

Hong Kong, 1 November, 2013

Honorable Cyd Ho  
Chairperson  
Subcommittee on Country Parks  
(Designation) (Consolidation) (Amendment) Order 2013  
Legislative Council Secretariat  
2/F, Legislative Council Complex  
1, Legislative Council Road, Central, Hong Kong  
(Attention: Ms. Christina SHIU)(By Email: [cb1@legco.gov.hk](mailto:cb1@legco.gov.hk))

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

Dear Chairperson and Members,

We refer to your invitation for submissions regarding the captioned subject.

1. Protecting country parks from incompatible development in enclaves under the prevailing small house policy (the main threat) can be achieved with three methods of control:
  - a. Incorporate enclaves into the surrounding country parks; or
  - b. Apply statutory plans together with strict additional measures of control; or
  - c. Alternatively, Government should remove development threat by fulfilling legitimate "ding" rights with land outside the enclaves.
2. Physically, ecologically, and from a geology, aesthetic, landscape and recreational point of view, enclaves are fully connected and integrated with their surrounding country parks. When designating sites as country parks, AFCD initially excluded 77 enclaves of village houses and agricultural lands together with a buffer area of Government land from the boundaries of country parks to not adversely affect rights of villagers and landowners so as to avoid objections and compensation claims.
3. Today, 40 years later, the issue of compensation has not been resolved. Incorporating Tai Long Sai Wan into the country park fails to take account of opportunities beyond the lease conditions of their agricultural land available to villagers under the prevailing small house policy. Government's pursuit of the cheapest way out is frustrating both the community interest in country parks as well as the private interests of villagers and land owners.
4. According to the Ombudsman in his September 2011 report, Government has since 1991 been aware of the need to protect Country Parks against incompatible development in enclaves, development which could degrade the integrity, the aesthetic and landscape quality of country parks as a whole. The ongoing failure to protect country parks became a scandal in July 2010 when the public was alerted by development at Tai Long Sai Wan.
5. In response, the Director of Planning 'frooze' developments in enclaves with Development Permission Area plans. In the meantime, the Director of Agriculture, Fisheries and Conservation (DAFC) who is also the Country and Marine Parks Authority set out to determine the future method of development control in enclaves:
  - a. To review the adequacy of the existing protection against incompatible development;
  - b. To critically assess and to seek advice of the Country and Marine Parks Board on the most appropriate measure to protect the natural environment; and
  - c. Having regard to the circumstances of each enclave to review if:

- i. Enclaves should be incorporated as part of a country park under the Country Parks Ordinance, or
  - ii. To apply statutory planning control under the town planning ordinance, or
  - iii. To apply the Public-Private-Partnership or Management Agreement schemes under the New Nature Conservation Policy (which have proven to be of limited practical use).
6. Incorporating the enclaves into the country park is the only way to give the DAFC together with the Country and Marine Parks Board control over development and management of enclaves and the country parks:
  - a. The DAFC is to assess any use or development of land, including building a small house, on the individual merits taking into account land status, location, nature conservation, landscape and visual impacts, country park users and facilities, and whether the enjoyment and amenities of the country park as a whole will be reduced.
  - b. The DAFC is empowered to patrol, to invest in facilities, to manage, and to enforce control in country parks – assuming the civil service and financial implications of the necessary additional resources has been resolved.
7. There is no such control for the DAFC under statutory plans, and as it appears control by other Government departments is limited too.
8. Although the DAFC is one of the consultees in the planning process and will offer views on the zonings of the enclaves to be covered by statutory plans with a view to providing protection of a site from the nature conservation angle, it appears from statutory plans for enclaves that the DAFC is unable to assess cumulative permitted developments and impacts on country parks as a whole.
9. The methods of control over small house developments are limited and the DAFC has no say over the development in enclaves after the statutory plans have been gazetted. Indigenous villagers which meet the criteria set out under the Small House Policy – irrespective of whether their need is genuine or not - will have rights to build small houses in those enclaves which are also village environs. Small houses require approval from the Town Planning Board in zones such as Green Belt, Agriculture and Recreation, however, in V-Zones only approval from the Lands Department is required.
10. Small house or village type developments are not guided by layout plans. There is no provision of public works for site formation, roads, parking, drainage, and sewerage. As a result, planning and environmental controls under the prevailing small house policy and its various guidelines are limited resulting in uncontrolled and incompatible developments:
  - a. Infinite demand for small house developments;
  - b. Chaotic layout of properties;
  - c. Individual arrangement of site formation;
  - d. Individual arrangement of drainage systems for discharge of rain water as well as effluent household discharges into nearby waters;
  - e. Sewage treatment with individual septic tanks and soak-away pits resulting in percolation of sewage into nearby waters;
  - f. As no access or parking is provided, villagers commonly resort to unauthorized site formation, land filling, excavation and slope stabilisation as well as unauthorized occupation of government land to facilitate the necessary access and parking.

11. Finally, it appears that control by the Environmental Protection Department is limited over Small House developments. Although development in enclaves is near Country Parks, small house construction is not normally deemed a designated project under the Environmental Impact Assessment Ordinance.
12. Therefore, if development in enclaves is to be guided by statutory plans Government must consider the special status of enclaves and implement strict additional controls to protect the surrounding country parks, including:
  - a. Setting limits on all developments permitted in each country park and in each enclave after considering the overall carrying capacity of each country park;
  - b. Control development with village layouts which rearrange private lands in a more orderly manner;
  - c. Provide quality public works for sustainable infrastructure which deals comprehensively with site formation, roads, parking, drainage, and sewerage;
  - d. Retain control over small house developments under the Town Planning Board (Require approval for small house development by moving small houses under column 2 rather than permitting development of right under column 1);
  - e. Determine developments in enclaves as designated projects which require an environmental permit under the Environmental Impact Assessment Ordinance; and
  - f. Limit small house development to the existing structures in an enclave (as per the example of Tai Long Wan in 2001), and fulfill future "ding" rights by using land outside the site and only to satisfy legitimate or genuine needs of indigenous villagers.
13. We have noted the reluctance of Government to apply the above additional measures of control. At the same time, despite the obvious advantages of controlling development in enclaves by incorporating enclaves into country parks, since the Tai Long Sai Wan incident the DAFC reviewed only 3 small enclaves for incorporation into the country parks. Government has stated that it will decide on incorporating other enclaves into country parks only AFTER Tai Long Sai Wan, Kam Shan and Yuen Tun have been incorporated.
14. Development Permission Area plans (DPAs) now cover all enclaves where there is an immediate development threat under the Small House Policy. These DPAs will soon expire, resulting in statutory plans with large V-zones as the de-facto method of control. The DAFC can only incorporate these enclaves into country parks at a later stage if it can accept the number of small houses permitted, or accept the civil service and financial implications of handling the compensation claims.
15. Therefore, we urge Legislators to incorporate Tai Long Sai Wan, Kam Shan and Yuen Tun expeditiously into country parks, or to agree on supporting strict alternative measures of control including limiting the number of small houses which can be built in enclaves by fulfilling legitimate future "ding" rights by using land outside the enclaves.

Yours sincerely,



Paul Zimmerman  
CEO, Designing Hong Kong Limited