

**立法會**  
**Legislative Council**

LC Paper No. CB(1)633/13-14  
(These minutes have been seen  
by the Administration)

Ref : CB1/SS/2/13

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

**Minutes of fourth meeting held on  
Tuesday, 12 November 2013, at 9:00 am  
in Conference Room 2A 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  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Member absent :** Ir Dr Hon LO Wai-kwok, 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 LEUNG Chi-hong  
Senior Country Parks Officer (NW)  
Agriculture, Fisheries and Conservation Department

Ms Cindy YAU  
Senior Assistant Law Officer (Civil Law)  
Department of Justice

Ms Lonnie NG  
Senior Government Counsel  
Department of Justice

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

**Staff in attendance :** Mr Stephen LAM  
Assistant Legal Adviser 11

Mr Fred PANG  
Council Secretary (1)6

Ms Christina SHIU  
Legislative Assistant (1)6

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Action

**I Meeting with the Administration**

A. Matters arising from the meeting on 6 November 2013

(LC Paper No. CB(1)276/13-14(01) -- List of follow-up actions arising from discussion at the meeting on 6 November 2013

LC Paper No. CB(1)276/13-14(02) -- Administration's response to the issues raised by members at the meeting on 6 November 2013)

B. Examination of provisions of the Amendment Order

(L.N. 152 -- Country Parks (Designation) (Consolidation) (Amendment) Order 2013

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*)

C. Proposed amendment to the Amendment Order

(LC Paper No. CB(1)276/13-14(03) -- Resolution proposed by  
Dr Hon LAU Wong-fat)

Other relevant papers

- (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(02) -- Paper on the Country Parks  
(Designation) (Consolidation)  
(Amendment) Order 2013  
prepared by the Legislative  
Council Secretariat  
(Background brief)  
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)162/13-14(03) -- Submission from Heung Yee  
Kuk New Territories dated  
25 October 2013  
LC Paper No. CB(1)229/13-14(01) -- Submission from Heung Yee  
Kuk New Territories dated  
1 November 2013  
LC Paper No. CB(1)256/13-14(01) -- Submission from Heung Yee  
Kuk New Territories dated  
5 November 2013  
LC Paper No. CB(1)162/13-14(04) -- Letter from the Sai Kung  
District Council to all Hon  
Members of the Legislative  
Council dated 21 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*)

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

*(Post-meeting note: A soft copy of the powerpoint presentation materials used by Dr Kenneth CHAN at the meeting was circulated to members vide LC Paper No. CB(1)304/13-14(01) by email on 12 November 2013.)*

Follow-up actions

Admin 2. The Administration was requested to provide the following information --

- (a) a list, with relevant information about the land uses, of (i) former country park enclaves which had been covered by Outline Zoning Plans ("OZPs"); and (ii) present country park enclaves which were being planned for inclusion to OZPs; and
- (b) the assessment criteria for covering a country park enclave by an OZP instead of incorporating it to a country park, with particular reference to the case of So Lo Pun, which was only sparsely populated but was covered by a draft OZP.

*(Post-meeting note: The Administration's supplementary information was issued to members vide LC Paper No. CB(1)353/13-14(02) on 19 November 2013.)*

Examination of the provisions of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013

3. The Subcommittee agreed that the resolution proposed by Dr LAU Wong-fat (LC Paper No. CB(1)276/13-14(03)) to repeal section 3(2) of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 ("Amendment Order") should be adopted as the proposed resolution of the Subcommittee. As the Chairman was not in favour of the resolution, the Subcommittee agreed that Dr LAU should move the resolution on behalf of the Subcommittee.

4. The Administration advised that its position on the question of whether the Legislative Council ("LegCo") had the power to amend/repeal the Amendment Order was the same as that stated in 2010.

5. The Chairman said that, as discussed at the meeting on 29 October 2013, LegCo had the power to amend/repeal the Amendment Order. She concluded that the Subcommittee had completed the scrutiny of the Amendment Order.

Legislative timetable

6. 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. The Chairman reminded members that after the scrutiny period had been extended, the deadline for giving notice of amendment to the Amendment Order would be 27 November 2013.

**II Any other business**

7. There being no other business, the meeting ended at 10:12 am.

Council Business Division 1  
Legislative Council Secretariat  
27 December 2013

**Proceedings of fourth meeting of the  
Subcommittee on Country Parks  
(Designation) (Consolidation) (Amendment) Order 2013  
on Tuesday, 12 November 2013, at 9:00 am  
in Conference Room 2A of the Legislative Council Complex**

| Time marker        | Speaker                          | Subject(s)   | Action required |
|--------------------|----------------------------------|--|-----------------|
| 000311 –<br>000814 | Chairman<br>Administration       | <p>The Chairman's opening remarks</p> <p>The Chairman referred members to a resolution proposed by Dr LAU Wong-fat (LC Paper No. CB(1)276/13-14(03)).</p> <p>Briefing by the Administration on LC Paper No. CB(1)276/13-14(02)</p>   |                 |
| 000815 –<br>001358 | Mr Albert CHAN<br>Administration | <p>Mr Albert CHAN said he supported the incorporation of country park enclaves ("enclaves") into country parks. He enquired --</p> <p>(a) whether there were any formal discussions/papers about the Administration's change from the direction of covering enclaves with Outline Zoning Plans ("OZPs") to incorporating them into country parks;</p> <p>(b) why the Administration had adopted different ways to control the uses of land in the enclaves of Sai Wan and Hoi Ha; whether consistent standards had been applied in making the decisions; and</p> <p>(c) whether the adoption of different measures for different enclaves was fair to the affected villagers .</p> <p>The Administration replied that --</p> <p>(a) After the occurrence of unauthorized excavation works on both private land and Government land in the enclave of Sai Wan ("the Sai Wan Enclave") in 2010, there had been public expectation for the Administration to better protect the</p> |                 |

| Time marker     | Speaker                     | Subject(s)   | Action required  |
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|                 |                             | <p>enclaves. In 2011, the Country and Marine Parks Board had endorsed the revised principles and criteria for designation of new country parks or extending country parks. Under the revised principles and criteria, the mere existence of private land would not be taken as a determining factor for exclusion of land from the boundary of a country park. In fact there were already about 460 hectares of private land in the existing country parks.</p> <p>(b) In determining whether to include an enclave into a country park or to apply statutory planning, the Administration would consider relevant factors such as conservation values, landscape and aesthetic values, geographical locations, the scale of existing human settlements and development pressures. For the case of the Sai Wan Enclave, it had a high landscape and aesthetic value and was an integral part of the overall naturalness and the landscape of the surrounding Sai Kung East Country Park ("SKECP"). The enclave met the criteria for incorporation into a country park.</p> <p>(c) On the preparation of a draft OZP for Hoi Ha, the Administration had taken into consideration, among others, the scale of existing human settlements and the status of the land in the area.</p> <p>At the request of Mr Albert CHAN, the Administration would provide written information about former country park enclaves which had been covered by OZPs and present country park enclaves which were being planned for inclusion to OZPs.</p> | <p>The Administration to take action as in para. 2(a) of the minutes</p> |
| 001359 – 001946 | Dr Kenneth CHAN<br>Chairman | With the aid of a powerpoint presentation (LC Paper No. CB(1)304/13-14(01)), Dr Kenneth CHAN showed photographs of the different environment of some enclaves and some   |  |

| Time marker     | Speaker                                       | Subject(s)   | Action required |
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|                 |   | <p>country parks. He showed support for incorporating enclaves into country parks and urged the Administration to work out mutually acceptable arrangements with the rural communities for conservation of the enclaves.</p> <p>The Chairman said that in light of the complaints made by some deputations at the meeting on 5 November 2013 about the inadequate infrastructure facilities in some remote villages, the Administration should address the problems and improve the living environment in these villages.</p>  |                 |
| 001947 – 002625 | Dr LAU Wong-fat<br>Administration<br>Chairman | <p>Dr LAU Wong-fat said that --</p> <p>(a) The Administration should withdraw the decision to incorporate the Sai Wan Enclave into SKECP and work out a solution that could achieve conservation objectives without infringing on the local villagers' rights to private property ownership, which were protected by the Basic Law.</p> <p>(b) The Administration had not responded to a suggestion made many years ago about setting up a fund to provide compensation to landowners for their financial loss due to the implementation of the Administration's conservation initiatives.</p> <p>The Administration replied that –</p> <p>(a) There was high public expectation for it to undertake the initiative to incorporate the Sai Wan Enclave into SKECP.</p> <p>(b) The initiative would not affect local villagers' rights to private property ownership.</p> <p>Dr LAU urged members to support the resolution proposed by him (LC Paper No. CB(1)276/13-14(03)) and suggested that the Chairman should move the resolution on behalf of the Subcommittee.</p> |                 |



| Time marker     | Speaker                             | Subject(s)   | Action required |
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|                 |                                     | <p>The Administration said that in 2010, it had given its view on whether LegCo had the power to amend the Country Parks (Designation) (Consolidation) (Amendment) Order 2010. Its view had not changed, i.e. it applied to the Amendment Order.</p> <p>The Subcommittee agreed to the Chairman's suggestion that the resolution be dealt with at a later stage of the meeting, i.e. when the Subcommittee examined the provisions of the Amendment Order.</p>   |                 |
| 002626 – 003400 | Mr WU Chi-wai<br>Administration     | <p>Mr WU Chi-wai said that --</p> <p>(a) Reference could be made to the mechanism under the Land Resumption Ordinance (Cap. 124) to compensate those landowners whose land was incorporated to a country park for their loss of possible opportunities for land development.</p> <p>(b) The Administration should make clear the reasons for preparing a draft OZP for So Lo Pun instead of designating it as a country park given that the area was sparsely populated.</p> <p>The Administration replied that --</p> <p>(a) There were provisions for land occupiers to seek compensation for prohibition of a proposed land use under the Country Parks Ordinance (Cap. 208).</p> <p>(b) At this stage, land resumption for conservation purposes was considered not an appropriate option.</p> |                 |
| 003401 – 004037 | Dr Elizabeth QUAT<br>Administration | <p>Dr Elizabeth QUAT said that --</p> <p>(a) If there were cases of incompatible developments and pollution of the environment in rural areas covered by OZPs, the Administration should review</p>  |                 |

| Time marker | Speaker | Subject(s)  | Action required |
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|             |         | <p>whether it had not undertaken enforcement actions effectively. It was unfair to put the blame on the villagers and to consider that including all enclaves to country parks was the best solution.</p> <p>(b) The Administration had all along neglected the needs of villagers living in enclaves or remote rural areas for better public facilities. That was why they had no confidence in the Administration's pledge to improve the habitat and amenities, allow erection of small houses, and facilitate the operation of small businesses in their villages after they had been incorporated to country parks.</p> <p>(c) Affected villagers might be more willing to accept the incorporation of enclaves into country parks if the Administration would propose compensation packages.</p> <p>(d) While she supported protection of land of high conservation value, she found it unacceptable that the Administration had not addressed the concerns of the affected villagers about the consequence of the incorporation of their land into county parks.</p> <p>The Administration replied that --</p> <p>(a) Relevant Government departments were obliged to take enforcement actions under the law against illegal land uses and pollution problems.</p> <p>(b) Whether an enclave was to be included to a country park was assessed on a case-by-case basis.</p> <p>(c) The Agriculture, Fisheries and Conservation Department ("AFCD") would actively improve the environment of a country park enclave after it was incorporated into a country park.</p> |                 |

| <b>Time marker</b> | <b>Speaker</b>                            | <b>Subject(s)</b>  | <b>Action required</b> |
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| 004038 –<br>004617 | Mr CHAN Hak-kan<br>Administration         | <p>Mr CHAN Hak-kan said that --</p> <p>(a) There were precedent cases of the Administration offering land exchange for a site with conservation value. The Administration should consider the same approach for making compensation to landowners whose land had been incorporated into a country park.</p> <p>(b) The Administration should adopt consistent standards in assessing the suitability of enclaves for inclusion into OZPs.</p> <p>He asked whether there had been discussions within the Administration on the Chief Executive's proposal of setting up a charity fund to provide compensation to landowners for their financial loss due to implementation of the Administration's conservation initiatives.</p> <p>The Administration replied that --</p> <p>(a) Land resumption for conservation purposes was not an appropriate option. The other approaches mentioned by Mr CHAN required detailed discussions.</p> <p>(b) On the preparation of a draft OZP for Hoi Ha, the Administration had taken into consideration the scale of existing human settlements and the status of the land in the area.</p> |                        |
| 004618 –<br>005331 | Mr Christopher<br>CHUNG<br>Administration | <p>Mr Christopher CHUNG said that --</p> <p>(a) Covering a country park enclave with an OZP could also achieve nature conservation objectives if the Administration would take strict planning enforcement actions.</p> <p>(b) It was not desirable to proceed with the part of the Amendment Order relating to the Sai Wan Enclave amid the local villagers' anxieties that their traditional rights would be deprived of and AFCD's active</p>   |                        |

| Time marker     | Speaker   | Subject(s)  | Action required |
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|                 |   | <p>management would affect their life style.</p> <p>The Administration explained how incorporating the Sai Wan Enclave into SKECP could help achieve the conservation objectives and advised that it would continue to follow up the recommendations of the Task Force on Planning Issues related to Tai Long Sai Wan (set up by the Sai Kung District Council) to meet the interests and improve the livelihood of local villagers.</p>  |                 |
| 005332 – 005940 | Mr CHAN Chi-chuen<br>Administration<br>Chairman | <p>Mr CHAN Chi-chuen opined that both the enclaves of Sai Wan and Hoi Ha should be incorporated into country parks.</p> <p>Mr CHAN asked --</p> <p>(a) whether the Administration should attach greater importance to conservation needs rather than the scale of existing human settlements when assessing the suitability of an enclave for designation as a country park; and</p> <p>(b) compared with covering an area with an OZP, whether including the area into a country park would strengthen the Administration's enforcement actions for land use control.</p> <p>The Administration replied that --</p> <p>(a) It would consider, among other factors, the scale of existing human settlements and the status of the land in an area in determining its conservation and recreation potentials.</p> <p>(b) Relevant Government departments had all along been taking enforcement actions according to the law, no matter the land in question was within a country park or not.</p> <p>The Chairman remarked that there were examples in the New Territories that the Administration had not taken enforcement</p> |                 |

| Time marker   | Speaker                         | Subject(s)  | Action required   |
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|   |                                 | actions rigorously against illegal occupation of Government land.   |   |
| 005941 – 010018   | Chairman                        | The Chairman ordered that the meeting be extended for 15 minutes.   |   |
| 010019 – 010246   | Mr WU Chi-wai<br>Administration | <p>Mr WU Chi-wai said that --</p> <p>(a) The Administration should include enclaves in country parks as far as possible. It should adopt consistent standards in assessing their suitability for designation as country parks.</p> <p>(b) Agricultural land owners might consider that inclusion of their land within an OZP was beneficial to them as they could apply for changes of uses of the land.</p> <p>The Administration would provide written response to Mr WU's enquiry about the assessment criteria for covering an enclave by an OZP instead of incorporating it to a country park, with particular reference to the case of So Lo Pun.</p> | The Administration to take action as in para. 2(b) of the minutes |
| <u>Examination of the provisions of the Amendment Order</u> |                                 |   |   |
| 010247 – 010548   | Chairman<br>Administration      | <p>The Administration explained to the Subcommittee the provisions of the Amendment Order (LC Paper No. CB(1)162/13-14(01)).</p> <p><u>Section 1 -- Commencement</u><br/>Members raised no queries.</p> <p><u>Section 2 -- Country Parks (Designation)(Consolidation) Order amended</u><br/>Members raised no queries.</p> <p><u>Section 3 -- Schedule amended</u><br/>Members noted that Dr LAU Wong-fat would propose a resolution to repeal section 3(2).</p> <p><u>Explanatory Note</u><br/>Members raised no queries.</p>  |   |

| <b>Time marker</b> | <b>Speaker</b>   | <b>Subject(s)</b>   | <b>Action required</b> |
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| 010549 –<br>011210 | Chairman<br>Dr LAU Wong-fat<br>Administration<br>Assistant Legal<br>Adviser 11<br>("ALA11")<br>Dr Elizabeth QUAT | <p>Discussion on the resolution proposed by Dr LAU Wong-fat (LC Paper No. 276/13-14(03))</p> <p>The Administration said that its position on the question of whether LegCo had the power to amend, including repeal, the Amendment Order was the same as that stated in 2010.</p> <p>The Chairman said that, as discussed at the meeting on 29 October 2013, LegCo had the power to amend, including repeal, the Amendment Order.</p> <p>The Administration confirmed that it would not propose any amendments to the Amendment Order.</p> <p>The Chairman said she was not in favour of the proposed resolution.</p> <p>At the invitation of the Chairman, ALA11 referred to paragraphs 3.20 and 3.21 of the Handbook for Chairman of Subcommittees on Subsidiary Legislation/Other Instruments and advised members on the procedural matters relating to an amendment proposed by a subcommittee in the situation where the Administration did not agree to move the amendment and the Chairman was not in favour of the proposed amendment.</p> <p>Dr Elizabeth QUAT suggested and the meeting agreed that Dr LAU Wong-fat should move the resolution on behalf of the Subcommittee.</p> |                        |
| 011211 –<br>011246 | Chairman   | Legislative timetable<br>Closing remarks  |                        |