

LEGISLATIVE COUNCIL BRIEF

Marine Parks Ordinance (Chapter 476)

DESIGNATION OF TUNG PING CHAU MARINE PARK

INTRODUCTION

A At the meeting of the Executive Council on 25 September 2001, the Council ADVISED and the Chief Executive ORDERED that the Marine Parks (Designation) (No.3) Order, at Annex A, should be made under section 15 of the Marine Parks Ordinance.

BACKGROUND AND ARGUMENT

General Background

2. The proposed Tung Ping Chau Marine Park (the proposed Marine park) covers 270 hectares of coastal and sea area around Ping Chau in Mirs Bay. It contains extensive coral communities and rich growth of seaweed. The fringing coral formation, measuring 1.8 square kilometers, is one of the largest in Hong Kong. It supports about 124 species of reef fish. The coastline of the island is further characterized by sedimentary rock formations and geological features, which are of high scientific and educational value. Designation of the proposed Marine Park would enable the marine area at Ping Chau to be protected under the Marine Parks Ordinance (the Ordinance). Activities incompatible with conservation of the marine environment, such as trawling and indiscriminate fishing, which may damage the corals, can be effectively controlled within the area.

B 3. The Country and Marine Parks Authority (the Authority), at the direction of the Chief Executive in Council under section 7(1) of the Ordinance, prepared a draft map of the proposed Marine Park after consulting the Country and Marine Parks Board (the Board). The draft map, at Annex B, was gazetted

on 29 December 2000 and made available for public inspection for a period of sixty days in accordance with section 8 of the Ordinance.

Objections

(a) 4. During the period of public inspection, a total of six objections against the draft map were received from the Tung Ping Chau Committee, four fishing gear shops and an individual objector.

5. The objections are summarized as follows -

(a) Tung Ping Chau Committee

- (i) establishment of the two Core Areas¹ within the proposed Marine Park where no fishing permit will be issued, would deprive the rights and adversely affect the interests of the fishermen;
- (ii) angling and diving activities would be restricted and the economic interests of the villagers would be adversely affected;
- (iii) the development rights of private land on the island of Ping Chau would be adversely affected;
- (iv) the villagers' right to collect stones and hard corals would be adversely affected;
- (v) the villagers' daily activities would be subject to controls under the Marine Parks Ordinance; and
- (vi) the villagers could not discharge sewage directly into the sea.

(b) The four fishing gear shops

The ban on recreational fishing in the proposed Marine Park would

¹ The Authority will establish two Core Areas totaled 7.4 hectares, which cover the best coral communities within the Marine Park. Fishing is prohibited inside the Core Areas.

affect enthusiasts in this sport.

(c) An individual objector

The permitted use of gill nets, trammel nets and fish traps in fishing operations outside the Core Areas in the proposed Marine Park could damage the corals.

6. The Authority's representations to the objections are summarized below –

(a) Tung Ping Chau Committee

- (i) As the Core Areas contain the best coral communities in the proposed Marine Park, there is a need to prohibit fishing activities in order to effectively conserve the corals. However, the Core Areas only occupy 7.4 hectares (i.e. 2.7% of the proposed Marine Park area). It is expected that the impact on fishermen would be limited as they could apply for fishing permits to operate in the rest of the Marine Park waters. Moreover, only a small number of fishermen currently operate in the proposed Marine Park area. Besides, the spill-over effect from the enhancement of fish stock within the Core Areas would benefit the fishermen.
- (ii) While recreational fishing will be prohibited in the proposed Marine Park, compatible recreational activities such as diving, swimming and boating will be allowed. The Authority will arrange publicity and educational programmes on the abundance and diversity of marine resources within the proposed Marine Park. That would attract more visitors to the island and thus enhance the economic interests of the villagers.
- (iii) The proposed Marine Park is below the high water mark of the coastline. It does not encroach any private land and would thus not affect the development rights of the private land on the island of Ping Chau.

- (iv) Collection of stones and hard corals are regulated under the Land (Miscellaneous Provisions) Ordinance (Chapter 28) and the Animals and Plants (Protection of Endangered Species) Ordinance (Chapter 187). They are not new controls to be introduced with the designation of the Marine Park.
- (v) The Ordinance aims to conserve coastal and marine resources. Designation of the proposed Marine Park will have limited impact on the daily lives of the villagers. Fishing permits will be issued free of charge to bona-fide fishermen and villagers of Ping Chau to continue their fishing activities in the waters of the proposed Marine Park outside the Core Areas.
- (vi) The discharge of sewage is subject to controls under the Water Pollution Control Ordinance (Chapter 358).

(b) The four fishing gear shops

For the purpose of protecting the marine environment, it is necessary to ban recreational fishing within the proposed Marine Park. The Authority considers that establishment of the proposed Marine Park would not have a significant impact on recreational fishermen as they still have many other alternative places for fishing in the territory.

(c) An individual objector

The best coral communities will be protected within the Core Areas, where no fishing will be allowed. Moreover, only a small number of fishermen will operate in the rest of the proposed Marine Park outside the Core Areas. Use of the fishing gear that the objector is concerned about is allowed in other marine parks. The Authority does not consider it necessary to ban the concerned gear in the proposed Marine Park. If in future it is found that it could cause serious damage to the corals, the Authority can always tighten control by imposing special conditions on fishing permits to restrict or even ban its use.

Advice of the Country and Marine Parks Board

7. The hearing of objections by the Board took place on 19 April 2001. The individual objector and representatives of the Tung Ping Chau Committee attended the hearing. The Board considered their presentations and the Authority's representations. The Board's consideration and decision are summarised as follows -

(a) Objections by the Tung Ping Chau Committee

The Board considered that the designation of the proposed Marine Park would bring in more visitors and enhance the marine resources in the area to the benefit of the villagers. The Board noted that the number of villagers normally residing on the island was very small though some of the villagers would go back to the island during weekends and holidays. In view of the above, the Board concluded that the designation of the proposed Marine Park would not have a significant impact on the livelihood of the villagers and that the Authority should be able to relieve most of the villagers' concerns through enhanced communication. The Board therefore rejected the objection raised by the Tung Ping Chau Committee.

During the Board hearing, the villagers raised an additional concern about the inclusion of the only clam ground within the Core Areas. This would render clam collection impossible after the designation of the Marine Park. The Board sympathized with the villagers and asked the Authority to clarify the exact location of the clam ground and to try to accommodate the villagers' request to continue clam collection.

Following a site inspection with the village representatives on 23 April 2001, the Authority agreed to issue special clam collecting permits to villagers for collecting clams along the rocky shores in the Core Areas.

(b) Objections raised by the fishing gear shops

As there are many sites in the Mirs Bay which are suitable for

recreational fishing, designation of the proposed Marine Park would only have a limited impact on recreational fishermen. The Board rejected all four objections.

(c) Objection raised by the individual objector

The Board considered that he was not objecting to the proposed designation of the Marine Park. He only objected to the permitted use of certain fishing gear by fishermen outside the Core Areas. The Board considered that this was a management issue and should not affect the designation exercise. The Board expressed satisfaction with the location and boundaries of the Core Areas and the protection to be provided to the corals of Tung Ping Chau under the proposed designation. The Board concluded that the objection raised was related to a management issue and rejected it. The Board, however, requested the Authority to monitor the conditions of the corals and to consider implementing further protection measures if the situation warranted.

Approval of the Draft Map

8. Having considered the objections, the Chief Executive in Council approved the draft map of the proposed Marine Park under section 14(1) of the Ordinance on 10 July 2001.

DESIGNATION ORDER

9. In accordance with section 14(5) of the Ordinance, copies of the approved map of the proposed Marine Park have been deposited in the Land Registry, the Tai Po New Territories Land Registry, the headquarters of the Agriculture, Fisheries and Conservation Department and the headquarters of the Marine Department. The Chief Executive shall by order in the Gazette designate the area shown in the approved map to be a marine park under section 15 of the Ordinance. The Designation Order is at Annex A.

PUBLIC CONSULTATION

10. The Authority consulted various organizations including fishermen

groups, environmental groups, concerned marine users, the Tai Po District Council and the Sai Kung North Rural Committee on the proposed designation of the Marine Park in 2000. Majority of the organizations supported the proposed designation. Only the Rural Committee had expressed reservations on the proposal, but these were successfully resolved in subsequent meetings.

11. The Board and its Marine Parks Committee were consulted on 27 July 1999 and 26 October 1999 respectively. Both supported the proposal. The Board and the Committee were informed of the progress of designating the Marine Park at subsequent meetings.

12. The Legislative Council Panel on Environmental Affairs was briefed on the proposed designation of the Marine Park at its meeting on 4 May 2000. Some Members expressed support for the proposal while others did not make any adverse comments.

BASIC LAW IMPLICATIONS

13. The Department of Justice advises that the proposal does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

14. The Department of Justice advises that the proposal is consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

15. The Agriculture, Fisheries and Conservation Department could meet the additional resources required for managing the proposed Marine Park through internal re-deployment. There are no financial and staffing implications arising from this proposal.

ECONOMIC IMPLICATIONS

16. Ping Chau in Mirs Bay is a remote island which is mainly visited by people for recreational purposes. Its designation as a marine park will not have any significant adverse economic implications. It will, however, contribute to conservation of marine resources and in turn may promote

compatible recreational activities like diving and attract visitors to the island.

ENVIRONMENTAL IMPLICATIONS

17. Designation of the proposed Marine Park will enable the ecologically important marine area at Ping Chau to be protected as a marine park under the Ordinance. The Authority will manage the area for the purposes of nature conservation, education and research.

PUBLICITY

18. A press release will be issued on 5 October 2001 when the Marine Parks (Designation) (No.3) Order is gazetted. A spokesman will be available to answer media enquiries.

ENQUIRIES

19. For enquires on this brief, please contact Miss Jenny CHAN, Assistant Secretary for the Environment and Food at 2136 3271, or Mr Edward Wong, Senior Marine Parks Officer of the Agriculture, Fisheries and Conservation Department at 2150 6870.

Environment and Food Bureau/
Agriculture, Fisheries and Conservation Department
3 October 2001

