

立法會
Legislative Council

LC Paper No. CB(1)632/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/SS/2/13

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

Minutes of third meeting held on
Wednesday, 6 November 2013, at 9:00 am
in Conference Room 2B of the Legislative Council Complex

Members present : Hon Cyd HO Sau-lan (Chairman)
Dr Hon LAU Wong-fat, GBM, GBS, JP
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
Hon CHAN Han-pan
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

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

Ms Lonnie NG
Senior Government Counsel
Department of Justice

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

Action

- I Meeting with the Administration**
(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)
- Other relevant papers
(L.N. 152 -- Country Parks (Designation) (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))

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

(*Post-meeting note*: A soft copy of the powerpoint presentation materials used by the Administration for its briefing on LC Paper No. CB(1)216/13-14(35) was circulated to members by email vide LC Paper No. CB(1)257/13-14(01) on 6 November 2013.)

Motion proposed by Dr LAU Wong-fat

2. Dr LAU Wong-fat moved a motion asking the Subcommittee to request that section 3(2) of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 ("Amendment Order"), i.e. the replacement of the original map of the Sai Kung East Country Park by the new approved map, be repealed. The wording of the motion was as follows:

(Translation)

"This Subcommittee requests that --

'Repeal

'Plan No. CP/SK(E)^A approved on 17 January 1978 by the Governor in Council'

Substitute

'Plan No. CP/SK(E)^B approved on 7 May 2013 by the Chief Executive in Council'

be repealed."

3. The meeting agreed that the motion, if passed, would serve as an expression of opinion of the Subcommittee. The motion was put to vote. Mr Albert CHAN requested a division. Seven members voted for and 4 members voted against. The voting results were as follows:

For

Dr LAU Wong-fat	Mr CHAN Hak-kan
Mr James TIEN	Mr CHAN Han-pan
Dr Elizabeth QUAT	Ir Dr LO Wai-kwok
Mr Christopher CHUNG	

(7 members)

Against

Mr Albert CHAN	Mr WU Chi-wai
Mr CHAN Chi-chuen	Dr Kenneth CHAN

(4 members)

4. Whilst the Chairman did not exercise her original vote, the Subcommittee noted that the Chairman was not in support of the motion.

5. The Chairman declared that the motion was carried.

Follow-up actions

Admin 6. The Administration was requested to provide the following information --

- (a) the background to designation of land as country parks in the 1970s, with particular reference to Sai Kung East Country Park, Kam Shan Country Park and Tai Lam Country Park, detailed information about why certain areas were excluded from these three parks, and the views objecting to the inclusion of these areas into country parks at that time;
- (b) the minutes of meetings between the then Hong Kong Government and Heung Yee Kuk New Territories in the 1970s regarding the designation of land in the New Territories as country parks, including the discussion on how to allay indigenous villagers' concern about the impact of the initiative on the ownership and development of their land; and

- (c) Plan No. CP/SK(E)^A approved on 17 January 1978 by the Governor in Council; and Plan No. CP/SK(E)^B approved on 7 May 2013 by the Chief Executive in Council.

(Post-meeting note: The Chinese and English versions of the Administration's supplementary information had been issued to members on 8 November and 11 November 2013 respectively vide LC Paper No. CB(1)276/13-14(02).)

Legislative timetable

7. The Subcommittee noted that the Chairman would move a motion at the Council meeting of 13 November 2013 to extend the scrutiny period of the Amendment Order to the Council meeting of 4 December 2013. After the scrutiny period had been extended, the deadline for giving notice of amendment to the Amendment Order would be 27 November 2013. The Subcommittee would submit its report to the House Committee on 22 November 2013.

II Any other business

8. The Chairman reminded members that the fourth meeting would be held on 12 November 2013 at 9:00 am.
9. There being no other business, the meeting ended at 10:46 am.

Council Business Division 1
Legislative Council Secretariat
27 December 2013

**Proceedings of third meeting of the
Subcommittee on Country Parks
(Designation) (Consolidation) (Amendment) Order 2013
on Wednesday, 6 November 2013, at 9:00 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000304 – 001936	Chairman Administration	The Chairman's opening remarks Briefing by the Administration on LC Paper No. CB(1)216/13-14(35) with the aid of a powerpoint presentation	
001937 – 002052	Chairman	The Chairman referred members to a submission from Heung Yee Kuk New Territories ("HYK") dated 5 November 2013 tabled at the meeting (LC Paper No. CB(1)256/13-14(01)).	
002053 – 002702	Mr James TIEN Administration Chairman	Mr James TIEN enquired about the impact on the private property rights of the local villagers of Sai Wan upon the incorporation of the enclave of Sai Wan ("the Sai Wan Enclave") into Sai Kung East Country Park ("SKECP"). The Administration replied that – (a) Incorporating private land into a country park would not deprive the villagers of their property rights over their private land. (b) In considering any applications for development within a country park, the Lands Department would consult the Country and Marine Parks Authority ("CMPA"). However, even for those applications for development in rural land outside the country park, the Lands Department also consulted the views of relevant departments, including the Agriculture, Fisheries and Conservation Department ("AFCD"). Generally speaking, without prejudice to the CMPA's consideration of the facts of	

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		<p>each individual case, CMPA was of the view that in respect of the Sai Wan Enclave, New Territories ("NT") Exempted Houses ("small houses") were compatible with country parks.</p> <p>(c) Upon the incorporation of an enclave into a country park, the Administration would take active management of the area as well as allocate resources for habitat and amenities improvement.</p> <p>The Chairman asked whether CMPA would have reservation on approving large-scale development on private land within a country park.</p> <p>The Administration replied that if CMPA was of the view that a proposed development would substantially reduce the enjoyment and amenities of the country park concerned, he might raise objection to the development.</p>	
002703 – 003538	Ir Dr LO Wai-kwok Administration	<p>Ir Dr LO Wai-kwok's views that --</p> <p>(a) In considering whether to include an enclave in a country park, the Administration should pay due regard to historical factors and the right to private property ownership.</p> <p>(b) The Administration should clarify why the inclusion of the Sai Wan Enclave in a statutory plan under the Town Planning Ordinance (Cap. 131) ("TPO") was not a better option than incorporating it into the boundary of SKECP.</p> <p>(c) Local villagers might not consider it necessary for the Administration to incorporate the enclave into the country park which would result in CMPA managing the land in their village.</p> <p>The Administration provided the justifications for incorporating the Sai Wan Enclave into</p>	

Time marker	Speaker	Subject(s)	Action required
		SKECP and explained the active management measures to be undertaken to cater for the needs of local villagers and visitors to enhance the facilities in the area after it was incorporated into SKECP.	
003539 – 003552	Chairman	The Chairman reminded members of the requirements under the Rules of Procedure on declaration of interests.	
003553 – 004427	Dr LAU Wong-fat Chairman Ir Dr LO Wai-kwok	<p>Dr LAU Wong-fat said that he owned land in Tin Fu Tsai, Tuen Mun and did not own land in Sai Wan.</p> <p>Dr LAU said that the Administration's decision to include the Sai Wan Enclave into SKECP had been made without taking into account the objections of HYK, Sai Kung District Council, Sai Kung Rural Committee and local villagers. The decision was a high-handed approach to disposal of private property. He urged members to support a motion, proposed by him, asking the Subcommittee to request that section 3(2) of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 ("Amendment Order") be repealed.</p> <p>The Chairman referred members to the motion proposed by Dr LAU and tabled in the Subcommittee.</p> <p>Ir Dr LO Wai-kwok said he seconded the motion.</p>	
004428 – 004955	Mr Albert CHAN Administration	<p>Mr Albert CHAN enquired about --</p> <p>(a) the background to the designation of land as country parks in the 1970s, with particular reference to SKECP, Kam Shan Country Park ("KSCP") and Tai Lam Country Park ("TLCP");</p> <p>(b) the reasons for certain areas to have been excluded from SKECP, KSCP and TLCP, and the views objecting to the inclusion</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>of these areas into country parks at that time; and</p> <p>(c) whether the restrictions on land uses imposed by an Outline Zoning Plan ("OZP") applied to a country park.</p> <p>The Administration replied that --</p> <p>(a) It would provide written response to Mr CHAN's questions in (a) and (b) above.</p> <p>(b) The Administration would not normally prepare an OZP for an area that had been incorporated into a country park.</p>	<p>The Administration to take action as in para. 6(a) of the minutes</p>
<p>004956 – 005658</p>	<p>Mr WU Chi-wai Administration Chairman</p>	<p>Mr WU Chi-wai enquired about --</p> <p>(a) the existing control on development in an area zoned for "Village Type Development" under an OZP; and</p> <p>(b) the distribution of private agricultural land, village houses and private deserted land in the Sai Wan Enclave.</p> <p>The Administration replied that --</p> <p>(a) Details about whether development of small houses on land zoned as "Village Type Development" under an OZP would need the approval of the Lands Department were specified in Column 1 and Column 2 of the Notes to the relevant OZP.</p> <p>(b) After the Sai Wan Enclave had been incorporated into SKECP, the boundary of the village environs of Sai Wan Village would remain unchanged. The Lands Department would consult CMPA before making a decision on whether to approve an application for erecting a small house within the village environs.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) Of the 4 hectares of private land in the Sai Wan Enclave, more than 90% was agricultural land.</p> <p>Enquires of the Chairman, with reference to a map in the powerpoint presentation materials about the status of land outside the village environs but within the area of the Sai Wan Enclave; and the Administration's replies.</p>	
005659 – 010225	Dr Kenneth CHAN Administration	<p>Dr Kenneth CHAN said that it was important to protect the right to private property ownership. He enquired about the measures to be adopted by the Administration to help villagers living in an area within a country park keep the conservation value of their land, resume agricultural practices or build small houses.</p> <p>The Administration replied that --</p> <p>(a) The Management Agreement ("MA") Scheme under the New Nature Conservation Policy had been extended to cover private land in country parks and country park enclaves. Under the MA Scheme, funding support would be granted to enable competent non-profit making organizations to enter into management agreements with landowners to organize conservation activities which were compatible with the land uses and country park objectives. The Administration would assist interested villagers in applying for funds under the Scheme for conservation activities.</p> <p>(b) After the Sai Wan Enclave was incorporated into SKECP, the Administration would allocate resources and discuss with local villagers on the measures to improve the environment and the facilities in the area.</p>	

Time marker	Speaker	Subject(s)	Action required
010226 – 010249	Chairman	The Chairman advised and the Subcommittee agreed that the motion proposed by Dr LAU Wong-fat would be dealt with at around 10:30 am to allow more time for discussion.	
010250 – 010737	Dr LAU Wong-fat Administration	<p>Dr LAU Wong-fat said that --</p> <p>(a) The Administration's initiative to incorporate the private land in country park enclaves into country parks was a change of its position in 1970s. At the time, the Hong Kong Government had pledged that private land would not be included into country parks. The Administration should make the records of the discussions between HYK and the Government at that time available to the Subcommittee.</p> <p>(b) The Administration had all along disregarded the livelihood issues of local villagers in country park enclaves.</p> <p>The Administration explained the background of the initiative to incorporate country park enclaves into country parks and advised that CMPA had all along strived to enhance the facilities in country parks in collaboration with local villagers.</p>	
010738 – 011055	Ir Dr LO Wai-kwok	<p>Ir Dr LO Wai-kwok said that --</p> <p>(a) Including the Sai Wan Enclave in an OZP could be a suitable alternative measure to protect the area from incompatible developments.</p> <p>(b) The motion proposed by Dr LAU Wong-fat should be supported given that the Administration had not fully addressed the controversies arising from the part of the Amendment Order relating to SKECP.</p>	

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011056 – 011553	Dr Elizabeth QUAT Administration	<p>Dr Elizabeth QUAT said that as the Sai Kung District Council ("SKDC") had expressed its opposition to the inclusion of the Sai Wan Enclave into SKECP, the Administration should consider whether there were other alternatives that could strike a balance between conservation of the Sai Wan Enclave and development needs of local villagers, including their aspirations to run small businesses in the area.</p> <p>The Administration replied that --</p> <p>(a) AFCD and the Environmental Protection Department had been actively liaising with relevant Government departments on the feasibility for villagers to obtain licences for operating small businesses in their village.</p> <p>(b) The Administration had started the consultation with relevant stakeholders, including SKDC, a year before invoking the statutory procedures regarding the proposed incorporation of the Sai Wan Enclave into SKECP. The proposal was the best and most suitable option to protect the enclave.</p>	
011554 - 011803	Chairman	Legislative timetable	
011804 – 012107	Dr Kenneth CHAN	Dr Kenneth CHAN said he supported the Amendment Order in principle, given that it would not affect the local villagers' right to private property.	
012108 – 012331	Mr WU Chi-wai	Mr WU Chi-wai said that compared with including the Sai Wan Enclave in an OZP, incorporating it into SKECP would be a more effective measure to protect the area from incompatible development threats, as AFCD would take an important role in assessing the applications for developments in the area.	

Time marker	Speaker	Subject(s)	Action required
012332 – 012651	Mr Albert CHAN Administration	<p>Mr Albert CHAN requested the Administration to provide --</p> <p>(a) the minutes of meetings between the then Hong Kong Government and HYK in the 1970s regarding the designation of land in the NT as country parks; and</p> <p>(b) Plan No. CP/SK(E)^A approved on 17 January 1978 by the Governor in Council; and Plan No. CP/SK(E)^B approved on 7 May 2013 by the Chief Executive in Council.</p>	The Administration to take action as in paras. 6(b) and 6(c) of the minutes
012652 – 013025	Mr James TIEN Administration	<p>Mr James TIEN enquired whether and how the control on development of the private agricultural land outside the village environs in the Sai Wan Enclave would be different after the land had been incorporated into SKECP.</p> <p>The Administration replied that construction of buildings on private agricultural land was normally not allowed under the relevant land lease conditions and landowners had to seek the relevant department's approval for development on such land, no matter whether or not the land had been incorporated into a country park.</p>	
013026 – 013140	Ir Dr LO Wai kwok Administration	<p>Ir Dr LO Wai-kwok enquired whether the Administration had received local views that preparing an OZP for the Sai Wan Enclave was a more acceptable option.</p> <p>The Administration replied that SKDC had suggested that the Administration considered the option of applying statutory planning to the Sai Wan Enclave, which however was not supported by some stakeholders such as green groups and hikers.</p>	
013141 – 014535	Chairman Dr LAU Wong-fat Mr CHAN Hak-kan Mr Albert CHAN	Discussion on whether the Subcommittee should proceed to examine the provisions of the Amendment Order before putting the motion proposed by Dr LAU Wong-fat, which	

Time marker	Speaker	Subject(s)	Action required
	<p>Mr James TIEN Dr Elizabeth QUAT Mr CHAN Chi-chuen Mr Christopher CHUNG Dr Kenneth CHAN Senior Assistant Legal Adviser 1 ("SALA1")</p>	<p>was concerned with repealing a section of the Amendment Order, to vote.</p> <p>SALA1 said that based on past practice, the examination of legislative provisions would usually precede the discussion on proposed amendments. However, as the procedure for the scrutiny of a piece of subsidiary legislation was to be determined by the subcommittee concerned, it would be for the Subcommittee to decide how to scrutinize the Amendment Order.</p> <p>The Subcommittee agreed that if the motion proposed by Dr LAU was passed, it would serve as an expression of opinion of the Subcommittee.</p> <p>Mr Albert CHAN requested to put on record that it was difficult for him to give views on the motion moved by Dr LAU without being provided with Plan No. CP/SK(E)^A and Plan No. CP/SK(E)^B for comparison.</p>	
014536– 014714	Chairman	<p>The Subcommittee voted on the motion moved by Dr LAU.</p> <p>The Chairman declared that the motion was carried.</p> <p>Date of next meeting</p>	