

立法會
Legislative Council

LC Paper No. CB(1)631/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/SS/2/13/2

**Subcommittee on Country Parks
(Designation) (Consolidation) (Amendment) Order 2013**

**Minutes of second meeting held on
Tuesday, 5 November 2013, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon CHAN Hak-kan, JP
Hon Albert CHAN Wai-yip
Hon James TIEN Pei-chun, GBS, JP
Hon WU Chi-wai, MH
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Dr Hon Elizabeth QUAT, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Members absent : Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon CHAN Han-pan

Public Officers attending : Agenda item I
Mr Elvis AU, JP
Assistant Director (Nature Conservation &
Infrastructure Planning)
Environmental Protection Department

Dr LEUNG Siu-fai, JP
Deputy Director of Agriculture, Fisheries and
Conservation

Mr Joseph SHAM
Assistant Director (Country & Marine Parks)
Agriculture, Fisheries and Conservation Department

Mr LEUNG Chi-hong
Senior Country Parks Officer (NW)
Agriculture, Fisheries and Conservation Department

**Attendance by
Invitation : Agenda item I**

Mr Paul ZIMMERMAN
Chief Executive Officer
Designing Hong Kong Limited

朱凱迪先生
執委
土地正義聯盟

Mr Mark CHAN Tat-nang
Senior Project Officer
Greeners Action

Dr Michael LAU
Senior Head of Programme, Local Biodiversity &
Regional Wetlands
World Wide Fund - Hong Kong

Ms HO Ka-po
Project Manager
Green Sense

Mr LI Yiu-ban
Ex-officio Executive Councillor
Heung Yee Kuk New Territories

Mr Roger NISSIM

Mr NG Hei-man
Assistant Campaign Manager
The Conservancy Association

Mr Ruy Octavio BARRETTO

Mr Joseph MO Ka-hung

Ms Carmen CHAN Ka-mun

Mr LAI Yan

Mr LAI Kwan

Mr Thomas LAI

Mr CHOW Kwok-keung
Chairman
Hong Kong Hiking Association, China

Mr Andy YU Tak-po
KLW District Developer
Civic Party

Mr LEUNG Fuk-yuen
Chairman
Shap Pat Heung Rural Committee

Mr TSANG Yuk-on
Sha Tau Kok Mui Tsz Lam Village Representative

Mr LEUNG Wo-ping
Representative
Sai Kung North Rural Committee

Mr LOK Shui-sang
Chairman
Sai Kung Rural Committee

Mr LI Ka-leung
Member
Sai Kung District Council

Mr YAU Yuk-lun
Sai Kung District Council member

Mr YOUNG NG Chun-yeung
Chairman
Association for Geoconservation, Hong Kong

Ms Jenny QUINTON
Ark Eden

Ms Jocelyn HO Pui-lam
Senior Conservation Officer
The Hong Kong Bird Watching Society

Clerk in attendance : Ms Sharon CHUNG
Chief Council Secretary (1)6

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Mr Fred PANG
Council Secretary (1)6

Ms Christina SHIU
Legislative Assistant (1)6

I Meeting with deputations and the Administration

Submissions received from deputations not attending the meeting

(LC Paper No. CB(1)216/13-14(17) -- Submission from a member of the public (陳 先 生) dated 30 October 2013

LC Paper No. CB(1)216/13-14(18) -- Submission from Johnny WONG dated 30 October 2013

LC Paper No. CB(1)216/13-14(19) -- Submission from Friends of the Earth (HK) dated 30 October 2013

LC Paper No. CB(1)216/13-14(20) -- Submission from a member of the public (周 禮 賢) dated 31 October 2013

- LC Paper No. CB(1)216/13-14(21) -- Submission from Bernie CHIK dated 31 October 2013
- LC Paper No. CB(1)216/13-14(22) -- Submission from Paul CROW dated 31 October 2013
- LC Paper No. CB(1)216/13-14(23) -- Submission from a member of the public (葉子林) dated 31 October 2013
- LC Paper No. CB(1)216/13-14(24) -- Submission from WONG Yu-ki dated 31 October 2013
- LC Paper No. CB(1)216/13-14(25) -- Submission from a member of the public (So) dated 31 October 2013
- LC Paper No. CB(1)216/13-14(26) -- Submission from Friends of Hoi Ha from dated 31 October 2013
- LC Paper No. CB(1)216/13-14(27) -- Submission from Kadoorie Farm & Botanic Garden Corporation dated 1 November 2013
- LC Paper No. CB(1)216/13-14(28) -- Submission from Catherine CHENG dated 1 November 2013
- LC Paper No. CB(1)216/13-14(29) -- Submission from Hong Kong Outdoors dated 1 November 2013
- LC Paper No. CB(1)216/13-14(30) -- Submission from Jane YEUNG dated 1 November 2013
- LC Paper No. CB(1)216/13-14(31) -- Submission from Friends of Sai Kung dated 1 November 2013
- LC Paper No. CB(1)216/13-14(32) -- Submission from a member of the public (Sandy) dated 2 November 2013
- LC Paper No. CB(1)216/13-14(33) -- Submission from a member of the public (婉彤 Yuki) dated 3 November 2013

Other relevant papers

- (LC Paper No. CB(1)216/13-14(34) -- List of follow-up actions arising from discussion at the meeting on 29 October 2013
- LC Paper No. CB(1)216/13-14(35) -- Administration's response to the issues raised by members at the meeting on 29 October 2013

- LC Paper No. CB(1)216/13-14(36) -- Letters from Tso Au Yim & Yeung to the Secretary General of the Legislative Council dated 15 and 31 October 2013 respectively
(Restricted to members)
- L.N. 152 -- Country Parks (Designation)
(gazetted on 11.10.2013) (Consolidation) (Amendment)
Order 2013
- File Ref: EP CR 9/15/9 -- Legislative Council Brief
LC Paper No. LS4/13-14 -- Legal Service Division Report
- LC Paper No. CB(1)162/13-14(01) -- Marked-up copy of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 prepared by the Legal Service Division
(Restricted to members)
- LC Paper No. CB(1)162/13-14(02) -- Paper on the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 prepared by the Legislative Council Secretariat (Background brief))

Welcoming remarks by the Chairman

The Chairman welcomed representatives of the Administration and deputations to the meeting. She said that each deputation would be given four minutes to present his/her views. She reminded the deputations that when addressing the Subcommittee, they would not be protected by the privileges and immunities under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and their written submissions were also not protected by the said Ordinance.

Presentation by deputations

2. The Subcommittee received views on the Country Parks (Designation) (Consolidation)(Amendment) Order 2013 ("Amendment Order") from the following deputations/individuals:

Designing Hong Kong Limited
(LC Paper No. CB(1)216/13-14(01) (English version only))

Land Justice League(LC Paper No. CB(1)264/13-14(02) (Chinese version only))

Greeners Action
(LC Paper No. CB(1)216/13-14(02) (Chinese version only))

World Wide Fund - Hong Kong
(LC Paper No. CB(1)216/13-14(03) (English version only))

Green Sense

Heung Yee Kuk New Territories
(LC Paper No. CB(1)162/13-14(03), CB(1)229/13-14(01) and
CB(1)256/13-14(01)) (Chinese version only))

Mr Roger NISSIM
(LC Paper No. CB(1)216/13-14(04) (English version only))

The Conservancy Association
(LC Paper No. CB(1)216/13-14(05) (Chinese version only))

Mr Ruy Octavio BARRETTO
(LC Paper No. CB(1)254/13-14(01) (English version only))

Mr Joseph MO Ka-hung
(LC Paper No. CB(1)216/13-14(06) (Chinese version only))

Ms Carmen CHAN Ka-mun
(LC Paper No. CB(1)216/13-14(07) (Chinese version only))

Mr LAI Yan
(LC Paper No. CB(1)216/13-14(08) (Chinese version only))

Mr LAI Kwan
(LC Paper No. CB(1)216/13-14(09) (Chinese version only))

Mr Thomas LAI
(LC Paper No. CB(1)216/13-14(10) (Chinese version only))

Hong Kong Hiking Association, China

Civic Party

Shap Pat Heung Rural Committee

(LC Paper No. CB(1)216/13-14(11) (Chinese version only))

Mr TSANG Yuk-on, Sha Tau Kok Mui Tsz Lam Village Representative

(LC Paper No. CB(1)216/13-14(12) (Chinese version only))

Sai Kung North Rural Committee

Sai Kung Rural Committee

(LC Paper No. CB(1)216/13-14(13) (Chinese version only))

Sai Kung District Council

(LC Paper No. CB(1)162/13-14(04) (Chinese version only))

Mr LI Ka-leung, Sai Kung District Council member

(LC Paper No. CB(1)284/13-14(02) (Chinese version only))

Mr YAU Yuk-lun, Sai Kung District Council member

(LC Paper No. CB(1)216/13-14(14) (Chinese version only))

Association for Geoconservation, Hong Kong

(LC Paper No. CB(1)216/13-14(15) (English version only))

Ark Eden

(LC Paper No. CB(1)254/13-14(04) (English version only))

The Hong Kong Bird Watching Society

(LC Paper No. CB(1)216/13-14(16) (English version only))

3. The Subcommittee deliberated (index of proceedings in the **Appendix**).

4. The Chairman invited the representative of the Sai Kung District Council to provide the Council's discussion papers on the Administration's management of land of conservation value in Sai Kung for the Subcommittee's reference.

(Post-meeting note: Supplementary information provided by Mr LI Ka-leung, Sai Kung District Council member, in response to the Chairman's request was issued to members vide LC Paper No. CB(1)284/13-14(02) on 11 November 2013.)

II Any other business

5. The Chairman reminded members that the third meeting would be held as scheduled, i.e. on 6 November 2013 at 9:00 am.

6. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
27 December 2013

**Proceedings of second meeting of the
Subcommittee on Country Parks
(Designation) (Consolidation) (Amendment) Order 2013
on Tuesday, 5 November 2013, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000345 – 000739	Chairman	Opening remarks Meeting arrangements	
000740 – 001115	Chairman Senior Assistant Legal Adviser 1 ("SALA1")	<p>The Chairman referred members to a letter from Heung Yee Kuk New Territories dated 1 November 2013 (LC Paper No. CB(1)229/13-14(01)) requesting the Subcommittee to defer discussion on the part of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 ("the Amendment Order") relating to the Sai King East Country Park ("SKECP"). She invited SALA1 to explain the scrutiny of the Amendment Order by the Legislative Council ("LegCo").</p> <p>SALA1 advised that --</p> <p>(a) Under Article 73(1) of the Basic Law, LegCo had the power and function to enact, amend or repeal laws in accordance with the Basic Law and legal procedures.</p> <p>(b) The Amendment Order was a piece of subsidiary legislation subject to negative vetting by LegCo under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1). The Subcommittee had been set up by the LegCo House Committee to study the Amendment Order.</p> <p>(c) The Amendment Order had been made by the Chief Executive ("CE") in Council and published in the Gazette as Legal Notice No. 152 of 2013. It had become part of the laws of Hong Kong on the date of gazettal, and unless LegCo amended the Amendment Order under section 34(2) of Cap. 1, it would come into operation on 30 December 2013 as provided in section 1 of the Amendment Order. Deferring the examination of the Amendment</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Order would have no impact on its legal status and effect.</p> <p>The Chairman added that during the scrutiny period for the Amendment Order, LegCo Members could propose to amend or repeal the Amendment Order. The proposal would be put to vote at a Council meeting.</p>	
Agenda Item I – Meeting with deputations and the Administration			
001116 – 001522	Designing Hong Kong Limited	Presentation of views as set out in LC Paper No. CB(1)216/13-14(01)	
001523 – 001913	Land Justice League	Presentation of views as set out in LC Paper No. CB(1)264/13-14(02)	
001914 – 002330	Greeners Action	Presentation of views as set out in LC Paper No. CB(1)216/13-14(02)	
002331 – 002727	World Wide Fund - Hong Kong	Presentation of views as set out in LC Paper No. CB(1)216/13-14(03)	
002728 – 003027	Green Sense	Presentation of views as set out in LC Paper No. CB(1)284/13-14(01)	
003028 – 003428	Heung Yee Kuk New Territories	<p>Presentation of views as set out in LC Papers Nos. CB(1)162/13-14(03), CB(1)229/13-14(01) and CB(1)256/13-14(01)</p> <p>Heung Yee Kuk New Territories added that --</p> <p>(a) The Administration had all along failed to provide sufficient facilities in country park enclaves to cater for local villagers' basic needs.</p> <p>(b) The proposed incorporation of country park enclaves into country parks was unjust to the affected villagers.</p>	
003429 – 003656	Mr Roger NISSIM	Presentation of views as set out in LC Paper No. CB(1)216/13-14(04)	
003657– 004059	The Conservancy Association	Presentation of views as set out in LC Paper No. CB(1)216/13-14(05)	

Time marker	Speaker	Subject(s)	Action required
004100 – 004416	Mr Ruy Octavio BARRETTO	Presentation of views as set out in LC Paper No. CB(1)254/13-14(01)	
004417 – 004819	Mr Joseph MO Ka-hung Chairman	<p>Presentation of views as set out in LC Paper No. CB(1)216/13-14(06)</p> <p>Mr MO added that --</p> <p>(a) Given that judicial review proceedings had been initiated against the decision of CE in Council to approve the draft new map of SKECP, the Subcommittee should not continue to discuss the part of the Amendment Order relating to SKECP, and it should move an amendment to the effect that the enclave of Sai Wan ("the Sai Wan Enclave") would not be incorporated into SKECP.</p> <p>(b) The Administration should put in place a mechanism to handle the compensation issues arising from incorporation of private land into country parks.</p> <p>The Chairman remarked that --</p> <p>(a) The Amendment Order had been made before it was tabled in LegCo for vetting, not the other way round.</p> <p>(b) Taking into consideration that there was not much information about the scope of the pending judicial review and having regard to the advice of the Subcommittee's legal adviser, the Subcommittee had decided to continue its scrutiny of the Amendment Order.</p>	
004820 – 005233	Ms Carmen CHAN Ka-mun	<p>Presentation of views as set out in LC Paper No. CB(1)216/13-14(07)</p> <p>Ms CHAN added that there was currently adequate statutory protection over the Sai Wan Enclave against unauthorized developments.</p>	
005234 – 005440	Mr LAI Yan	Presentation of views as set out in LC Paper No. CB(1)216/13-14(08)	

Time marker	Speaker	Subject(s)	Action required
		<p>Mr LAI added that --</p> <p>(a) The Administration's proposal to incorporate Sai Wan Village into SKECP was a breach of the pledge of the then Hong Kong Government made in the 1970s that private land in the New Territories would not be included into country parks.</p> <p>(b) The Administration should withdraw the plan to incorporate the Sai Wan Enclave into SKECP.</p>	
005441 – 005807	Mr LAI Kwan	Presentation of views as set out in LC Paper No. CB(1)216/13-14(09), with the aid of a video	
005808 – 010200	Mr Thomas LAI	<p>Presentation of views as set out in LC Paper No. CB(1)216/13-14(10)</p> <p>Mr LAI added that --</p> <p>(a) He was not eligible for public housing because he had the right to build a small house, i.e. a "New Territories Exempted House", in Sai Wan Village. His application for resuming agricultural practices in Sai Wan had been rejected by the Administration.</p> <p>(b) The Administration had all along failed to provide sufficient facilities to cater for the basic needs of villagers in Sai Wan and did not respect their human and political rights.</p>	
010201 – 010610	Hong Kong Hiking Association, China	<p>Presentation of views that --</p> <p>(a) Country park enclaves should be incorporated into the relevant country parks.</p> <p>(b) Country parks in Hong Kong had well catered for the recreation needs of hikers and visitors and should continue to be protected.</p>	
010611 – 010852	Civic Party	<p>Presentation of views that --</p> <p>(a) The country park enclaves of Sai Wan, Kam Shan and Yuen Tun should be incorporated into</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>the respective country parks given their high conservation values.</p> <p>(b) The Administration should review its policies to enhance the protection of country parks against incompatible developments.</p>	
010853 – 011214	Shap Pat Heung Rural Committee	<p>Presentation of views as set out in LC Paper No. CB(1)216/13-14(11)</p> <p>The Committee added that the Administration should strike a balance between conservation of and development needs in country park enclaves, and improve the environment in these areas to address the aspirations of local villagers and visitors.</p>	
011215 – 011622	Mr TSANG Yuk-on, Sha Tau Kok Mui Tsz Lam Village Representative	<p>Presentation of views as set out in LC Paper No. CB(1)216/13-14(12)</p> <p>Mr TSANG added that he disagreed to the proposal of incorporating the private land in country park enclaves into country parks and requested that the Subcommittee should move a motion to repeal the Amendment Order.</p>	
011623 – 011839	Sai Kung North Rural Committee	<p>Presentation of views that --</p> <p>(a) The indigenous villagers in Sai Wan had made great efforts for generations to protect the landscape of the area but the Administration had failed to help promote rural economy therein.</p> <p>(b) Members should support repealing the part of the Amendment Order relating to SKECP.</p>	
011840 – 012301	Sai Kung Rural Committee	<p>Presentation of views as set out in LC Paper No. CB(1)216/13-14(13)</p>	
012302 – 012505	Sai Kung District Council	<p>Presentation of views as set out in LC Paper No. CB(1)162/13-14(04)</p>	
012506 – 012701	Mr LI Ka-leung, Sai Kung District Council member	<p>Presentation of views as set out in LC Paper No. CB(1)284/13-14(02)</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Mr LI added that --</p> <p>(a) The Administration would not have sufficient resources and the ability to manage the Sai Wan Enclave after it had been incorporated into SKECP.</p> <p>(b) It would be difficult for affected landowners to pursue development on their land in a country park enclave after it had been incorporated into a country park, as they could not deal with the lengthy procedures involved in the application for the development.</p>	
012702 – 013109	Mr YAU Yuk-lun, Sai Kung District Council member	<p>Presentation of views as set out in LC Paper No. CB(1)216/13-14(14)</p> <p>Mr YAU added that the consultation on the Amendment Order by the Administration with stakeholders had been inadequate.</p>	
013110 – 013456	Association for Geoconservation, Hong Kong	Presentation of views as set out in LC Paper No. CB(1)216/13-14(15)	
013457 – 013914	Ark Eden	Presentation of views as set out in LC Paper No. CB(1)254/13-14(04)	
013915 – 014042	The Hong Kong Bird Watching Society	Presentation of views as set out in LC Paper No. CB(1)216/13-14(16)	
014043 – 014345	Administration	<p>The Administration's preliminary responses to deputations' views as follows --</p> <p>(a) There was public expectation for the Administration to incorporate the Sai Wan Enclave into SKECP.</p> <p>(b) Incorporating private land into a country park would not deprive anyone of the ownership of the private land or revert the land back to the Government.</p> <p>(c) An established mechanism was in place to deal with applications for development including small house applications within a country park. The "Note on the Use or</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Development of Land within a Country Park Enclave after Inclusion into a Country Park", published on the website of the Agriculture, Fisheries and Conservation Department, had set out the focus of concern of the Country and Marine Parks Authority ("CPMA") on assessing such applications.</p> <p>(d) Without prejudice to his consideration of the facts of each individual case, CPMA in general was of the view that small houses were compatible with country parks.</p> <p>(e) Upon the designation of the Sai Wan Enclave as part of SKECP, the Administration would implement more active management measures to improve the facilities in the area.</p> <p>(f) The Administration had provided a written response (LC Paper No. CB(1)216/13-14(35)) to the issues raised by members at the meeting on 29 October 2013.</p>	
014346 – 014402	Chairman	The Chairman ordered that the meeting be extended for 10 minutes.	
014403 – 014651	Dr Elizabeth QUAT Shap Pat Heung Rural Committee Sai Kung Rural Committee	<p>Discussion on local villagers' concerns that the incorporation of the Sai Wan Enclave into SKECP would deprive them of their rights to build small houses on their land and take away private properties in the area.</p> <p>Shap Pat Heung Rural Committee's view that the development permitted on private land in country parks was limited, having regard to the fact that only two applications for small house developments within country park areas had been approved in the past decade.</p> <p>Sai Kung Rural Committee's view that it would be more difficult for private landowners to obtain the approval to build small houses in the Sai Wan Enclave after it was included in the country park, if the approval would need the support of CPMA.</p>	

Time marker	Speaker	Subject(s)	Action required
014652 – 015119	Ir Dr LO Wai-kwok Administration	<p>Ir Dr LO Wai-kwok reiterated his views made at the meeting on 29 October 2013 that the Administration had not made it clear as to why the incorporation of private land in the Sai Wan Enclave into SKECP was a better alternative than including it in an Outline Zoning Plan under the Town Planning Ordinance (Cap. 131).</p> <p>The Administration replied that --</p> <p>(a) The relevant authorities considered that the Sai Wan Enclave was highly suitable for country park designation following the assessment made in accordance with the principles and criteria as set out at Annex A to the Administration's paper (LC Paper No. CB(1)216/13-14(35)).</p> <p>(b) As there were sound justifications that the Sai Wan Enclave was suitable for inclusion into SKECP, there was therefore no justification for preparing an Outline Zoning Plan for the area.</p>	
015120 – 015636	Mr WU Chi-wai Administration Heung Yee Kuk New Territories	<p>Mr WU Chi-wai enquired whether and how control on developments, including building of small houses, on private land in indigenous villages would be different after the land had been incorporated into a country park.</p> <p>Heung Yee Kuk New Territories remarked that --</p> <p>(a) Compared with small house applications outside a country park, it would be very difficult to secure the approval for small house developments within a country park, as the Lands Department was required to consult CPMA before making a decision on the application.</p> <p>(b) Only two applications for small house developments within country parks had been approved in the past decade.</p> <p>The Administration replied that --</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(a) Small house applications in an area were handled according to the Small House Policy ("SHP"), no matter whether the area fell outside or within a country park.</p> <p>(b) Only two applications for small house developments in country park areas had been received in the past decade and they had been approved by CPMA.</p>	
015637 – 020023	Dr Kenneth CHAN Administration	<p>Dr Kenneth CHAN said that --</p> <p>(a) Incorporating the Sai Wan Enclave into SKECP could achieve the conservation objectives and would not deprive anyone of private land ownership in the area.</p> <p>(b) There was an established mechanism to deal with development proposals, including building of small houses, within a country park enclave after the enclave had been incorporated into a country park.</p> <p>The Administration remarked that the Lands Department and CPMA had all along considered applications for small house developments in country parks in accordance with SHP and the established mechanism.</p>	
020024 – 020125	Chairman	The Chairman invited the representative of the Sai Kung District Council to provide the Council's discussion papers on the Administration's management of land of conservation value in Sai Kung for the Subcommittee's reference.	
020126 – 020140	Chairman	Date of next meeting	