to explain why an area would not be included. The current RNCP proposal, however, does not seem to have adequately followed the guidance of this document. Instead, we can see that many 'reasons/ difficulties/ practices' (some that have never been considered/ described before (e.g., in the 2011 Principles and Criteria)) have been emphasised in the 2018 Report.

22. Figure 2.3 of the 2018 Report overlaps the proposed RNCP boundary with private land lots and permitted burial grounds (PBGs), and as shown, they are all excluded from the proposed RNCP. Section 2 of the same Report states that:

'All OZPs covering the proposed RNCP note that 13%-14% of the total areas they cover, is

80%E7%99%BE%E5%B9%B4%E9%8A%80%E8%91%89%E6%A8%B9-%E7%99%BD%E8%8A%B1%E9%AD%9A%E8%97%A4-%E9%95%B7%E6%98%A5%E7%A4%BE%E6%89%B9%E6%BC%81%E8%AD%B7%E7%BD%B2%E5%A4%B1%E8%81%B7

¹⁴https://www.afcd.gov.hk/english/aboutus/abt_adv/files/Minute_of_meeting_110524_CMPB_Confirmed_Eng.pdf

private land, mostly concentrated in the lowland areas.....and renders the need for land acquisition for comprehensive development. Equally burial grounds, that fall in the Wider Assessment Area, will need to be retained and area (are) also seen as a potential constraint.'

'private land is as a potential constraint.....'

'This boundary was drawn up with respect to the private land lots and permitted burial grounds in the area'

23. Even more concerning, the following points are mentioned:

'When drawing up the proposed RNCP, a buffer (of minimum 50 m) was made from private land lots and permitted burial grounds, to ensure the proposed RNCP did not encroachment (encroach) into these areas.'

24. **Under the 2011 Principles and Criteria, PBGs and private land lots have never been mentioned as constraints/ no-go areas**, and both are also not specified for exclusion from new CP(s)⁴. Indeed, PBGs are solely on Government Land¹⁵, and many already exist within various CPs (e.g., as shown in Figure 4 entitled Land Status provided by the consultant of AFCD). Some may argue that the use/ potential activities appearing in PBGs would not be compatible with CPs, and thus they should be excluded (e.g., from new CPs). We do not agree with this mindset. Indeed, excluding nearby PBGs from the proposed RNCP would not guarantee that man-made hill fires would not spread into the CP – this is just a band-aid approach. We consider that **only by incorporating adjacent PBGs into the CP system can activities that would cause hill fires be well monitored and regulated**. For instance, AFCD would set up a 24-hour fire control centre and fire-fighting teams during Ching Ming and Chung Yeung Festivals, to monitor, report and extinguish any hill fires appearing under the CP system¹⁶; enforcement teams of the AFCD would also regularly monitor grave sites, to prevent any illegal use of fire and take enforcement action, if necessary (e.g.,¹⁷). In fact, because of the enhanced management by the AFCD, hill fire events within CPs have already been greatly reduced¹⁷. Compensatory planting would also be carried out by the AFCD to replant trees in

¹⁵ https://ofomb.ombudsman.hk/abc/files/DI248_full_TC-10_12_2015_0.pdf

¹⁶ https://www.afcd.gov.hk/english/country/cou_lea/hillfire.html

¹⁷ <https://www.news.gov.hk/isd/ebulletin/tc/category/healthandcommunity/061026/html/061026tc05005.htm>

CP areas affected by hill fires¹⁸. In contrast, areas outside the CP system would not receive the same level of care and safeguard (see 15). In addition, when someone applies to build new grave(s) at a PBG within CP, AFCD would be the only authority able to provide comments from a nature conservation perspective, while for PBGs outside CPs, such applications would most likely not need to be passed to the Country and Marine Parks Authority (i.e., the AFCD) (see 15). Simply speaking, turning a blind eye on the existence of nearby PBGs does not mean the threats concerning the biodiversity within RNCP would disappear; we consider that only by appropriate monitoring and management of the important habitats within the RNCP can the areas be provided the required level of protection, and as shown above, **extending the CP regime to cover these areas would be the most appropriate statutory way to achieve this.**

25. During the Country and Marine Parks Board (CMPB) meeting for discussing the 2011 Principles and Criteria, the Director of Agriculture, Fisheries and Conservation highlighted: **'the mere existence of private land would not be automatically taken as a determining factor for exclusion from the boundary of a CP and other factors would also need to be taken account'**¹⁴; in addition, throughout the entire discussion in the meeting, PBGs had never been mentioned as a constraint, and 'setbacks from PBGs/ private land lots' had also not been requested to be set up during the designation of new CPs (of course also not mentioned in the 2011 Principles and Criteria). But now, the proposed RNCP boundary has been drawn up 'with respect to private land lots and PBGs' (i.e., to exclude them and even provide 50-m setbacks), and **all other factors such as conservation value, landscape value and recreation potential seems to have been given less or no consideration.**

26. Under the 2011 Principles and Criteria, 'Land Status' and 'Land Use Compatibility' are considered as 'Demarcation Criteria' for designating new CPs; however, they are interpreted as follows:

Land Status

'Government Land is to be preferred when a country park is designated. Notwithstanding this, private land should be included in a country park if the use of the site is compatible with country park setting.'

Land Use Compatibility

'Most of the private lands in rural areas are mainly Old Schedule agricultural lots or Old

¹⁸ <https://www.info.gov.hk/gia/general/200203/06/lcq19e.htm>

Schedule building lots. They should be considered as part of country parks from the perspectives of landscape and aesthetic value, conservation value and function. The use of a site will be assessed if it is compatible with the country park setting. Where the site comprises mainly village houses and fallow agricultural land, it could be considered as forming an integral part of landscape of country parks and thus be in harmony with the entire country park setting. As such, it should be considered to be included in a country park to protect the overall scenic beauty and integrity of the country park. However, where there has been extensive and active human settlements, the site would be considered less suitable for designation as part of a country park.'

27. The above clearly indicates that the 2011 Principles and Criteria document has never excluded the possibilities to include private land, PBGs and even rural villages into CPs. It even considers that rural villages (e.g., houses and farmlands) can form part of the landscape of CPs. This seems to be largely contradictory to what the 2018 Report is emphasising.

28. In order to examine whether or not the excluded areas as mentioned in Sections A.1 to A.5 above are qualified to be included into the RNCP, we have assessed their value following the 2011 Principles and Criteria. The results are listed in the tables below. Photographs of these excluded habitats are shown in **Figure 1** (all photographs taken in April 2019).

Table 5a. Evaluation of some areas/ habitats excluded from the proposed RNCP following the 2011 Principles and Criteria

	San Kwai Tin	Lin Ma Hang
Habitat(s)/ zoning(s) that we believe should be included in the RNCP	Secondary woodland and natural streams covered by Green Belt (GB) zone	<ul style="list-style-type: none"> - Secondary woodland, shrubland and fung shui wood on the hillsides and in the upper riparian areas within the Conservation Area (CA)/ GB/ GB(1) zones - Some sections of Lin Ma Hang Stream and its riparian zone (in GB/ GB(1) and Site of Special Scientific Interest (SSSI) zones - The old school and the MacIntosh Fort in Government, Institute or Community (G/IC) zone - Some Agriculture (AGR) zones which are well wooded and/ or not fragmented from adjacent streams/ woodlands with high

	San Kwai Tin	Lin Ma Hang
		ecological value
Conservation value	Very High (due to the habitat types and their ecological value and undisturbed status, the presence of many species of conservation importance and also its geographical uniqueness (i.e., at the centre of the only obvious ecological corridor between mainland China and Hong Kong); this area is adjacent to the large bat populations at LMH Lead Mine (SSSI) and thus it can provide important foraging grounds for the diverse bat species residents in the mines.	Very High (due to the habitat types and their ecological value and relatively undisturbed status, the presence of many species of conservation importance and also its geographical uniqueness (i.e., at the only obvious ecological corridor between mainland China and Hong Kong) ; this area is adjacent to the large bat populations at LMH Lead Mine (SSSI) and thus it can provide important foraging grounds for the diverse bat species residents in the mines.
Landscape and aesthetic value	Very High (man-made structures (mainly ruins) have generally merged and covered with the secondary woodland in the area; a large tract of dense and undisturbed woodland with high scenic value on the hillside; the natural vegetation together with the rugged topographic backdrops provides a picturesque landscape forming an integral part of the natural environment of Robin's Nest)	High (large tracts of dense and undisturbed woodland with high scenic value; the natural vegetation together with the rugged topographic backdrops provides a picturesque landscape forming an integral part of the natural environment of Robin's Nest)
Recreation potential	High (proposed/ existing hiking routes are passing through this area; the village area can be revitalised to provide recreational facilities; this area can become an important resting place at the hiking route between Sha Tau Kok and Lin Ma Hang if properly managed)	Very High (proposed/ existing hiking routes are passing through this area; MacIntosh Fort is in the area; the old school in the G/IC zone is proposed to be the visitor centre/ management office of the RNCP; the future new road would introduce more visitors/ hikers to the area)
Size	Part of a large tract of undisturbed, continuous woodland extending from Sha Tau Kok which largely covers the entire northern slope of Robin's Nest; visually undividable from the woodland of Robin's Nest	Part of a large tract of undisturbed, continuous woodland extending from Sha Tau Kok which largely covers the entire northern slope of Robin's Nest; visually undividable from the woodland of Robin's Nest

	San Kwai Tin	Lin Ma Hang
Proximity to existing CPs	<ul style="list-style-type: none"> - Part of Robin's Nest - Within the central part of the only obvious ecological corridor between the Wutongshan National Forest Park and the proposed RNCP - Enclave of the proposed RNCP 	<ul style="list-style-type: none"> - Part of Robin's Nest - Adjoining the western side of the proposed RNCP - The old school is proposed to be the visitor centre/ management office
Land status	<ul style="list-style-type: none"> - Areas proposed to be included are mostly on Government Land - A PBG and some private land lots are also included - There is a presumption against development within GB zone 	<ul style="list-style-type: none"> - Areas proposed to be included are mostly on Government Land (including the old school and the MacIntosh Fort) - Some PBGs and private land lots are also included - There is a presumption against development within GB/ GB(1) zone, and SSSI and CA are for conservation; AGR zone is primarily for genuine farming purposes which should normally not significantly affect the setting of CP
Land use compatibility	<ul style="list-style-type: none"> - There is NO active human settlement at all in San Kwai Tin; most buildings have become ruins already - PBG in this area is also not under active and extensive use - No active farming can be observed - Hiking would be the most obvious and extensive human activity in the area (e.g., markers for hikers are present throughout the area) - The selected area is now extensively covered with secondary woodland; man-made structures (usually ruins) are mostly merged with the luxuriant vegetation - The existing woodland is considered as forming an integral part of the landscape of Robin's Nest and thus be in harmony 	<ul style="list-style-type: none"> - The selected area (comprising PBGs/ private land lots/ SSSI/ GB/ GB(1)/ CA/ AGR zones) is not under extensive human use but is now largely covered with natural habitats such as secondary woodland/ shrubland/ seasonal wetland and fung shui wood, etc. - The existing woodland/ shrubland/ vegetated areas are considered as forming an integral part of the landscape of Robin's Nest and thus be in harmony with the entire setting of the proposed CP - The old school and the MacIntosh Fort are on Government Land; the former has been proposed to be the visitor centre/ management office of RNCP and the latter is a heritage site; thus they should simply be parts of the RNCP

	San Kwai Tin	Lin Ma Hang
	with the entire setting of the proposed CP	

Table 5b. Evaluation of some areas/ habitats excluded from the proposed RNCP following the 2011 Principles and Criteria

	Shan Tsui and Sheung Tam Shui Hang	Heung Yuen Wai
Habitat(s)/ zoning(s) that we believe should be included in the RNCP	<ul style="list-style-type: none"> - GB zone mainly covered with secondary woodland and fung shui wood, with some upland grassland and shrubland patches - The old school and a potential war-time structure in G/IC zone (all on Government Land) 	<ul style="list-style-type: none"> - GB zone mainly covered with hillside secondary woodland, grassland and shrubland, as well as some sections of the Heung Yuen Wai Stream and the riparian zone - CA zone covering the fung shui wood
Conservation value	High (in view of the high ecological value of the shrubland and secondary woodland and the moderate ecological value of the fung shui wood, the presence of species of conservation concern and the strong connectivity with the rest of Robin's Nest (i.e., forming part of the <u>only obvious ecological corridor</u> between mainland China and Hong Kong))	Moderate to High (in view of the moderate to high ecological value of the stream, grassland, shrubland and fung shui woodland, its suitability for Chinese Grassbird and the connectivity with the rest of Robin's Nest (i.e., forming part of the <u>only obvious ecological corridor</u> between mainland China and Hong Kong))
Landscape and aesthetic value	High (large tracts of dense and undisturbed woodland can be found on the hillslopes in the GB zone)	Moderate to High (although the vegetated area within Heung Yuen Wai is largely natural, the recent environmental destruction and the presence of the landfill have affected the landscape value of the site)
Recreation potential	Very High (a popular hiking site frequented by local people) ; the old school is proposed to be the visitor centre/ management office of the RNCP; war-time structure can be seen along the hiking route; some positive interaction between villagers in Sheung Tam Shui Hang and hikers is	Moderate (a new road leading to Lin Ma Hang from Heung Yuen Wai is planned; some of the buildings in this area are of cultural heritage value and can be preserved for passive recreational purposes)

	Shan Tsui and Sheung Tam Shui Hang	Heung Yuen Wai
	present (e.g., selling traditional snacks to hikers))	
Size	Part of a large tract of undisturbed, continuous mature woodland extending to Lin Ma Hang which largely covers the entire northern slope of Robin's Nest	Part of continuous vegetated area extending to Lin Ma Hang and Robin's Nest
Proximity to existing CPs	<ul style="list-style-type: none"> - Part of Robin's Nest - Adjoining the eastern boundary of the proposed RNCP - Hiking route well connects this area with the rest of Robin's Nest - The old school is proposed to be the visitor centre/ management office 	Connecting with Lin Ma Hang and Robin's Nest and considered to be part of the <u>only obvious ecological corridor</u> between mainland China and Hong Kong
Land status	<ul style="list-style-type: none"> - Most of the selected GB area is on Government Land; but limited private land lots may still be present - There is a presumption against development within GB zone - PBGs are present 	<ul style="list-style-type: none"> - Most of the selected GB/ CA area is on Government Land; but some private land lots would still be present - There is a presumption against development within GB zone; CA is for conservation - PBGs are present
Land use compatibility	<ul style="list-style-type: none"> - The selected area (comprising PBGs/ private land lots/ GB) is not under extensive human use but is now extensively covered with mature woodland/ shrubland - Hiking would be the most obvious and extensive human activity in the area - The existing woodland/ shrubland is considered as forming an integral part of the landscape of Robin's Nest and thus be in harmony with the entire setting of the proposed CP - The old school is on Government Land and has been proposed to be the visitor centre/ management 	<ul style="list-style-type: none"> - The selected area is mostly covered with secondary woodland, fung shui wood, grassland and shrubland - The luxuriant vegetation is considered as forming an integral part of the landscape naturally extending from Robin's Nest and thus be in harmony with the entire setting of the proposed CP

	Shan Tsui and Sheung Tam Shui Hang	Heung Yuen Wai
	office of RNCP; thus it should simply be part of the RNCP	

Table 5c. Evaluation of some areas/ habitats excluded from the proposed RNCP following the 2011 Principles and Criteria

	Southern part of Robin's Nest (those woodland/ shrubland/ grassland to the north of Sha Tau Kok Road) and Wu Shek Kok	Wo Keng Shan
Habitat(s)/ zoning(s) that we believe should be included in the RNCP	<ul style="list-style-type: none"> - GB zone mainly covered with secondary woodland and shrubland - CA zone mainly covered with fung shui woods and secondary woodland - Two small pieces of well-wooded AGR zones – one connects the fung shui wood at Muk Min Tau (CA) with the hillside secondary woodland of Robin's Nest; the other connects the Robin's Nest's woodland with Wu Shek Kok - Upper sections of stream systems scattered along the southern slope of Robin's Nest within the GB/ CA zone - Some small Coastal Protection Area (CPA) zones at Wu Shek Kok mainly covered with secondary woodland 	GB zone mainly covered with grassland and shrubland, with some woodland patches and stream courses
Conservation value	High (in view of the moderate to high ecological value of the habitats of concern, the presence of some species of conservation concern, the diversity of habitats, its strong connectivity with the rest of Robin's Nest (e.g., forming part of <u>the only obvious ecological corridor</u> between mainland China and Hong Kong) and the value of this area in connecting Robin's	Moderate (strong connection with the southwestern part of Robin's Nest; some species of conservation interest present)

	Southern part of Robin's Nest (those woodland/ shrubland/ grassland to the north of Sha Tau Kok Road) and Wu Shek Kok	Wo Keng Shan
	Nest with the rest of Hong Kong (e.g. the woodland to the south of Sha Tau Kok Road, the mangrove and coastal habitats in Starling Inlet, Pat Sin Leng and Plover Cove CPs))	
Landscape and aesthetic value	High (large tracts of dense and undisturbed woodland can be found on the hillslopes in the selected GB/ CA/ CPA/ AGR zone; the nearby village areas are generally rural in nature, forming an integral part of the landscape of Robin's Nest and thus be in harmony with the proposed CP)	Moderate to High (i.e., composed a unique upland landscape to the area)
Recreation potential	Moderate (Some accessible routes extending from this area (e.g., Ma Tseuk Leng) into the core area of Robin's Nest)	Moderate (Some tracks connecting with Robin's Nest; Cheung Shan Monastery is in the area)
Size	Part of a large tract of undisturbed, continuous mature woodland/ shrubland covering the entire southern slope of Robin's Nest	Part of a large tract of undisturbed, continuous vegetated area connecting with the southwestern slope of Robin's Nest
Proximity to existing CPs	<ul style="list-style-type: none"> - Part of Robin's Nest - Wu Shek Kok – can be a stepping stone between Robin's Nest and Pat Sin Leng/ Plover Cove CPs - Adjoining the southern boundary of the proposed RNCP - Entry/ exit points of some hiking routes connecting with the proposed RNCP 	<ul style="list-style-type: none"> - Adjoining the southwestern part of Robin's Nest/ the proposed RNCP - Some tracks connecting this area with the proposed RNCP
Land status	<ul style="list-style-type: none"> - The selected area (comprising GB, CA, CPA and AGR zones) is largely on Government Land but some private land lots are still present - There is a presumption against 	<ul style="list-style-type: none"> - Largely on Government Land - No PBG present - There is a presumption against development within GB

	Southern part of Robin's Nest (those woodland/ shrubland/ grassland to the north of Sha Tau Kok Road) and Wu Shek Kok	Wo Keng Shan
	development within GB zone; CA and CPA are for conservation; AGR zone is primarily for genuine farming - PBGs are present	
Land use compatibility	<ul style="list-style-type: none"> - The selected area is not under extensive human use but is now extensively covered with natural habitats such as fung shui wood/ mature woodland/ shrubland, etc. - The small pieces of AGR zones aforementioned are largely covered with secondary woodland - The existing woodland/ shrubland/ grassland is considered as forming an integral part of the landscape of Robin's Nest and thus be in harmony with the entire setting of the proposed CP 	<ul style="list-style-type: none"> - There is no obvious use (but some human activities observed near Cheung Shan Monastery) and it is largely covered with undisturbed vegetated areas - The luxuriant vegetation is considered as forming an integral part of the landscape naturally extending from Robin's Nest and thus be in harmony with the entire setting of the proposed CP

29. The above tables clearly reveal the significance of the excluded areas; if the 2011 Principles and Criteria are to be strictly followed, they are well qualified to be included into the proposed RNCP. Many hiking routes would also pass through these areas, and many of them are already providing passive recreational function/ have very high recreation potential. Excluding them from the proposed RNCP would just compromise the recreation potential of the proposed RNCP and the enjoyment of future CP visitors and hikers, and of course, the conservation value of the proposed RNCP. The CP designation should clearly and appropriately consider the 2011 Principles and Criteria and also the future recreational needs of the whole community. The Government have an opportunity to be seen as visionary with this designation and should not be limited by concerns that are smaller than the expectations of the wider Hong Kong community.

B.2 BSAP Actions have not been appropriately followed

30. BSAP has been adopted as part of the Government Policy for conservation. Action 2b of BSAP specifically requires Robin's Nest to be designated as a CP¹⁹. Action 2b also requires the Government to give priority to assess the suitability of CP enclaves for incorporation into CP¹⁹. Unfortunately, the current proposed boundary has done the opposite – a new enclave, San Kwai Tin, would be created under the current proposal, despite its significant conservation and ecological value.

31. BSAP Action 4 also requires the Government to maintain habitat connectivity for wildlife¹⁹; Action 4a even specifically requires ecological connectivity for wildlife to be protected or enhanced in the forest corridor between Wutongshan and Robin's Nest¹⁹; but the current proposal is indeed doing the opposite – the well-wooded San Kwai Tin area is proposed to be excluded from the CP boundary even it is in the central position between Wutongshan and Robin's Nest; many woodland patches on the southern side of Robin's Nest have also been excluded and thus the southern portion of the proposed RNCP is isolated from other nearby areas of ecological importance (e.g., those woodlands along the Sha Tau Kok Road, the wetlands in Starling Inlet). Under the current proposal, 'conservation gaps' are being created indeed (instead of filling), and this is definitely contrary to the basic concept of the Convention on Biological Diversity (CBD).

32. Indeed, the 2018 Report also admits that **the proposed RNCP is 'ecologically isolated'**. However, instead of proposing to extend the CP boundary to reduce isolation and protect existing ecological corridors, the 2018 Report recommends implementing a 'Conservation Management Plan', in order to maintain or enhance the value of existing valuable habitats; but there are no details provided regarding this Plan. During the meeting in February 2019, some information regarding this Conservation Management Plan was presented; according to the presentation, some habitat enhancement measures and ecological monitoring would be proposed. However, the 'location of actions' still seems to be only within the proposed boundary (e.g., we cannot see any solid proposals for those important habitats now excluded from the RNCP). Another area of concern relates to the many fire-breaks that have been proposed, cutting through the secondary woodland/ shrubland within the proposed RNCP, as a 'measure to protect' the proposed CP from potential hill fires that may appear in the

¹⁹https://www.epd.gov.hk/epd/sites/default/files/epd/english/boards/advisory_council/files/ACE_Paper_1_2018_Annex.pdf

surroundings PBGs (even these PBGs are not under extensive use now). As a result, the ecological connectivity of the proposed RNCP with the important habitats outside would be further compromised. For instance, the **San Kwai Tin Enclave**, which is created by the current proposal, would be **further isolated and fragmented** because its surroundings (i.e., the secondary woodland which provides habitats for many species of high conservation importance) are proposed to be cleared to create a narrow strip of fire-break; other valuable habitats on the northwestern (e.g., Lin Ma Hang), eastern (e.g., Shan Tsui) and southern sides of the RNCP would also suffer the same. We consider this is not just a band-aid solution but is also a **‘self-defeating’** approach. One of the fundamental aims of the CP system is to protect important habitats (e.g., to protect trees); but now, under the proposed management plan, many trees will be felled and woodland will be cleared, and the area to be affected is considerable. How can this be considered as a conservation measure, especially when maintaining ecological connectivity is considered to be an important function to be provided by the RNCP? **This is inconceivable, unreasonable and should be unacceptable.**

33. To protect the RNCP from hill fires, Section 24 of this submission has already pointed out that the most appropriate statutory way is to include the surrounding PBGs into the CP system, and thus any hill fire events can be monitored and promptly responded to. In addition, since no effective physical measures (e.g., wildlife crossings have already been considered to be non-feasible in the 2018 Report) can be provided to enhance the ecological connectivity, we consider the best alternative would be to extend the CP boundary as far as practicable.

C. Our Recommendations

34. Our proposed RNCP boundary is illustrated in **Figure 2** (it is overlapped with OZPs for easy reference). The justifications for our proposed boundary are provided in below **Table 6** (making reference to the evaluation in **Tables 5a to 5c** above).



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Table 6. Suitability of the excluded areas for incorporating into RNCP.

Areas proposed to be included	Justifications and benefits	Compliance with 2011 Principles and Criteria	Compliance with BSAP	Suitability
1. San Kwai Tin (GB) 2. Lin Ma Hang (SSSI, CA, GB(1), GB, AGR and G/IC) 3. Shan Tsui & Sheung Tam Shui Hang (GB and G/IC)	<ul style="list-style-type: none"> - To fill the conservation gap and increase the connectivity between Wutongshan and Robin's Nest - To protect the important habitats (e.g., secondary woodland, fung shui woods, streams) - To preserve the picturesque landscape - To provide opportunities to enhance/ properly maintain the existing hiking trails - To include the old schools which are proposed to be visitor centres 	Intrinsic Criteria: 1. Conservation Value – Strongly Complied 2. Landscape and Aesthetic Value – Strongly Complied 3. Recreation Potential – San Kwai Tin (Complied); Lin Ma Hang, Shan Tsui & Sheung Tam Shui Hang (Strongly Complied) Demarcation Criteria: 1. Size – the areas form components of the undisturbed, continuous woodland on the northern slope of Robin's Nest – Complied 2. Proximity to existing CPs – These areas adjoins the proposed RNCP boundary – Strongly Complied 3. Land status & Land use compatibility - Selected areas are not under extensive human use but are extensively covered with natural habitats - Planning intentions of the land use zonings involved are not for development - The old schools in G/IC can be used as visitor centres/ management offices of the CP - Hiking/ passive recreational activities already	1. Action 2b – Complied 2. Action 4a – Complied	Highly Suitable



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Areas proposed to be included	Justifications and benefits	Compliance with 2011 Principles and Criteria	Compliance with BSAP	Suitability
	<ul style="list-style-type: none"> - To include the MacIntosh Fort in Lin Ma Hang - To better monitor and manage the PBGs to prevent hill fires under the existing effective mechanism by the AFCD; thus the important habitats can be better protected 	<ul style="list-style-type: none"> - exist - Existing woodland/ shrubland is considered as forming an integral part of the landscape of Robin's Nest and thus be in harmony with the entire setting of the proposed CP <ul style="list-style-type: none"> - San Kwai Tin (Strongly Complied); Lin Ma Hang, Shan Tsui & Sheung Tam Shui Hang (Complied) 		
Southern part of Robin's Nest (those woodland/ shrubland/ grassland to the north of Sha Tau Kok Road in GB/ CA and two small AGR zones) and the GB/ CPA in Wu Shek Kok	<ul style="list-style-type: none"> - To fill the conservation gap and increase the connectivity between Robin's Nest and the rest of Hong Kong - To protect the important habitats (e.g., secondary woodland, fung shui woods, streams) 	Intrinsic Criteria: <ol style="list-style-type: none"> 1. Conservation Value – Strongly Complied 2. Landscape and Aesthetic Value – Strongly Complied 3. Recreation Potential – Complied Demarcation Criteria: <ol style="list-style-type: none"> 1. Size – the areas form components of the undisturbed, continuous vegetated landscape on the southern slope of Robin's Nest – Complied 2. Proximity to existing CPs – Adjoining the 	4. Action 2b – Complied 5. Action 4 – Complied	Highly Suitable



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Areas proposed to be included	Justifications and benefits	Compliance with 2011 Principles and Criteria	Compliance with BSAP	Suitability
	<ul style="list-style-type: none"> - To preserve the picturesque landscape - To provide opportunities to enhance/ properly maintain the existing hiking trails - To better monitor and manage the PBGs to prevent hill fires under the existing effective mechanism by the AFCD; thus the important habitats can be better protected 	<p>proposed RNCP boundary; also help to maintain the ecological corridor with Pak Sin Leng and Plover Cover CPs – Strongly Complied</p> <p>3. Land status & Land use compatibility</p> <ul style="list-style-type: none"> - Selected areas are not under extensive human use but are extensively covered with natural habitats - Planning intentions of the land use zonings involved are not for development - Hiking/ passive recreational activities already exist - Existing woodland/ shrubland is considered as forming an integral part of the landscape of Robin's Nest and thus be in harmony with the entire setting of the proposed CP <p>– Complied</p>		
Heung Yuen Wai (GB and CA zones)	<ul style="list-style-type: none"> - To enhance the value of the last obvious ecological corridor between mainland China and Hong Kong - To protect important 	<p>Intrinsic Criteria:</p> <ol style="list-style-type: none"> 1. Conservation Value – Complied 2. Landscape and Aesthetic Value – Complied 3. Recreation Potential – Complied <p>Demarcation Criteria:</p> <ol style="list-style-type: none"> 1. Size – forming part of the undisturbed, 	<ol style="list-style-type: none"> 4. Action 2 – Complied 5. Action 4a – Complied 	Suitable



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Areas proposed to be included	Justifications and benefits	Compliance with 2011 Principles and Criteria	Compliance with BSAP	Suitability
	<p>habitats (e.g., for Chinese Grass Bird)</p> <ul style="list-style-type: none"> - To preserve the natural landscape - To better monitor and manage the PBGs to prevent hill fires under the existing effective mechanism by the AFCD; thus the important habitats can be better protected 	<p>continuous vegetated landscape extending from Robin's Nest – Complied</p> <p>2. Proximity to existing CPs – the natural landscape is connected with Lin Ma Hang and Robin's Nest and thus there is a natural linkage with the proposed RNCP – Complied</p> <p>3. Land status & Land use compatibility</p> <ul style="list-style-type: none"> - Selected areas are not under extensive human use but are extensively covered with natural habitats - Planning intentions of the land use zonings involved are not for development - Existing luxuriant vegetation is considered as forming an integral part of the landscape naturally extending from Robin's Nest and thus be in harmony with the entire setting of the proposed CP – Complied 		
Wo Keng Shan (GB zone)	<ul style="list-style-type: none"> - To protect habitats for some species of conservation concern - To preserve the natural landscape - To better monitor 	<p>Intrinsic Criteria:</p> <p>4. Conservation Value – Complied</p> <p>5. Landscape and Aesthetic Value – Complied</p> <p>6. Recreation Potential – Complied</p> <p>Demarcation Criteria:</p> <p>6. Size – forming part of the undisturbed,</p>	<p>9. Action 2 – Complied</p> <p>10. Action 4 – Complied</p>	Suitable



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Areas proposed to be included	Justifications and benefits	Compliance with 2011 Principles and Criteria	Compliance with BSAP	Suitability
	<p>and manage the area to prevent hill fires under the existing effective mechanism by the AFCD; thus the important habitats can be better protected</p>	<p>continuous vegetated landscape extending from the southwestern slope of Robin's Nest – Complied</p> <p>7. Proximity to existing CPs – the natural landscape is connected with Robin's Nest and thus there is a natural linkage with the proposed RNCP – Complied</p> <p>8. Land status & Land use compatibility</p> <ul style="list-style-type: none"> - Mainly Government Land - Selected areas are not under extensive human use but are extensively covered with natural habitats - Planning intention of the land use zoning involved is not for development - Existing luxuriant vegetation is considered as forming an integral part of the landscape naturally extending from Robin's Nest and thus be in harmony with the entire setting of the proposed CP – Complied 		

D. Conclusion

35. Designating a CP following the wrong principles could be even more damaging than designating nothing. The proposed RNCP as shown in the 2018 Report fails to protect habitats of high conservation importance within Robin's Nest as well as those associated surroundings; it is, indeed, ecologically isolated and thus also fails to appropriately preserve the last obvious ecological corridor between mainland China and Hong Kong supposed to be protected by this CP. Conservation gaps would also be created under this proposal. Avoiding the inclusion and management of the PBGs could be a recipe for disaster for the whole of the eventually designated area.

36. The designation of RNCP should appropriately follow the established 2011 Principles and Criteria which have been comprehensively discussed and endorsed by the Country and Marine Parks Board, instead of simply avoiding PBGs and private land lots.

37. PBGs and private land lots have never been described as constraints/ no-go areas, and 'potential future land use' that may appear in PBGs/ private land lots has also not been mentioned as an important factor to be considered (i.e., in the 2011 Principles and Criteria).

38. Obviously, the proposed boundary as shown in the 2018 Report cannot be seen to have appropriately followed the above document.

39. There is no doubt that if the 2011 Principles and Criteria are adequately adopted, the aforementioned areas as shown in Table 6 all qualify to be included into the RNCP.

40. The existing land use of these areas (mainly natural habitats with extremely limited human activities) are compatible with the setting of CP, even though some of them contain private land lots/ PBGs (e.g., no active and/ or extensive use).

41. Indeed, hiking routes in these areas are frequented by hikers/ visitors already; this even highlights the suitability and urgency to appropriately include these areas into the CP system.

42. The future RNCP should be able to adequately protect the last obvious ecological corridor between mainland China and Hong Kong as well as the valuable habitats, culture heritage and rare species which have all long been identified in the Robin's Nest area, and, importantly, the



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interests of the wider public and community; otherwise, the obligation under BSAP and CBD cannot be appropriately fulfilled.

43. Thank you for your attention.

Ecological Advisory Programme
Kadoorie Farm and Botanic Garden

cc. Environment Bureau
Designing Hong Kong
Green Power
Hong Kong Bird Watching Society
Hong Kong Countryside Foundation
The Conservancy Association
The Nature Conservancy
WWF-HK

Figure 1. Areas excluded from the proposed RNCP boundary as shown in the 2018 Report.



Figure 1. Cont'd.

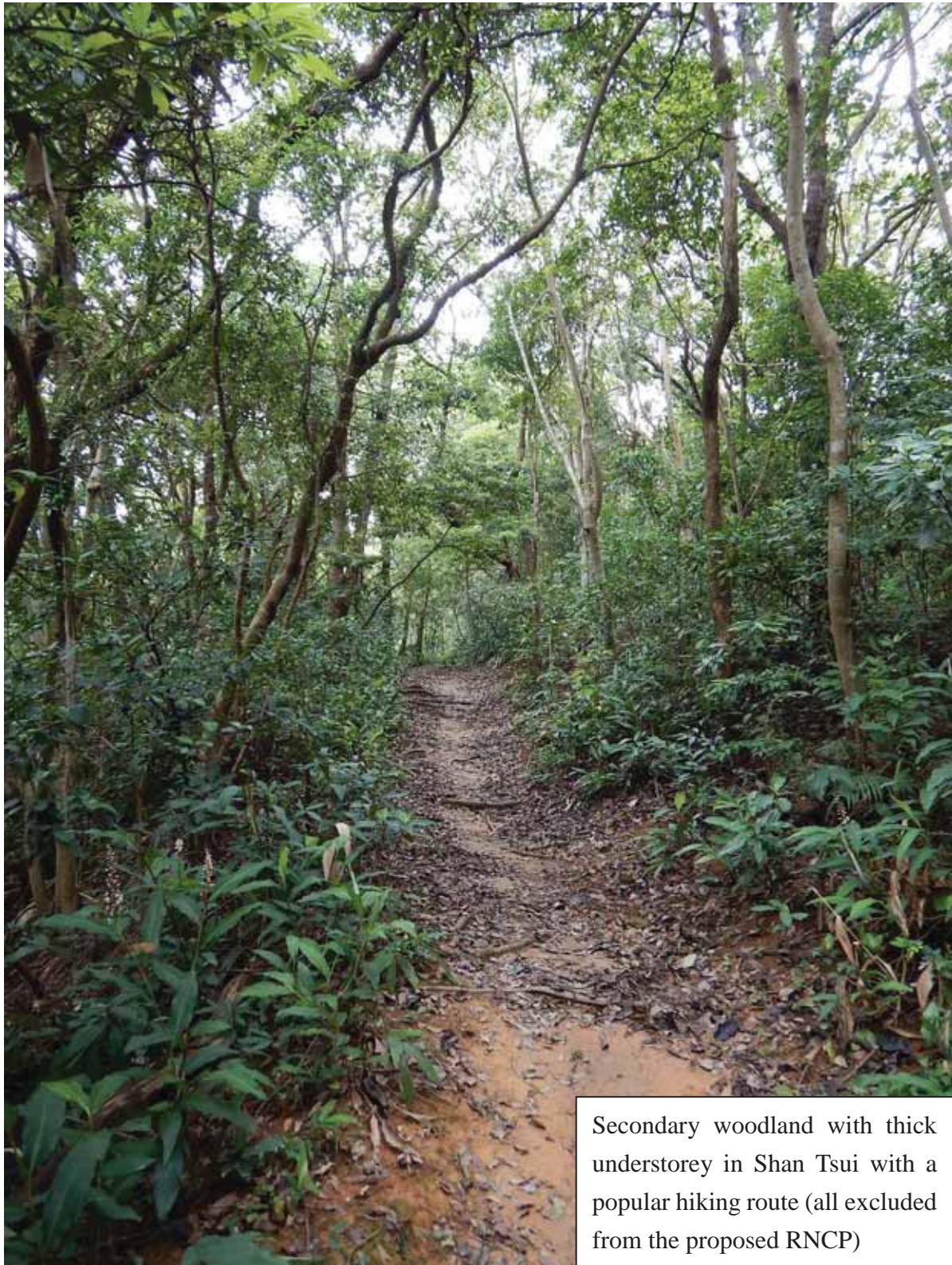
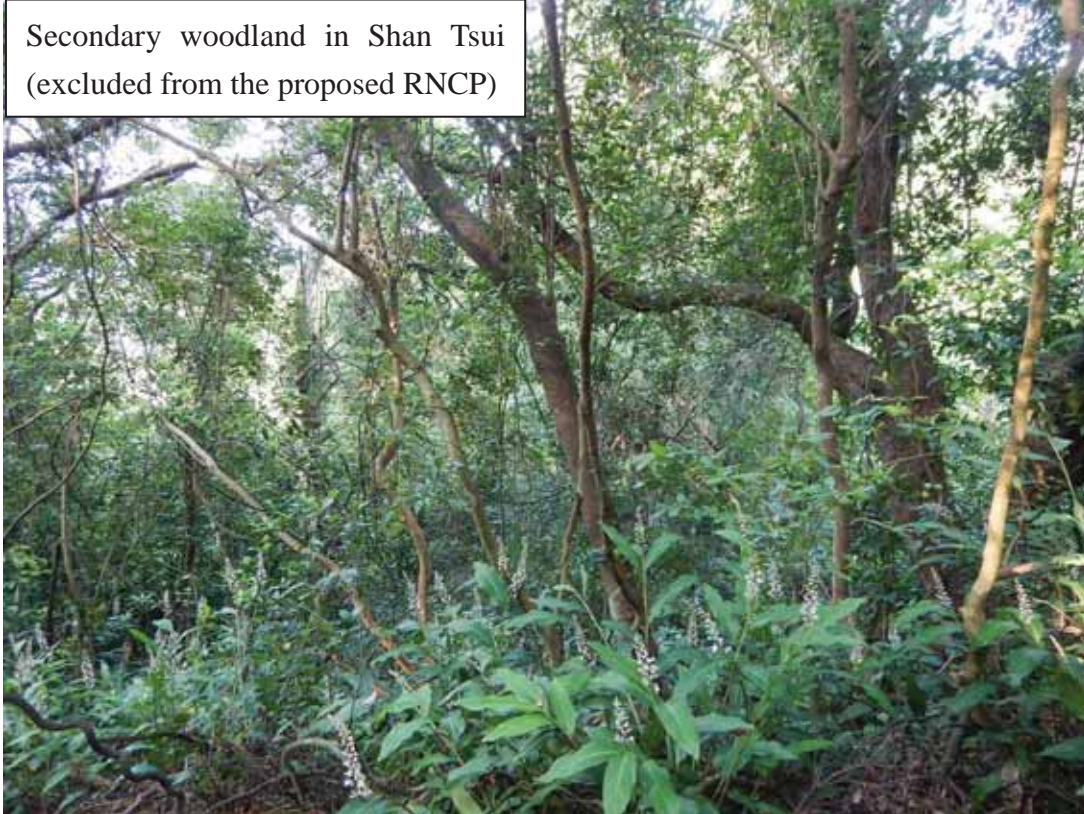


Figure 1. Cont'd.

Secondary woodland in Shan Tsui
(excluded from the proposed RNCP)



Secondary woodland in Shan Tsui with a
popular hiking route and a war-time pillbox on
the left (all excluded from the proposed RNCP)

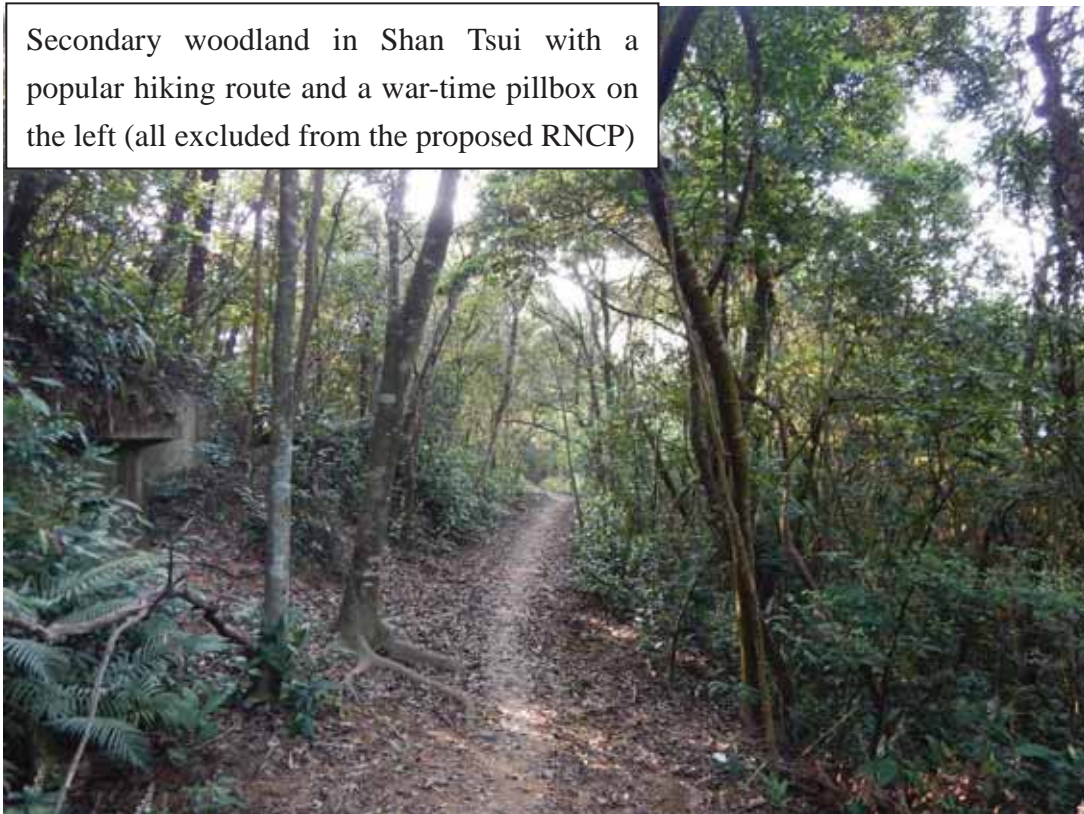


Figure 1. Cont'd.

Pristine natural stream and its well-wooded riparian zone in San Kwai Tin (all excluded from the proposed RNCP)



Figure 1. Cont'd.

Pristine natural stream and its well-wooded riparian zone in San Kwai Tin (all excluded from the proposed RNCP)



Figure 1. Cont'd.

Abandoned farmland (AGR zone) and the secondary woodland behind in San Kwai Tin (GB zone) near the border fence (all excluded from the proposed RNCP)



Ruins and surrounding secondary woodland in San Kwai Tin (all excluded from the proposed RNCP)

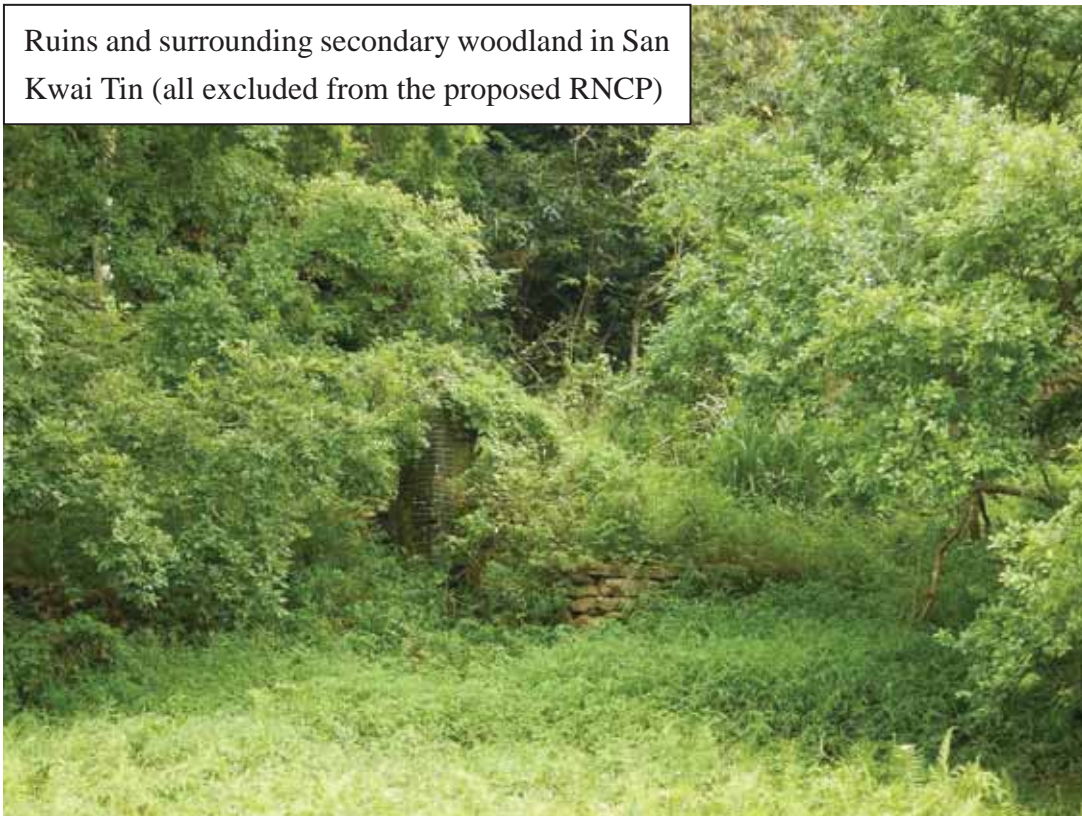


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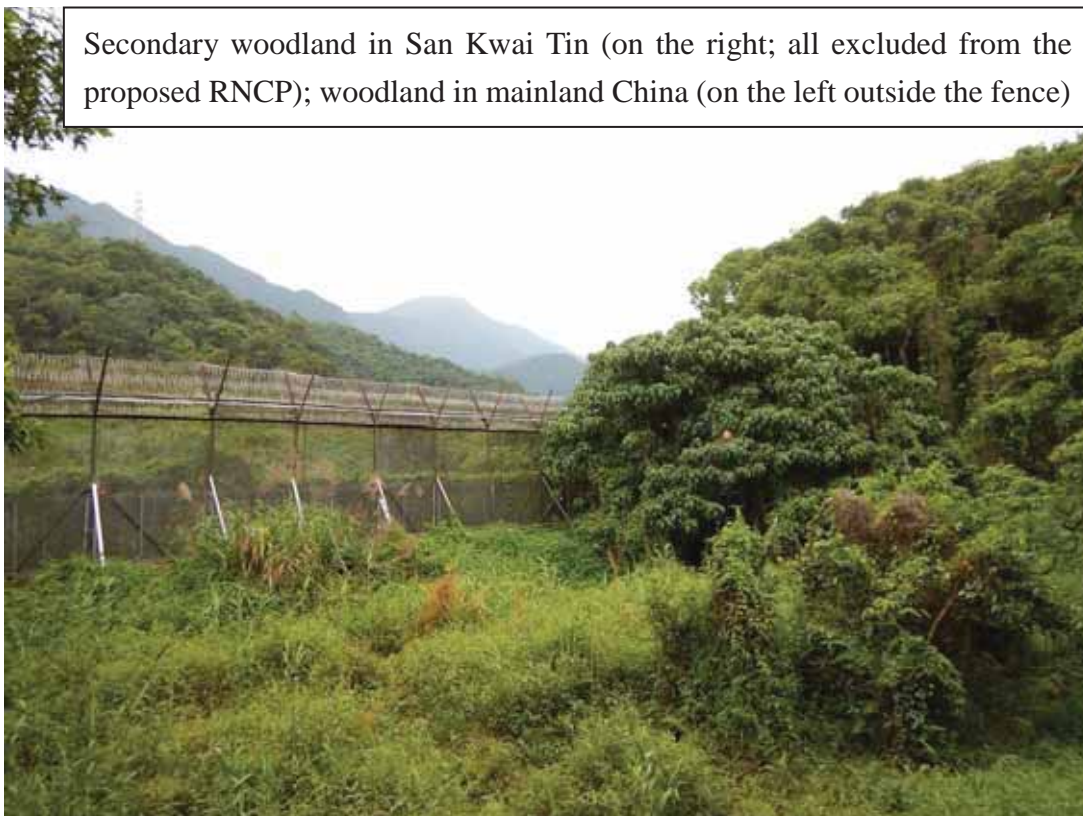
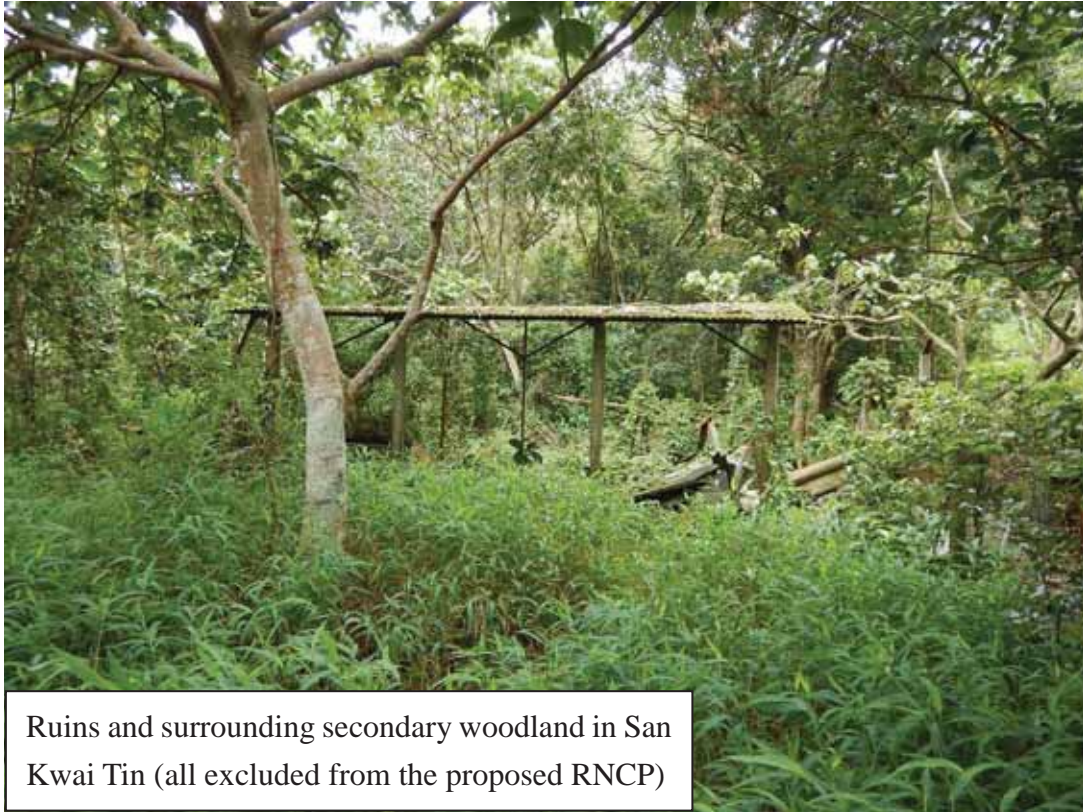


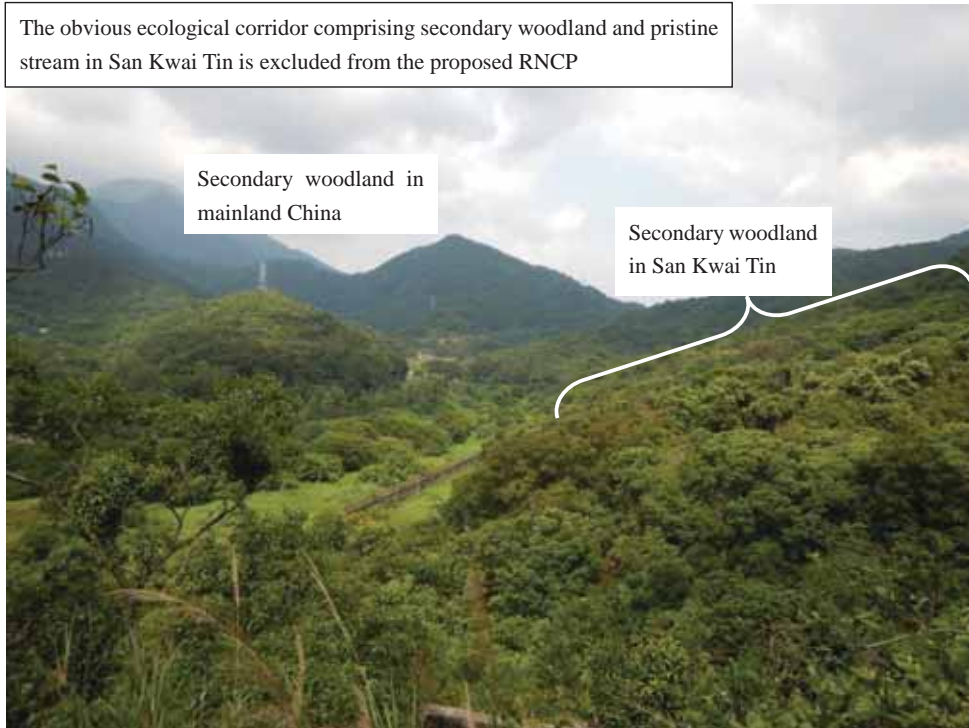
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Figure 1. Cont'd.



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Lam Kam Road, Tai Po, New Territories, Hong Kong
Email: eap@kfbg.org

Figure 1. Cont'd.



Figure 1. Cont'd.

Secondary woodland and the old boulder path of heritage value in Lin Ma Hang (excluded)





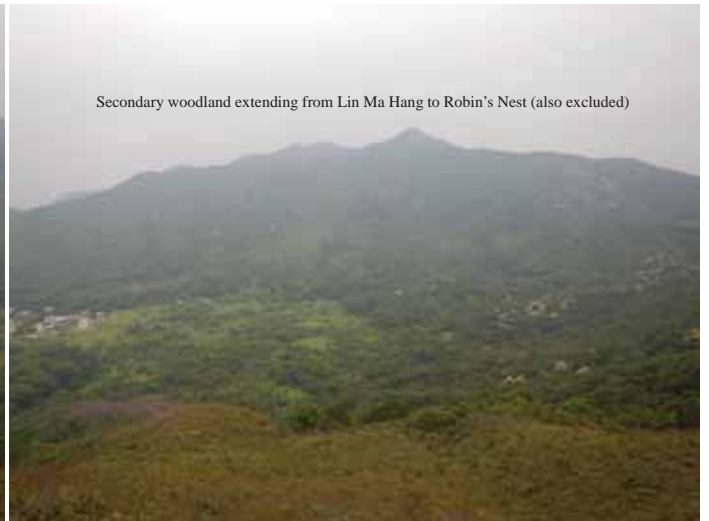
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Figure 1. Cont'd.

Secondary woodland extending from Robin's Nest to Lin Ma Hang, showing the well ecological connectivity between these two locations



Lin Ma Hang Fung Shui Wood (excluded)



Secondary woodland extending from Lin Ma Hang to Robin's Nest (also excluded)

香港新界大埔林錦公路
Lam Kam Road, Tai Po, New Territories, Hong Kong
Email: eap@klbg.org



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Figure 1. Cont'd.

The continuous vegetated areas (e.g., woodland, shrubland, grassland) extending from Heung Yuen Wai to Lin Ma Hang (all excluded); this should be able to explain why the Heung Yuen Wai area can provide habitats for Chinese Grassbird from Robin's Nest



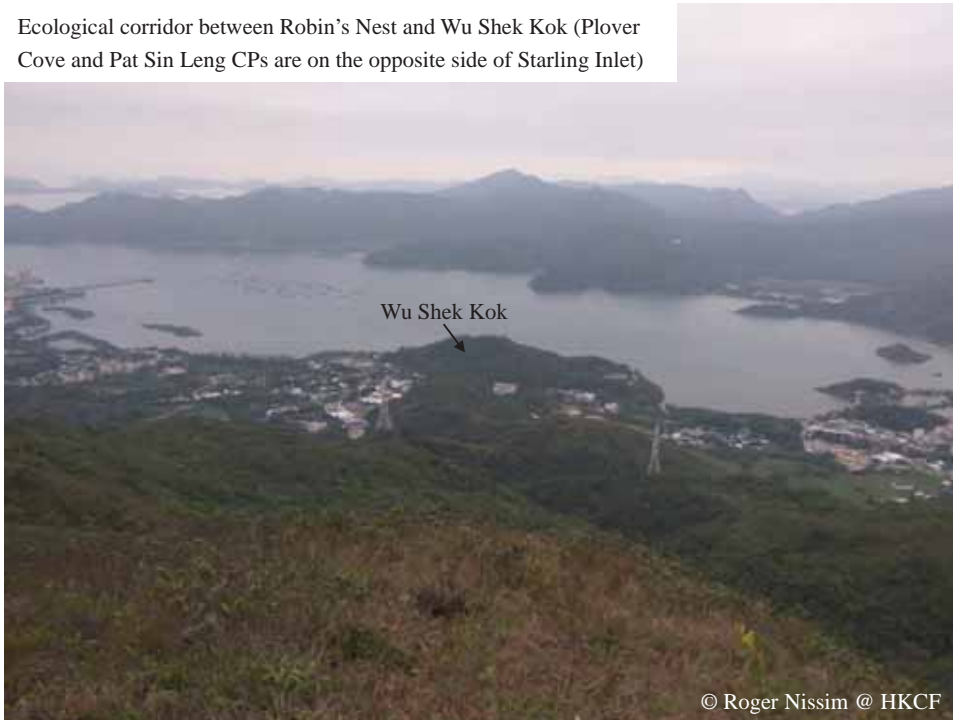
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Figure 1. Cont'd.

Ecological corridor between Robin's Nest and Wu Shek Kok (Plover Cove and Pat Sin Leng CPs are on the opposite side of Starling Inlet)



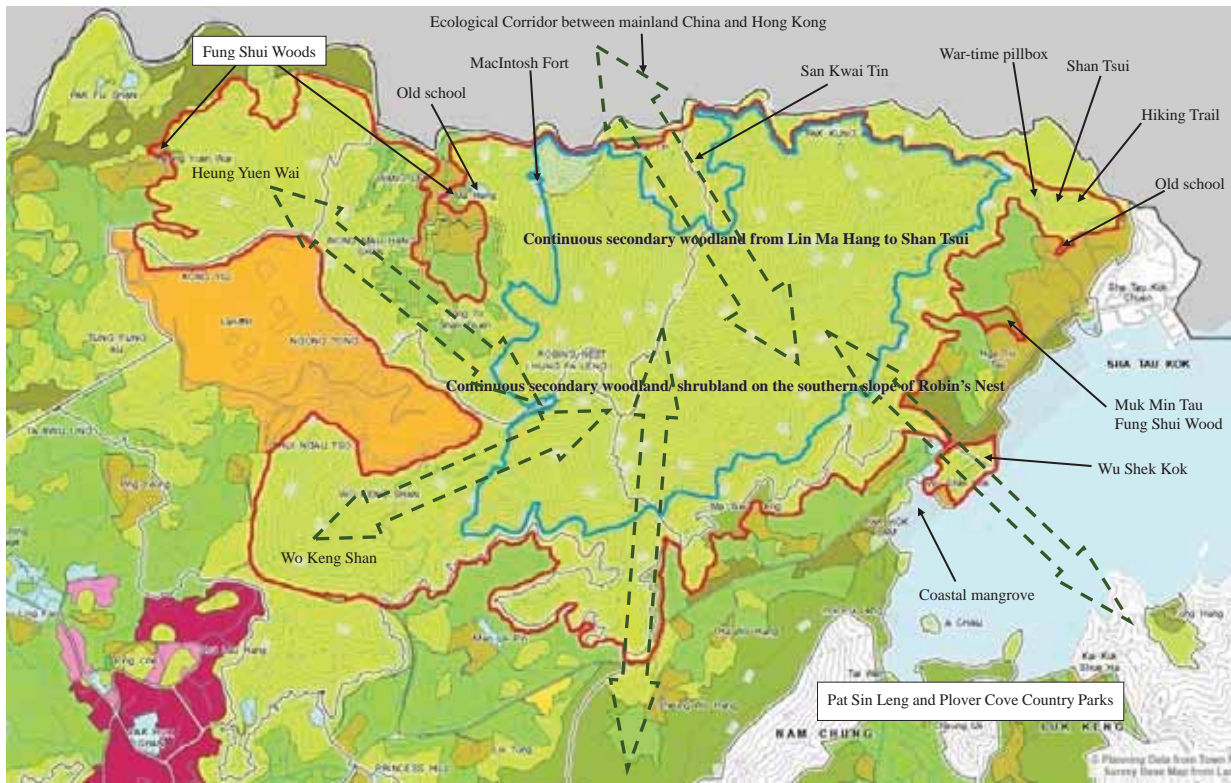
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Figure 2. Our proposed boundary (approximately marked by the red line) overlaying with OZPs (for easy reference) and the proposed boundary shown in the 2018 Report (approximately marked by the blue line); green arrows in dashed lines represent existing ecological corridors that can be protected by our proposed boundary.



香港新界大埔林錦公路
Lam Kam Road, Tai Po, New Territories, Hong Kong
Email: eap@kfbg.org



The Conservancy Association

會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

30th April 2019

Ms Ngar Yuen Ngor
Senior Country Parks Officer (Management 2)
Agriculture, Fisheries and Conservation Department
(e-mail: yn_ngar@afcd.gov.hk)

Dear Ms Ngar,

Comment on the Proposed Robin's Nest Country Park

Thank you for inviting us in the focus group meeting dated 28th February 2019. Robin's Nest has long been identified as a potential country park since 1993 when the Territorial Development Strategy Review (TDSR) was formulated. We support the designation of Robin's Nest Country Park (RNCP) to properly conserve and manage habitats of conservation importance. It would also serve good ecological connectivity with the adjacent Pak Sin Leng Country Park and Wutongshan in Shenzhen. More importantly, "*Designate new Country Park at Robin's Nest, and extend Country Park to cover country park enclaves at appropriate locations*" is the Action 2(b) under the Hong Kong Biodiversity Strategy and Action Plan. AFCD should not further delay the designation of RNCP.

Meanwhile, we would comment further on the details of the proposed RNCP.

1. Site Boundary of RNCP

We note that reasons for excluding some of the areas in RNCP are due to private land lots and burial grounds in the area. Besides, a buffer was proposed from private land lots and burial grounds to ensure the proposed RNCP did not encroach into these areas.

According to the revised Principles and Criteria for Designating New Country Parks or Extending Existing Country Parks (Principles and Criteria), the following criteria are adopted to assess suitability of a site for designation, namely conservation value, landscape and aesthetic value, recreation potential, size, proximity to existing country parks, land status, land use compatibility. For land status which is one of the demarcation criteria, the Principles and Criteria also mention that "*Government land is to be preferred when a country park is designated. Notwithstanding this, private land should be included in a*





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會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

country park if the use of the site is compatible with country park setting”.

From the Principles and Criteria, we would highlight three observations:

- i. Burial ground is not one of the constraints for designating Country Park. If referring to the land status of burial grounds which are mostly on government land, burial grounds might even be preferred to be included in Country Park
- ii. Private lot is not a constraint for designating Country Park. The Principles and Criteria has already mentioned private land compatible with country park setting can also be considered to be included in Country Park
- iii. The Principles and Criteria does not mentioned that a buffer between private land/burial grounds and Country Park is necessary when designating Country Park

Simply speaking, we do not think the proposed RNCP boundary is well-justified according to the Principle and Criteria.

We would especially draw your attention on the following areas:

i. Lin Ma Hang

In 2003, Kadoorie Farm & Botanic Garden (KFBG) has conducted a study¹ in the past Frontier Closed Area which included large area of Robin's Nest and its adjacent. This report has highlighted ecological importance of secondary woodland and fung shui woodland in Lin Ma Hang:

*“At Lin Ma Hang, botanical hotspots included the feng shui woods and secondary forest, where forest-dependent birds including the Orange-headed Thrush were recorded. *Gymnosphaera metteniana*, a new fern species to Hong Kong, was recorded in the secondary forest”*

*“A total of five forest specialist birds including the Chestnut Bulbul (*Hypsipetes castanonotus*), Orange-headed Thrush (*Zoothera citrinus*), Greater Necklaced Laughing Thrush (*Garrulax pectoralis*), Black-throated Laughing Thrush (*Garrulax chinensis*) and Asian Stubtail (*Urosphena squameiceps*) were recorded at Lin Ma Hang secondary forest, indicating that the forest is of rather high integrity”*

¹ Kadoorie Farm and Botanic Garden. 2004. *A Pilot Biodiversity Study of the eastern Frontier Closed Area and North East New Territories, Hong Kong, June-December 2003*. Kadoorie Farm and Botanic Garden Publication Series No.1. Kadoorie Farm and Botanic Garden, Hong Kong Special Administrative Region.





ii. San Kwai Tin

KFBG's report also recognized the ecological importance of secondary woodland and the natural stream system in San Kwai Tin:

“...earlier surveys in 1999 and December 2003 (in San Kwai Tin) recorded extensive cover of secondary forest dominated by Schefflera heptaphylla, Syzygium hancei, Machilus breviflora, Sterculia lanceolata, Ilex viridus, and Ardisia quinquegona. Canopy of the forest ranged from 6 to 15m tall. The forest has probably regenerated for the last 30-40 years”

“At San Kwai Tin, the Anderson's Stream Snake (Opisthotropis andersonii) of “Potential Global Concern” and Diamond-backed Water Snake (Sinonatrix aequifasciata) of “Local Concern” are found in streams, while the Mountain Wolf Snake (Lycodon ruhstrati), a species of “Local Concern”, was found at the riparian forest. The Mountain Wold Snake was previously recorded in only five sites in Hong Kong”

With the above findings, KFBG's report once recommended that *“priority for conservation should be given to the secondary forest and lowland streams at Lin Ma Hang, secondary forest and hillstream at San Kwai Tin”*. However, current RNCP boundary has excluded these two important areas.

iii. East of Heung Yuen Wai

If we refer to the final report of Land Use Planning for the Closed Area – Feasibility Study² prepared by Planning Department (PlanD Study), it has mentioned the ecological importance of upland grassland and shrubland around the area:

“Upland grassland in Planning Area 4 occurs on the low hills south of Tsung Yuen Ha, on the slopes east of Heung Yuen Wai and on Pak Fu Shan. These are directly connected to the lower slopes of Robin's Nest, where extensive grassland habitat is present. Similar habitat is common in Hong Kong upland areas but it is relatively unusual for this to reach the low altitude that it does in this area. This is generally a poor habitat for wildlife in Hong Kong but this area has very low levels of human activity. As a result some relatively uncommon bird species are present; Bright-capped Cisticola is relatively frequent, while Eurasian Eagle Owl and Bonelli's Eagle have been recorded. Large Grass Warbler has been

² Planning Department 2010. *Land use Planning for the Closed Area – Feasibility Study: Final Report.*
[https://www.pland.gov.hk/pland_en/misc/FCA/files_072010/Final_Report/041-02%20Final%20Report%20\(Chapter%207\).pdf](https://www.pland.gov.hk/pland_en/misc/FCA/files_072010/Final_Report/041-02%20Final%20Report%20(Chapter%207).pdf)





recorded at Robin's Nest and in lowland grassland at Tsuen Yuen Ha, so can be expected to occur in upland grassland habitats in this area"

"Some areas on the hill slopes have developed into shrubland habitats. Within Planning Area 4, the largest areas are located near Tsung Yuen Ha, at Pak Fu Shan and on hills between Heung Yuen Wai and Lin Ma Hang. Although these patches area relatively isolated from each other, the intervening habitats (including woodland and grassland/shrubland) area suitable for dispersal of shrubland species. Furthermore, these shrubland patches provide dispersal corridors for woodland species between Wutongshan and woodland habitats in Hong Kong; this corridor will increase in value as shrubland matures into secondary woodland"

With such connectivity with Robin's Nest, those upland grassland and shrubland in east of Heung Yuen Wai, from conservation point of view, can be included in country park for better protection. Moreover, since most of these areas are government land, it would also fit the Principle and Criteria which states that *"Government land is to be preferred when a country park is designated"*.

iv. Wo Keng Shan

As mentioned above, TDSR has already proposed Robin's Nest as one of the potential Country Parks 26 years ago. At that time most of the areas in Wo Keng Shan were indeed included in the proposed RNCP (Figure 1). We do understand that the exact boundary should be subject to further investigation but currently we cannot see any strong justifications for excluding Wo Keng Shan.

Besides, there are already two accessible routes to Robin's Nest via Wo Keng Shan and they both form important access points at southwest of Robin's Nest (Figure 2). We admit that these two routes still have rooms for improvement from safety concern, but this seems not act as a large constraint to include Wo Keng Shan in country park. Once alternative routes can be provided for hikers, it can further enhance recreation value of the entire RNCP. Again, most of the areas in Wo Keng Shan are within government land so that we do not expect much opposition from public and indigenous villages in adjacent.

v. Buffer separating Robin's Nest and burial grounds or private lots

If referring to the Principle and Criteria, we can accept justifications, such as low





conservation value, low landscape value, low recreation potential, incompatible land use, etc., for excluding certain areas in Country Park. However, we worry that a buffer claiming that no encroachment into private land lots and burial grounds would be anticipated is not a concern according to the Principle and Criteria. From our preliminary observation in the habitat map provided (Figure 3), even some “buffers” currently excluding from RNCP form connectivity with Robin’s Nest; and their ecological or landscape value are not low.

For example, according to the final report of Detailed Study of the proposed RNCP, “secondary woodland and the freshwater streams on the north facing slope, stretching from east of Lin Ma Hang to west of Sha Tau Kok” are regarded as areas of high ecological value. Secondary woodland at the west of Sha Tau Kok, particularly the entry point near Shan Tsui Village Road, is largely excluded.

For the south, the buffer mostly comprises secondary woodland and upland grassland which are connected to Robin’s Nest now. PlanD Study even reveals that butterfly diversity in some of the woodland there are quite high:

“Butterfly diversity in the Tong To/Muk Min Tau area was high, with a total of 54 species recorded. This included three species considered by Fellowes et al. (2002) to be of Local Concern: Great Swift Pelopidas assamensis, Centaur Oak Blue Arhopala pseudocentaurus and Baron Euthalia aconthea. The first of these was recorded in woodland behind Tong To village, while the latter two were found in a small area of mature trees alongside a stream south of Tong To village. Other woodland-associated species were also recorded around Tong To (for example Common Gull Cepora nerissa, Rustic Cupha erymanthis and Common Mapwing Cyrestis thyodamas), suggesting the woodland in this area may support a reasonably diverse butterfly community”

However, they are now all excluded without good justification.

iv. South of Robin’s Nest

A few fung shui woodlands can be found near villages such as Tong To, Muk Min Tau, and Shan Tsui. According to PlanD Study, they were ranked moderate, high and low-moderate in ecological value respectively. PlanD Study had the following description on these fung shui woodlands:





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會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

“Larger fund shui woodlands comprising mature trees with a relatively diverse floral community are found adjacent to the villages of...Muk Min Tau...and Shan Tsui...Due to the presence of a number of other small woodland patches in the area, these larger blocks are reasonably well connected to each other and to woodlands at Lin Ma Hang, and ultimately to Wu Tong Shan National Forest Park in Shenzhen, and support a woodland-associated fauna and flora”

“The high quality fung shui woodland at Muk Min Tau has previously been proposed for SSSI status because lowland forest such as this is a very restricted habitat in Hong Kong (Chu 1998). Although this woodland was not covered by regular surveys in summer 2008, a site visit in September 2008 revealed a moderate diversity of butterflies within the woodland (all of which had previously been recorded on surveys in the area). This included a high density of Quaker, a woodland-dependent species with localized distribution in Hong Kong”

*“The Muk Min Tau fung shui woodland contains *Adenanthera microsperma*, *Aphananthe aspera* (specimen now felled (Xing et al. 2000)), *Artocarpus styracifolius*, *Cordia dichotoma*, *Erycibe obtusifolia*, *Meliosma fordii* and *Osmanthus matsumuranus* (Chu 1998), which highlights its rarity in comparison with other fung shui woodlands in the FCA. For example, significant populations of *Helicia cochinchinensis*, the only known population of large trees in Hong Kong, were recorded and several specimens of restricted trees *Cordia dichotoma* and *Adenanthera microperma* were present in recent survey around the woodland fringe”*

Those fung shui woodland display good ecological linkage with Robin's Nest, while the ecological value of Muk Min Tau is especially outstanding among all fung shui woodland. Thus, proper protection through country park system is necessary.

Lastly, we note that PlanD Study had recommended to extend the proposed RNCP further southward to the secondary woodland patch between Shek Chung Au and Tong To Ping Tsuen. This part has now been excluded from the RNCP boundary (Figure 4). Clarification is needed for such exclusion.





In short, we recommend that AFCD should:

- i. Strictly follow the Principle and Criteria when designating the boundary of RNCP
- ii. Critically review the proposed RNCP boundary again by including the above areas in RNCP

2. Hiking trail

Regarding connectivity of the hiking trail, it is noted from the presentation that the route linking to northern part of Robin's Nest and Lin Ma Hang via San Kwai Tin is taken out from the suggested hiking route and hiking route to be further explored. Indeed this section is now an accessible route and linked to various existing route to create a circular route for hikers (Figure 5). To enhance or, at least, maintain recreation potential of RNCP, this section should be added in the hiking trail. Efforts on repair and management work on this route should also be provided.

For the road to radio tower, currently only a small section would be included in RNCP (Figure 6). We are doubtful if this arrangement would cause confusion to road users. Drivers without permits access to Country Park might need to reverse out at the middle of this single lane road. Such arrangement can pose danger to drivers and create a bottleneck at the single land road. Additional traffic management measures should be considered.

Besides, during our visit, we spotted that considerable amount of ribbons were fasten tightly on tree trunk and branch along the trails. We fully understand the intention of some hikers to help identify direction of hiking trails but it would cause damages to vegetation. We suggest that AFCD should remove those ribbons.

We also suggest that adequate supporting facilities, such as signage and interpretive notice, should be provided during detailed design of the hiking trail so that it can be linked to the proposed Country Park and the adjacent heritage.

In the past few years, public have raised grave concern on paving materials of hiking trails. We recommend that all paving materials should be critically reviewed and concrete should be greatly avoided.

3. Cultural and historical resources within Robin's Nest

While various heritage resources scatter in the proposed RNCP, we suggest that adequate





supporting facilities, such as signage and interpretive signs, should be provided to introduce their cultural and historical importance. Besides, from our observation, some of the structures are in disrepair and might involve safety concern. Careful restoration and repair works without affecting their authenticity should be considered.

We understood from your department that Kong Shan MacIntosh Fort, which falls outside the proposed RNCP, is still utilized by Hong Kong Police Force. Having said that, this graded 2 historic building possesses historical and built heritage value, and shows strong linkage with the past Frontier Closed Area. We opine that including this into Country Park would ensure proper protection of this landmark historic resource.

Another historical structure we would like to raise out is the war-time structures/features along the trail near Shan Tsui (Figure 7). They were of cultural interest or significance as they were believed to reflect war-time history during Japanese occupation³. As these structures/features were along the only route leading to Robin's Nest, we cannot see the reason for not including them in RNCP from the perspective of heritage conservation and recreation enhancement.

For Lin Ma Hang Lead Mine, as shown in the presentation, the boundary of the mine is not the same as the boundary of the Lin Ma Hang Lead Mine SSSI. That means not the entire mine, is now included in the proposed RNCP (Figure 8). It would be grateful if the ruins just adjacent to the Lead Mine, such as the mine site office, can be included in the RNCP. Meanwhile, we fully understand safety concern while utilizing this unique lead mine as one of the attractions for visitors. We again reiterate that safety measures should be introduced around the lead mine to prevent accidents.

4. Ancillary facilities

Whether ancillary facilities within Country Park are necessary and compatible with natural environment always lead to grave concerns among public. We would highlight again that there should be careful planning and design on these ancillary facilities. For example, among several proposed viewing platforms, the one at Ma Tseuk Leng, has already offered relatively flat terrain to overlook the attractive rural scenery along Sha Tau Kok Road. It is not necessary to put great effort to improve the current condition. Even though there might be public request on facilities for resting purpose, it should be critically evaluated on the

³ 阮志 2016,《越界：香港跨境村莊及文化遺產》，香港：三聯書店(香港)有限公司，187-188 頁





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會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

need and whether it would cause adverse visual impact.

Yours sincerely,



The Conservancy Association

cc.

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Green Power

Hong Kong Bird Watching Society

Hong Kong Countryside Foundation

Kadoorie Farm and Botanic Garden

WWF-Hong Kong



Figure 1 TDSR has already proposed Robin's Nest as one of the potential Country Parks 26 years ago. At that time most of the areas in Wo Keng Shan were indeed included in the proposed RNCP

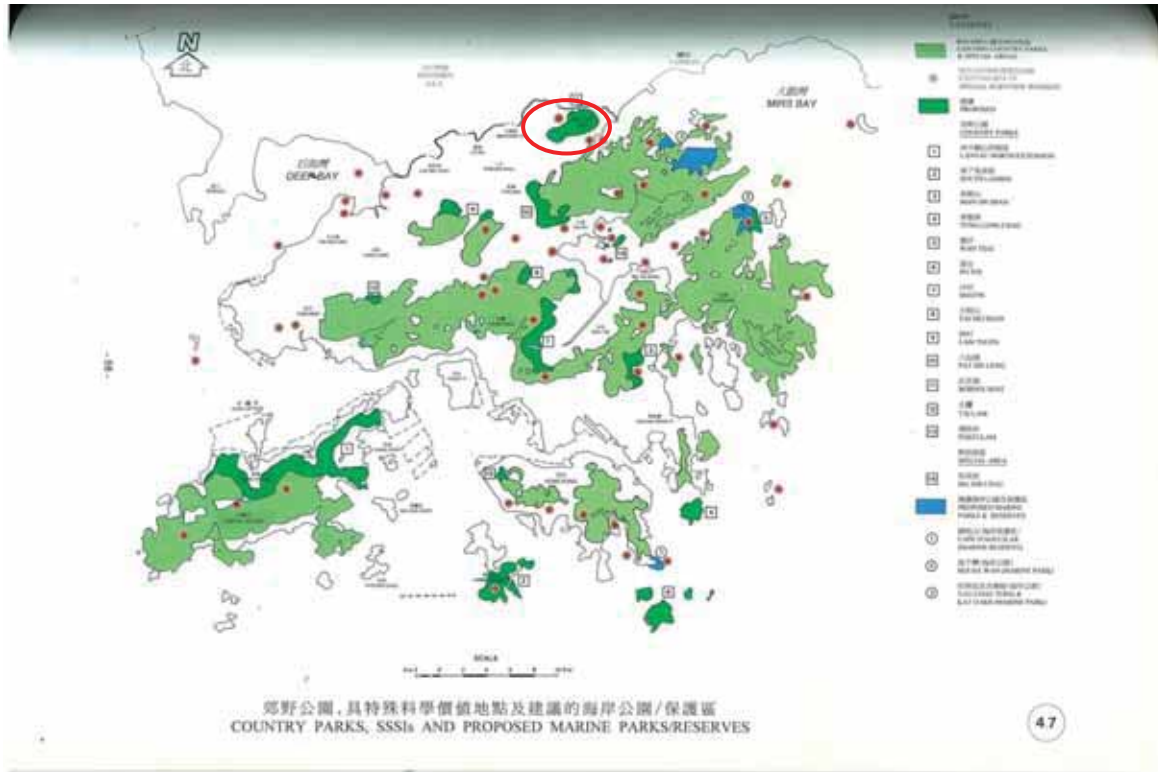
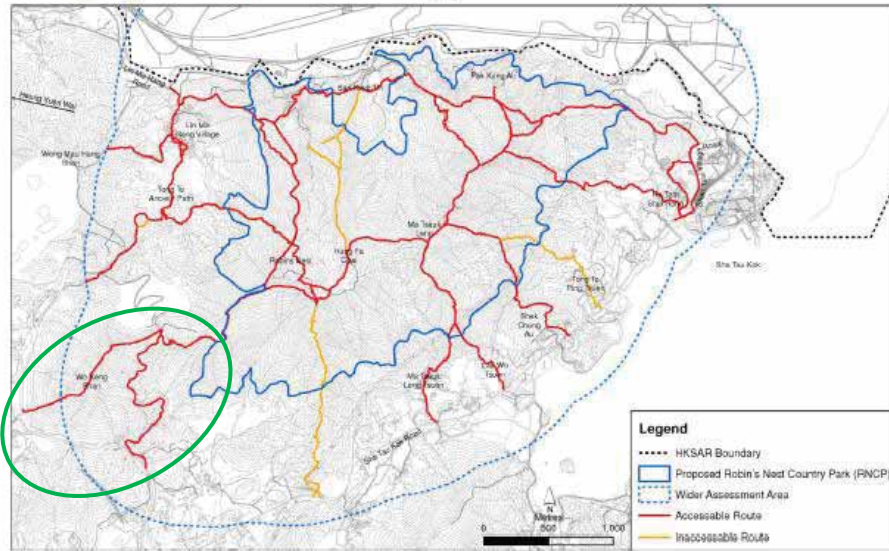


Figure 2 There are already two accessible routes to Robin's Nest via Wo Keng Shan (circled in green) and they both form important access points at southwest of Robin's Nest

Key Findings from Review Report (Recreation)

- Exploring potential hiking trails
 - Known hiking trails shown on maps/ hiking blogs have been explored
 - Normally take 4-6 hours to finish; some routes are steep, narrow, totally overgrown and/or have disappeared.



15

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Figure 3 Comparing land status with the habitat map, the buffer separating burial ground or private lot comprise mostly secondary woodland (circled in red). They are well-connected to Robin's Nest

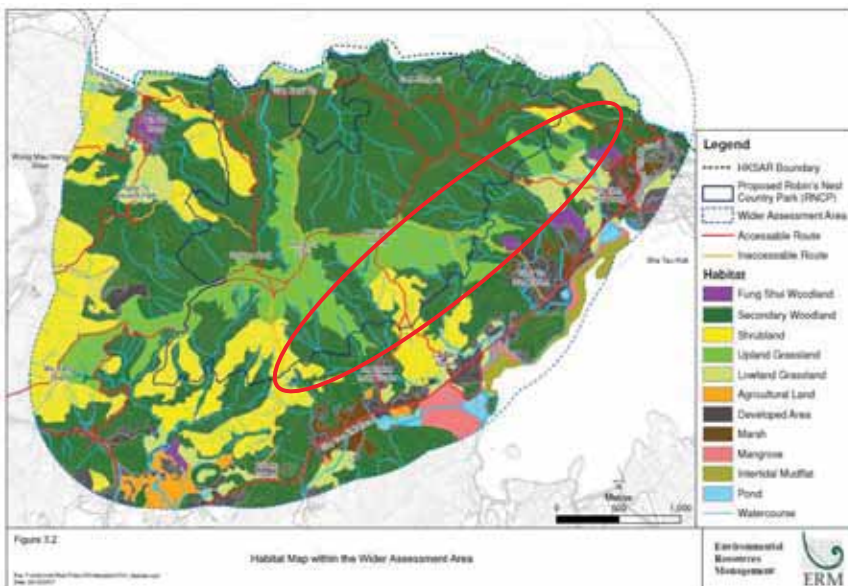
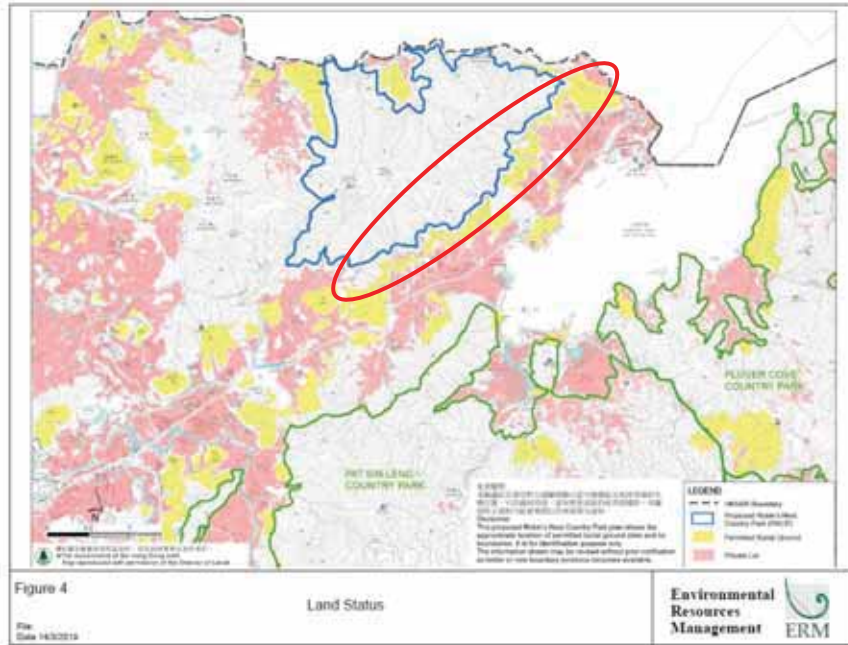


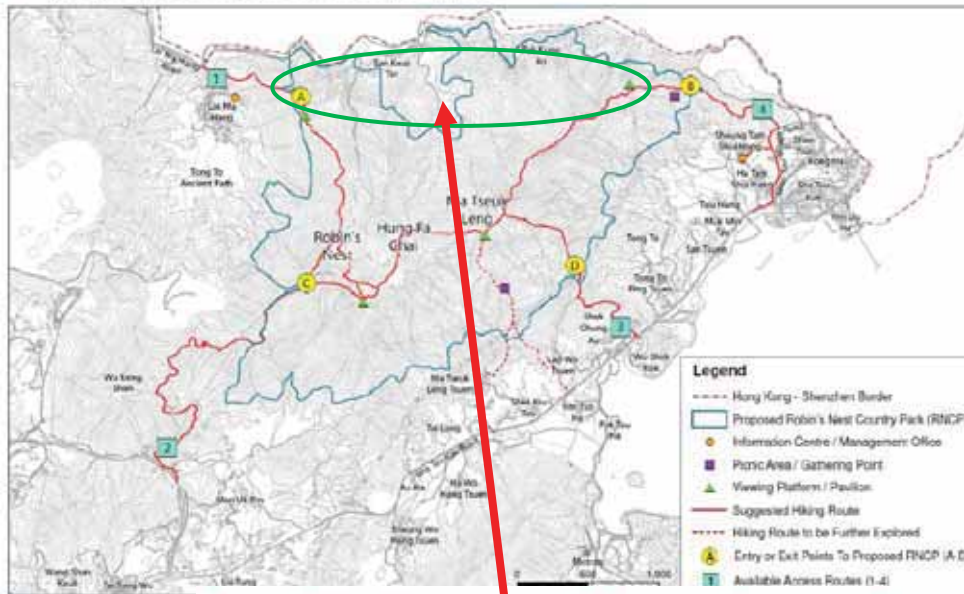
Figure 4 Comparing the RNCP boundary proposed by PlanD Study (filled in pale green) with the one currently proposed, the secondary woodland patch between Shek Chung Au and Tong To Ping Tsuen (circled in red) is now excluded from the RNCP boundary



Figure 5 The route linking to northern part of Robin's Nest and Lin Ma Hang via San Kwai Tin (circled in green) is taken out from the suggested hiking route and hiking route to be further explored. However, this section is now an accessible route and linked to various existing route to create a circular route for hikers

Considerations for the Management and Operational Plan

proposed routes and facilities

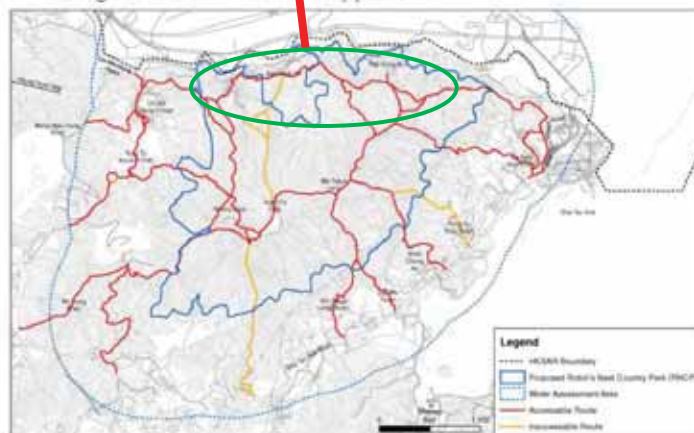


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Key Findings from Review Report (Recreation)

Exploring potential hiking trails

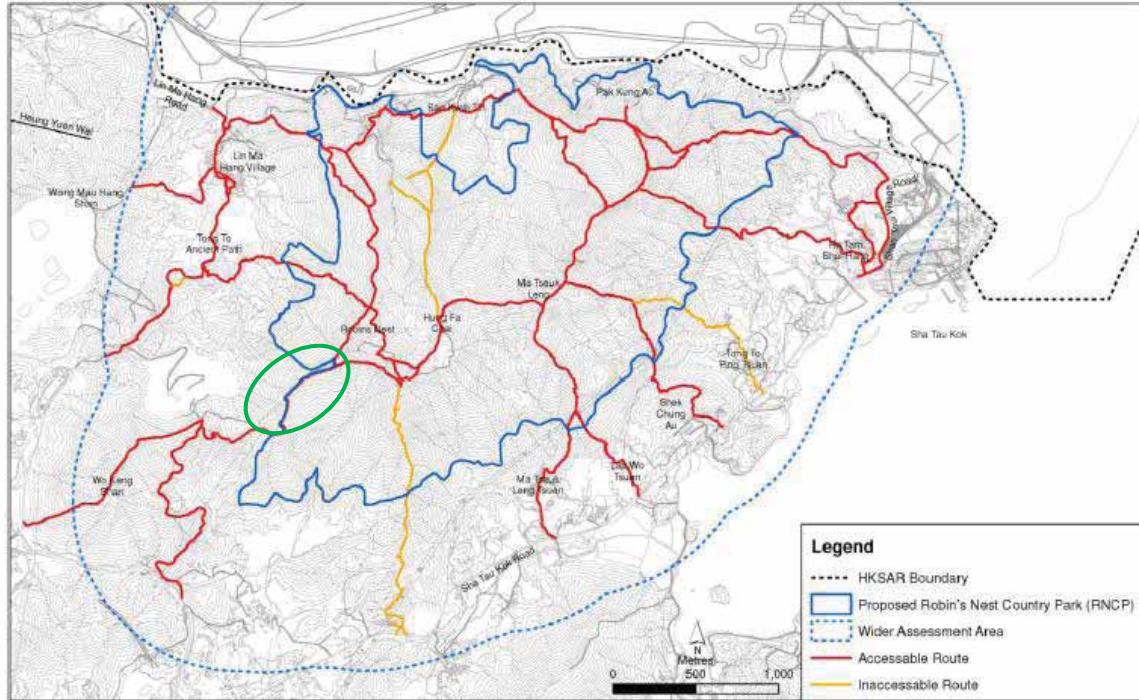
- Known hiking trails shown on maps/ hiking blogs have been explored
- Normally take 4-6 hours to finish; some routes are steep, narrow, totally overgrown and/or have disappeared.



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Figure 6 For the road to radio tower, currently only a small section would be included in RNCP (circled in green). We are doubtful if this arrangement would cause confusion to road users





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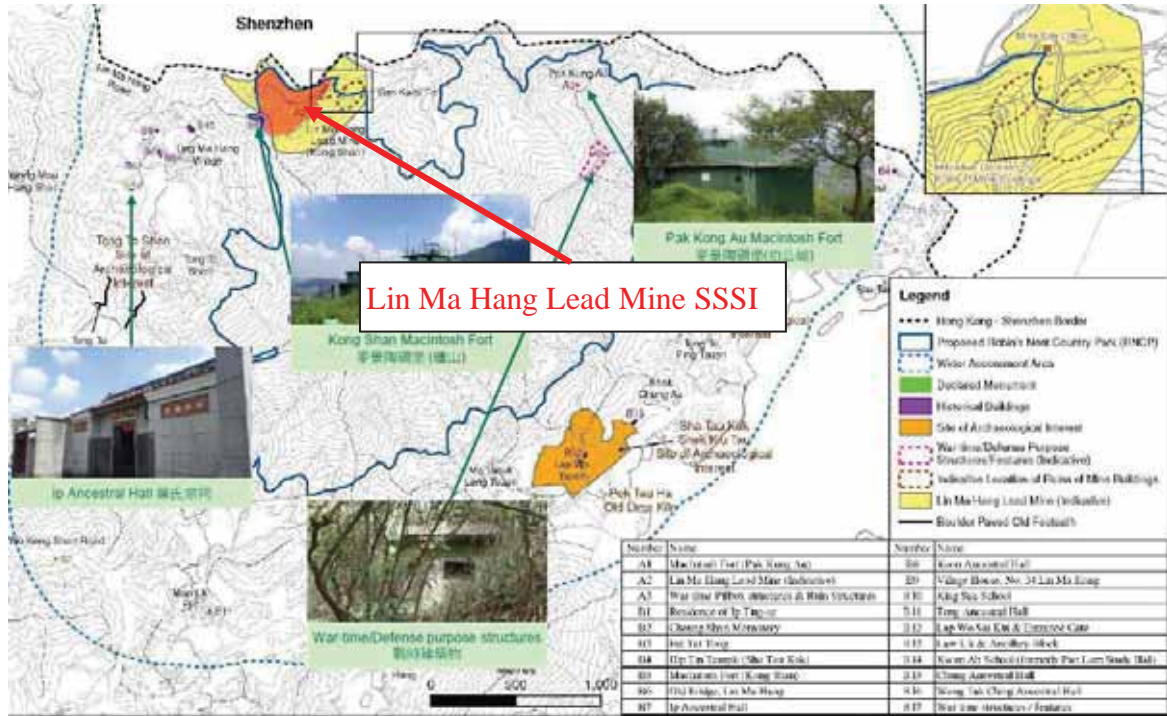
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Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

Figure 7 War-time structures/features found along the trail near Shan Tsui



Figure 8 The boundary of the mine is not the same as the boundary of the Lin Ma Hang Lead Mine SSSI (shaded in red). Not the entire mine, is now included in the proposed RNCP



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FW: Comment on Proposed Robin's Nest Country Park

30/04/2019 14:21

From: Paul Zimmerman <paul@designinghongkong.com>
 To: "yn_ngar@afcd.gov.hk" <yn_ngar@afcd.gov.hk>
 Cc: 'looking' <lkcheng@greenpower.org.hk>, "'Woo, Ming Chuan'" <wchuan@hkbws.org.hk>, "'Wong, Suet Mei'" <wsuetmei@hkbws.org.hk>, 'Ruy Barretto' <ruyb@netvigator.com>, 'Tony Nip' <tonynip@kfbg.org>, "'Andrew Chan (WWF-HK)'" <cmchan@wwf.org.hk>, "faifai_yeung@afcd.gov.hk" <faifai_yeung@afcd.gov.hk>, "patrick_cc_lai@afcd.gov.hk" <patrick_cc_lai@afcd.gov.hk>, 'Grace Yang' <Grace.Yang@erm.com>, 'Terence Fong' <Terence.Fong@erm.com>, 'Philip Tang' <Philip.Tang@erm.com>, 'Ken SO' <ken@cahk.org.hk>, Carmen Wong <carmen@designinghongkong.com>

1 attachment



AFCD20190430(RobinNest).pdf

Dear Ms Ngar

We support designating Robin's Nest. This has been a long time coming.

Further, we concur with the submission by The Conservancy Association - while adding the following observation based on our experience with enclaves:

The revised Principles and Criteria for Designating New Country Parks or Extending Existing Country Parks (Principles and Criteria) should take into account the threat of land status and uses on the quality, sustainability of the ecological and amenity values, and the management of the proposed country park.

The question must be asked whether or not the existing controls (BD, LandsD, PlanD, FEHD, EPD, Police, etc.) are adequate, and whether the additional controls provided under the Country Parks Ordinance and the Country Parks and Special Areas Regulations Ordinance can help reduce threats further.

Private land and burial grounds carry the risk of uses and development incompatible with and a threat to the control and management of adjacent country park areas. These risks can be better contained and significantly reduced by including such land within the country park and under the relevant ordinances.

Therefore a 'buffer' should not be outside but in fact within the area designated for country park. In this case we support including most if not all of the local burial grounds, the roads to the utilities and some of the private land within the new country park.

Finally, we strongly suggest to fully consider the creation of the ecological corridor linking Hong Kong and the Mainland in planning for the Robin's Nest country park boundaries. As an additional consideration, the result may well be that areas with lower ecological values should be included. In any case, when left alone and protected as country park these areas will have a good chance of developing greater ecological values. So is the power nature.

Herewith I so submit for Designing Hong Kong Limited

Paul Zimmerman 司馬文
Mobile: +852 9096 0250
www.paulzimmerman.hk
www.designinghongkong.com

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, April 30, 2019 12:19 PM
To: yn_ngar@afcd.gov.hk
Cc: Paul Zimmerman <paul@designinghongkong.com>; 'looking' <lkcheng@greenpower.org.hk>; 'Woo, Ming Chuan' <wchuan@hkbws.org.hk>; 'Wong, Suet Mei' <wsuetmei@hkbws.org.hk>; 'Ruy Barretto' <ruyb@netvigatator.com>; 'Tony Nip' <tonynip@kfbg.org>; 'Andrew Chan (WWF-HK)' <cmchan@wwf.org.hk>; faifai_yeung@afcd.gov.hk; patrick_cc_lai@afcd.gov.hk; 'Grace Yang' <Grace.Yang@erm.com>; 'Terence Fong' <Terence.Fong@erm.com>; 'Philip Tang' <Philip.Tang@erm.com>; 'Ken SO' <ken@cahk.org.hk>
Subject: Comment on Proposed Robin's Nest Country Park

Dear Ms Ngar,

Please refer to the attachment for the captioned. Thank you very much.

Best regards,

[REDACTED]

The Conservancy Association

T: 2728 6781

D: 2272 0303

F: 2728 5538

Registered Name 註冊名稱 : The Conservancy Association 長春社
(Incorporated in Hong Kong with limited liability by guarantee 於香港註冊成立的擔保有限公司)

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Director
Agriculture, Fisheries and Conservation Department
7/F, Cheung Sha Wan Government Offices
303 Cheung Sha Wan Road
Kowloon

2nd May 2019

(Email: dafcoffice@afcd.gov.hk)
(cc: patrick_cc_lai@afcd.gov.hk; yn_ngar@afcd.gov.hk)

Dear Sir/Madam,

Robin's Nest Area Country Park Revised Plan

1. This document is submitted on behalf of Hong Kong Countryside Foundation, an organisation established to further the protection and enjoyment of the natural cultural and agricultural and social heritage of Hong Kong's Countryside. In drafting this document HKCF has drawn on the expertise of its members who have many decades of collective experience in the supervision, development and application of key issues relevant to this submission in both the public and private sectors. The specific expertise drawn on for this study includes public administration, land administration, environmental and planning laws, biodiversity and protected area management.
2. **The Government and Environmental NGOs have for a long time proposed and supported the development of a Country Park in the Frontier Closed Area that would serve as an ecological corridor between Wutong Shan Forest Park and Pat Sin Leng Country Park.**
3. The new **Robin's Nest Area Country Park (RNCP) should be demarcated and then designated in compliance** with the Government's long-held policy intention and the Principles and Criteria for Designating Country Parks of AFCD, 2011 (Principles), implement the BSAP Policy 2016, and meet the objectives of the Country Parks Ordinance Section 4 for nature and heritage conservation, education and recreation.
4. **RNCP is Government Policy and is to benefit the wider public interest which takes precedence over private vested interests.** The Task Force on Land Supply Report December 2018 made it clear that the public legitimately expects its

countryside to be protected adequately through the CP system against encroachment for private development. The wrong policy of **maximum private encroachment into CP** must not be followed when planning the new RNCP. Many more areas of countryside will be lost to development in the coming years; hence a properly planned RNCP is even more essential. Correctly and comprehensively following the Principles will enable the Government to **implement its BSAP Policy 2016** with its specific Actions as noted below.

5. NGOs were consulted at a meeting with AFCD and its Consultants ERM on 28th February 2019 when this consensus was expressed. At that meeting **a profoundly inadequate and defective Proposed RNCP plan was shown**. This is not a statutory Draft Map but only a Proposal. Hence explaining most of the serious errors may be premature at this stage. Hence a demarcated revised Plan is critically needed.
6. It became apparent from the Final Review Report 2018 and AFCD 2016 Report provided recently **that a defective plan was used as the basis for reporting** so far. This boundary being used **is not in compliance because it was not preceded by the demarcation process outlined in section II clauses A-D of the Principles and Criteria for designating New Country Parks and other Policies**. This is evidenced by breaches of the Principles so that wrongly all the Private Agricultural Land was cut out, and all the Burial Grounds were cut out partly on the wrong basis that it was a Land Status. The Country Parks Ordinance and the Principles enable Private Land to be considered and included in the demarcation of a Draft Map. Additional to those errors, the reports show there was no valid assessment of the Demarcation Criteria of Existing Land Use/Compatibility in compliance with the Principles. **This non-compliance leads to numerous defects; which resulted in a failure to identify or assess problems and threats to the CP and the values and benefits to be included in the CP**. Thus the proposed boundary is defective in not being reliable, not fit for the purpose of demarcating a Draft Map for eventual designation and not valid. Any designation process based on such inadequate work will be impractical, frustrated and subject to challenge. **It is therefore necessary to conduct and publish a correct and comprehensive demarcation prior to formally releasing the Draft Map for statutory consultation in compliance with the Principles and policies**.
7. As a consequence of the above, numerous fundamental defects have been pointed out. **Now is the time to demarcate according to the Principles and remove these defects**, on a constructive basis. Do not leave this and try to fix things up in the statutory designation process. There will be only a short statutory time for that process.

8. **The values of the wider Robin's Nest and Frontier Closed Area are long recognized.** Since at least the Territorial Development Strategy Review Study of 1993 (26 years ago), this area was identified as a potential CP. The exceptional value of the area was further proved by the KFBG 2004 Study of the Eastern Frontier Closed Area, and in particular the areas of Lin Ma Hang and San Kwai Tin and Robin's Nest were recommended for Country Park based on KFBG findings. The value of RNCP has been confirmed by other studies over the years, see Explanatory Statement of the Approved Lin Ma Hang OZP which states *"The area (including San Kwai Tin) comprises...large tracts of dense and undisturbed lowland forest and fung shui woods with high scenic value...The natural vegetation together with the rugged topographic backdrops provide a picturesque landscape forming an integral part of the natural environment that should be conserved."* **As a result, BSAP Policy Action 2b has to be implemented.**
9. **Omissions** of areas with valuable habitat, plants and wildlife were noted by the NGOs and confirmed by the Final Review Report of ERM of 27th February 2018 and AFCD 2016. Landscapes which are part of the outstanding natural beauty and with significant value for education and recreation were omitted. The Proposed RNCP boundary line was selected to omit Government Land proposed for Burial Grounds (BG) and most of the Private Agricultural Land. This caused the Proposed RNCP to be much smaller than the average Size Criteria, being only about 480 hectares or about one third of the Wider Assessment Area of about 1,446 hectares, (which itself omitted contiguous parts of the Robins Nest Area such as Heung Yuen Wai and Lin Ma Hang forests, which are worthy of being in the CP because of their conservation, education, heritage and recreation values.) **These omissions do not comply with the Principles and Criteria, nor several Actions in the BSAP Policy.**
10. **NGOs thus requested that the Proposal be revised by the Consultant** to include a formal demarcation process in compliance with the relevant Principles and Criteria and BSAP Policy to protect the values found. This was originally agreed, but later the Consultants on 1st April 2019 supplied their Review Report to NGOs and instead **requested that the NGO's themselves submit a Revised Plan** for Government and the Consultants to consider.
11. **Hence based on the relevant principles, and these basic summarized facts a Revised Plan is supported as a guide to proper demarcation of the CP.**

12. **Fire from the Burial Grounds is the main threat to the Proposed CP.** Hence the CP is better protected and the BG better regulated by including them within the CP and under the Country Parks Ordinance specific statutory regulations against fire (Reg7) and system for burials (reg 10). BG is not a Private Land Status as BG is Government Land. AFCD with dedicated teams with experience in managing vegetation and controlling and preventing fires are best able to protect the Protected Areas instead of the usual non-conservation departments. In this area the BG are very extensive but mostly little used, with few graves, and mostly burials in the traditional manner with bone pot sites and thus in keeping with the rural and CP setting. Based on the Principles and Criteria, these existing areas should be respected and protected with the CP system. Government Land whose existing state is vegetated with forest and shrubland are not suitable for new active burials and should be retained as CP. The forest and shrubland edges would thus be better protected by CP regulations and provide more effective protection to the CP as a whole.

13. **Continuous forest cover exists across the north slopes.** This provides the ecological connectivity with the Mainland's Wu Tong Shan National Forest per BSAP Action 4a. To conserve this ecological function, the forest above Heung Yuen Wai, Lin Ma Hang, and the San Kwai Tin hills, valley and stream system have been included. The east side has included forest near Shan Tsui Village Road. This Plan has many benefits. This places the CA at Heung Yuen Wai Fung Shui Woodland, and Lin Ma Hang Fung Shui Woodland within the CP, and connects and protects forested and well vegetated areas against fire from Burial Grounds and other impacts. In particular this protects the core valuable woodland and stream system of San Kwai Tin.

14. **Conservation Areas, which are mostly covered by Fung Shui woodlands, have been partly included into the CP for protection instead of being left out as unprotected Enclaves.** Hence BSAP Action 2b is implemented by the Revised Plan.

15. **Recreation, education and landscape values are thus enhanced** as the Revised Plan enables scenic hikes within or near CP forest all the way from Heung Yuen Wai and Lin Ma Hang in the west to Sha Tau Kok in the east. This enables **convenient locations for the entry points and visitor centres at both east and west of RNCP.** The Visitor Centre at Lin Ma Hang is thus now located at the actual entry point of the CP, and currently Lin Ma Hang Road is undergoing slope works for road widening which will enable better public access to this place. On the east side, the Revised Plan enables the Visitor Centre to be closer to road access where the principle path meets Shan Tsui Village Road. It is essential to have the main entry paths protected by CP

especially when they are well forested. It is essential to effectively and actively protect this recreation and landscape against the usual degradation in the NT from dumping and unauthorized uses which often is not enforced.

16. **The Robin's Nest Area CP should provide continuous hiking routes** from east to west through protected landscapes of outstanding natural beauty. The north to south hiking routes from the border areas to Pat Sin Leng in the south need to be protected and enhanced for people's enjoyment. These also protect green corridors for wildlife and ecological connectivity.
17. **Ecological Connectivity between Wutong Shan and Hong Kong, and in particular to Pat Sin Leng CP has been explicit Government policy since at least 2009 (TPB paper 8436):**
 - a. *(o) the proposal country park at Robin's Nest would be linked up with the Lin Ma Hang Lead Mines to form an ecological corridor between Pat Sin Leng and Wutongshan in Shenzhen;"* , and
 - b. *more recently in the Greater Bay Area Plan.*
18. **Ecological connectivity is required by BSAP Action 4 and 4b**, and is best ensured by implementing existing policy and use this new Country Park to provide statutory protection for the areas of high ecological value between Wutongshan and Pat Sin Leng Country Park.. The Revised Plan also ensures that core areas for National nature connectivity are now protected near Lin Ma Hang and San Kwai Tin and Shan Tsui Village Road. For recreation, this connectivity enables the new CP hiking trails to connect to the rest of the CP system. At Wu Shek Kok there is now some ecological linkage from the hills **down to the forest and sea** at Starling Inlet.
19. **Stream systems are required to be better protected by BSAP Action 3**, and hence the Revised Plan protects the extensive important and uncontaminated stream at San Kwai Tin, and protects more middle sections of other streams. Lowland systems at Heung Yuen Wai, Lin Ma Hang and San Kwai Tin remain very important but at this stage it is more feasible to protect San Kwai Tin and more middle sections of streams.
20. **CP boundaries which protect the areas based on Government and expert findings of ecological diversity have been chosen where possible.** This is an additional benefit to protecting known valuable habitat types. Expert opinion shows that the

habitat types with lower value do **support much biodiversity and rare species in this extensive rural area because the FCA has been inaccessible and protected against development for so long.** Hence based on the evidence, more of the area currently zoned GB is properly made CP.

21. **San Kwai Tin is especially important for implementing all the above BSAP Actions.** Nobody now lives there. Recent inspection reveals the place has been in ruins for many years. The small V and AG zones are both marsh and forest. Under the Revised Plan the Village zone is excluded (but under the Principles and Criteria it could be demarcated inside as it was a few structures only, now fallen down, and part of the CP setting.) The Government Land BG here is mostly good forest which must be protected and no recent burials are visible. The area has records of rare mammals, fish, reptiles, amphibians and rare plants, see KFBG 2004 page 14 and the ERM Review Report for other records. Recent inspection shows good ecological connection to the Mainland exists here. Following the Principles and evidence this core area should be CP, not an unprotected enclave.
22. **Most Private Agricultural Land areas are still excluded** by this Revised Plan. This AG zoning is not a reason for exclusion. In Robin's Nest Area most Private land is un-used Agricultural Land so some can properly be considered for CP under the Ordinance and Principles and Criteria especially where it is part of the CP setting, enables better conservation, education and recreation values for the public benefit, or improves management, access, connectivity and enforcement.
23. **Valuable cultural heritage, tourism and rural landscape values amid lowland streams are still mostly excluded from all around the RNCP by this Revised Plan.** This is shown by the Review Report but methods to include these values and areas into the CP are not provided. Hence this Summary is unable to provide details at this stage. AFCD and their Consultants have a duty to advise how to incorporate and better protect these values under Section 4(c)(iii) of the Country Parks Ordinance.
24. **The RNCP boundary should be practical,** with clear boundaries, suitable and convenient access points for the public, and enhanced protection against fire. **Following or using existing** roads such as Lin Ma Hang or border road and Shan Tsui Village Road as these are clearly defined and provide improved access and security.
25. **It is feasible and necessary to demarcate the Proposed Robin's Nest Area CP** so it meets the promises made, implements the law and policies in force, and delivers the

expected benefits to the public. **Hence based on the relevant principles, a preliminary Revised NGO Plan is supported. The demarcation must implement the BSAP 2016 Policy** and in particular protect and enhance the ecological connections between the Wu Tong Shan National Park nearby on the Mainland with Hong Kong via the forests of this CP. The new CP must also make or protect existing green corridors linking it to Pat Sin Leng CP and valuable Fung Shui Woodlands, and provide enhanced protection of streams.

26. Demarcating and designating the boundary so that it fully incorporates the ecological corridor between is the most administratively practical solution, as a single department, AFCD – the Government’s subject expert on biodiversity and nature conservation – would be responsible for the processes of demarcation and designation, and for administering the area that covers the complete ecological corridor between Wutong Shan and Pat Sin Leng CP under DAFC’s role as the Authority under the Country Parks Ordinance. If a gap is left between the boundary of Robin’s Nest Area CP and Pat Sin Leng CP then Plan D and Lands D with no expert knowledge of biodiversity, stretched enforcement resources, and conflicting policy objectives to nature conservation would have to take responsibility for protectign the ecological corridor with other administrative tools, which is clearly less practical and not deliver the enhanced protection which existing Policies require.
27. **It is the purpose of this Summary and Revised Plan to enable constructive participation** in the Demarcation process leading to a successful future CP Designation Process so that under the BSAP Policy, a Protected Area which meets National obligations under the Convention for Biological Diversity and the GBA Plan, and can be designated in time for the Conference of the Parties in Beijing in 2020.

By order of the Board



Lam Chiu Ying
Hong Kong Countryside Foundation

The Director
Agriculture, Fisheries and Conservation Department
5/F, Cheung Sha Wan Government Offices
303 Cheung Sha Wan Road
Kowloon
(Email: dafcoffice@afcd.gov.hk)
(cc: patrick_cc_lai@afcd.gov.hk; yn_ngar@afcd.gov.hk)

3rd May 2019

Dear Sirs,

Conservation Policy, Principles and Criteria for demarcating a valid Draft Map and designating Robins Nest Area as a Country Park

1. **Introduction. A small and inadequate Country Park which fails to comply with relevant Policies and promises is the result of using a Defective Boundary Line instead of AFCD demarcating a boundary for doing a Draft Map of CP in compliance with the Principles and Criteria for Designating Country Parks and other Government Policies. This now requires to be rectified and a compliant boundary must be Demarcated before a valid Draft Map is available so the Designation process can take place.**
2. **The demarcation of the Draft Map and designation of Robin's Nest Country Park should have as the main Objectives to implement the Principles and Criteria for Designating Country Parks laid down by AFCD over the years and updated 2011 so as to achieve the objectives in the Country Parks Ordinance Section 4 and to implement the BSAP Policy in Hong Kong 2016. The demarcation and Map drafting process is essential to assess the values and functions to be protected and methods to enhance such benefits, and assess problems and threats and methods to prevent or manage and reduce such threats to the future Country Park.**
3. **Enhancing the Ecological Connectivity of Hong Kong to the Mainland is part of the Greater Bay Area Plan, 19th March 2019, para 36 but the Defective Boundary Line will not protect nor will it enhance the existing ecological linkage. This part of a key National Development Strategy can be implemented by demarcation which complies with Principles and policies.**
4. **The documents recently provided for this small CP at Robin's Nest Area are flawed and not fit for the purpose for a valid demarcation and designation process. They are based on using a Defective Boundary Line which was not a Demarcated Boundary done pursuant to and complying with the Principles and Criteria.**

5. **The Demarcation process per the Principles and Criteria must be done first before a valid Designation process can proceed.** The horse then leads the cart. In this case the Defective Line without Demarcation per the Principles was used without the compliance and assessments required by the Principles and Criteria. **This Defective Line will lead to a defective CP and cause subsequent harmful impacts to the landscape, recreation, conservation values and functions of the CP.** It is thus essential that the CP is demarcated and designated lawfully following the Principles, **so the foreseeable damage and threats will be provided for, managed, reduced or prevented and the known benefits can be enhanced and best used for public benefit.**

6. The Presentation by ERM of February 2019 does not so state nor achieve these processes or objectives nor does it reveal the defects. The earlier Final Review Report of February 2018 is similarly defective but the defects were partly revealed. This was based on reviewing the AFCD Report of 2016 which is similarly handicapped by using the Defective Line, fails to have relevant assessments particularly on Criteria C and D assessments and is not fit for the purpose. **All these documents do not demarcate and do not assess** the relevant Robin's Nest Area (RNA) for suitable contiguous countryside to be included into the Potential CP according to the Principles and Policies. They fail to assess the RNA for a Potential CP which delivers the functions and values required in CP and which provides a Protected Area which protects the CP values and functions. For numerous reasons these documents are a wrong and unreliable basis for decisions on the CP boundary. **The Potential CP boundary needs to be demarcated and assessed and updated following the relevant objectives and principles and evidence. This must be rectified before a valid CP Designation can begin.**

7. The Study Area/Defective RNCP Boundary Line has **excluded several parts of the contiguous Robins Nest Closed Area (Robins Nest Area or RNA) which are of the highest landscape, recreation and heritage values and with biodiversity and habitats of the highest conservation values.** This is contrary to the evidence, the Principles and Criteria for Designation of CP 2011, BSAP Policy 2016, CPO Objectives in Section 4 and contrary to common sense and irrational.

8. **This absurd result was achieved by using a Defective Line excluding** all Burial Grounds in Government Land, Private Agricultural Land and Village Environs, (Presentation page 4), apparently either without and/or despite expert assessment, instead of a CP boundary demarcated under the Principles and Policies. The problem was continued by limiting the General Objectives of the Study by ERM (Presentation page 6 and 7) to only reviewing and conserving and planning for the land remaining in "the proposed RNCP", ie the pre- selected Defective Line.

9. Whoever decided to use the Defective Line, **it was an error to perpetuate that error** in 2016 and to give ERM **a defective and limited assignment in 2017 based on the Defective Line** and which did not require or permit rectifying and assessing the

Potential CP boundary in ways which complied with Principles and Policy and thus enable sound Policy making in the Policy Address 2017, and then enable rational CP drafting decision making and a designation by the CPA and AFCD which truly protects the values and functions of the CP. **The flawed process** is probably as follows.

- a. Planning Studies involving experts and ecologists led to Habitat Maps and about 6 OZPs collectively showing GB and other conservation related Zones in the Robin's Nest Area or RNA, **about 1066 hectares or more in a RNA Assessment Area which could be more than 1,446 hectares.** See FRR Table 2.1, and Table 3.4 based on a Wider Assessment Area of 1,446 hectares.
- b. Instead of being guided by the GB in the OZPs to begin the Demarcation of the CP, a **small Defective Line was chosen based simplistically and wrongly by excluding all the Private Land and all the Burial Grounds.** This line did NOT follow the Principles and Criteria, BSAP Policy or CPO objectives. This yielded about 500 hectares only.
- c. Instead of generally using the Planning Studies and OZPs and their GB/conservation zones lines for the Potential CP, **the Defective Line was used as the basis for AFCD Report 2016.**
- d. **Instead of demarcating the Potential CP boundary in compliance with the Principles and Policies, the AFCD adopted the Defective Line when it breached Criteria C on Land Status and did not assess per Criteria D on Existing Land Use/Compatibility.**
- e. These errors have led to a deficient AFCD Report **which was relied upon by the Chief Executive and ExCo Members who then approved the Defective Line/500 hectares CP in the Policy Address of June 2017**
- f. AFCD then assigned ERM in June 2017 to do their Final Review Report of February 2018 and to consult to get public support for the Defective Line CP.
- g. **The errors were not exposed earlier because only limited and misleading information was provided,** e.g. the Presentation of February 2019 was incomplete and misleading.
- h. When FRR was provided later on 1st April 2019 and later still the AFCD 2016 was provided on 26th April 2019, some of the errors leading to the current situation are being revealed, **enabling submissions to rectify the process.**

10. The above has the following consequences

- a. that the **Defective Line has misled the CE and ExCo** who then decided to deliver a CP which the wrong Size, very small, only one-third of a CP,
- b. CE and ExCo have **given the wrong promise to the public** or could be accused of breach of promise, with the public only getting left-over land for their small CP. The public will see this as Government giving with one hand and taking away with the other.
- c. Some boundary lands are **not protected by CP and are left out to be encroached for development** by private vested interests. GB which is vegetated has become vulnerable to residential development. This will impact the Landscape, Recreation and Conservation values and functions of the CP.

- d. The Potential CP has thus **been encroached and cut down** from a Wider Assessment Area of about 1446 hectares and a larger RNA, GB/conservation zonings over 1066 hectares, down to only 500 hectares per CE, to 495 hectares per AFCD 2016 and further down to 480 hectares per FRR 2018, and Presentation 2019.
 - e. The Defective Line gives about 33% or less of the countryside in the RNA so **66% or more is cut out and not protected by CP against change of GB zoning to other uses or development** by vested interests and which could impact the future CP.
11. **The Defective Line was probably selected for expediency but it is said in FRR 2.2 that it was to respect land interests and long established hillside burials.** Hence the Line was not demarcated to comply with CP principles and Policy requirements.
- a. To meet private vested interests in AG zones, the Line **excluded all Private Agricultural Land, despite the land concerns being actually about over Small Houses in V zones**, see FRR 5.1.1 and 5.1.2. This exclusion of Private Agricultural Land was not justified and the AFCD Report 2016 did not consider or assess them for the lack of existing land use, - e.g. some deserted, mostly abandoned or not used Agricultural Land, and without considering or assessing the existing habitats such as streams, marsh, mature shrubland or forest, and without assessing the landscape, recreation, educational and conservation values and functions for CP and the public interest. However when FRR 2.15 said a high proportion of the Private Agricultural Land was abandoned i.e. not used, it omitted to explain that the Existing Land Use/Compatibility was thus compatible with CP.
 - b. **To avoid Burial Grounds, the Line excluded all these areas, with FRR 2.2 omitting to inform these areas are actually Government Land.** There is no considering or assessing the existing land use or lack of land use, e.g. whether un-used, little or no recent or active use, and without regard to the existing habitats and without assessing the CP values as above, and without considering that the lands which are Government Land, should be considered for a public purpose namely CP.
 - c. The Defective Line **failed to use the GB zoning in the Planning Studies** per Arup 2010 and others leading to the 6 OZPs which covered the RNA and provided relevant information for demarcating an outline CP based on GB and conservation zonings suitable for CP.
 - d. The Line was seriously defective because it **deprived the CP from the most effective and tested methods to reduce or prevent the threats of fire from Burial Ground by demarcating into CP.** For existing used/active BG and if and when un-used BGs became actively used, the increasing risk of fire and other damage would require enhanced fire regulation and control, which would be provided by CP designation as this would empower the AFCD with statutory authority under the CP Regulations in relation to fire and burials. Excluding the BG from CP would exclude the areas from CP statutory protection against damage by fire, excavation and construction.

- e. This Line is defective for CP purposes because it was **not demarcated in compliance with the Principles and Criteria for Designating CP 2011**, which enables CP to include Private Agricultural Land, especially where the usage and setting and values are compatible with CP. There was no consideration and assessment but this error was adopted and continued.
 - f. The Line does **not comply with Conservation Policy** and was not revised to implement the BSAP 2016 Actions which is Government Policy.
 - g. The Line is defective as it is **not demarcated to enable effective implementation of the CPO objectives** to make Protected Areas which include appropriate areas for their landscape, recreation, education and conservation values and functions. A new line must be demarcated to comply with the objectives and the available evidence
 - h. The Line is defective because it did **not assess how best to protect the CP from threats from outside the CP**, such as degradation led development, whereby degrading GB at the boundary enables conversion to Residential, plus Brownfield and Melhado uses, unauthorized access construction, dumping, drainage, filling of wetlands/AG land for site formation and other abuses in the NT where access is feasible and effective enforcement is limited.
 - i. Instead the Line **encroaches onto the boundaries in advance of CP designation**, into the areas which should be CP, so there is less land for the public but more for development at the boundaries.
 - j. The Line defectively makes the Size well below the average 1,800 hectares in the Demarcation Criteria, a very small CP of about one-third of the Potential CP Area or RNA contiguous countryside of GB/conservation zones and suitable AG. This **one-third Park is too small to deliver a genuine CP** which effectively protects the CP values of landscape, recreation, education and conservation pursuant to designation under the Principles and Criteria and Policies in force.
 - k. There will be reason to conclude that the **public have been handed the left-overs after land has been encroached** all around the boundaries of the area.
12. **The Final Review Report is not fit for the purpose of a valid demarcation and Map drafting for designation of the CP, and cannot cure the Defective Line and cannot cure the failure** to demarcate the Potential CP boundary in compliance with the Principles and Criteria and Policies. The limited FRR Assignment contributes to an uncritical Review of the consequences of using a Defective Line.
13. **However the FRR provided some evidence of the errors and what was lacking in the Defective Line and AFCD 2016 Report.** After the Policy Address of June 2017, and from the Assignment date 27th June 2017 the ERM Study Area **was limited** to the 500 hectares in the Defective Line, plus ERM were to compile detailed information on the “vicinity area” of 1 kilometre from the Study Area/RNCP boundary and which was called the **Wider Assessment Area**, see FRR 1.1, **but had no remit to recommend improvements to the Defective Line, and were not required or permitted to include other suitable areas in the WAA, or suitable**

areas in the RNA, into the new CP boundary. It was mainly a general Review of some studies including the AFCD 2016, but not structured for critical analysis to ensure compliance with and actual assessments to do demarcation pursuant to the Principles and Criteria, Policies and the evidence.

14. **The FRR revealed that the Defective line had been chosen to avoid the Burial Grounds and Private Land, see FRR 2.18, 2.2 and 5.1.1 and 5.1.2.** This also appears in AFCD 2016. Hence AFCD narrowly limits their Report and omits to assess impacts and losses outside the line but only assesses values inside the line. The parts of the FRR which describe some CP values which have been left outside the CP, appear pointless at first impression, but **does provide some of the evidence to show an informed and alert reader that the Defective Line is absurd and contrary to evidence and principles.**
15. The FRR makes no criticism of the Defective Line and makes no suggestion that any BSAP Action Policy 2016 or Principle and Criteria 2011 should be followed or that any excluded area or habitat or species should be included into a better boundary line. **In numerous instances the values and functions and benefits to be enjoyed outside the Defective CP Line but inside the WAA are noted but no assessment of the threats to them and how the values could be protected inside the CP Protected Area.** Hence, FRR 4.3 has some of the headings for Principles and Criteria but totally **omits the Demarcation Criteria and the need to assess Land Status and to assess Existing Land Use/Compatibility.** It then does not apply the Principles and Criteria to the objectives and evidence and facts of the Defective Line or the Wider Assessment Area.
16. An example is that FRR 2.1.5 notes the **high proportion** of abandoned Agricultural Land but **omits to apply the relevant criteria D of assessing Existing Land Use, and omits to state that Private Land, especially Agricultural Land which is abandoned ie un-used can be included in CP, as there is no existing land use which is not compatible with CP.** Agricultural Land is deemed compatible with CP setting.
17. **Instead FRR 2.18 and 2.2 revealed the Line was made on the wrong basis,** to exclude Agricultural Land because it is Private Land and all Burial Grounds despite this being Government Land and not Private. FRR said **All BG had to be retained** without valid assessment or reference to the CPO or Principles.
18. The errors showing no valid demarcation is confirmed by the **AFCD 2016 Report** (seen on 26th April 2019), which reveals **it wrongly used the Defective Line and then Paragraph 4 refers very briefly to Demarcation Criteria but makes no demarcation nor assessment on Land Status and Existing Land Use/Compatibility.**
19. **The Demarcation Criteria for Size,** is noted FRR 4.3, also AFCD 2016 para 4.1, but there is no question why the Size of 495 hectares is so small for a CP compared to the

average of 1,800 hectares. Demarcation Criteria A for Size states CP “**usually comprises an extensive area of land of a continuous nature...the average size ...is about 1,800 hectares...**” Not a valid demarcation. If AFCD 2016 seeks to overcome the lack of Size in the CP by stating in the next sentence “it encompasses an extensive rural area” this is also wrong because the CP is very small, not extensive, but the extensive rural area of which is a continuous part has been excluded from CP and left unprotected. **Not a valid demarcation, Size too small.**

20. For **Demarcation Criteria of Proximity to CP**, AFCD 2016 4.1. The required criteria of proximity to Pat Sin Leng CP can only be achieved by AFCD having regard to the fact that “it encompasses an extensive rural area which **forms an ecological link** between Shenzhen and Hong Kong’s Protected Areas in a regional context.” **Here AFCD fails to point out that the criteria is only met when one protects the WAA or RNA outside the Defective Line. Not a valid demarcation: need to demarcate the new CP closer to Pat Sin Leng CP.**
21. The **Demarcation Criteria of Land Status and Existing Land Use/Compatibility** at AFCD para 4 refers to Figure 6 wrongly called a Land Status Plan, but which has Burial Grounds and Private Land, and says that the Study Area/Defective Line area is “largely rural and calm in character without major human development.” However the AFCD have **omitted and Not assessed** the Existing Land Use/Compatibility for BG and Private Land **around or outside** the Study Area/Defective Line per Figure 6. No valid demarcation. The reality is that the land inside and outside the Defective Line are both largely “rural and calm in character without major human development” and also compatible for CP.
22. **This analysis confirms that AFCD 2016 has continued the error to omit BG and Private Land because of Land Status.** However this error was revealed by the FRR. Do AFCD argue that even though largely the BG and Private Land has little existing land use, somehow it is not compatible for CP because of Land Status being Private and BG? This would be contra the CPO and Principles.
23. What are the threats to or benefits gained or lost to CP inside the Defective Line which arise from excluding the land outside the Defective Line? The land on the boundary zoned GB is vulnerable to be converted and sold for residential development under current practise but the threats are Not assessed. Thus AFCD 2016 having evidence for a conclusion that the excluded areas are compatible for CP has made **no valid demarcation nor assessment for this based on Existing Land Use/Compatibility for all of the Potential CP both inside and outside the Defective Line. Not a valid demarcation.**
24. The FRR does not relate the Principles and Criteria to the areas and habitats and species included or excluded by the Defective Line. There is no comment affirming that the Line followed the evidence, Principles and Criteria. **Since the FRR does not justify the Line by reference to the Principles and Criteria it is an invalid inadequate basis for decision and Draft Map making or the designation process.**

The demarcation task must be done validly by the Authorities to ensure the CP values are protected in a Protected Area CP. **Hence the purpose of these Submissions, so AFCDC can follow the law and process, demarcate lawfully, make a valid Draft Map and then designate lawfully.**

25. The FRR 5.1.1 states that the Defective Line protects habitats **but omits the habitats in areas which are NOT protected or excluded.** For example, the FRR notes that Lin Ma Hang stream and habitats was advised to be protected by numerous independent studies but **excluded because of vested interests.** Private Land was excluded to protect vested interests, per 5.1.2. There was breach and no application of the Principles that un-used private Agricultural Land could be used for CP and especially so where it has suitable landscape, recreation, educational and conservation values. There is no existing land use which was not compatible. **There is a failure to consider the wider public interest in the CPO and Government Policy inherent in following the Principles and Criteria, because private interests were only considered.** There was no balance and no assessment and no recommendations for a CP which provided for the wider public interests based on the Principles and Criteria and prevailing Government BSAP Policy. **The FRR is not a basis for Draft Map and designation.**
26. **Hence major encroachment on all the boundaries into the land available for CP was built into the Defective Line and the Review terms of reference.** This major encroachment had been consistent with the former misguided Government line demanding encroachment into CP boundaries for housing development. This idea has now been rejected by the public and the Task Force on Land Supply Report of December 2018 and Government Policy February 2019 has deleted and disavowed this means of sacrificing CP land for housing. **Now Government Policy was rectified the Defective boundary Line should likewise be rectified and demarcated without encroaching on the suitable land in the vicinity. A compliant demarcation and assessment is needed.**
27. **This one-third CP, a small fraction of the available countryside and a very small size CP far below the Criteria average could be interpreted as bad faith instead of error in using the Defective Line.** Robins Nest was promised as a Country Park of 500 hectares per Government/ Executive Council Press Release 15th June 2017. From the FRR it is now revealed that the Defective Line only delivers a small CP of 480 hectares which is **only about 33% of the Wider Assessment Area of about 1,446 hectares. This excludes about 66% of the land available with suitable values for a reasonable sized CP with viable ecological function,** but the ‘leftover land” approach makes it the second smallest size CP in the NT. This is regrettable as Size is an important criteria for successful ecological function. **Based on FRR Table 3.4 of Habitats page 17, the Defective Line CP**
- a. is mostly upland, has excluded valuable areas of countryside,
 - b. excluded 82% of the stream courses, especially most of the valuable lower stream lands,
 - c. excluded 99 % of lowland grassland,

- d. excluded 57% of secondary forest and ALL or 100% of the Fung Shui Woods,
 - e. excluded 76% of the shrubland,
 - f. while leaving in place the main threats of fire from Burial Grounds which are all around and in the centre of the CP but unregulated by the CP Regulations.
28. The figures would show worse exclusion if the Assessment Area had included more of the contiguous “extensive rural area” in the former Closed Area, eg the RNA, with its stream lands, GB and forest around Heung Yuen Wai. On this basis only about 29% is CP and 71% is excluded. This is more unreasonable.
29. **AFCD must honour the spirit of the Government promises to the public and instead of a small CP it should deliver a CP suitable for the Robin’s Nest Area based on principles policy and evidence.** If the eventual decision to rectify the boundaries is left to AFCD after the FRR and evidence is independently analysed by NGOs, then **AFCD now have the opportunity to rectify the situation**, carry out their duties and demarcate and do a valid Draft Map, then begin to designate a suitable CP based on principles and evidence which the public legitimately expects.
30. This Submission is intended to show some of the errors and omissions and **some of the evidence and principles and solutions to demarcate, make a Draft Map and designate a CP in accordance with the principles and evidence so far provided.**
31. When analysed by an informed reader, the FRR provides evidence which lead to the errors and inconsistencies being revealed by careful analysis by others. **The Presentation and Review Report and AFCD Report are thus inadequate, there is no valid demarcation and there is no basis to assess and designate and protect the CP.**
32. **The Presentation 2019 must be withdrawn as it is misleading and will lead to a defective CP.** FRR needs to be redone. Both needs to comply with the Principles and Criteria and policies before genuine consultation on demarcation and Draft Map before process of designation can take place. **The AFCD needs to demarcate first based on their own assessments and a Report which is based on the evidence and correct principles.**
33. **Amend at this stage as there is less time once the Draft Map is published.** It is essential that AFCD demarcate a valid Draft Map with NGO participation which complies with the law. **Once the Designation process starts and AFCD publishes the Draft Map, then per Section 12 there is 60 days for Objections and then only 6 months before the Draft Map must be sent to the Chief Executive for approval or rejection. Demarcate accurately now.**
34. **The Main Constraints.** The NGOs asked ERM and AFCD at the 28th February 2019 meeting, what were **the main constraints** governing the Boundary selection and were

told that **excluding Burial Grounds and Private Land were the main reasons for making the boundary**. This confirms the breaches of the Principles and Criteria.

35. **The Main Threat**. NGOs asked ERM and AFCD what were **the main threats** to the CP and **fire from the Burial Grounds was the main threat**. This confirms the need for the BG to be assessed for inclusion into CP so that the CP Regulations can effectively protect the CP.
36. These questions arose because they are not addressed or assessed adequately in the Presentation and FRR, because the Defective Line had already been chosen without valid demarcation showing the document is not fit for purpose of designation.
37. **The consensus of the NGO meeting** is that the current proposal has
 - a. **failed to implement the main relevant Policies** for Country Parks and Conservation in HK via BSAP 2016,
 - b. failed to follow the Principles and Criteria for Designating CP 2011,
 - c. failed to conserve the core areas of biodiversity, landscape value and recreation value, thus failing to give priority to protect such enclaves per BSAP Action 2b,
 - d. failed to protect the sections of lowland streams and riparian zones with rare and diverse biodiversity, contra to BSAP Action 3,
 - e. failed to ensure a viable and enhanced wild life corridor between Mainland and Hong Kong, contra to BSAP Action 4a, and
 - f. failed to make a sustainable CP which could be protected against the main threat which is fire from the Burial Grounds.
38. **Conservation Policy. The BSAP is Government Policy since 2016, but this has been breached or not followed by this defective Proposal so far.**
39. BSAP was adopted as part Government Policy for conservation and Action 2b specifically requires Robins Nest CP to be designated a CP.
40. **BSAP Action 2b** requires Govt to give priority to assess the suitability of CP enclaves for incorporation into CP. Instead the current presentation has done the opposite, **it has not assessed core areas for inclusion in CP**, has made new Enclaves which will fragment, harm and not protect CP from fires from Burial Grounds, and lead to re-zoning, development and uses on the GB/CP boundary which will not be suitable or compatible with the surrounding CP.
41. **BSAP Action 3** is to protect and conserve natural streams and their riparian zones. The FCA contains some of the best and last remaining natural streams in Hong Kong which have rich biodiversity in their lower section, yet these are NOT protected by effective CA or SSSI buffer zones in Lin Ma Hang and the lowland part of the important EIS, the lower part of San Kwai Tin Stream is NOT protected by CP or any

effective zoning. **Two of the main lowland stream sections in the area fail to be protected.**

42. **BSAP Action 4a** specifically requires ecological connectivity for wildlife to be protected or enhanced in the forest corridor between Wu Tong Shan and Robins Nest but this Action is omitted from the Proposal or Plan. **The exclusion of San Kwai Tin which is in a central position for connection to the Mainland is wrong, and will harm and not enhance wildlife connectivity.**
43. **This is to enhance our obligations to the Nation for conservation.** Using this Country Park and BSAP Action, and with the Conference of the Parties of the Convention on Biodiversity due to be held in **2020 in Beijing, it is vital to better protect our ecological connectivity to the Mainland.**
44. **The recent Greater Bay Area Plan also requires Enhanced Ecological Connectivity.**
45. **The Principles and Criteria for planning and designating CP have been breached or not followed in the proposal.** Lip Service reference is in the AFCD 2016 and FRR but the documents show there **is no assessment and no actual application of the rules to the evidence for the Demarcating of the Boundary hence it is defective.** This Policy is in 3 sections, Intrinsic Criteria, and Demarcation Criteria and Protection Measures.
46. **Intrinsic Criteria cover 3 main themes, Conservation Value, Landscape and aesthetic value, and Recreation Values.** The Wider Assessment Area has all of these Values as high quality but this is not considered nor assessed by AFCD or reviewed by ERM, a consequence of no complying demarcation, inclusion has not been considered and the exclusion not justified and no valid or fit for purpose demarcation was done.
47. **The Defective Line was caused by failure to apply and assess criteria for demarcating the boundary of the Potential CP.**
48. **Demarcation Criteria,** “such as Size, Proximity to existing CP, Land Status, and Existing Land Use (Land Use Compatibility) are those **criteria in demarcating a boundary of a CP.**” These Demarcating Criteria was NOT used, considered and assessed when making the Defective line. Proper consideration of these Demarcation Criteria requires some parts of Lin Ma Hang, Heung Yuen Wai, Wo Keng Shan and all of San Kwai Tin and other areas on the South Slopes facing Pat Sin Leng to be included in the CP. In summary:-
 - a. **Size Criteria A:** there was adequate countryside in the RNA which is contiguous, available and suitable for Potential CP of over 1,200 hectares (e.g. over 1,066 hectares of conservation-zoned land GB, CA etc in OZP-FRR Table 2.1 and 182 hectares of AG zoned land) but this was not assessed nor

considered for demarcating the Defective Line. So the Defective CP becomes one of the smallest in the NT at 480 hectares, which reduces and threatens CP functions and values for conservation, recreation and landscape. The Principles state that the Average Size is 1,800 hectares, this is because CP is for extensive areas, but currently 480 hectares is small.

- b. **Proximity to existing CP Criteria B:** Pat Sin Leng CP is nearby but proximity would be close enough if the Defective Line was not so far uphill. AFCD 2016 Report Para 4 makes this clear by stating the CP is part of an extensive rural area which forms the ecological linkage. When the Defective line is rectified with valid demarcation there are existing, contiguous, vegetated connections via marsh and Agricultural Land to Conservation Area and to PSL CP and the PSL contiguous vegetated area.
- c. **Land Status Criteria C** was wrongly used to exclude all Private Agricultural Land contrary to Principles and Criteria, see below. Burial Ground was wrongly considered as a Land Status, when it is Government Land, there is no private land status, and should have been included in CP subject to assessment of Existing Land Use and Compatibility, see below on Fire and BG.
- d. **Existing Land Use/Land Use Compatibility Criteria D**, was not assessed nor considered per the Principles. When all the Private Agricultural Land was automatically and wrongly excluded, this was also wrongly done without considering and assessing the Existing Land Use/Compatibility, **mostly un-used AG land, which the Principles and Criteria state is compatible with CP**. Similarly the BG existing land use was not assessed. Much of the BG are un-used, are mostly forest or shrubland, and those limited areas with burials are used in a traditional way compatible with CP setting which CP would respect and under CP Regulations would protect against fire and damage. See below on Fire and BG and Private Agricultural Land.

49. **The Land Status Demarcation Error. Criteria C**, states that “Government Land is to be preferred when a CP is designated. Notwithstanding this, **Private Land should be included in a CP if the use of the site is compatible with CP setting.** Hence **the Land Status criteria was breached causing defective CP exclusion**. In breach of Policy, the Defective Line followed by ERM/AFCD **excluded all** Government Land/Burial Grounds and Private Land from the proposed CP. **Demarcating was wrongly based on expediency by “automatically” excluding** all Government Land/Burial Grounds and all Private Land from assessment as Potential CP. Also wrongly excluded from the assessment is Government Land which is valuable Fung Shui Wood and CA behind or around Lin Ma Hang, and Government Land which is part of the continuous valuable woodland in San Kwai Tin.

50. **The Defective Line was done to exclude all BG and Private Lands** on the lower slopes of the hills and low lands all around the boundary of the CP as explained by ERM. FRR Fig 2.3 shows this as Existing Private Land Lots and Permitted Burial Grounds which AFCD 2016 Fig. 6 **wrongly states is a Land Status Plan**, which reveals how the existing draft Boundary has been drawn to exclude all such lands as

well as excluding a wide set back of 50 metres from BG and from Private Land, all around Robins Nest, contrary to the Land Status Principle/Criteria s and then also failing to assess contrary to the Existing Land Use/Compatibility Principle/Criteria D.

51. **Contrary to Criteria C, Land Status, the Defective Line excluded Private Land as a main reason for making the CP Boundary.** As the Country Parks Ordinance shows, and as the Policy shows, **Private Land Status is not a criteria for excluding it from CP as compensation can be paid to owners** who suffer financial loss from designation of their land as CP. Hence existing CPs have many hectares of Private Land inside the boundaries. Parts IV and V of the CPO expressly provide for including leased or private land in CPs with a compensation mechanism if land is diminished in value as a consequence of Government CP requirements on land control.
52. **For Private AG land there was no Criteria D Existing Land Use/Compatibility Assessment.** For example, Private Land in San Kwai Tin and many other places is essentially long un-used or abandoned farmland. In many other places no genuine or active farming is being carried out. **No existing land uses not compatible with CP were identified to us at the Presentation.** However Zonings and Habitats tables are provided in the FRR which states at 2.1.5 that **“a high proportion of the Agricultural Lands are now abandoned** leaving smaller areas of active Agricultural Land.” The Zoning Table 2.1 states there is 182.9 hectares zoned as AG, but the Habitat Table 3.4 shows only 16.9 hectares is Agricultural Land, the difference indicating **some 166 hectares or 90% are un-used AG in the WAA.** Hence **a high proportion of the Existing Land Use is compatible with CP.**
53. **Without considering or assessing the Criteria D, Existing Land Use/Compatibility with CP, the Defective Line wrongly excluded BG and Private AG Land. Some factors showing the areas should be in the Potential CP include**
 - a. the limited existing use or no existing active use, the Agricultural Land being largely un-used or abandoned,
 - b. the un-used, no recent use or very limited use of BG,
 - c. the lack of need as BG are very extensive relative to the low numbers or total lack of resident population in San Kwai Tin deserted ruined village where both Agricultural and Village land are now marsh and forest,
 - d. and precise habitat/land status of forest/shrubland cover or marsh or stream or sensitive areas and high conservation, landscape and recreation values
 - e. plus other factors **which would require CP inclusion under the policy to protect the area suitably.**
54. **The massive exclusions and defective demarcation is caused by errors and omissions.** Because all BG and Private Land was excluded, and because of the lack of assessment and analysis of the need, justification, existing use and other factors which is required, the demarcation was in breach of the Principles and Criteria Policy, the CPO objectives, and BSAP Policy and defective and caused the CP to be un-usually

small having regard to the extensive rural area of which it is part, per AFCD 2016 para 4.

55. **Private Land. More protection for CP needed hence 2011 review of The Principles and Criteria.** Para 2.1 mentioned the Old 1989 criteria that Government Land is preferred for CP “as there may be traditional rights associated with Private lots held by Indigenous Villagers within Village Environs and hence may create CP management problems.” However, despite this, para 2.2 showed the need for review in 2011 because development may not be compatible with the natural environment and “could degrade the integrity, the aesthetic and landscape quality of the CP as a whole...” The paper **recognized “increasing public awareness** over conservation of natural landscape of CP and their surrounding areas and **expectation on the Government to safeguard against any development** that would undermine public enjoyment of the natural environment.” Hence per para 3.1 the updated Principles and Criteria were introduced and explained in 3.2 where it was emphasized that **“The mere existence of Private Land will not be automatically taken as a determining factor for exclusion from the boundary of a CP.” But this was an error in this case.**
56. **Para 2.2 stated the rationale for the updated Principles and Criteria to provide better protection.** “We consider there is a need to review the principles and criteria for designating new CP or extending existing CP with a view to providing adequate protection to these sites from the nature conservation angle, including their landscape and aesthetic value, and assess the merits, justifications and implications of incorporating any of these sites into the boundaries of new or existing CPs.”
57. **It is thus contrary to the Principles and Criteria to automatically exclude Private Land of such quality and description as has happened so far at Robins Nest.**
58. **The starting point is that areas such as San Kwai Tin with conservation and landscape values must be included within the CP unless there are other valid justifications for exclusion.** The only reason given for excluding this rich area is the existence of the BG, - but it is mostly not used, and Agricultural Land which is also not used. The village has no residents and is in ruins. The Land Use has ceased for years. All the AG and V zones are either marsh or forest. The whole area and its setting is compatible with CP setting and designation. This error is because of failure to apply the Principles and Criteria to the facts.
59. Based on the Principles and Criteria para 3.2 ERM and AFCD need to assess if the **use of a site is compatible with CP setting**, stating “For example, where a site comprises **mainly agricultural land and scattered village houses, it would be considered as forming an integral part of landscape of CP** and thus be in harmony with the entire CP setting. However, where there have been extensive and active human settlements the site would be considered less suitable for designating as part of a CP.” If this assessment were done, and this principle was applied by ERM and AFCD, much or at least some of Lin Ma Hang area, Heung Yuen Wai area, and all of

San Kwai Tin, and much of the South slopes facing Pat Sin Leng and Plover Cove CP should be assessed as an integral part of the Robins Nest CP setting and included and protected landscape within the CP.

60. Hence, the **Demarcation Criteria D, Existing Land Use/Land Use Compatibility**, states that **Old Schedule Agricultural Lots or Old Schedule Building Lots “should be considered as part of the CP** from the perspectives of Landscape and Aesthetic Value, Conservation Value, and function. The use of a site will be assessed if it is compatible with CP setting. **Where the site comprises mainly village houses and fallow Agricultural Land, it could be considered as forming an integral part of landscape of CP and thus be in harmony with the entire CP setting. As such, it should be considered to be included in a CP to protect the overall scenic beauty and integrity of the CP.** However, where there has been **extensive and active** human settlements, the site would be considered less suitable for designation as part of the CP.” Para 3.2 shows Land Use Compatibility includes “existing land use.”
61. **What assessment based on these criteria this has been done so far?** None. The whole tone of the FRR and AFCD 2016 shows the abandoned/ un-used Agricultural Land IS compatible with CP, so it is additionally contra to Principle and Criteria to exclude it totally, but it makes no assessment for demarcation.
62. **What is the real Existing Land Use or lack of active recent use.** Based on information and photos most of Lin Ma Hang and Heung Yuen Wai is not being actively used for Agriculture and is suitable for CP and all of San Kwai Tin is suitable for CP. **The FRR 2.1.8 states a high proportion of Private Agricultural Land is abandoned and not used.** However they were all wrongly automatically excluded contrary to Policy, Principles and Criteria and evidence.
63. **Many other locations** in the Robins Nest area with CP setting and values have also not been assessed by AFCD and wrongly excluded from the CP. These need to be identified and assessed and included as appropriate. **Based on Plan D assessment all the GB zoning in the RNA is prima facie suitable to be classed as not AG, and suitable for CP when considered for the stated landscape, recreation, and conservation values.**
64. **The CP area has been further reduced all around by setting back the boundary 50 metres from Private Land.** The lack of a simple boundary will make enforcement of CP Regulations harder and facilitate poaching on the boundaries. This is bad planning, and wrongly encourages development encroaching the boundary of the CP, even in areas incompatible with CP and with no access. Leaving a GB zone on the boundary **will provide a planning loophole for incompatible uses encroaching onto the CP. This exclusion will cause enforcement problems and facilitate poaching, adverse encroachment and development impacts in future.**
65. **Fire from the Burial Grounds is the main threat to the proposed RNCP, in the opinion of ERM.**

66. It is thus logical and **essential to remove and minimize such threat** from fire by means of planning, reducing or removing incompatible uses such as BG, and having statutory CP controls under the CP Regulations to cover active recent BG which are in or near potential CP.
67. **The BG are excessive and unreasonable. ERM said that the areas of BG in the North of Robins Nest were large.** This was an understatement. Additional the 50 metres set back further reduces the CP area and wrongly expands the BG all around the CP. **The BG are very large**, and excessive for the size of population, such as in Lin Ma Hang, where a hillside, about the same area as all the Private Land in Lin Ma Hang, is currently BG.
68. **San Kwai Tin example.** Facts elicited at the AFCD/ERM meeting and in the Presentation show that it was wrong to exclude San Kwai Tin from the CP. The FRR and all evidence confirms this. **San Kwai Tin has NO residents, ERM informed us.** Inspections reveals that actually it has been deserted for years, is in ruins, and both AG and V zones are now marsh and forest. Contra to assumptions, the BG is not needed. There is no recent burial seen. Only one old and neglected grave can be found, and not in BG. **Yet it has a BG about 4 times bigger than the Private Land, and the area Excluded from CP also excludes much Government Land which is Not BG.** Most of this proposed Enclave is lowland forest and stream land with conservation and landscape and recreational values, and **the best, closest, essential ecological connectivity with Wu Tong Shan on the Mainland.** It is wrong in principle and contrary to BSAP or Policy to make another problem Enclave. The exclusion of San Kwai Tin because of BG and Private Land is contra to the Principles and Criteria for Designating CP and other policies and unreasonable. **Yet if this core of the CP is NOT protected by CP Regulations for fire and burials, then HKSAR will cause fire risks to the CP and Wu Tong Shan National Park close by.**
69. **Fire from Burial Grounds is a risk to CP and the countryside generally. Normally active BG which are not properly regulated by AFCD are a risk which makes a NOT compatible use with CP.** If one were considering permitting a new BG in an Existing CP this use would be rejected. In this case one has to consider a Potential RNCP with CP values, and has un-used or non-active BG, and use the Principles and Criteria to assess how to manage un-used and non-active BG which have no recent burials and also how to manage and reduce fire risks from existing active BG. **These assessments were not done so no valid demarcation.** Based on the Principles and Criteria para 3.2. ERM and AFCD **need to assess how the use of a BG site is compatible with CP setting.**
- a. In the case of the future risks from **un-used, non-active** Burial Ground at San Kwai Tin, in the heart of the CP, that would introduce a fire risk, and that use would not normally be compatible with CP setting. It is a continuing threat. When they become used they will then become a new **not compatible** use and

risk, and hence the BG future risk and use should be transferred, as there is no active, recent or existing use. Most of the WAA or RNA has little active BG. However, **the active BG** are of the traditional type so far, with bone pot structures, but not made into cemeteries which impact the landscape and recreation values.

- b. If **active recent and lawful** traditional BG use is taking place, the CP would respect such use and reduce the risks of fire and vegetation and soil damage by having the active BG within the CP so CP Regulations can better control the BG and better protect the CP against fire and ensure lawful burials take place with the least damage to the landscape, recreational and conservation values and activities of the CP. **The regulated use and reduced risk is a reasonable and compatible use.**
- c. Ombudsman Reports show that for areas outside CP, the DLO and HAB have for many years **failed to provide a system which effectively controls and enforces a system** to deal with burials in the wrong places. There result is higher fire risk and burials in the wrong places without regard to landscape and other values.
- d. Hence the CP system with **AFCD CP statutory regulations and Park Rangers, see FRR 4.2.5 is essential** to provide regulated protection for active BG inside CP. Reg 7 deals with fire risks, Reg 10 controls burials and construction of graves.
- e. In this RNA, **the un-used BG are compatible with CP** because they are not in use. **The active BG are compatible with CP because they are traditional type and very limited and fit in with the CP setting.** Both un-used and existing used BG are best included in the CP so that they are regulated for fire and burials under a statutory regime and protected by AFCD teams, so the CP and the BG are protected simultaneously. Fire breaks if needed can be maintained by vegetation experts in the active used BG depending on the vegetation without cutting the forest all over and causing more fragmentation.
- f. If after Designation there is a change in circumstances and a proved need to exclude a Traditional BG from the CP, there is flexibility and specific power to do this under Section 25(a) of the CPO.

70. **San Kwai Tin example for assessing if any active recent existing use as BG,** Aerial photographs do not reveal active or recent BG. The area is mostly 50 years old (or older) forest continuous with the rest of the hillsides and the proposed Robins Nest. Inspection confirmed no recent burial and only one old and unattended burial site. In so far as the BG is not active, not recent, not current existing use, it should be reduced in size and incorporated into a CP for better protection and control.

71. **Plover Cove Country Park is an example where BG were included inside the proposed CP** some 6 years ago, showing there is no automatic requirement to exclude ALL BG as being done in Robins Nest. This will enable better fire and burial control. Same applies to Pat Sin Leng Country Park and others.

72. **Preventing the usual destruction by fire.** Otherwise the BG will be left to the usual Lands D, HAD and non-conservation departments with limited resources, manpower and expertise for countryside management. The Ombudsman Reports on Burial Grounds shows the long standing failures in control and enforcement. This will **result in the usual destruction when fire from these BG destroys the new CP.**
73. **The proposed protection is a 10-20 m grass cutting for a firebreak,** (Presentation p. 21) **shown to be inadequate.** These are to be cut on CP land causing more impacts and loss. This may be additional to the 50metre buffer so CP does not “encroach” on Private vested interests. To reduce tree cutting, and ecological and landscape impact and preserve the size of the CP, the firebreaks should be in the grass in BG in active recent use per CP Management Plan. There should be least landscape and ecological damage if done by AFCD. The necessary budget and expertise is available. **AFCD would have the extra control via the CP Regulations to protect, enforce and prosecute.** Regulation 7 provides specific powers to regulate fire, Regulation 8 gives powers to protect vegetation and soil and Regulation 10 regulates construction, burial and grave construction. Using their statutory powers AFCD can ensure reduced damage to the landscape, recreation and conservation values of the CP. Using AFCD teams, expertise, special precautions and patrols take place in CP during high risk festivals. **In the absence of being CP then there are no specific Regulations,** and less protection but **greater human resources and firefighting capacity will become essential to cover for such poor CP planning.** These extra fire resources do not exist so the result will be greater risk and damage and waste of our small new RNCP.
74. **The BG are under DLO and HAD which has been criticized repeatedly by Ombudsman Reports for their lack of inspection, control, and enforcement.** They are supposed to control by giving approvals only for genuine cases of Indigenous Villagers of that village There have long been concerns that the system is abused in cases hence some Burial Grounds are becoming increasingly dense and built up like Wo Hop Shek Cemetery. More effort is needed to prevent the landscape values near this CP being degraded as a cemetery. The effective solution is to make this Government Land BG into CP.
75. **Burial Ground is not a Private Land Status,** it is not a right, it is an administrative a line on maps, it is Not Private, it is Government Land, and there is no deed or grant. It is not a recognized land use zoning on any OZP. It is not specified for exclusion in the Principles and Criteria. The AFCD 2016 Report 4.2 and Figure 6 Land Status Plan and ERM/AFCD Figure 4, labelled Land Status showing Private Land and BG, have wrongly considered BG as a ‘land status’ showing how this error was made. This error was NOT in the FRR Figure 2.3. These similar figures reveal how the Defective Line was made to simplistically exclude all these.
76. Thereafter there is **NO assessment of Criteria D** in AFCD 2016 4.2, of what was active used BG in suitable places and needs better regulation of fire and excavation risks, and made no assessment of what was non-active or not used BG inside forest or

shrubland or streams or areas of landscape value. In this Potential CP, most BG, used or not used, is suitable for CP but the future AFCD CP Management Plan needs to assess what BG can be used and regulated subject to the Regulations.

77. **Motives and fundamental errors. AFCD 2016 reverses the Principles and Criteria and the purpose of CP which is to protect Protected Areas.** Para 3.1.10 says “The absence of private land and limited human activities in the Study Area help preserve the conservation value of the area.” AFCD cannot only rely on a negative to achieve protection. They have duties to protect by action. Does this absence of danger argument apply to the areas outside the CP which have conservation value but which could be lost or become the source of un-regulated risks of fire and development impacts? Of course not, **the areas outside and contiguous have to be assessed for values and losses and threats and benefits with actions to protect and actions to enhance.** Not assessed.
78. Para 5.2 in the **AFCD Recommendation** to Government decision makers, states the source of the continuing error. “As the Study Area consists of Government Land only and does not have Burial Ground and Village Environ, **adverse comments of the nearby villagers ...are not anticipated.**” **Adverse comments was a reason for using the Defective Line and breaching the Principles and Criteria and other policies. The time for making and considering Adverse Comments is in Section 11 of CPO. It is wrong to use this consideration to demarcate a Defective Line and defective Draft Map at this stage.**
79. **The objective or main purpose of CP as a Protected Area under CBD is to protect the values and functions of CP** such as conservation values and ecological functions, connectivity functions, recreation values and functions, and landscape values. **To protect these, it is the AFCD duty to assess the Principles and Criteria in Demarcating the Boundary,** per the Demarcation Criteria. To carry out the Objective of Protection, **AFCD has to assess the values and threats** in the Potential CP in the RNA and demarcate to deliver optimal protection to all the values and functions. It is a failure to simply say that Private Land threats and human activities/land use are “absent” inside a line when there are medium term threats outside the line, yet this is how AFCD 2016 3.1.10 and 3.2.3 and 4.2 fails to carry out their duty. **If threats and losses inside or outside a CP line can impact CP then the demarcators need to assess how CP designation can reduce the threats and best advance the objectives and meet the Principles and Criteria.**
80. **When other Criteria are assessed, all show the merits of the Robins Nest Area as a whole including parts of the Wider Assessment Area, Lin Ma Hang, Heung Yuen Wai and San Kwai Tin, and the South slopes and other areas to be assessed.** Some criteria are as follows.
81. Intrinsic Criteria, **Conservation Value** states that “representative species or habitats ...have high conservation value, thus **deserving special care and protection** by designating them as CP.” Conservation Value is determined by such factors as

species diversity, degree of naturalness, rarity, fragility, representativeness, intrinsic appeal, historical records, position in ecological or geographical unit and the potential value. Robins Nest Area has all of this and all the more when including Lin Ma Hang stream and hills, and San Kwai Tin and the south slopes.

82. The Presentation is misleading and mis-represents the evidence and omits the areas not assessed for Conservation Value. It is especially misleading to those who have NOT been given the FRR or AFCO 2016 or do not have access to other Reports independent of this exercise.
83. The Presentation page 18 finds **overall high ecological value based on continuous vegetated habitats** with secondary woodland on the northern slopes with less disturbance, and high biodiversity of flora and fauna. This is correct but this misleads in **failing to inform the public that San Kwai Tin is at the core** of that assessed Secondary Forest, and part of the Intrinsic Value of the continuous secondary forest across the north of Robins Nest Area, but has been excluded. To avoid misrepresenting the situation, the Report, Study and Presentation should have requested consultation on whether San Kwai Tin should be included or excluded and provided the relevant factors and evidence to the public. Fair consultation and genuine assessment is needed.
84. The Presentation fails to inform that San Kwai Tin **has new or rare tree and plant species for Hong Kong** in its forest and its stream has rare fish and snakes, some of the fishes and snakes are of Local Concern. See KFBG Survey Report 2004 which recommended this area be designated CP.
85. Similarly, the Lin Ma Hang area was excluded from consultation and the public is misled. The Presentation **fails to inform the public that Lin Ma Hang forest has new and rare plant species, the stream has species of high diversity and abundance**, with 2 species extremely rare in Hong Kong, with Global and Local Concern. It is probably the most important lowland stream for fish in Hong Kong. Again, KFBG Survey Report 2004 recommended this area be designated CP. The FRR has numerous studies supporting this opinion yet NO ecological connectivity is provided to the stream.
86. Old Lead Mine SSSI is important, and part of this continuity which is vital for biodiversity, especially mammals. The Presentation ought to have noted it is contiguous with San Kwai Tin so will be impacted if San Kwai Tin is left unprotected.
87. **None of this has been mentioned in the Presentation, which misrepresents and misleads. There is evidence to show great Conservation Value outside the Defective line but a fair and complete assessment is needed.**
88. **Landscape and aesthetic value** can be qualitatively assessed against the following criteria, degree of naturalness, scenic quality (which includes villages and buildings),

integrity or completeness, distinctive features e.g. waterfalls, effect of urban development and eyesores. Robins Nest Area fulfils most of these criteria, hence the Presentation page 18 states there is high landscape and aesthetic value, but fails to examine what and where are the threats to such scenic beauty. **The CP landscape will be severely impacted** if Lin Ma Hang is developed much more in its valleys and hills, and especially if San Kwai Tin is developed with a cemetery.

89. AFCD 2016 Table 2 states repeatedly the hilly terrain is the scenic backdrop for the villages, and has photos 3,5 and 6 showing such backdrops and contiguous but NOT protected landscapes. But these lower areas are Excluded from the CP. **Even the Front Covers of FRR and Presentation depicts the extensive rural areas in RNA landscape which are not protected by the Defective Line.** This demonstrates that it is **not possible to divide up this connected RNA landscape** per the Defective Line, because this Line leaves the **landscape unprotected against development and fragmentation so its values of integrity and completeness will become lost.**
90. The Presentation page 18 asserts the proposed RNCP has **rich cultural and historical resources** but **misleads and fails to inform that most has been excluded from the CP** and the best heritage buildings, ancient fung shui woods and village landscapes have been excluded from the proposed CP. The Presentation again misleads and misrepresents the situation, but the situation is partly revealed in the FRR. This reveals that such landscapes are compatible with and part of CP setting and should be included as such. Such landscapes include Heung Yuen Wai and Lin Ma Hang and fair and complete assessment is needed.
91. **Recreation Potential.** This assesses the carrying capacity for countryside recreation activities which are compatible with the conservation objective. Robins Nest Area will be able to deliver **more capacity and more potential if flatter, streamland and lowland areas are included** such as Lin Ma Hang and San Kwai Tin.
92. **The Presentation is contradictory and excludes reasonable pedestrian access.** The lower paths going from east to west across the north part of the Robins Nest Area and Lin Ma Hang or Border Road are in the maps on pages 22 and 23 which propose routes across the north and through San Kwai Tin. The parts near the old Lead Mine need some barriers, and signs and repairs, but generally the north route is useable by hikers. Contradictory to this, it is proposed at page 25 that this north route should be excluded from visitors because it is alleged Police do not like people getting near the Border Fence. The Lin Ma Hang Road near the Border Fence is being widened at public expense to enable hundreds of cars and visitors per day, FRR 2.3.3. This Road is already near the Fence. People will be driving and walking to Lin Ma Hang in larger numbers, and increased numbers is inevitable. Hence appropriate Police presence could be a welcome help against poachers using this access, but warning signs, cameras and such presence would be enough to stop inappropriate conduct near the Fence. **CP recreation potential is being cut back for no good reason.**

93. **The Defective Line makes the Entry Points to the CP a long way uphill from the start of the paths to be used.** On the east, from Shan Tsui Village Road the walker has to climb uphill for over 30 minutes, through beautiful mature forest, before getting to the Defective Line. This means the forest is unprotected and outside the CP. On the west, the walker has to climb 917 steps, leaving the wooded area, taking about 30 minutes to reach the Defective Line. Again, the attractive habitats will be unprotected and the usual degradation of the NT will be apparent to visitors. **The Recreation Potential needs to be protected and enhanced, not degraded by being left out of this new CP and then converted from GB to residential.**
94. **Also excluded by the Defective Line is the Robins Nest Road to the summit** and radio stations. This again leads to less control, no AFCD and CP Regulations control and another route is open for breaches, poaching, and lack of effective enforcement. FRR 2.1.2 says that it is not clear who is responsible for maintaining this Road. Hence this is the time to clarify responsibility, put control in the hands of AFCD, who can better protect the CP with a barrier against inappropriate vehicle entry. Hikers will have greater enjoyment without the nuisance from private vehicles.
95. The main paths or routes in lowland areas provide **easier access to grand and valuable village architecture, slow moving clear wide streams with fung shui woodlands with massive old trees**, so that heritage tourism and photography are in harmony with conservation of both heritage and nature. Cutting out these areas will be folly and destroy our duty to conserve and enjoy for future generations on a historical landscape scale.
96. Assessment is needed so that scenic paths through our natural and cultural heritage are preserved in CP for future generations to enjoy. **There is a need to link the new CP to the Wilson Trail in Pat Sin Leng, but there is no provision for this.**
97. **Excluding so much recreation areas will cheat the public of the Robins Nest they were promised.** From a larger RNA or 1,446 hectares of Wider Assessment Area cut to 480 hectares, on this basis **the cutting out is about 66%**. Based on the RNA the cutting out is similar or worse. It is **absurd to make a one-third CP which excludes so much available countryside which is Government Land**, much lowland with the best lowland streams, some of the best forest at the core of the continuous forest, the key area of connectivity to the Mainland, the most scenic landscapes, and the most valuable and ancient cultural heritage, old massive Fung Shui trees, and the most suitable areas for recreation and education on all these values.
98. **Examples of unreasonable exclusions caused by the absence of CP demarcation is seen in the Presentation and FRR and AFCD 2016 as follows.**
99. The Presentation of February 2019, being the latest position of the AFCD and ERM, **is selective and mis-represents the wider Robins Nest Area, as the public are not told of the natural and heritage values which were excluded, and the public are being misled.** The Presentation of 2019 is defective, inadequate and misleading as it

excludes studies of the Lin Ma Hang, San Kwai Tin, Heung Yuen Wai and other important areas and their respective values which meet the Country Park principles and criteria for designation as CP.

100. **Data is Excluded or selected hence FRR 2018 is also misleading** as it provides a selected review of the data, omits some data and relevant studies, and obscures or downplays the CP values of the areas outside the AFCD boundary. The FRR does have extracts on Lin Ma Hang but not other relevant areas. Data relevant to some areas excluded is missing. For example, FRR 3.3.1 states Figure 3.1 shows where Flora species have been recorded since 2002. This is not correct as Figure 3.1 states that it **only** uses AFCD records, and hence omits other records of rare species and sources of data, hence it **omits the data of rare species at San Kwai Tin recorded by independent experts.**
101. The FRR was largely based on and repeatedly refers to the AFCD 2016 Report. On seeing the AFCD Report it does not contain materials referred to in the FRR, see Flora Figure in FRR which has A3 for San Kwai Tin but this is absent from AFCD Report. FRR has selected extracts from AFCD 2016 for inclusion and **excluded extracts and information in a way which demonstrates the failure to follow the Principles and Criteria.**
102. Although the FRR mentions the report Land Use Planning for the Closed Area, Arup 2010, upon which the zoning was based, see RR 2.2, and 3.3.1 etc, it appears that the FRR tables and data for species and locations **does NOT present the data on species gathered by Arup and its consultants.** It only mentions or presents data from the few and limited surveys of ERM and presents only partial data from AFCD 2016. **Other data excluded is the KFBG 2004 Report** on relevant parts of the Closed Area, including San Kwai Tin, which contains authoritative and important findings and recommendations.
103. **These omissions are examples showing that demarcating to identify and protect conservation values with CP designation has not been done.**
104. **The FRR repeatedly notes that the Wider Assessment Area has various CP values,** see FRR Conclusions 7.2 on ecological value, FRR Conclusions 7.3.3 on Landscape and Aesthetic Value and FRR Conclusions 7.3.4 on Hiking Routes which travel through much of the WAA, **but makes no recommendation that such values, functions, areas or uses be included into the CP boundary,** presumably because Government may object because such opinion may be outside their Assignment. It is thus left to the informed reader to wonder why such were left out and whether more areas should be included. **This demonstrates the FRR is deficient for demarcation leading to designation which delivers a good CP because it was based on a Defective Line.** The end result is that the FRR obscures or downplays or does not assess the values of the areas excluded from the CP so that the absurdity of the Defective Line is obscured. FRR avoids making recommendations as well as avoiding expressing its support or approval.

105. **Ecology and Habitat exclusions which show no valid demarcation.** FRR 2.1.1 states Lin Ma Hang has value but excluded and no ecological connection to CP provided.
106. FRR 2.1.3, Conservation Area Fung Shui Woodland in WAA but excluded from CP. And FRR 2.1.4, Coastal Protection Area in WAA but excluded from CP.
107. FRR 2.1.8 page 8 states OZPs note the various habitats worthy of conservation, but are excluded with no justification. These “including natural streams from high ground to coastal lowland areas, undisturbed woodland and lowland forests, as well as Fung Shui Wood,” are left out of CP protection.
108. **Another 3 references, FRR page 16, evidence the values of areas omitted from CP.** The NENT Report identifies the Lin Ma Hang Stream, **Wo Keng Shan Fung Shui Wood** and Robin’s Nest countryside as ecologically sensitive areas. The woodland was ecologically linked to the Lin Ma Hang Stream SSSI and was considered to have high potential value with protection in place. Despite these values, left out of CP.
109. The Widening of Lin Ma Hang Road Report also identifies the Fung Shui Wood as a potential ecologically sensitive receiver. Not protected by CP.
110. **The Arup 2010 Report** is noted as stating the “high level of ecological significance in terms of plant diversity and woodland integrity with minimal human disturbance” of Lin Ma Hang Fung Shui Wood. This again notes the high ecological value and **linkage** of the forest and shrubland from Lin Ma Hang onwards, and their **ecological linkage** to adjacent Guangdong. But all omitted from CP.
111. **FRR page 16 states Arup collected ecological data over the majority of the WAA, apart from the south west, but its data is missing from the FRR.** This shows the misleading aspect of the FRR. The selective use of data is noted above. Despite this, there are **examples to be seen of the unreasonableness of the exclusions.**
112. FRR Table 3.6 based on AFCD Fauna records only, notes that the almost extinct in HK Crab Eating Mongoose was recorded, **but omits to highlight the absurdity that most of the range of this animal is OUTSIDE their defective CP.** FRR Figure 3.4a shows 2 or the 3 locations are mostly outside the CP, near Lin Ma Hang and San Kwai Tin, and Sha Tau Kok. For the Yellow bellied Weasel, both of its ranges are mostly outside CP at Lin Ma Hang and Sha Tau Kok. For the bat, Whiskered Myotis, its single location is centred around San Kwai Tin so mostly excluded from CP. **The FRR does not point out this demarcation defect and failure to protect the 3 most important species of mammals.**
113. **The Butterfly information** FRR page 24 shows how **the main habitats are outside CP.** The only conservation proposed here is a **green corridor.** FRR Figure 3.4d

shows **5 out of 8 significant species are outside the CP**. The defective boundary is not noted by the FRR.

114. FRR page 24- 25 had ERM own overall observation that mammal scats were frequently found within the WAA. They “suggest the **large continuous less disturbed habitat** within the WAA may support a healthy population of various mammal species.” Despite this opinion, the WAA is not in the CP and the role played by the WAA in supporting the populations of all kinds in the CP is not mentioned. **A key criteria** for a successfully ecologically functioning CP as ecosystem is a CP of a **suitable size and with suitable mosaic of habitats**. The RNCP is both too small in Size per the Demarcation Criteria, and mostly upland. Again, failures in demarcation from not applying the Principles and Criteria.
115. **Agricultural Land, Private Land exclusions**. FRR 2.1.5, high proportion is abandoned, but no comment that this land use is compatible with CP so some un-used AG land with CP landscape and recreation values, forest, shrubland, and connectivity values should be CP to comply with Principles and Criteria and common sense.
116. **Recreation values and Hiking Routes exclusions**. FRR 3.6 and FRR Table 3.14 reveals that **ALL the real Entry/Exit Points are outside CP and far from the CP boundary**. Entry C, near the Top of Robin’s Nest is nonsense, it is not an Entry Point, it is a destination near the summit or a half way point to the other side. **The Hiking Routes begin and end far outside CP, how disappointing is that, when beginning and end would be un- protected and become degraded landscapes**.
117. Visitors will have to walk uphill for some time before even entering the Protected Area, and the paths will be OUTSIDE the jurisdiction, protection and safety services provided by CP Park Rangers, fire prevention teams and staff, so **dumping, vegetation damage, excavation, site formation, and usual NT unauthorized and unenforced activities will enable conversion of GB to residential zoning. This would be carrying on in full view of the hikers**. It will be an education of an unexpected sort, into how the NT is mis-governed. **This will create a bad impression on visitors. Those visitors hoping to learn from their experience will ask: How could AFCD plan the boundary of the CP so badly?**
118. Examples: at Lin Ma Hang the hiker has to climb 917 steps for 30 minutes through forest and shrub before entering CP. The proposed Lin Ma Hang Visitor Centre, currently an old dis-used school, has good trees and a stream course and rich biodiversity and is **contiguous with the Fung Shui Wood which is CA. To provide an enriched connected experience this GIC must be made part of the CP so there is an exciting entrance to the CP**.
119. At Tong To, and Ma Tseuk Leng Tsuen the entry goes through good secondary forest or in Wo Keng Shan via shrubland. From Shan Tsui Village Road one enters a tall mature forest and walks for 30 minutes uphill before reaching the CP line. **These**

pleasant and popular entrance ways should be protected to give a good impression of what is inside and hence protected as part of the CP.

120. **Cultural heritage values and exclusions.** FRR 2.1.8 shows the opportunities for tourism and the cultural heritage of the wider Robins Nest area, but makes no recommendation to include such values into the CP. There are numerous comments which recognize these CP values, but the FRR does not follow its findings to the logical conclusion that they are part of the CP setting and thus can be considered for CP.
121. **FRR 3.4 notes how the heritage attracts hikers,** but fails to point out they would be attracted to the WAA, outside the CP, which is not a Protected Area or landscape. FRR Figure 3.7 shows only 4 attractions in CP, which are military history or mining history, while **the 17 major historical attractions are left outside in an unprotected landscape.** The FRR failed to mention Heung Yuen Wai with its grand scale mansions and watch tower set among massive Fung Shui trees. Most tourism operators would find this omission of such a tourist attraction absurd.
122. Education Resources are in FRR 3.5.3 with Table 3.13 finding **6 of 12 educational resources are left out of the CP.** Key parts of the Eco corridor and the Biodiversity are excluded.
123. **Ecological Linkage and Corridor exclusions.** References to AFCD 2016 at FRR 3.3.1 page 14 note the overall conservation value of the proposed RNCP (ie without WAA) is high. The AFCD “Report considered the secondary woodland/mature shrubland habitat spreading from Lin Ma Hang and Pak Kung Au have **particularly high ecological value**, due to the rich plant diversity and **ecological linkage** with adjacent areas of Wutongshan National Forest Park ...” Despite these important values, the Lin Ma Hang area is left outside CP. Arup 2010 shows the high value ecology between Lin Ma Hang and Pak Kung Au, and San Kwai Tin in the core must be protected as CP. AFCD 2016 Report para 4 and Table 1 states the **ecological linkage existing** from the extensive rural area between Shenzhen and Hong Kong’s Protected Areas. Table I states it is “an important component of **an ecological corridor between the existing Pat Sin Leng Country Park...and the Wu Tong Shan National Forest Park ... in a regional context.**” Yet this is not protected in CP.
124. **Yet a gaping hole in the core of the continuous forest CP** in the FRR is caused by leaving out San Kwai Tin Forest from the evidence available. FRR 3.1 based on AFCD 2016 omits all rare plants from San Kwai Tin or Area A3. They also both omitted KFBG 2004 Survey with rare plant findings. Inspection revealed that at San Kwai Tin there is obvious, closest and direct ecological connections, to Wu Tong Shan. Here the highway is in a tunnel. Yet the HK side with the closest connection is not being protected. **This is a direct breach of BSAP Policy.**
125. **Despite the repeated evidence of ecological linkage by AFCD themselves,** later parts of the FRR 3.3.4 page 27 downplay the existing linkage and claim instead it has

potential, and discusses wildlife crossing structures and all the downside problems to conclude that only airborne connections for flying creatures should be protected. Existing and improving underpass structures were down played.

126. **The alleged connectivity problems are caused by the Defective Line but this point is omitted.** If more of the existing border areas were part of the CP, the connectivity would be continuous on the HK side. If more of the HK side were CP, there would be Protected Area connectivity from the Mainland to Pat Sin Leng CP.
127. **Connectivity to Pat Sin Leng CP is hampered by the Defective Line being so far uphill and away from the Sha Tau Kok Road instead of using existing vegetated countryside** which is Government Land, or Government Burial Ground or Private Agricultural Land. There is much scope for improved and closer connection but this is prevented by unsuitable boundaries caused by failure to follow the Principles and Criteria. AFCD 2016 para 4 and Table I admits that PSL CP is 1.5 kilometres distant but claims **there is ecological linkage** which can be enhanced by the CP. Hence AFCD 2016 claims there is ecological linkage **because they use the un-protected extensive rural areas as part of the ecological linkage**. This shows the invalid demarcation. The solution is using the Principles and Criteria to demarcate a line to include vegetated slopes and GB and some AG to the south to bring the protected connecting areas in contact or close to each other.
128. **An Extension Connecting Country Park should be demarcated** to connect the Robins Nest Area CP to Pat Sin Leng CP. Protecting the areas between the two parks across the Sha Tau Kok Road will implement regional connectivity per BSAP and the AFCD 2016 Report objective at Para 4.
129. **Lack of balance and protection of lower lands and their special Intrinsic Values.** Hence, as is the problem with other CP in HK, the areas conserved are not balanced between lowland and upland, but have imbalance and lack of protection for lower lands, lower slopes and valley bottoms and slow moving streams all of which have relatively higher or different biodiversity, landscape and recreation value than the high lands and hill tops. **Particularly in RNA, the low lands and stream lands also contain heritage buildings and trees in their natural setting and valuable fung shui.** Demarcating a Draft Plan should protect both heritage and natural values in a complete landscape which is a highly valuable educational, leisure and tourism resource.
130. **The proper balance is reached by using the principles, implementing the Policies,** assessing the high values so the high merits of this CP are recognized, then the vital need to protect the whole RNA CP against fire from Burial Grounds makes it the overriding public interest to demarcate per the Policies and make the BG and some of the Private Agricultural Land into CP. This balance has to take 2019 National Strategy into consideration.

131. **Ecological Connectivity is a National Strategy which Hong Kong must enhance.** The FRR does not accord priority to this but AFCD 2016 repeatedly stresses that the RNA has ecological linkage between Wutongshan National Forest Park and Pat Sin Leng CP via the land between, see AFCD Report Recommendation 5.1. Despite AFCD claiming to enhance this connection, the Defective Line fails to protect the existing connection against numerous threats as noted in this Submission. Some of the Actions to fulfil the Greater Bay Area Plan for connectivity and the BSAP Actions are summarized.
132. **Ecological connectivity to the Wu Tong Shan National Forest in the Mainland makes San Kwai Tin of special and overriding importance for conservation.** Yet the Presentation page 18 only says there is potential ecological corridor, page 20 limits this to flying animals only, this omits BSAP Action 4b which requires genuine connectivity, and omits to inform the public that the alleged strengthening of the corridor per page 20 is contradicted by excluding from the CP a core part of the existing connectivity which is San Kwai Tin. **The KFBG Survey Report 2004 highlighted this connectivity**, noted it is the last such corridor to the Mainland, had found that Wu Tong Shan National Forest had rare wildlife NOT present in Hong Kong and high biodiversity, and advised that connectivity was vital, and so that gene flow from north to south could continue.
133. **The strategic importance of this corridor** can be seen in the following quote from KFBG at 6.1.3. “The sustained proliferation of biodiversity in Hong Kong will benefit from a natural free flow of both species and genes into and out of the Hong Kong populations, for many terrestrial based species green corridors provide the last opportunity for such movements to take place. Allowing our last natural land links to the biomass of the Chinese mainland to be severed would effectively isolate much of Hong Kong’s fauna. The ultimate effect of genetic isolation can be as severe as declining fecundity and eventual population collapse. Severing the green linkages would also prevent the natural re-colonization of our recovering forest with species which are currently absent, and incomplete ecosystem is not a stable or sustainable system.”
134. If San Kwai Tin is not protected and becomes an **active BG it will jeopardize our connection to the Mainland, cause the main risk of fire** to the central core of the Robins Nest CP and would cause flying embers and burning materials and increased **risk of fire jumping to the next door Wu Tong Shan National Forest.** Hong Kong Burial Grounds all along the Border at Lin Ma Hang, San Kwai Tin and Tam Shui Hang would be causing risks instead of benefiting the Mainland.
135. **The Southern Slopes boundary** would generally follow the line of the village settlements in active use and occupied with houses or structures, and to identify and include well vegetated areas, especially forest or Fung Shui Woodlands, some of which are CA. The boundary should get as close as possible to the rear boundaries of Ma Tseuk Leng Tsuen, Lap Wo Tsuen, Tong To Ping Tsuen and Ha Tam Shui Hang. This brings the boundary closer to the Pat Sin Leng CP.

136. **Several vegetated wildlife corridors exist** between such villages or structures and which connect Robins Nest Area to the Sha Tau Kok Road and the Pat Sin Leng Country Park areas to the south or the Starling Inlet shores to the south east. Based on the Aerial Figure 1 there are 6 vegetated corridors of about 250 metres width or more which provide existing corridors and with better design have potential for better CP wildlife corridors. AG land and Government Land are suitable for CP to achieve this connectivity. In the Revised Plan to begin with the 2 obvious and more complete corridors are given as examples. Connections or wildlife linkages to or through areas which are valued as CA or GB or SSSI or which are existing marsh or stream watered areas are especially favoured and should be identified.
137. **A Connecting Extension Country Park is needed to protect the regional connectivity mentioned in AFCD 2016 and which is part of BSAP Actions.** There is a need to begin demarcating a Draft Map for a CP between Robins Nest and Pat Sin Leng CP and amend plans and developments accordingly.
138. **The Outline Development Plan for the Guangdong Hong Kong and Macau Greater Bay Area, LegCo Paper 19th March 2019, para 36(iv) on Ecological and Environmental Protection requires Hong Kong “to strengthen Hong Kong and Guangdong co-operation in ecological connection such as establishing ecological corridors and enhancing ecological conservation for adjacent regions.”** This demonstrates that the Regional importance of the corridor between Wutongshan National Forest Park and Pat Sin Leng CP, put forward by KFBG 2004, in BSAP Action 4b and recommended by AFCD 2016 is now part of a key National Development Strategy which has been personally devised, planned and driven by President Xi Jinping, see para 2.
139. **The Greater Bay Area Plan Para 37 covers Leisure and Para 42 Tourism** which both are highly relevant to the values in the WAA and of the RNA but which are mostly excluded by the Defective Line. The Robins’s Nest Area CP now needs to be demarcated using the Principles and CPO and other policies to **better achieve this National Strategy** with a Draft Plan which enhances the existing ecological connectivity to the north and south of the RNA so as to enhance ecological conservation in adjacent regions, and to protect the education recreation and tourism values in the RNA.
140. **The Task Force on Land Supply Report of December 2018 found overwhelming public support for NOT encroaching on CP.** The public sentiment has always been very clear and this RNCP cutting back on CP and **encroaching on the CP boundaries for private development interests is not to be tolerated.** These findings having been accepted by Government in February 2019, the Robins Nest CP should be demarcated with the areas included.

141. Following the above and Principles and Criteria for designating CP, the contents of the **Robins Nest Area CP should include the following objectives and include the following areas.**
142. Add for protection, per BSAP Action 2, at specified locations in Robins Nest Area the **forest and shrubland and grassland habitats** which is generally good quality and continuous. As FRR notes, the **large Size and continuity** of habitat makes this RNA particularly rich in mammals, which usually have larger range requirements. **The Size criteria for CP needs to be satisfied.**
143. **For ecological connectivity**, see above, and per BSAP Action 4a, add those vegetated areas and connected to the Robins Nest Area and which enhances ecological and visual connections to Wu Tong Shan National Forest on the northern boundary, and which protects ecological and recreational and visual connections to Pat Sin Leng Country Park and Plover Cove CP and Starling Inlet to the south. An extension connecting CP needs to be demarcated between RNA and Pat Sin Leng.
144. **Streams.** Per BSAP Action 3, is to enhance conservation, in particular lowland sections which are rare in Hong Kong. This Robins Nest Area has some of the best remaining stream systems in Hong Kong. Hence all or most of the stream courses here should be identified and protected as a whole ecosystem. The CP can connect the tributaries and upper and middle parts of the streams at Lin Ma Hang, Heung Yuen Wai and nearly all of the clean San Kwai Tin stream. Streams flowing towards Sha Tau Kok Road and those contributing towards marshes in AG or elsewhere should be identified for effective protection.
145. **Provide protective zones and buffer areas**, in areas which do not meet CP criteria but which should be protected by zoning with SSSI, CA or GB with specific conditions to protect the specific areas. AG land, especially the land which is not used, or which is wetland or marsh, should be protected with special conditions.
146. **Provide recreation and education in CP** with linked trails for hiking, which provide optimal access to the variety of habitats including lowland, streams, and landscapes with heritage structures, Fung Shui woods, and mountain to the sea and from Hong Kong to the Mainland, with complete landscapes of outstanding natural beauty. The Wilson Trail could be extended from Pat Sin Leng CP.
147. **Generally omitted** would be dense housing, large village areas, most V zones, land which is actively occupied and used, and which suffers most from land abuse or Melhado uses, Brownfields and the like, and which do not meet CP criteria.
148. **The Robins Nest Area demarcated boundary based on the above would include;**
149. **The Border Road would generally be the north boundary.** The intention is to generally provide a clear physical existing marker which is some distance from the border Fence itself in most areas. The Boundary would follow the Border Road from

Lin Ma Hang to Access Route 4. **This would be a practical and clear line, which Police presence would help enforce.**

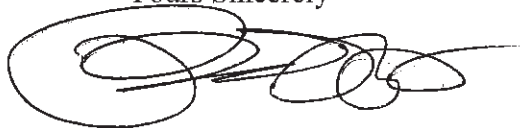
150. **Heung Yuen Wai and Lin Ma Hang.** The CP should include their high ecological value streams and Fung Shui Woods, the riparian areas of the streams and the hills with huge old trees. For high heritage, recreation and scenic values, some AG, some V zone, and some of the attractive structures eg watch tower and grand houses in their heritage settings should be in the CP. This needs to be assessed in more detail.
151. There are large areas of AG not used and the V zones are large for the low population so it is reasonable to protect the streams and riparian areas at least with set-backs of about 50 to 100 metres which could protect the water quality for sensitive wildlife and the landscape.
152. **Heung Yuen Wai Village is subject to NENT Landfill Gas rated as Moderate Hazard** within the Land Fill Gas Consultation Zone 250 metres from the NENT, Small Houses would be highly sensitive receivers so house construction, excavations, and operation would be subject to special gas resistant membranes, protective methods and EPD controls. The Village is about 180 metres away. See Arup Final Report 2010 7.5. The FRR 2.3.2 says CP should not encroach Landfill because of such hazards but in reality CP has no sensitive receiver with no body constructing or excavating the CP land nor living in the forest. Instead the FRR more logically ought to have found that **with these hazards and constraints, development in the forested hillsides around is not likely and hence CP protected forest is the only appropriate future use.**
153. **Lin Ma Hang.** The hillside woodland which is between the Village and CP boundary should be included into the CP and not excluded for future use as BG. This enables the Fung Shui Woodland behind Lin Ma Hang which is Conservation Area to be linked and form part of the CP. The BG is disproportionate in area to the size and population.
154. **Entry and Exit Points.** Based on this, using Presentation Map page 25, the CP West boundary should be moved west to be near the current proposed Access Route 1 which also becomes Entry/Exit Point A. Moving the boundary to this location would be close to the proposed Visitor Centre at Lin Ma Hang school. This GIC has good trees, a stream, and mammal records. Being contiguous to the CA Fung Shui Wood it should also be part of CP.
155. **Visitor Centre.** How would the AFCD at Lin Ma Hang Visitor Centre educate young visitors of the values of the Lin Ma Hang Fung Shui Woodland CA and the exceptional Lin Ma Hang Stream, without the youngsters concluding it was absurd for such trees and stream and rare landscape to be excluded from the CP? They would realize or learn that the promise of a CP for the public was subverted to private vested interests.

156. Again, the Entry/Exit Point B should be moved east to the similar location as Access Route 4. This has the benefit of having the main access routes and entry/exit points at the same place at Shan Tsui Village Road forest. Moving the Boundary and the Entry/Exit Point B to the east would make it closer to the proposed Visitor Centre near Tam Shui Hang.
157. **The Entry/Exit Point C near the top of Robins Nest is wrong.** The FRR 2.1.2 says it is not clear who is responsible to maintain the Robin's Nest Road. Making it part of CP would clarify responsibility and give AFCD control. Having this concrete track inside the CP gives clear control using the CP Regulations. It would prevent the road being an entry point for Brownfield uses degrading the area. Access Route 2 should be moved away from the heavily polluted Wo Keng Shan Road with trucks going to the Landfill.
158. **Wo Keng Shan should be protected as CP** as it forms part of the entry. Pleasant path **access should be via a green route or corridor** from Sha Tau Kok Road and all within a CP corridor. The Entry/Exit Point C should be moved to use a route via Man Uk Pin and descending towards Loi Tung or further east towards Wo Hang area and **make a connection to Pat Sin Leng CP.**
159. **Other places** need assessment for similar inclusion for areas with a mixture of natural and heritage values in the CP setting.
160. **San Kwai Tin**, has high ecological value generally, is the heart of the continuous forest cover, has a complete stream course, the closest and most intact direct ecological connectivity to Wu Tong Shan National Forest, and general high landscape value. The place has been deserted for many years, all structures are in ruins and barely visible, and both AG and V zones are now marsh and forest. No recent burial can be seen, there is only one old grave, and future demand for BG would be extremely small and does not justify the major fire risk to be caused by new burials at this location. Nearly 100% of the excluded land is Government Land which is very well wooded.
161. **It is unreasonable to make an exclusion or New Enclave** which would jeopardize the integrity of the new Park and Wu Tong Shan in the Mainland. New Enclaves are now contrary to Conservation Policy and BSAP Action 4b. Whereas one is perpetuating old Enclave problems in existing CP, problems made by ignorance and vested interest, this New Enclave must not be made by AFCD deliberately and will make new future management and conservation risks for another generation. Not protecting San Kwai Tin would be a setback for the National Strategy for Ecological Connectivity at this point.
162. **A Revised Timetable and Action Plan for demarcating the CP and which now includes the public and Environmental NGOs is needed.**

163. End April, submit comments on FRR and Presentation. But Just got AFCD 2016 Report on 26th April 2019. This is not reasonable.
164. Timetable per Presentation is **Mid 2019 to start Designation process for finalizing at end 2020**. Starting Designation process may be possible by end 2019 if the AFCD agree with these Submissions, participate with NGOs and demarcate promptly and in compliance with this material.
165. **Actions** would be to withdraw ERM Presentation February 2019 and begin a participatory process to demarcate CP with a new Report showing demarcation of the Potential CP in compliance with Principles and Policies and National Strategy.
166. Appropriate time and opportunity for genuine participation and consultation by NGOs is essential. **This should continue to end July** so that AFCD have time to approach and review and demarcate all with minds open to the Principles and Criteria and evidence. There is now the opportunity to achieve consensus in compliance with the Principles, Policies and National Strategy to demarcate so that a Draft Plan can proceed to approval within the 6 months of the Designation Process per Section 11 of the CPO.
167. **Convention on Biological Diversity, Conference of the Parties will be held in Beijing, 2020**. The authorities need to work better so they use this opportunity to show progress on BSAP to the Mainland. They also need to show that Hong Kong has not harmed but enhanced our ecological connections to the Mainland and that we have not put Wu Tong Shan National Forest at risk of fires from large Burial Grounds along the border at San Kwai Tin in the centre, and Lin Ma Hang on the west and Tam Mei Hang on the east or other developments.
168. **Promises for Real CP**. This new CP in the Robins Nest Area is a long standing promise from the Government in the BSAP 2016 Actions and renewed in the 2017 Policy Address. The public is facing massive losses of countryside, landscapes and seascapes from numerous developments. **Promises must be honoured in the spirit they were made and understood**, that this would be a CP **covering the Robins Nest Area and enhancing the ecological connections between the Mainland and Pat Sin Leng CP**. **It was the legitimate expectation** that the BSAP Policy and Principles and Criteria for Designating CP would be followed **to deliver a CP meeting those requirements and not breaching them**. Without the FRR the **public would NOT know** that the 500 hectares in the Policy Address was **only 33% of its Wider Assessment Area** of 1,446 hectares. It is essential that this CP is a genuine demarcated CP, not one with boundaries **“encroached in advance”** to have only **one-third CP** of the land in Robins Nest Area. It would be the second smallest CP in the NT, just above Kam Shan CP at 339 hectares, FRR Table 4.1. This is not acceptable per the Size criteria. It would be regarded as **equivalent to breaking a promise**.

169. **I look forward to a reply to this submission with proposals for demarcating the CP and a Draft Map based on the Principles and Criteria and other Policies.**

Yours Sincerely

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Ruy Barretto SC

[9359.rb]

Ms. NGAR Yuen-ngor
Senior Country Parks Officer
Agriculture, Fisheries and Conservation Department
(E-mail: yn_ngar@afcd.gov.hk)



By email only

6 May 2019

香港觀鳥會
THE
HONG
KONG
BIRD
WATCHING
SOCIETY
Since 1957 成立

Dear Ms. Ngar,

HKBWS's comments on the proposed Robin's Rest Country Park

Thank you for arranging the consultation meeting with green groups on 28 February 2019 and sharing the relevant documents to us afterwards. The Hong Kong Bird Watching Society (HKBWS) supports the designation of the Robin's Nest Country Park (RNCP) as the conservation importance of Robin's Nest has been repeatedly recognized in various Government studies. The grasslands at/near Robin's Nest is an important habitat for the globally vulnerable Chinese Grassbird, which Hong Kong is the stronghold of this species. Robin's Nest is also a crucial ecological corridor for the movement of wildlife between Hong Kong and Guangdong via the Wutongshan Forest Park. Below are some of our views and concerns on the proposed RNCP.



1. RNCP boundary should follow the 2011 "Principles and Criteria for Designating New Country Parks or Extending Existing Country Parks" ("2011 Principles and Criteria")

1.1. Both the "2011 Principles and Criteria" by Agriculture, Fisheries and Conservation Department (AFCD) and the working paper of the Country and Marine Parks Board in 2011 clearly stated that "*the mere existence of private land will not be automatically taken as a determining factor for exclusion from the boundary of a country park*" and "*private land should be included in a country park if the use of the site is compatible with country parks setting*".

1.2. However, according to the Final Review Report of the Detailed Study of the Proposed Robin's Nest Country Park dated 27 February 2018 ("2018 RNCP Detailed Study"), the follow up action of concerns on inclusion of private land was to develop the proposed RNCP boundary "*with appropriate buffer from private lands and burial grounds*". We consider that this is not in line with the "2011 Principles and Criteria". **Private lands and burial grounds which their existing use is compatible with the country park setting should be included in the RNCP boundary, not to mention the proposed "buffer" which was not even a requirement in the "2011 Principles and Criteria".**

1.3. As illustrated in Figure 1 and comparison with the habitat map in the “2018 RNCP Detailed Study”, the areas immediately outside the proposed RNCP boundary are well-vegetated or even well-wooded, and they are part of the woodland/shrubland/grassland habitat of the RNCP. Even though some burial grounds or private lands are included, however, **most of them are still not developed or used as burial grounds.** Including these areas into the proposed RNCP can better protect the existing habitats, better regulate the burial grounds when they are built and operate in the future, while the development right of the land owners are respected (i.e. the land lease is not changed and they can still apply for their burial ground and other uses through the Country and Marine Parks Board).

2. Grassland habitats should be protected and managed for the globally vulnerable Chinese Grassbird

2.1. Chinese Grassbird (*Graminicola striatus*) has a very small number of localized and geographically well-separated populations in the world¹. It was recently up-listed to “Vulnerable” in the IUCN Red List in 2016². Hong Kong is important for supporting the global population of this species as it has regular sightings and breeding records. Within Hong Kong, it is mostly recorded at the undisturbed grassy hilltops of the Tai Mo Shan massif, Pat Sin Leng massif, Sunset Peak massif, Fei Ngo Shan massif and Robin’s Nest massif, where only Robin’s Nest is not protected under the Country Park system³.

2.2. The proposed RNCP should protect and conserve the grassland habitats at Robin’s Nest and surroundings (the Robin’s Nest Area). **Ecological corridors should be established to connect the upland grassland to lowland grassland, which is a preferred wintering habitat of Chinese Grassbird.**

“Similarly, the population at Heung Yuen Wai may originate from the Hung Fa Leng massif’s population probably due to interconnected grassy pathway of Wong Mau Hang Shan in the past. The grassy area at Lin Ma Hang may serve as wintering site as well...the grassy area (or regarded as abandoned agricultural land) at northern Man Uk Pin may serve as their present wintering site”⁴

¹ del Hoyo, J., Collar, N., Christie, D.A. & Kirwan, G.M. (2019). Chinese Grass-babbler (*Graminicola striatus*). In: del Hoyo, J., Elliott, A., Sargatal, J., Christie, D.A. & de Juana, E. (eds.). *Handbook of the Birds of the World Alive*. Lynx Edicions, Barcelona. (retrieved from <https://www.hbw.com/node/1343976>).

² BirdLife International 2016. *Graminicola striatus*. *The IUCN Red List of Threatened Species* 2016: e.T103870381A104200555. <http://dx.doi.org/10.2305/IUCN.UK.2016-3.RLTS.T103870381A104200555.en>.

³ So I. W. Y., Wan J. H. C., Lee W. H. and Cheng W. W. W. 2012. Study on the distribution and habitat characteristics of the Chinese Grassbird *Graminicola striatus* in Hong Kong. *Hong Kong Biodiversity* 22: 1-9.

⁴ Ho, W. G. [何維俊]. (2015). Status survey and conservation action plan for Chinese grassbird *Graminicola striatus* in Hong Kong, China. (Thesis). University of Hong Kong, Pokfulam, Hong Kong SAR. Retrieved from http://dx.doi.org/10.5353/th_b5673901

2.3. Therefore, the proposed RNCP boundary should be **extended to cover and connect the grassland** at Hung Fa Leng with those at Lin Ma Hang, Heung Yuen Wai, Wo Keng Shan and Man Uk Pin.

2.4. Besides, hiking trails should be managed to prevent visitors from intruding the grassland habitats and to avoid habitat fragmentation. Fire could be a method for the control of natural vegetation succession, yet, it has to be properly planned, tested, implemented and monitored. Introduction of cattle for grassland management should not be considered as there is a risk of overgrazing, disturbance of grassland habitats from cattle, and competition in the use of grassland between the cattle and the Chinese grassbird.

3. **Mature woodland and shrubland should be better protected and connected, as Robin's Nest area is an important ecological corridor**

3.1. A wide range of forest birds were recorded in the Robin's Nest Area. This reflects the quality of these woodland and shrubland habitats. Some mature woodlands of high ecological value were excluded from the proposed boundary, such as the San Kwai Tin, Lin Ma Hang, Heung Yuen Wai, Muk Min Tau, Sheung Tam Shui and Shan Tsui.

"The mature shrubland and woodland areas (at Lin Ma Hang) appear to host most of the typical native forest anifauna found in Hong Kong, as well as locally-distributed species such as Slaty-legged Crake, Black-napped Oriole, Hodgson's Hawk Cuckoo, Orange-headed Thrush (KFBG, 2004), Lesser Shortwing and Hainan Blue Flycatcher" (Section 7.7.4.5 of the FCA Study)⁵

*"A total of five forest specialist birds including the Chestnut Bulbul (*Hypsipetes castanonotus*), Orange-headed Thrush (*Zoothera citrinus*), Greater Necklaced Laughing Thrush (*Garrulax pectoralis*), Black-throated Laughing Thrush (*Garrulax chinensis*) and Asian Stubtail (*Urosphena squameiceps*) were recorded at Lin Ma Hang secondary forest, indicating that the forest is of rather high integrity."* (Section 4.1 of the KFBG 2004 Study)

*"Our preliminary surveys indicate that feng shui woods and secondary forest at Lin Ma Hang and San Kwai Tin are of high ecological value due to their rich plant diversity."*⁶ (Section 6.1.1 of the KFBG 2004 Study)

⁵ Section 7.7.4.5 of the Final Report of the Land Use Planning for the Closed Area Feasibility Study commissioned by the Planning Department in 2008

⁶ Kadoorie Farm and Botanic Garden. 2004. *A Pilot Biodiversity Study of the eastern Frontier Closed Area and North East New Territories, Hong Kong, June-December 2003*. Kadoorie Farm and Botanic Garden Publication

"Larger fung shui woodlands comprising mature trees with a relatively diverse floral community are found adjacent to the villages of Heung Yuen Wai, Muk Min Tau, Sheung Tam Shui, Lin Ma Hang, Tsung Yuen Ha and Shan Tsui, while other blocks of woodland are also located close to Ha Heung Yuen, Kan Tau Wai and Chuk Yuen. Due to the presence of a number of other small woodland patches in the area, these larger blocks are reasonably well connected to each other and to woodlands at Lin Ma Hang, and ultimately to Wu Tong Shan National Forest Park in Shenzhen, and support a woodland-associated fauna and flora."

(7.7.4 of the FCA Study)

3.2. It is well-recognized that the **Robin's Nest Area** acts as an **important ecological corridor** between Hong Kong and Guangdong, connecting via Wutongshan Forest Park, RNCP and Pat Sin Leng Country Park.

"Surrounding the Lin Ma Hang valley is an area of hills that supports a diverse woodland and shrubland bird community and, in the grassland areas on the southern slopes, the globally-threatened Large Grass Warbler. The woodland is contiguous with forest at Wutongshan Forest Park in Shenzhen, and thus provides a vital Ecological Corridor with Guangdong for the wildlife of Hong Kong Ecological Corridor. Maintenance of this link is vital for the sharing of biodiversity between the two places. In recognition of this and of the landscape diversity and visual splendor of the area, as well as to provide a valuable recreational resource for the people of Hong Kong, the potential Robin's Nest Country Park has been proposed." (Section 4.8.4 of the FCA Study)

"This woodland is further linked, albeit not so closely, to undisturbed woodland and closed-canopy shrubland at Pat Sin Leng and the northeast New Territories."

(7.7.4 of the FCA Study)

3.3. Even an ecological corridor from Hong Kong to Nanling was proposed, with Robin's Nest as the connection from the Hong Kong side (Figure 2). The well-recognized ecological connection between Robin's Nest and Wutongshan with continuous strip of woodland and shrubland is **last of its kind along the Hong Kong-Shenzhen border**. Therefore, this movement corridor should be protected and better managed to maintain this important ecological connection.

3.4. Interestingly, however, the "2018 RNCP Detailed Study" stated that "*the proposed RNCP is generally considered to be ecologically isolated (particularly the wildlife) from the Pat Sin Leng/ Plover Cove Country Park and Wutongshan National Forest Park in Shenzhen due to the existing development/facilities.*" We consider that such comment further reflects the importance of protecting the continuous habitats connecting RNCP to Pat Sin Leng/ Plover Cove Country Park and Wutongshan National Forest Park, and should be included into the Country Park system.

3.5. Therefore, the proposed RNCP boundary should in fact further expand to include all the important habitats as recommended in this and previous section, so as to maintain the ecological integrity of the Robin' Nest Area. This would not only maintaining the connection between Robin's Nest and Wutongshan Forest National Park on the Shenzhen side, but also securing the ecological connectivity between Robin's Nest and Pat Sin Leng, Lin Ma Hang, Heung Yuen Wai, Wong Mau Hang Shan, Wo Keng Shan, Man Uk Pin and Sha Tau Kok. In fact, the Broad Conservation Strategy of the Terrestrial Development Strategy Review identified area of similar extent as "Significant Area for Land Conservation" (Figure 3).

4. Concerns on the provision of various visitor facilities

4.1. Section 7.3.3 of the "2018 RNCP Detailed Study" mentioned that "*At the top of Ma Tseuk Leng however, there is a relatively level area that could be investigated further to act as a view platform with Pagoda or shelter*". We are concerned the proposed Pagoda or shelter will significantly destroy the ridgeline of Hung Fa Leng and its landscape/scenic value (Figure 4). Similarly, no shelter would be placed at the ridgeline of Pat Sin Leng as it would destroy its iconic view.

4.2. In the same section, it also mentioned "*the night-time scenery within the proposed RNCP is also very attractive with an interesting comparison between...Hong Kong and ...Shenzhen*". Nowadays, night time walks on hilltops or in country park is popular. Similar to other places in Hong Kong, the night time scenery at Robin's Nest is also attractive. However, given the adverse impacts to the surrounding natural environment of light installation in Country Parks and the safety of visitors to walk at night, we consider that night time visits should not be promoted, to avoid visitors blaming the country park management authority in case of accidents and asking for the provision of lighting facilities which would have adverse environment impacts.

4.3. Currently, there is a vehicle access to the radio tower at the west of Robin's Nest peak. We consider that this road should not be promoted to be used by visitors to come to Robin's Nest by car/motorbike, which may lead to a request for a carpark of a considerable size uphill next to the radio tower and widening of the road, leading to

further habitat loss. Instead, there should be **a road block at the bottom of the hill where there is already an existing carpark there** (Figure 5). This would prevent habitat disturbance from motorbikes or vehicles at Wo Keng Shan or Robin's Nest.

4.4. Section 7.3.8 recommended that "*there is consideration to install dry portable toilets units at convenient locations along the route*". We consider that they should only be installed in places of least ecological/landscape/scenic value with existing vehicle access. Also, such toilet installation should not trigger any road widening works which will lead to further habitat loss.

4.5. In summary, we understand the need of some of the aforementioned visitor facilities, however, their location should be carefully selected in ecological and landscape less sensitive areas such that the natural environment and scenery is not compromised. In addition, we consider that there should be more public education on how to be a responsible hiker, so that hikers carefully plan their route and be well-prepared for the hike. Particularly when Robin's Nest is a hill with quite a steep terrain, which the public should not underestimate its difficulty. **We consider that the safety of hikers should be reasonably taken care of, but it is not an excuse to be over-built with many man-made features to meet the wide range of needs from various visitors. The beautiful natural resources and landscape of the Robin's Nest Area should be protected.**

Given the high conservation value of the Robin's Nest Area, the HKBWS urges the AFCD to **expand the proposed RNCP boundary for better protection of habitats of conservation concern and to secure the ecological connectivity between Robin's Nest and Wutongshan National Forest Park and Pat Sin Leng Country Park**. We also urge the AFCD to draw the boundary of the RNCP according to the "2011 Principles and Criteria", particularly with strong focus on nature conservation. Through the designation of the RNCP, we also hope that the Government could allocate more manpower and resources for the habitat and visitor management and regular patrol within the country parks in Hong Kong. We hope our comments would be taken into consideration. Thank you for your kind attention.

Yours sincerely,



Woo Ming Chuan
Senior Conservation Officer
The Hong Kong Bird Watching Society

Figure 1. Comparison between the Google Earth aerial photograph taken on 5 October 2018 (top) and the habitat map in the “2018 RNCP Detailed Study” (bottom). Even though the areas outside the proposed RNCP are burial grounds or private lands, however, most of them are still not developed or used as burial grounds. They are currently still well-vegetated or even well-wooded, and they are part of the woodland/shrubland/grassland habitat of the RNCP.

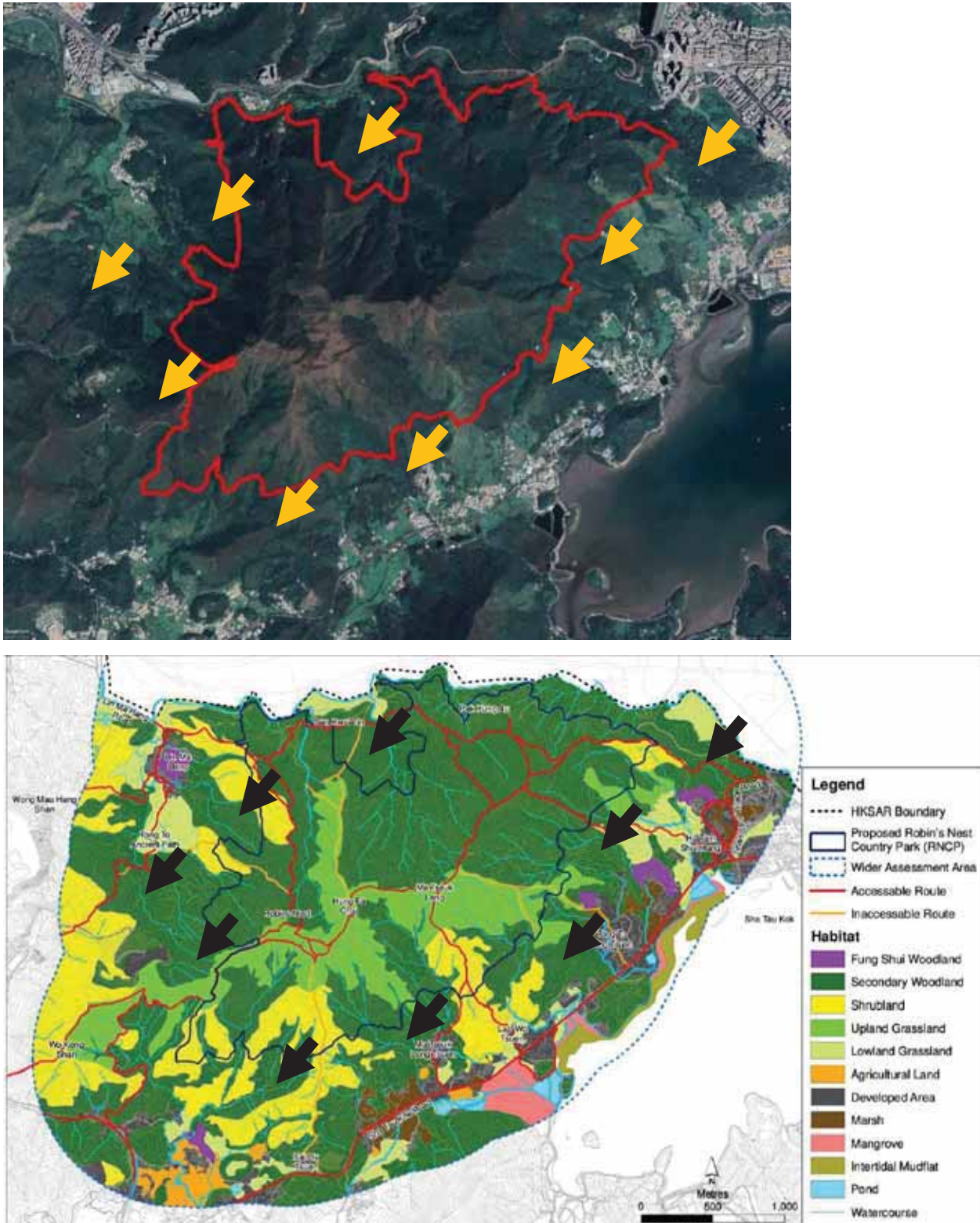


Figure 2. An ecological corridor was even proposed from Hong Kong to Nanling, with Robin's Nest as the connection from the Hong Kong side. Image extracted from HKBWS Bulletin 243.

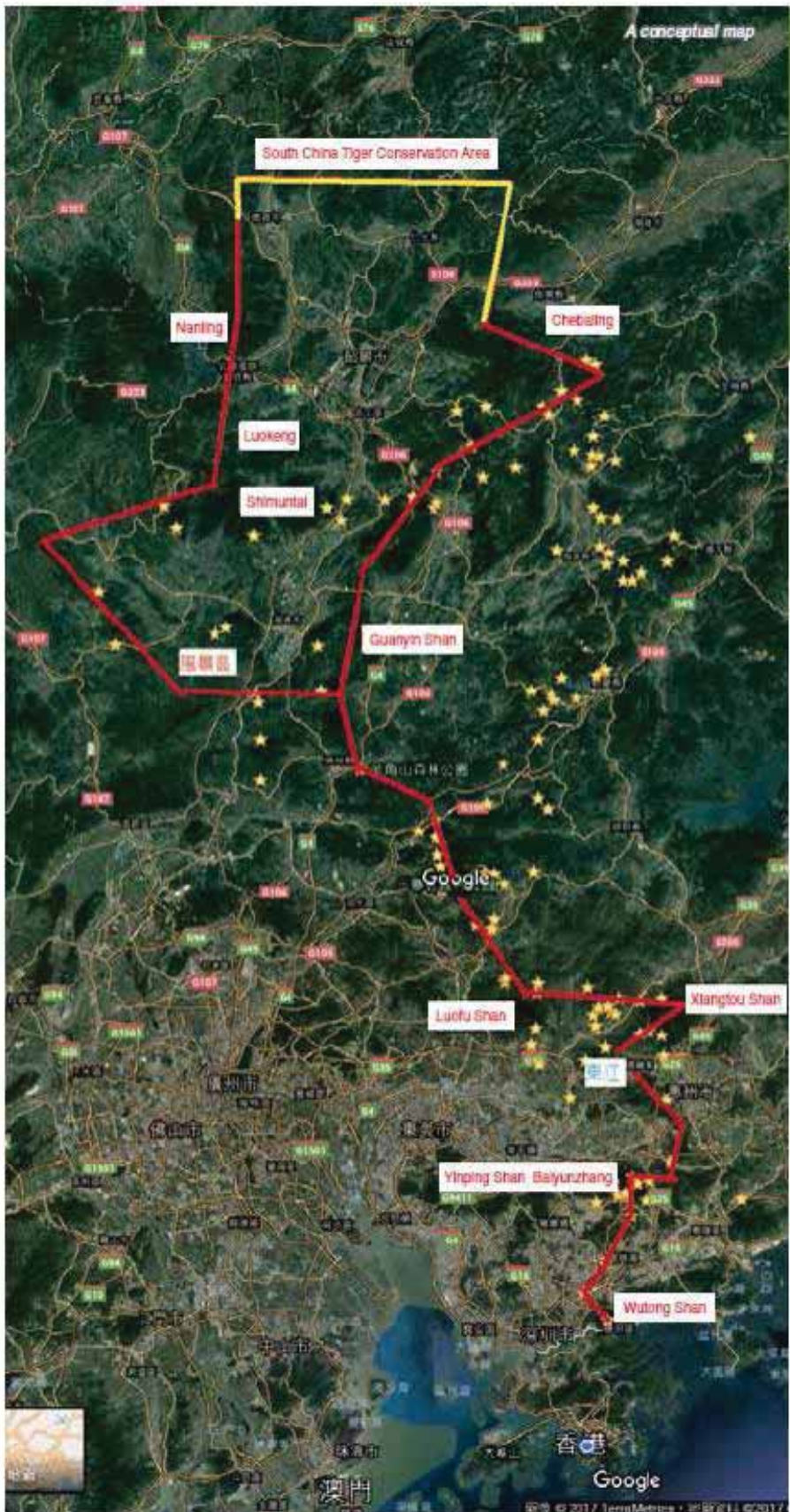


Figure 3. The Broad Conservation Strategy of the Terrestrial Development Strategy Review identified an area at Sha Tau Kok as "Significant Area for Land Conservation", which extends from Sha Tau Kok to San Kwai Tin, Lin Ma Hang, Robin's Nest, Wong Mau Hang Shan and Wo Keng Shan. Image source:

https://www.pland.gov.hk/pland_en/p_study/comp_s/swnt/final-report/figures/fig1-7.gif

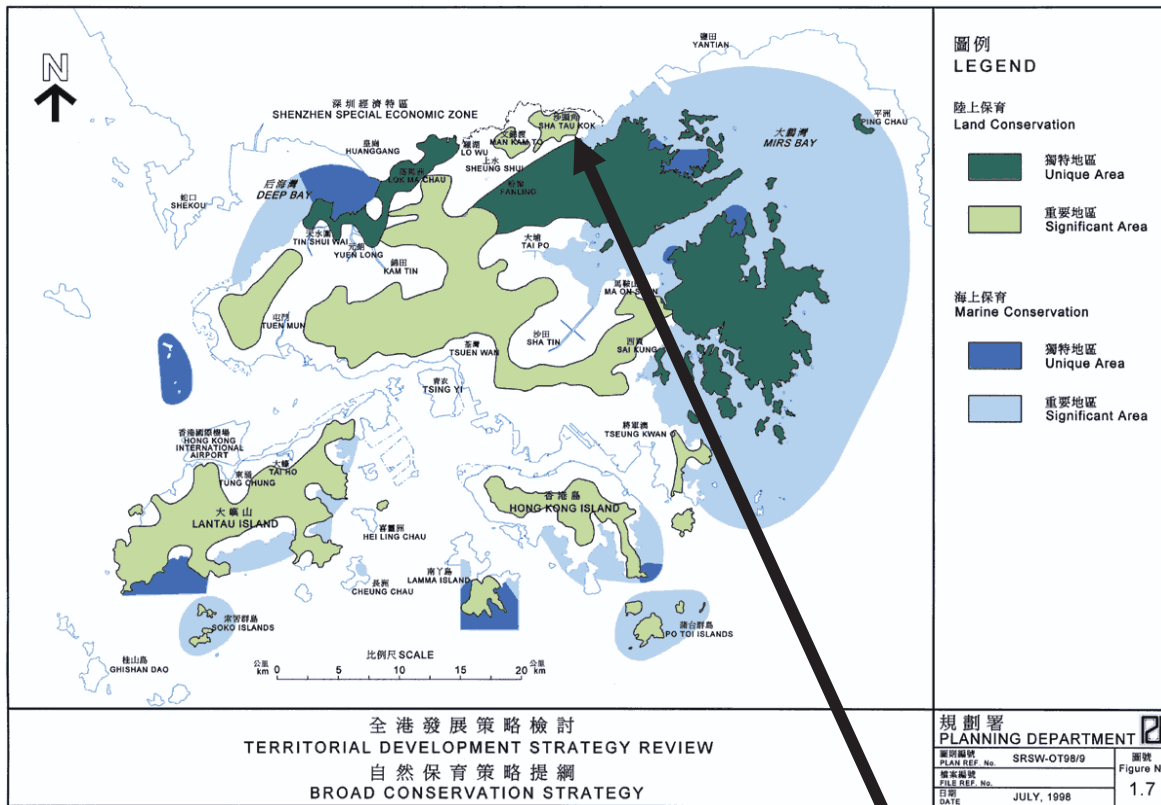


Figure 4. We are concerned the proposed Pagoda or shelter at the top of Ma Tseuk Leng with a relatively level area (indicated by the yellow circle) will significantly destroy the ridgeline of Hung Fa Leng and its landscape/scenic value.



Figure 5. Currently, there is a vehicle access to the radio tower at the west of Robin's Nest peak. We consider that this road should not be widened and promoted to be used by visitors to come to Robin's Nest by car/motorbike, which may lead to a request for a carpark of a considerable size uphill next to the radio tower. Instead, there should be a road block at the bottom of the hill and there is also an existing carpark nearby as well. This would prevent more habitat disturbance from motorbikes or vehicles at Wo Keng Shan.





BY EMAIL ONLY

Director of Agriculture, Fisheries and Conservation Department
7/F, Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road, Kowloon
(Email: dafcoffice@afcd.gov.hk)

6 May, 2019

Dear Sir/Madam,

Designation of Robin's Nest Country Park

Environment Bureau launched *Hong Kong Biodiversity Strategy and Action Plan 2016-2021* in December 2016 in which designation of new Country Park at Robin's Nest in the Northeast New Territories is one of the "Enhancing Conservation Measures" to conserve ecologically important habitats outside the existing protected areas.

Green Power urges the Administration to designate Robin's Nest area (the Area) as a Country Park as soon as possible in order to protect the Area from increasing threats and safeguard its important ecological resources and high educational, cultural, recreational and landscape values.

In the past, major portion of the Area, including Lin Ma Hang, Sha Tau Kok, northern and eastern slopes, was protected from human disturbance as Frontier Closed Area where access of human and vehicles were strictly controlled. Therefore, most of the Area in turn kept pristine, tranquil and natural. The Area was identified as "Significant Area" in Territorial Development Strategy Review as early as 1990's. Its ecological and landscape value was further confirmed by Study of Land Use Planning for Closed Area in which Robin's Nest Area is proposed as a Country Park.

However, after the open of Frontier Closed Area in 2012, the Area is vulnerable to human disturbance and development pressure. Along with statutory Country Park designation, resources and facilities should be in place to promote the educational, aesthetic, recreational functions of Country Park, and more importantly to eliminate the existing and potential threats and eco-vandalism, such as illegal and incompatible developments, open-up of vehicular access, poaching and collection of wild animals and plants, pollution of countryside and streams, fly-tipping and filling up of wetlands and farmlands, hill fires, village extension, etc.

Moreover, the boundary of the proposed Robin's Nest Country Park(RNCP) should enable the

manifest of the legal and environmental functions of Country Park, and effective combat the aforementioned threats and eco-vandalism. Therefore, based on our concerns we opine that

- (1) The boundary of proposed RNCP should include sites of good vegetation and habitat in the Area whatever not developed or used as burial grounds.
- (2) The boundary of the proposed RNCP should follow the 2011 “Principles and Criteria for Designating New Country Parks or Extending Existing Country Parks”, i.e. “*the mere existence of private land will not be automatically taken as a determining factor for exclusion from the boundary of a country park*”.
- (3) Proposed RNCP should ecologically connect with Pat Sin Leng Country Park and other surrounding habitats in Hong Kong or across the border.

For any enquiries, please contact the undersigned at Green Power (T: 3961 0200. F: 2314 2661, email: )

I look forward to your favourable and prompt response.

Yours faithfully,



c.c.:

Patrick Lai, patrick_cc_lai@afcd.gov.hk

Ngar Yuen Ngo, yn_ngar@afcd.gov.hk



Environmental NGOs' Joint Statement on the Designation of the Robin's Nest Country Park

10 May 2019

The Government promised in the 2017 Policy Address that Robin's Nest will be designated as a Country Park¹. The Secretary of Environment Mr. Wong Kam Sing also confirmed in December 2018 that the designation of the Robin's Nest Country Park (RNCP) is on its way and will be the 25th Country Park in Hong Kong². **Environmental NGOs (eNGOs) support this new Country Park as the conservation importance of Robin's Nest has been repeatedly recognized since its identification as a potential Country Park some 26 years ago.** We consider that the Country Park system is suitable for the protection, conservation and management of important ecological resources in the Robin's Nest and associated areas ("Robin's Nest area"). Below are the key justifications and principles that we expect the Government to follow in the upcoming RNCP designation process.

1. Robin's Nest conservation value has for a long time been well-recognized by both the Government and eNGOs

Back in 1993, the Territorial Development Strategy Review Study by the Planning Department already identified an area extending from Robin's Nest to Wo Keng Shan as a potential Country Park. 10 years later, in 2003, Kadoorie Farm and Botanic Garden (KFBG) conducted a biodiversity study in the eastern Frontier Closed Area and recommended Lin Ma Hang, San Kwai Tin and Robin's Nest to be included in a new Country Park³. The feasibility study of the Land Use Planning for the Frontier Closed Area (FCA Study) commissioned by the Planning Department in 2008 also recommended the designation of the RNCP⁴. Currently, "*Designate new Country Park at Robin's Nest, and extend Country Park to cover country park enclaves at appropriate locations*" is Action2(b) under the Hong Kong Biodiversity Strategy and Action Plan (BSAP) (2016-2021) initiated by the Government. It is clear that the conservation of Robin's Nest is well-recognized and the Government should therefore not further delay the designation.

2. The Robin's Nest area is of high conservation significance

The northern slope of Robin's Nest, extending from Shan Tsui to San Kwai Tin and Lin Ma Hang, is well covered with continuous secondary woodland intermingled with natural streams of conservation concern, it thus supports a high diversity of flora and fauna including the globally critically endangered Chinese

¹ HKSAR Government. (2017, January 18). *Paragraph 113 of 2017 Policy Address*. Retrieved from <https://www.policyaddress.gov.hk/jan2017/eng/p112.html>

² Environment Bureau. (2018, December 13). 全新郊野公園？又點止咁簡單！ [A new country park? Not that simple!] Retrieved from <https://www.enb.gov.hk/tc/sens-blog/blog20181213.html>

³ Kadoorie Farm and Botanic Garden. 2004. *A Pilot Biodiversity Study of the eastern Frontier Closed Area and North East New Territories, Hong Kong, June-December 2003*. Kadoorie Farm and Botanic Garden Publication Series No.1. Kadoorie Farm and Botanic Garden, Hong Kong Special Administrative Region. Retrieved from <https://www.kfbg.org/upload/Documents/Free-Resources-Download/Report-and-Documents/FCA-report-final.pdf>

⁴ Planning Department. (2010). *Final Report of the Land Use Planning for the Closed Area*. Retrieved from https://www.pland.gov.hk/pland_en/misc/FCA/frontier_eng/frontier_e1.htm

Pangolin³. Two Sites of Special Scientific Interest (SSSIs) were even designated in this area for the conservation of the highly restricted, rare freshwater fish Chinese Rasbora and one of the most important bat colonies in Hong Kong⁵. Robin's Nest is also important for the globally vulnerable Chinese Grassbird, for which Hong Kong is considered a stronghold. The Chinese Grassbird's preferred upland grassland habitat stretches from the southern slope of Robin's Nest to Wo Keng Shan and Heung Yuen Wai, while the lowland grasslands at Lin Ma Hang and Man Uk Pin are potential wintering sites of this species⁶. Many large *fung shui* woodlands with mature trees are found along the foot of the southern slope of Robin's Nest⁷.

3. The Robin's Nest area is an important and unique ecological corridor

Robin's Nest is well-recognized as the only obvious terrestrial ecological corridor between Hong Kong and mainland China^{3,4}, with continuous secondary woodland at the northern slope ecologically connected to the Wutongshan National Forest Park in Shenzhen while strips of woodlands and other undisturbed vegetated areas at the southern slope are linked to those at the Pat Sin Leng Country Park. This corridor is the only well-vegetated pathway with little built-up area where wild animals (e.g. land birds, reptiles, amphibians, small mammals) can still move between Hong Kong and Shenzhen/Guangdong, thus their population in these two places can be healthily sustained. Therefore, all the habitats along this corridor should be well-protected to maintain such ecological connectivity both across and within the Hong Kong border. "*Enhance habitat connectivity and establish ecological corridors across the boundary*" is, in fact, required under Action 4(a) of the Hong Kong BSAP (2016-2021) which is a Government policy.

4. The Robin's Nest area is of high cultural/historical and landscape significance

Various heritage resources within the Robin's Nest area have different local historical interest or significance. For example, the Grade-2-listed Macintosh Forts at Pak Kung Au and Kong Shan served the role in bringing law and order to the frontier and in the control of illegal immigration^{8,9}. Some ruins, pillboxes and other structures are believed to have been built for defensive purpose during the 20th century^{10,11}. Lin Ma Hang Lead Mine and its adjacent ruins form good evidence in reflecting Hong Kong's mining history¹². The hilly terrain of Robin's Nest is also identified as being of high landscape value in the Landscape Value Mapping of Hong Kong by the Planning Department in 2003¹³.

5. Recreational potential of the Robin's Nest Area

Since the opening-up of the Frontier Closed Area, Robin's Nest is becoming more popular with hikers and groups, who wish to explore places like the Lead Mine, San Kwai Tin and Lin Ma Hang. Local people also regularly use the nature trails at Shan Tsui for passive recreational activities, while hikers utilise hiking

⁵ Ades G.W.J. (1999). The species composition, distribution and population size of Hong Kong bats. *Memoirs of the Hong Kong Natural History Society*. No.22. PP 183-209

⁶ Ho, W. G. [何維俊]. (2015). Status survey and conservation action plan for Chinese grassbird *Graminicola striatus* in Hong Kong, China. (Thesis). University of Hong Kong, Pokfulam, Hong Kong SAR. Retrieved from <http://hdl.handle.net/10722/221835>

⁷ AFCD. (2006). *Fung Shui Woods in Hong Kong (Advisory Council on the Environment Nature Conservation Subcommittee Paper NCSC 9/06)*. Retrieved from https://www.epd.gov.hk/epd/sites/default/files/epd/english/boards/advisory_council/files/ncsc-paper-06-09.pdf

⁸ Antiquities Advisory Board. (2009). *Historic Building Appraisal – MacIntosh Forts (Kong Shan)*. Retrieved from http://www.aab.gov.hk/historicbuilding/en/298_Appraisal_En.pdf

⁹ Antiquities Advisory Board. (2009). *Historic Building Appraisal – MacIntosh Forts (Pak Fu Shan)*. Retrieved from http://www.aab.gov.hk/historicbuilding/en/301_Appraisal_En.pdf

¹⁰ 阮志 (2016)。《越界：香港跨境村莊及文化遺產》。香港：三聯書店(香港)有限公司，187-188 頁

¹¹ 劉蜀永、蘇萬興 (2015)。《蓮麻坑村志》。香港：中華書局(香港)有限公司，175-177 頁

¹² Trefor Williams. (1991). The Story of Lin Ma Hang Lead Mine, 1915-1962. Geotechnical Engineering Office, HKSAR (Ed.), *Geological Society of Hong Kong Newsletter Vol 9 No.4*, p.3-27. Retrieved from http://www.geolsoc.org.hk/_newsletters/Newsletter%201991%20Vol.9%20No.4.pdf

¹³ Planning Department - Landscape Value Map of Hong Kong https://www.pland.gov.hk/pland_en/p_study/prog_s/landscape/e_executive_summary_hp/fig_31.htm

trails from the southern side of Robin's Nest (e.g. Ma Tseuk Leng) and Wo Keng Shan to access the summit. All these activities indicate the importance and urgency to designate the Robin's Nest area to be a Country Park, in order to provide better protection (e.g. from undesirable human disturbance) and management (e.g. for the enjoyment of the public).

6. Expectations of better protection and management in Country Parks

The Country Park system, under the Country Park Ordinance (Cap. 208), offers a higher level of protection than the land use control under the Town Planning Ordinance (Cap. 131). Habitats of conservation concern can be actively managed and protected with regular patrols. Facilities for visitors and hiking routes can be designed, provided and maintained in the ecologically and scenically less-sensitive areas of the Country Park, for public education and enjoyment. Existing graves and burial grounds can be respected and managed within the Country Park for better regulation and fire prevention. Restriction of vehicle access to/in the Country Park is in place to prevent destruction of habitats and blockage of hiking trails caused by undesirable human activities or development. Given the high conservation, landscape and recreation value of the Robin's Nest area, as explained in this and previous sections, we consider the aforementioned areas should be included into the proposed RNCP for better protection and management under the country park system.

7. RNCP boundary should follow the "Principles and Criteria for Designating Country Parks (2011)"

According to the 2011 Principles and Criteria¹⁴, an AFCD policy document, conservation value, recreation potential as well as landscape and aesthetic value are the key themes of the intrinsic criteria for identifying suitable areas for designating Country Parks, while private land is not automatically taken as a determining factor for exclusion from the Country Park boundary. Therefore, the aforementioned areas of high ecological, historical, cultural and landscape value (please refer to sections 2, 3 and 4) should be included within the boundary of RNCP for nature and heritage conservation and management. Our proposed RNCP boundary, following the 2011 Principles and Criteria and respecting all the above RNCP justifications, is illustrated in the map attached.

Conclusion

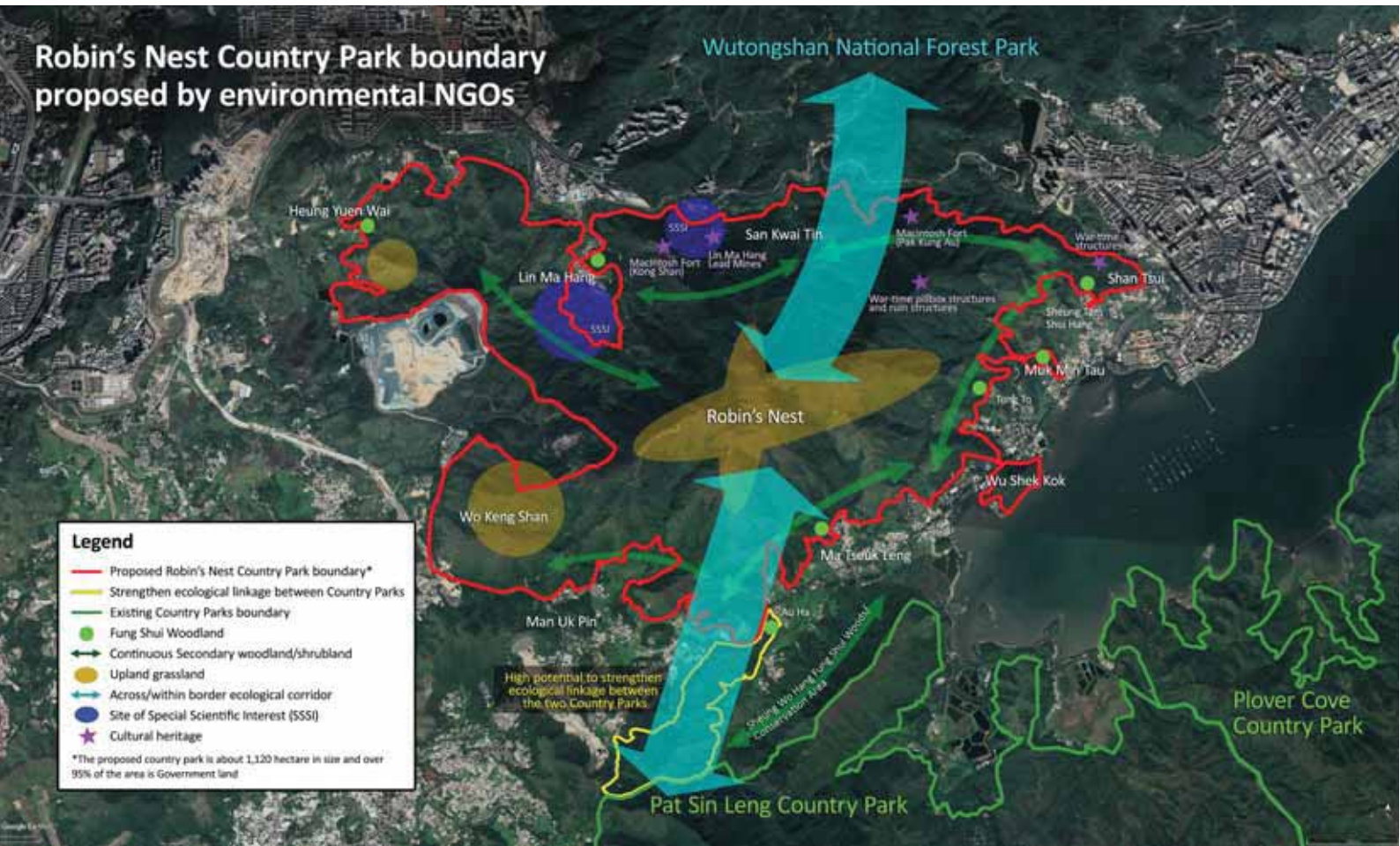
It is clear that the justification for the designation of the RNCP is well-established and eNGOs support the designation of this new Country Park. **We strongly urge the AFCD to consider our proposal and define the boundary of the RNCP according to the "Principles and Criteria for Designating Country Parks (2011)". Our proposed RNCP is about 1,120 hectares in size and over 95% of the area is Government land. We consider that a well-justified boundary, set on the basis of conservation is important, as it empowers AFCD as the Country Park management authority for implementation, management and improvement of the proposed RNCP.** We also note that establishing RNCP as an ecological corridor for terrestrial fauna will serve to connect Hong Kong's Country Park network to protected areas in Guangdong, providing a good example of how Hong Kong's experience in protected area management and conservation could contribute to the sustainable development of the Greater Bay Area. We sincerely hope all the above comments and recommendations can assist the Government to designate a Country Park that can truly contribute to the nature conservation in Hong Kong and China in general.

*Co-signed Organizations (in alphabetical order):

The Conservancy Association, Designing Hong Kong, Green Power, The Hong Kong Bird Watching Society, The Hong Kong Countryside Foundation, Kadoorie Farm and Botanic Garden

¹⁴ AFCD. (2011). *Review of the Criteria for Designating Country Parks and Proposed Measures for Protecting Country Park Enclaves (Country and Marine Parks Board Working Paper: WP/CMPB/6/2011)*. Retrieved from https://www.afcd.gov.hk/english/aboutus/abt_adv/files/common/WP_CMPB_6_2011eng.pdf

Robin's Nest Country Park boundary proposed by environmental NGOs



Legend

- Proposed Robin's Nest Country Park boundary*
- Strengthen ecological linkage between Country Parks
- Existing Country Parks boundary
- Fung Shui Woodland
- Continuous Secondary woodland/shrubland
- Upland grassland
- Across/within border ecological corridor
- Site of Special Scientific Interest (SSSI)
- Cultural heritage

*The proposed country park is about 1,320 hectare in size and over 95% of the area is Government land

High potential to strengthen ecological linkage between the two Country Parks.

Stronger linkages between Fung Shui Woodland and Upland grassland



香港觀鳥會
HONG KONG BIRD WATCHING SOCIETY



The Hong Kong Countryside Foundation
香港鄉郊基金



環保團體對擬議紅花嶺郊野公園的期望

2019年5月10日

2017年，政府在施政報告承諾成立紅花嶺郊野公園¹，環境局長黃錦星亦於2018年表明紅花嶺郊野公園將會是香港第二十五個郊野公園²。事實上，紅花嶺早在二十六年前已因其保育重要性而獲認定作郊野公園，因此我們對成立紅花嶺郊野公園表示支持。我們認為只有將紅花嶺及毗鄰地區（下統稱紅花嶺）納入郊野公園範圍，才能為其生態環境提供最適合的保護及管理。以下是我們期望政府在制定紅花嶺郊野公園的過程中應遵守的原則及其理據。

1. 政府及環團早已確認紅花嶺的保育價值

早於1993年，政府規劃署的「全港發展策略檢討」已認為可於紅花嶺至禾徑山一帶成立郊野公園。十年後，即2003年，嘉道理農場暨植物園在當時的邊境禁區東面進行了一次生態調查，並在及後建議將蓮麻坑、新桂田及紅花嶺納入郊野公園³。2008年，規劃署的「邊境禁區土地規劃研究」亦建議設立紅花嶺郊野公園⁴。近期由政府開展的「香港生物多樣性策略及行動計劃」的行動項目2b，也表明要將郊野公園擴展至紅花嶺及郊野公園不包括土地。以上正顯示設立紅花嶺郊野公園實在刻不容緩。

2. 紅花嶺具高生態保育價值

由山咀經新桂田一直延伸至蓮麻坑的紅花嶺北坡，保存著一大片非常完整的次生林；此片樹林及穿插其中的天然溪澗，孕育出眾多原生動植物，包括全球極度瀕危的中華穿山甲⁵。這一帶更有兩個具特殊科學價值地點，為本地分佈極窄的斯氏波魚及本港其中一個最重要的蝙蝠羣棲息地⁵。全球易危的大草鶯在香港的族群對其全球數量有舉足輕重的影響，而紅花嶺的高地草原正正是其重要的生境，範圍由紅花嶺南面一直延伸至香園圍及禾徑山，而蓮麻坑及萬屋邊一帶的低地草原也是其潛在渡冬點⁶。紅花嶺南麓也保存著不少由成熟樹木組成的風水林⁷。

¹ 香港特別行政區政府（2017年1月18日）。二零一七年施政報告第113段。取自

<https://www.policyaddress.gov.hk/jan2017/chi/p112.html>

² 環境局（2018年12月13日）。全新郊野公園？又點止咁簡單！取自 <https://www.enb.gov.hk/tc/sens-blog/blog20181213.html>

³ Kadoorie Farm and Botanic Garden. 2004. *A Pilot Biodiversity Study of the eastern Frontier Closed Area and North East New Territories, Hong Kong, June-December 2003*. Kadoorie Farm and Botanic Garden Publication Series No.1. Kadoorie Farm and Botanic Garden, Hong Kong Special Administrative Region. Retrieved from

<https://www.kfbg.org/upload/Documents/Free-Resources-Download/Report-and-Documents/FCA-report-final.pdf>

⁴ Planning Department. (2010). Final Report of the Land Use Planning for the Closed Area. Retrieved from

https://www.pland.gov.hk/pland_en/misc/FCA/frontier_eng/frontier_e1.htm

⁵ Ades G.W.J. (1999). The species composition, distribution and population size of Hong Kong bats. *Memoirs of the Hong Kong Natural History Society*. No.22. PP 183-209

⁶ Ho, W. G. [何維俊]. (2015). Status survey and conservation action plan for Chinese grassbird *Graminicola striatus* in Hong Kong,

3. 紅花嶺是內地與香港之間最重要與碩果僅存的生態走廊

紅花嶺被視為是內地與香港之間現存唯一的陸地生態走廊^{3,4}。其北面的完整次生林與深圳梧桐山國家森林公園有良好的生態連貫性，而南面的樹林及少受干擾的植被在生態上亦與八仙嶺郊野公園連結。這為內地與香港的野生動物，如陸鳥、兩棲類、爬行類以及小型哺乳類等，提供重要的遷徙廊道。故此，紅花嶺的生境必須予以充分保護，以維持兩地的生態連貫性，令野生物種種群能正常交流並健康發展。事實上，政府的現行政策 – 「香港生物多樣性策略及行動計劃」的行動項目 4a，也尋求加強內地與香港之間的生態連貫性及建立跨境生態走廊。

4. 紅花嶺的歷史文化與景觀價值

紅花嶺是本地歷史文化遺產的一部分。位於伯公坳及礦山的二級歷史建築「麥景陶碉堡」，正正展現昔日其邊防及控制非法移民的角色^{8,9}。散落於紅花嶺四周的破舊設施、機槍堡等，相信是二十世紀興建作防衛用途^{10,11}。蓮麻坑的鉛礦遺址及相關建築，也是香港礦業史的最佳見證¹²。此外，根據規劃署 2003 年的「香港具景觀價值地點研究」，紅花嶺亦被評為具高景觀價值¹³。

5. 紅花嶺的休閒康樂發展潛力

自從邊境禁區開放，紅花嶺漸受遠足郊遊人士及團體歡迎，到訪礦洞、新桂田及蓮麻坑等地，或由南面麻雀嶺或西南面的禾徑山登至紅花嶺頂峯。附近居民也會以山咀的行山徑作消閒晨運的去處。這些活動正正顯示制定紅花嶺郊野公園的逼切性 – 使政府可以提供最適切的保護及管理，以服務郊遊人士及防止人為破壞。

6. 對保育紅花嶺的期望

我們認為，《郊野公園條例》比《城市規劃條例》更能有效保育紅花嶺。例如，在《郊野公園條例》下，相關部門能積極管理具保育價值的生境及作恆常巡查。郊野公園內一些生態及景觀重要性較低的地方，可為遊客提供遠足徑、教育及康樂設施，並由有豐富相關經驗的部門設計、管理及維修。使用率低的認可殯葬區及零散現存墓地也可納入郊野公園範圍，透過園內更有效的管制措施防止山火發生及蔓延。郊野公園對車輛的限制也可阻止不當活動及人為破壞。總而言之，我們認為只有郊野公園制度才能有效地保護及管理上述的重要地點。

China. (Thesis). University of Hong Kong, Pokfulam, Hong Kong SAR. Retrieved from <http://hdl.handle.net/10722/221835>

⁷ AFCD. (2006). *Fung Shui Woods in Hong Kong (Advisory Council on the Environment Nature Conservation Subcommittee Paper NCSC 9/06)*. Retrieved from

https://www.epd.gov.hk/epd/sites/default/files/epd/english/boards/advisory_council/files/ncsc-paper-06-09.pdf

⁸ Antiquities Advisory Board. (2009). *Historic Building Appraisal – MacIntosh Forts (Kong Shan)*. Retrieved from http://www.aab.gov.hk/historicbuilding/en/298_Appraisal_En.pdf

⁹ Antiquities Advisory Board. (2009). *Historic Building Appraisal – MacIntosh Forts (Pak Fu Shan)*. Retrieved from http://www.aab.gov.hk/historicbuilding/en/301_Appraisal_En.pdf

¹⁰ 阮志 (2016)。《越界：香港跨境村莊及文化遺產》。香港：三聯書店(香港)有限公司，187-188 頁

¹¹ 劉蜀永、蘇萬興 (2015)。《蓮麻坑村志》。香港：中華書局(香港)有限公司，175-177 頁

¹² Trefor Williams. (1991). The Story of Lin Ma Hang Lead Mine, 1915-1962. Geotechnical Engineering Office, HKSAR (Ed.), *Geological Society of Hong Kong Newsletter Vol 9 No. 4*, p.3-27. Retrieved from

http://www.geolsoc.org.hk/_newsletters/Newsletter%201991%20Vol.9%20No.4.pdf

¹³ Planning Department - Landscape Value Map of Hong Kong

https://www.pland.gov.hk/pland_en/p_study/prog_s/landscape/e_executive_summary_hp/fig_31.htm

7. 紅花嶺郊野公園必須按「指定郊野公園的原則及準則（2011）」劃設

根據政府 2011 年的「指定郊野公園的原則及準則」¹⁴，保育價值、景觀及美觀價值與康樂發展潛力為制定郊野公園的三大重要元素及固有準則；同時，即使某地點包含私人土地，當局也不可機械式地視之為不把該地點納入郊野公園的決定性因素。因此，我們認為上述眾多具高生態及人文歷史保育價值、景觀價值及康樂發展潛力的地點或生境，絕對應該成為紅花嶺郊野公園的一部分，從而對這些地方作更有效的保護與管理。附圖為我們根據 2011 年的「指定郊野公園的原則及準則」所擬定的紅花嶺郊野公園界線。

總結

紅花嶺郊野公園的設立已經討論多年，理據充足，亦為環保團體所支持。我們強烈要求漁農自然護理署嚴肅及充分考慮我們根據「指定郊野公園的原則及準則(2011)」所擬定的紅花嶺郊野公園界線，其面積約 1,120 公頃，當中超過 95%為政府土地。我們認為制定紅花嶺郊野公園的界線必須有充分理據，並以保育為基礎，漁農自然護理署作為管理郊野公園的部門才能對紅花嶺的重要生境、景觀及康樂設施作最適切的管理與保護。紅花嶺郊野公園的設立，不但有利野生生物跨境遷移，亦絕對能為內地與香港兩地的生態保育以至大灣區的可持續發展作出示範。我們希望上述的意見及建議，可協助當局劃設一個能真正對香港及整體中國自然保育有貢獻的郊野公園。

*聯署團體（排名不分先後）：

長春社

創建香港

綠色力量

香港觀鳥會

香港鄉郊基金

嘉道理農場暨植物園

¹⁴ 漁農自然護理署（2011）。覆檢指定郊野公園的準則及為保護郊野公園不包括的土地建議採取的措施（郊野公園及海岸公園委員會工作文件：WP/CMPB/6/2011）。取自 https://www.afcd.gov.hk/tc_chi/aboutus/abt_adv/files/WP_CMPB_6_2011.pdf

環保團體建議的 紅花嶺郊野公園界線



- 圖例**
- 擬議的紅花嶺郊野公園界線*
 - 增強郊野公園之間的生態連結
 - 現有的郊野公園
 - 風水林
 - ↔ 連貫的次生林/灌木叢
 - 高地草原
 - ↔ 跨境/境內生態走廊
 - 具特殊科學價值地點 (SSSI)
 - ★ 文化遺產
- *擬議郊野公園的面積約1,120公頃，當中超過95%為政府土地

Urgent Return receipt Sign Encrypt Mark Subject Restricted Expand personal&public groups



To: Fai Fai YEUNG/AFCD/HKSARG
Cc: Patrick CC LAI/AFCD/HKSARG
Bcc:
Subject: Fw: Proposed Robin Nest Country Park
From: YN NGAR/AFCD/HKSARG - Wednesday 26/06/2019 16:50

----- Forwarded by Patrick CC LAI/AFCD/HKSARG on 26/06/2019 16:21 -----

From: EAP KFBG <eap@kfbg.org>
To: "kingshingtang@gmail.com" <kingshingtang@gmail.com>, "kswong@enb.gov.hk" <kswong@enb.gov.hk>, "dafcoffice@afcd.gov.hk" <dafcoffice@afcd.gov.hk>, "patrick_cc_lai@afcd.gov.hk" <patrick_cc_lai@afcd.gov.hk>, "phyllis_ym_chan@afcd.gov.hk" <phyllis_ym_chan@afcd.gov.hk>
Date: 26/06/2019 15:17
Subject: Proposed Robin Nest Country Park

Dear Sir/ Madam,

We were invited by the AFCD to attend a meeting for the captioned in February 2019. Later we submitted our concerns (please see attached pdf file) regarding the captioned to the AFCD asking for expanding the boundary of the proposed Robin Nest Country Park (RNCP) to cover areas of high conservation importance, such as San Kwai Tin and Lin Ma Hang. We had, indeed, recommended to include these two areas into a Country Park 15 years ago (please see our report published in 2004:

<https://www.kfbg.org/upload/Documents/Free-Resources-Download/Report-and-Documents/FCA-report-final.pdf>).

We consider excluding these areas, especially San Kwai Tin (no active village/ human settlement and farmland at present), would create a new Country Park Enclave and jeopardise the function (e.g., ecological corridor between mainland China and Hong Kong) to be provided by the RNCP. Obviously this is not in line with the requirement as stipulated in the Hong Kong Biodiversity Strategy and Action Plan (BSAP).

We would also like to remind that in the '2011 Principles and Criteria for Designating New Country Parks or Extending Existing Country Parks', private land lots and permitted burial grounds (PBGs) have never been mentioned as constraints. Indeed, there are already many PBGs within existing Country Parks.

However, in early June 2019, we saw the below article from Ming Pao:

<https://news.mingpao.com/pns/港聞/article/20190603/s00002/1559500009224/環團促擴大紅花嶺郊園-漁署稱含殮葬區不可行>

Therefore, we would like to present our concerns, findings and recommendations (and rationales) directly to the members of the Country and Marine Parks Board, for their consideration.

We should be obliged if you can organise a meeting for us to exchange our view directly.

Look forward to your kind reply.

Thank You and Best Regards,

Ecological Advisory Programme
Kadoorie Farm and Botanic Garden



190430 KFBG's comments on proposed RNCP.pdf

Urgent Return receipt Sign Encrypt Mark Subject Restricted Expand personal&public groups



To: YN NGAR/AFCD/HKSARG@AFCD, Fai Fai YEUNG/AFCD/HKSARG@AFCD
Cc:
Bcc:
Subject: Fw: Request for presentation to Country & Marine Parks Board on Conservation Policy, Principles & Criteria for demarcating a valid Draft Map & designating Robins Nest Area as a Country Park
From: Patrick CC LAI/AFCD/HKSARG - Thursday 27/06/2019 17:19

History: This message has been forwarded.

----- Forwarded by Patrick CC LAI/AFCD/HKSARG on 27/06/2019 17:18 -----

From: Francisco das Caldas <francisco@templechambers.com>
To: Chairman of MPB <kingshingtang@gmail.com>, "K.S. Wong" <dafcoffice@afcd.gov.hk>, "Mr. Patrick Lai, Asst Dir. of AFCD" <patrick_cc_lai@afcd.gov.hk>, "Sec. of the CMPB" <phyllis_ym_chan@afcd.gov.hk>
Cc: Ruy Barretto <ruyb@netvigator.com>
Date: 27/06/2019 16:13
Subject: Re: Request for presentation to Country & Marine Parks Board on Conservation Policy, Principles & Criteria for demarcating a valid Draft Map & designating Robins Nest Area as a Country Park

Dear Sirs,

Re: Request for presentation to Country & Marine Parks Board on Conservation Policy, Principles & Criteria for demarcating a valid Draft Map & designating Robins Nest Area as a Country Park

Good afternoon.

I attach herewith a letter from Mr. Ruy Barretto S.C., in relation to the captioned matter, for your kind attention.

Best regards,
 Francisco das Caldas
 Clerk to Mr. Ruy Barretto S.C.

TEMPLE CHAMBERS

T: (+852) 2248 1871 (direct)

F: (+852) 2810 0302

www.templechambers.com

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Letter - Country & Marine Parks Board & Committee.pdf

The Country and Marine Parks Board and Committee
Care of Agriculture, Fisheries and Conservation Department
5/F, Cheung Sha Wan Government Offices
303 Cheung Sha Wan Road
Kowloon

27th June 2019

Chairman of CMPB:
kingshingtang@gmail.com
KS Wong
kswong@enb.gov.hk
DAFC
dafcoffice@afcd.gov.hk
Patrick Lai, Assistant Director of AFC
patrick_cc_lai@afcd.gov.hk
Sec. of the CMPB
phyllis_ym_chan@afcd.gov.hk

Dear Sirs,

**Request for presentation to Country and Marine Parks Board on Conservation Policy,
Principles and Criteria for demarcating a valid Draft Map and designating Robins Nest
Area as a Country Park**

1. Consultation with NGOs took place with a meeting on 28th February 2019. This showed to AFCD and ERM the errors in the planning. This was followed up with the NGO corrected version of the Minutes showing **the consensus of the NGOs that the plan for the proposed CP was defective** and the boundary needed to be amended. See my attached letter of 3rd May 2019, paragraphs 34-37.
2. Instead of AFCD/ERM amending the boundary to enable the process of dialogue and consultation to continue, we were forced to make requests for relevant information and reports, which revealed further errors, and then make written submissions.
3. Letters or submissions from numerous bodies were sent to AFCD at end of April to early May **but NO response was received**, not even an acknowledgement to my letter 3rd May was received.
4. Thereafter, a Joint Statement with Maps was submitted by numerous NGOs in May 2019. A request from HK Countryside Foundation for a further follow up meeting with NGOs was rejected by AFCD on 14th May 2019 on the basis that the written submissions were clear.

5. A chaser email of 3rd June by HK Bird Watching Society asked for feedback, and attached a negative newspaper report attributed to AFCD. The AFCD reply 10th June said views gathered had been reported to the Country Parks Committee on 27th May. A further question from me of 12th June, with reply 21st June, revealed that **our letters were not yet even presented or tabled for the Country Parks Board or Committee to study.**
6. This is poor governance and the antithesis of the participation required by BSAP process to achieve appropriate conservation. It is a **defective process and irrational to keep the Committee or Board in the dark** at their May meeting about detailed relevant submissions.
7. **Instead of providing feedback to the NGOs**, AFCD has made negative and erroneous remarks to the Press, and stated they **had not considered the Proposal** for various reasons. This makes it essential for the Committee and Board to carefully read the submissions **for themselves.**
8. Time has been wasted by the above tactics.
9. Because of the above I have to write to you direct so that you can see my letter of 3rd May 2019. This is a useful opportunity for the Board and Committee **to see the way errors are accumulating in this process and correct things now. A meeting is essential.**
10. The press report extract sent to AFCD on 3rd June, and attributed to them, was not addressed nor disavowed as not being accurate. Based on that the Board can see **errors as follows in AFCD reasons.**
11. Reason: expanded boundary **“deviates from ...the Plan D study..”**. This now reveals how the defective plan was made, **it was not made by AFCD**, it was made for a planning exercise by another department not qualified in law to make the required Country Park demarcation. Hence of course this planning omitted to consider the objectives and ambit of the Country Parks Ordinance, nor the AFCD Principles and Criteria for demarcating Country Parks nor the BSAP Policy. **Now the AFCD/Authority have to do their duty under the law and do their OWN demarcation based on the correct objectives, principles, policies and evidence.**
12. It is notable that this AFCD reason did NOT address the submissions showing the **failures to demarcate** as required by law and the numerous resulting errors and omissions. See for example my letter paras 10-11 and 12-37 and 45-97.
13. Reason: alleged need to do **“additional planning study and public consultation.”** By definition, genuine consultation means improving the boundary having seen the evidence and submissions. **This reason reveals AFCD negative attitude towards any improvements so their consultation process was not sincere.** To avoid adding

another defect to the process, it is the duty of the Board to consult as needed so the public gets what it is entitled to under the law, and to **enable the Board to do its duty to demarcate the CP boundary according to the law**. There is no urgency to deliver a defective and invalid plan. **Once the statutory process starts there is little time for the Board and AFCD/Authority to make amendments, see para 33. Now is the time to do a valid demarcation and get it right.**

14. Hong Kong's report to the Nation at the Conference of the Parties to the Convention on Biodiversity hosted by China in 2020 should show we have genuinely achieved these parts of the BSAP Policy. See paras 38-44. **Persisting with this defective process and defective plan would cause more delay** whereas there is still time to do things faster if done properly from now on. If the Board persists with the current errors, it would demonstrate to the Mainland **that a key objective, connectivity to the Mainland, has been reduced and leaves un-regulated BG which will be a fire risk for Wutongshan next door.**
15. Reason: that **Burial Ground** rights and promises to be respected. This omits respecting the public rights and legitimate expectations that the CPO and Principles and Criteria and BSAP Policy would be followed so as to deliver a **genuine CP** of about 1,120 hectares not the 480 hectares of Plan D. The **promise to the public was to designate a complete Country Park**, not about 40% or one third of the relevant area. **The Principles and Criteria indicates 1,800 hectares is the average**, and this would be realistic and expected for a landscape as extensive as the Robin's Nest Area. See Size Criteria A, at paras 47-48 and 168.
16. **BG are respected and better located, managed, and regulated by the AFCD under the Country Park Regulations**, see my letter paras 65-76. The Ombudsman Report on Management of Permitted Burial Grounds 2015 **showed the neglect of some of the Government departments controlling the BG**. When properly understood, the Ombudsman reveals that BG in rural areas (including CA and SSSI zones) are **not** properly allocated, inspected, managed, controlled or enforced, whereas **those BG inside CP and Water Gathering Grounds are controlled and inspected by AFCD and WSD, because they have their own statutory rules or CP Regulations**. Because of the lack of control in conservation zones, ie CA and SSSI, the Ombudsman advised that Lands D should avoid designating or extending BG in those zones. In contrast however, the Ombudsman Report showed that AFCD do have a working statutory system for regulating burials in CP. The Ombudsman reasoning is clear. Hence, designating the suitable BG to be inside the CP will better protect and manage the CP as opposed to having the BG outside the CP boundaries where the ecological damage and fire risks will be neglected and unmanaged with no CP Regulations to enforce. This Report demonstrates that **having suitable existing BG inside CP does enable appropriate management of the BG and their risks to the countryside under the CP Regulations**. But, **having BG outside or excluded from CP results in neglect from lack of management and control thus increasing the risks of ecological damage and fire to the CP and adjoining areas.**

17. Reason: **“activities at BG is in conflict with nature conservation.”** This is an excuse to avoid the duty of the Country Parks Authority. Traditional BG of the type here are forest compatible with CP when managed per the CP Ordinance and Regulations, see summary para 69. A reason why the Authority was set up under Ordinance was to manage the CP and **manage any conflicting demands** in Country Parks based on the evidence and doing their duty. The correct approach on this aspect is for the Authority and AFCD to have the statutory powers and exercise the necessary authority to manage the whole landscape and better prevent hill fires. The Authority should not avoid its duty and its responsibility by pushing the main fire risks outside the CP Boundary. **The CP Ordinance and Regulations provide for having BGs inside the Boundary hence there are fire and burial Regulations which the Authority must implement.** By having such powers and authority over BG in CP with biodiversity and recreation and landscape values the AFCD can prevent or reduce damage by burial activities and fire, and choose better locations for burials where there is access with no need to cut forests for burials and new fire breaks. **Hence within the CP system and Regulations the AFCD/Authority do their duty and protect the CP conservation and landscape values of the BG, instead of leaving the BG outside and unprotected with no management and no enforcement.**
18. **The Plan D defective plan of excluding BG requires extensive cutting of firebreaks for kilometres through good forest** in an inadequate and damaging attempt to protect the CP. This will aggravate fragmentation and disturbance. The new CP will have a **deadly start with the cutting of thousands of shrubs, saplings and trees** over many hectares of hills, and this is not just grass cutting. This will cause loss of the visual beauty of the hills, cut the connectivity and expose the forest to drying and wind edge effects. This will provoke criticism of the AFCD and Board. Then the firebreaks will revert to grass, the forest edges will dry out and become vulnerable to fire, and bring added risks to the heart of the contiguous forest on all sides. Access to the forest centres via the cleared areas will facilitate poaching, tree thefts and new burials too close to forest. **Will AFCD argue that they should escape responsibility because they cut out from the CP the areas which caused the increased high risk to the CP?** Can they pass the responsibility to other less qualified departments who do not have the teams and resources to do the job? **The result would be the neglect described by the Ombudsman.** See paras 73-74.
19. Reason: “recreation potential... is very limited.” This is incorrect. Site surveys showed **much of the BG are NOT used for active burial and are the best areas for walking and public enjoyment, whether open countryside or forested with streams.** The 480 hectare remnant CP cuts out much of the education, heritage, conservation and recreation values and potential so that even the Visitor Centres are half an hour walk from the CP boundaries, and several areas with the greatest values are now omitted. There is no defence of this irrational outcome. Paras 88-97, 116-122 **show how public enjoyment is minimized by the defective plan, but shows how the CP boundary can be improved to best protect all the CP values for the public good.**

20. **It is irrational to make a problematic Enclave at San Kwai Tin** which is the heart of this CP. See para 68, 92, 123-126, 131-139. The place has a rich assemblage of species and habitats, rare plants and trees, much rare wildlife, and valuable stream and mature forest habitats with marshy areas. The village has been abandoned for so long it is totally ruined, there are no people, there are no burials in the extensive BG for a long time, and most of the land is heavily forested Government Land. It has the highest public enjoyment value on the main east west trekking route, is the core area of the CP which enables contiguous forest from east to west, and is the core section of the ecological corridor to Wutongshan with tree cover from north to south. Cutting this heart of the park is a prime example of most of the types of mistake made in this plan.
21. Reason: “become fragmented and difficult to manage” by having BG separating CP from the Fung Shui Woodlands. That argument shows how wrong and unreasonable it is to exclude all the BG. **The Authority will make it harder to manage when it wrongly excludes the BG and thus separates that from the Fung Shui woods.** This is irrational. It is the duty of the Authority to manage sensibly for conservation, recreation and public enjoyment. The plan **aggravates fragmentation on all sides** and in the core of the CP and reduces the existing connectivity instead of enhancing connectivity as required by BSAP Action 4. See paras 123-139.
22. Reason: “Fung Shui Woodsprotected under CA zone,no need to incorporate them into CP. “ **This misleads the reader as CA provides no management by AFCD.** CA is mainly a Planning device and AFCD have no regulations or management role. As noted by cases in the Ombudsman Report 2015, **CA does not protect against destruction of the vegetation, unauthorized access and fire.** This is another argument in favour of AFCD avoiding responsibility. The existence of special old trees, which are cultural and natural heritage, is an asset for a CP. The CP then enables better care and professional management plus greater public enjoyment. **These benefits ought to be welcomed by AFCD, not repudiated.** Leaving such areas with only planning protection means they remain **vulnerable to rezoning.** Rezoning GB to Residential, even where there are thousands of trees, often takes place to enable luxury housing on the fringes of the countryside with vehicle access. See para 117. **Fung Shui Woods meet the CP Principles and Criteria for inclusion.**
23. Finally the press article states that AFCD would **not consider our proposal** because of the above reasons. When coupled with the Board and Committee being **left in the dark** from not having our letters, this indicates the **consultation is manipulated.** The **process now must be rectified** and continued based on the NGO proposals and submissions to reduce the damage done so far.

24. **The NGOs have done their duty to the public** in providing constructive proposals based on principles and evidence. Most of the issues have not been addressed in the AFCD press response. **It is now the duty of the Board to read and address issues and evidence so they can advise the AFCD/Authority to demarcate a proper sized CP according to the law, the principles and criteria, policies, and the evidence.**
25. The public requires your constructive feedback so that we can progress this matter without further delay. My letter paras 141-161 **explained the merits of an improved boundary**. Please see **the Map** attached to the letter from KFBG 30th April 2019 which shows the improvement over the Plan D defective line.
26. Please see suggestions for **a timetable for action** from paras 162-169. I look forward to your proposals for demarcating the CP and a Draft Map based on the Principles and Criteria and other Policies.
27. I suggest some of the delay and damage caused so far can be reduced if you quickly arrange for a **presentation by NGOs** at your next meeting. We look forward to your positive and speedy reply by email.

Yours Sincerely

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above the name Ruy Barretto SC.

Ruy Barretto SC

[9380.rb]

Urgent Return receipt Sign Encrypt Mark Subject Restricted Expand personal&public groups



To: YN NGAR/AFCD/HKSARG@AFCD, Fai Fai YEUNG/AFCD/HKSARG@AFCD
Cc:
Bcc:
Subject: Fw: Conservation Policy, Principles & Criteria for demarcating a valid Draft Map and designating Robins Nest Area as a Country Park
From: Patrick CC LAI/AFCD/HKSARG - Thursday 27/06/2019 17:21

----- Forwarded by Patrick CC LAI/AFCD/HKSARG on 27/06/2019 17:20 -----

From: Francisco das Caldas <francisco@templechambers.com>
To: "dafcoffice@afcd.gov.hk" <dafcoffice@afcd.gov.hk>
Cc: "Patrick C.C. Lai" <patrick_cc_lai@afcd.gov.hk>, "yn_ngar@afcd.gov.hk" <yn_ngar@afcd.gov.hk>, Ruy Barretto <ruyb@netvigator.com>
Date: 27/06/2019 16:00
Subject: Re: Conservation Policy, Principles & Criteria for demarcating a valid Draft Map and designating Robins Nest Area as a Country Park

Dear Sirs,

Good afternoon.

I attach herewith Mr. Ruy Barretto's letter in relation to the subject matter for your kind attention.

Best regards,

Francisco das Caldas
Clerk to Mr. Ruy Barretto S.C.

TEMPLE CHAMBERS

T: (+852) 2248 1871 (direct)

F: (+852) 2810 0302

www.templechambers.com

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Letter - AFCD.pdf

I. 保育管理計劃	
在紅花嶺郊野公園內物色自然保育地帶	<ul style="list-style-type: none">廣闊而延綿的自然生境受人類干擾相對較少，因此，擬議紅花嶺郊野公園大部分範圍生物多樣性豐富，且極具生態價值。有關範圍將予以區分，並以自然保育作基本管理目的，而遠足和欣賞大自然等人類活動則限於經詳加挑選的路線，以避免損害生態敏感的生境，例如紅花嶺與紅花寨之間作為大草鶯(<i>Graminicola striatus</i>)棲息地的高地草原。
生物多樣性和文化遺產的優化工作	<ul style="list-style-type: none">擬議紅花嶺郊野公園將發揮生態走廊的功能，讓飛行動物可在深圳梧桐山國家森林公園與八仙嶺郊野公園之間或以外其他地方自由往返。這項功能可透過與深圳相關對口人員合作予以加強，包括交換生物多樣性基線數據和優化雙方同類生境。漁護署將透過植林優化工作，在南坡和北坡種植原生品種樹木以優化生境，並會在南坡定期進行剪草及／或控制焚燒，為依賴林地和草地為生的物種提供覓食、棲息及／或巢居地。漁護署亦會推行以本地開花品種(例如紅杜鵑(<i>Rhododendron simsii</i>))為主題的景觀種植，在山坡上重新打造具吸引力的景觀。漁護署將分別透過進行必要的維修和結構加固工程，推廣和保存擬議紅花嶺郊野公園內沙頭角區豐富多采的客家文化、文化遺產和戰時遺跡，讓市民更了解當區文化，並可安全地參觀相關地點。

<p>監察及表現審核</p>	<ul style="list-style-type: none"> ● 定期進行動植物調查，至少在旱季和雨季各進行一次，記錄野生動植物在不同季節使用郊野公園的變化，並加倍關注具有重要保育價值的物種(特別是使用擬議紅花嶺郊野公園內某些生境的物種)，例如各種蝙蝠、大草鶯、白腹山鵟(<i>Aquila fasciata</i>)和食蟹獾(<i>Herpestes urva</i>)。 ● 我們將在四月至七月(即大草鶯的繁殖季節)於高地草原對大草鶯進行額外調查，以監察大草鶯使用該生境的情況，並判斷有否需要採取額外的生境管理措施。 ● 我們將密切監察擬議紅花嶺郊野公園內的人侵性植物(例如薇甘菊(<i>Mikania micrantha</i>))和入侵性動物(例如溫室蟾(<i>Eleutherodactylus planirostris</i>))，並進行必要的清理工作，以控制這類動植物對當區生態系統所造成的不良影響。 ● 擬議紅花嶺郊野公園內的蓮麻坑鉛礦洞和戰時構築物／設施將由合資格的人員和郊野公園護理員定期檢查，以監察上述構築物／設施的狀況和整體穩定程度。我們會適時報告及處理任何發現構築物／設施有結構風險和被蓄意破壞痕跡的個案。
<p>火災防控</p>	<ul style="list-style-type: none"> ● 我們將透過種植防火的樹木及／或進行剪草(如有需要)，在擬議紅花嶺郊野公園的南坡設置 10 至 20 米闊的防火帶，以防控山火。由於擬議紅花嶺郊野公園附近有大量墳墓，因此有需要在策略性地點進行剪草。
<p>巡邏及執法</p>	<ul style="list-style-type: none"> ● 郊野公園護理員會定期到公園巡邏，為訪客提供服務，並執行《郊野公園條例》(第 208 章)及其他相關規例，以應對非法活動，例如砍伐土沉香(<i>Aquilaria sinensis</i>)、誘捕動物、餵飼野生動物及其他非法活動。

II. 康樂和教育管理計劃

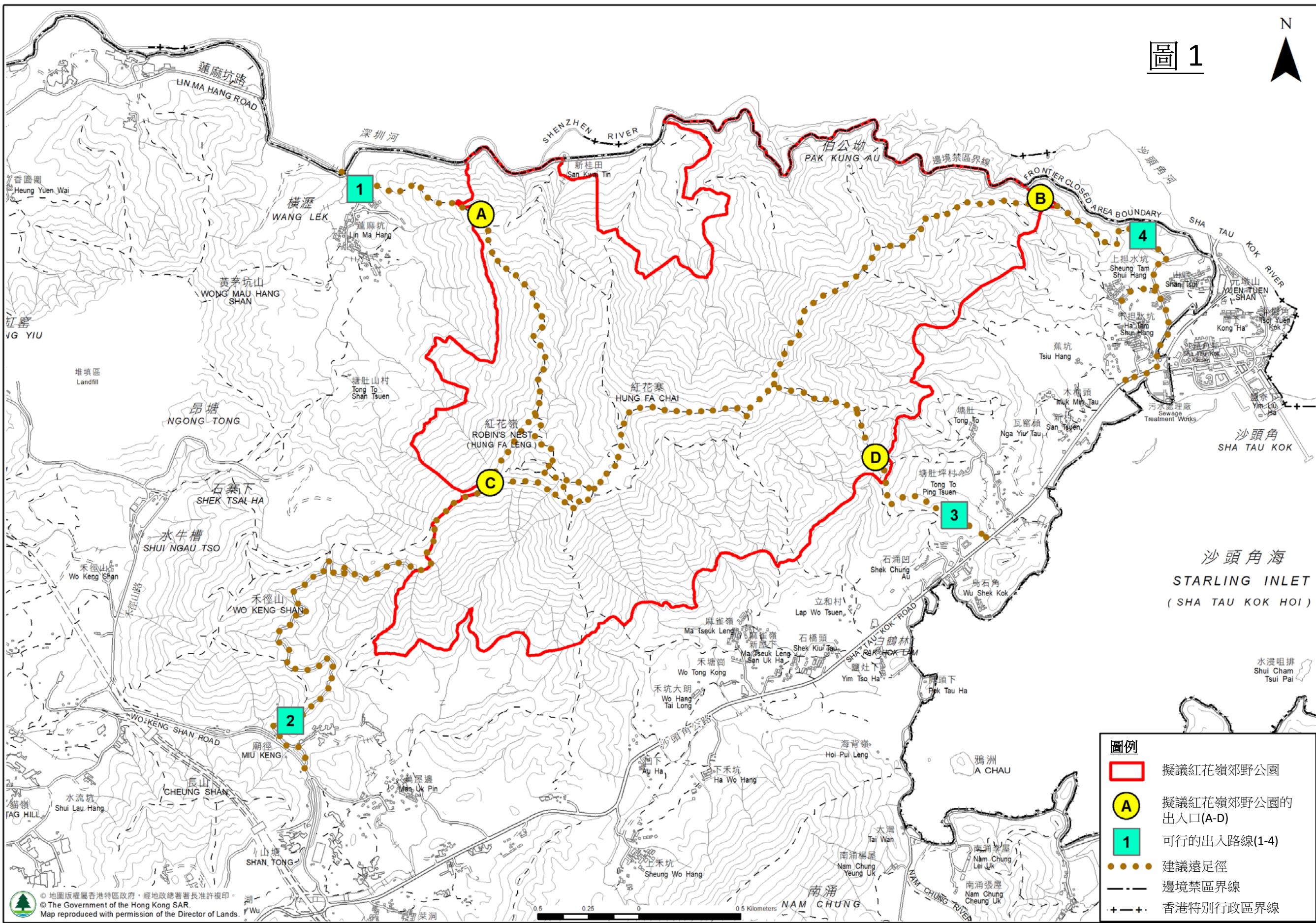
康樂活動及設施

- 提供康樂和教育功能也是指定擬議紅花嶺郊野公園的關鍵目標。由於擬議郊野公園大部分範圍相對不受干擾，因此該郊野公園只會推廣靜態的康樂活動，例如遠足、欣賞大自然、觀光、觀賞雀鳥／野生生物等。如有需要，亦會提供一般康樂設施和遊客資訊。對自然環境或其鄰近鄉郊社區造成嚴重滋擾的活動或用途，則不會獲得准許。

遊客服務及當地村民的參與

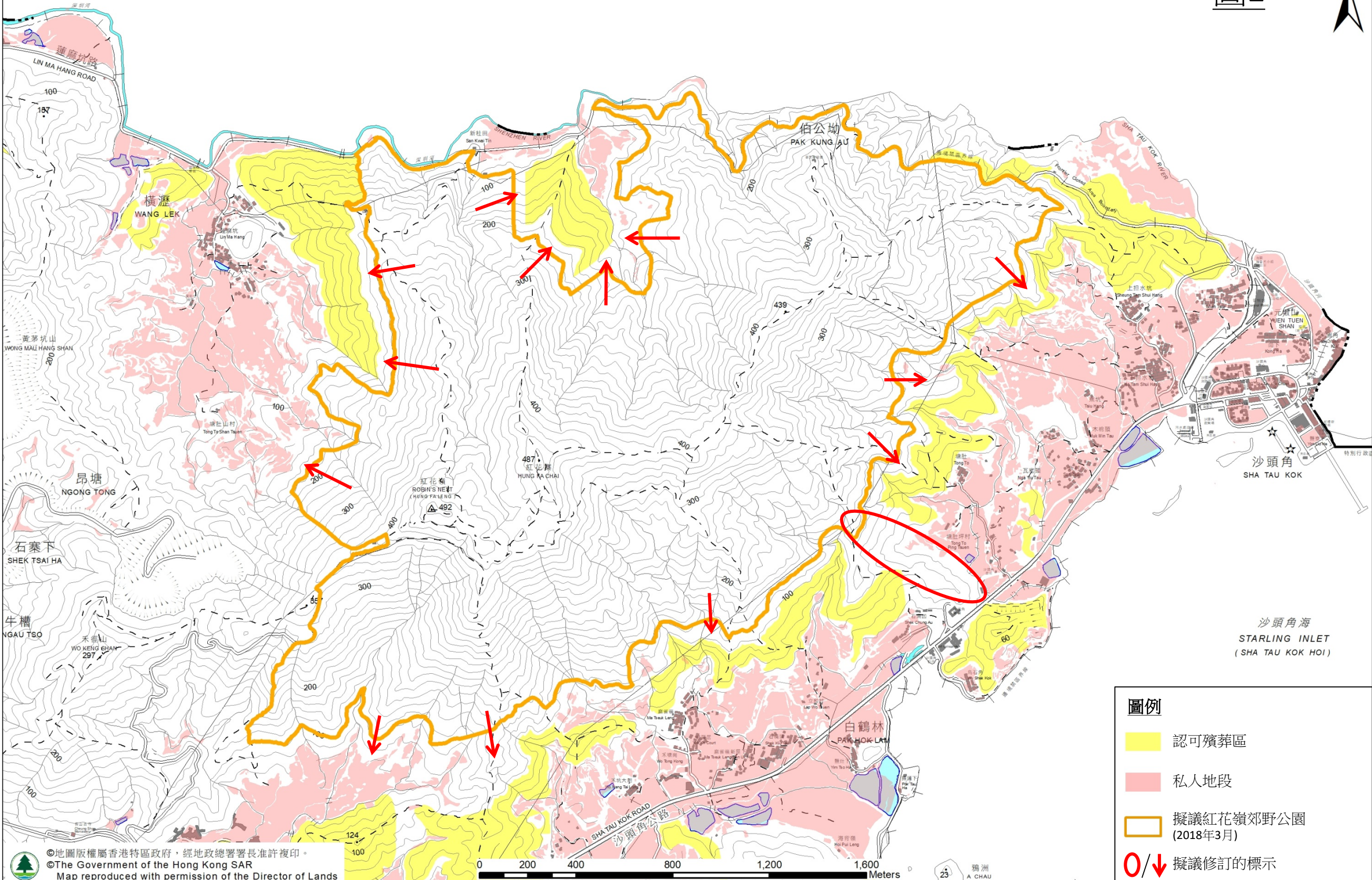
- 我們物色得兩個可提供遊客資訊的選址，分別為蓮麻坑村西面廢置的敬修學校及担水坑村東面廢置的群雅學校。有關資訊服務中心連同途中的傳意牌和指示牌，均會用作展示鄰近鄉村的歷史、文化有趣資料，以及紅花嶺區豐富的生態資源。我們會探討邀請當地村民參與舉辦工作坊和提供導賞服務，而這類活動大都受公園遊客歡迎。

圖 1



- 圖例**
- 擬議紅花嶺郊野公園
 - A 擬議紅花嶺郊野公園的出入口(A-D)
 - 1 可行的出入路線(1-4)
 - 建議遠足徑
 - 邊境禁區界線
 - 香港特別行政區界線

圖2



圖例

- 認可殯葬區
- 私人地段
- 擬議紅花嶺郊野公園 (2018年3月)
- / 擬議修訂的標示

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