

ITEM FOR FINANCE COMMITTEE

CAPITAL WORKS RESERVE FUND

HEAD 701 - LAND ACQUISITION

Ex-gratia allowances for fishermen and mariculturists affected by marine projects in Hong Kong waters

Members are invited to approve -

- (a) a new ex-gratia allowance (EGA) for fishermen affected by marine projects causing permanent loss of fishing grounds calculated on the basis of a notional value of five years' fish catch in the affected area;
- (b) the payment of EGA to fishermen affected by successive marine works projects at the same location where three years have elapsed since the completion of the original works; and
- (c) a new eligibility criterion for EGA payable to mariculturists based on proximity of fish culture zones to sand dredging or mud disposal projects.

PROBLEM

The current basis for calculating EGAs for fish losses caused by works carried out in Hong Kong waters was adopted in May 1993. We need to review the package.

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PROPOSAL

2. To take into account the different types of marine projects being undertaken in Hong Kong waters and the possibly repetitive nature of sand dredging or mud disposal works at the same location, we propose to -

- (a) introduce a new EGA for fishermen based on notional value (total value of annual fish catch from an affected area) of five years' fish catch in respect of projects resulting in the permanent loss of fishing grounds (primarily due to reclamation projects), and retain the existing EGA based on three years' fish catch in respect of projects resulting in the temporary loss of fishing grounds (primarily due to sand dredging or mud disposal projects); and
- (b) permit the payment of further EGA to fishermen affected by successive marine works projects (such as sand dredging or mud disposal projects) at the same location where three years have elapsed since the completion of the original works.

3. EGAs for mariculturists are only paid if the concentration of suspended solids reaches prescribed standards. We propose to introduce a new criterion whereby mariculturists will qualify for EGA payments wherever the shortest water distance between the boundary of a sand dredging or mud disposal site and the gazetted zone boundary of a nearby fish culture zone (FCZ) is five kilometres or less without the need for the suspended solids test.

4. The current arrangements for calculating EGAs for fishermen and mariculturists and our recommendations are set out respectively at columns (A) and (B) of the Enclosure.

Encl.

JUSTIFICATION

A. *Ex gratia allowances for fishermen*

Formula for calculating EGA

5. At present the EGA payable to eligible fishermen affected by marine works projects does not differentiate between the permanent loss (primarily due to reclamation projects) and the temporary loss (primarily due to sand dredging or mud disposal projects) of fishing grounds. As projects resulting in the permanent loss of fishing grounds have a more deleterious impact on the fishing industry than those which result in a temporarily loss only, we recommend that a higher EGA should be paid. We propose that the EGA payable to eligible fishermen affected by

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marine projects resulting in the permanent loss of fishing grounds should be based on notional value (i.e. total value of annual fish catch from an affected area) of five years' catch. We intend to retain the present basis for calculating EGA, namely, notional value of three years' fish catch, for fishermen affected by temporary loss of fishing grounds caused by implementation of marine projects.

6. We will continue to use the 1989-91 Port Survey data as the basis for calculating EGAs for fishermen. In 1996-97, the then Agriculture and Fisheries Department commissioned a consultancy study to ascertain, among other things, the state of fish resources and fishing operations in Hong Kong waters, the reasons leading to the decline in fish catch, and ways to set the fishing industry back on a sustainable path. The study concluded that over-fishing and development had contributed to a decline in fish catch but the impact of each of these two factors could not be precisely quantified or apportioned. We do not intend to use the findings of the 1996-97 study as the basis for calculating EGAs as this took no account of the drastic reduction in fish resources caused by large-scale development projects in the first half of the 1990s.

Loss caused by successive works at the same location

7. At present, we only grant EGA once in respect of a specific fishing ground affected by successive marine works projects (primarily sand dredging or mud disposal works). This is not entirely fair as fishermen are affected by repeated works. As it may take some three years for fishing grounds to recover after the completion of a works project, we consider it reasonable to allow further EGAs to be granted if three years have elapsed since completion of the last marine works project at the same location.

B. *Ex gratia allowances for mariculturists*

Proximity to sand dredging and mud disposal works

8. Existing EGAs for mariculturists are payable when the concentration of suspended solids in a FCZ reaches prescribed levels. Based on recent experience we believe that FCZs located close to marine projects may be subject to increased risk of fish loss at the initial stages of a project when the environmental impact on local water quality is less certain. We therefore propose to introduce a new criterion for FCZs located close to sand dredging or mud disposal works. Under this proposal, mariculturists would automatically be eligible for EGA for the first two years of a project, if the shortest water distance between the boundary of a dredging or disposal site allocated by the Marine Fill Committee and the gazetted boundary of a nearby FCZ is five kilometres or less. The current restrictions relating to suspended solids will not apply in such cases and eligible mariculturists may receive EGAs in advance of the commencement of the works. For sand

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dredging or mud disposal projects carried out more than five kilometres away and for other types of marine works (e.g. reclamation), the existing criteria based on the concentration of suspended solids will continue to apply.

9. The “proximity” criterion has been derived from data relating to marine works carried out since the existing suspended solids criteria were approved by the Finance Committee in 1993. Since that time, EGA payments have been triggered three times and on each occasion, there was sand dredging nearby.

10. Subject to approval of the “proximity” criterion, mariculturists qualifying for EGAs under this criterion will be paid as follows -

- (a) EGAs equivalent to 50% of the notional loss of income for a normal two-year mariculture fish cycle if they opt to continue their mariculture business at their own risk during the dredging or disposal works; or
- (b) EGAs equivalent to 100% of the same notional loss if they opt to suspend business for two years; or
- (c) EGAs equivalent to 100% of the same notional loss plus the loss of capital investment in rafts and cages if they cease their mariculture operations permanently.

Options will be irrevocable during the first two-year period for which the EGAs are granted (i.e. no additional EGAs would be granted in relation to any other works which start within the two-year period and even if the concentration of suspended solids exceeds the existing criteria during this period). Upon the expiry of the first two-year period, EGA may be granted again only if the concentration of suspended solids meets the existing criteria at item 4(a) of the Enclosure.

Effective Date

11. If approved, we intend to introduce the proposals set out in paragraphs 2 and 3 above from 15 March 2000, which was the commencement date for EGA registration in connection with the Penny’s Bay reclamation and related projects.

FINANCIAL IMPLICATIONS

12. We estimate that some 4 200 fishing vessels (2 600 less than 15 metres in length and 1 600 longer than 15 metres) may be affected by marine works

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in the coming three years. Under the proposals set out in paragraph 2 above, the estimated EGAs payable to fishermen between 15 March 2000 and April 2003 will increase from \$77.3 million to \$103.8 million, i.e. an increase of about 34%.

13. In the coming three years, six FCZs (namely, Ma Wan, Sok Kwu Wan, Lo Tik Wan, Tung Lung Chau, Po Toi O and Po Toi) are expected to meet the five-kilometre criterion proposed in paragraph 3 above. We estimate that the total EGAs payable would amount to some \$73.5 million if all the mariculturists in the six FCZs chose to cease their operations permanently.

BACKGROUND INFORMATION

14. Fishermen are not entitled to statutory compensation when marine works extinguish their habitual fishing grounds permanently or temporarily. Recognizing that affected fishermen may suffer a reduction or loss of income and may incur extra expenses in relocating fishing activities to fishing grounds elsewhere, they may be granted EGAs equivalent to the notional value of three years' fish catch in Hong Kong waters, subject to meeting certain eligibility criteria (e.g. their homeport must be associated with the affected fishing area).

15. Large scale sand dredging or mud disposal works carried out in the vicinity of FCZ may lead to an increase in the concentration of suspended solids in the water, which may adversely affect the health and growth of the fish. Affected mariculturists may as a result suffer economic losses. Under the existing arrangements, they may be granted EGA only if the concentration of suspended solids in the water has reached certain prescribed levels.

16. Fishermen groups and mariculturists have suggested that the existing EGA package should be enhanced. We believe the new measures set out in paragraph 2 already represent the most cost-effective package that the Government can justify at the moment as EGAs for fishermen affected by marine works. We see no justification to further enhance the formula for calculating EGAs for fishermen - whether to introduce monthly allowances on top of three to five years' fish catch or to further raise the allowance rate to ten years' fish catch.

17. Fishermen have also requested to dispense with the homeport system for registering inshore fishing vessels (those below 15 metres in length) and allowing all vessels to register for EGA payment arising from marine works. We believe the homeport system provides an objective means to identify fishermen being affected by a particular marine project and see no justification for any change. We also believe that fishing vessels exceeding 15 metres should continue to be

screened for eligibility to receive EGA and can only register if they can demonstrate that they periodically fish within, rather than outside, Hong Kong waters.

18. We see no justification for Government to go beyond the proposal in paragraph 3 for calculating EGAs for mariculturists. We do not accept the mariculturists' requests to purchase their entire fish stock and to pay a monthly allowance based on raft areas during the period of marine works affecting FCZs, irrespective of the level of suspended solids in the water.

Planning and Lands Bureau
June 2000

Ex-gratia Allowances (EGA) for Fishermen and Mariculturists

	(A) Existing arrangements (based on FCR(93-94)25 as approved by Finance Committee on 7 May 1993)	(B) Proposed new arrangements
Fishermen		
1. Formula for calculating EGA	Loss of fishing grounds (e.g. due to reclamation): 3 years' fish catch.	(a) Permanent loss: 5 years' fish catch. (b) Temporary loss: 3 years' fish catch.
2. Basis for calculating the notional value of fish catch	(a) Fishing vessels not longer than 15 metres: 1989/91 Port Survey (on fish catch, fishing efforts etc.) data are used. (b) Fishing vessels longer than 15 metres: Agriculture, Fisheries and Conservation Department's relevant fisheries data.	(a) No change to existing arrangements. (b) No change to existing arrangements.
3. Loss caused by successive works at the same location	EGAs are paid once only in connection with marine works at a specific location.	Further EGAs may be granted where a period of 3 years has elapsed since the completion of works for which the original EGA was granted in connection with marine works at a particular location.

/Mariculturists

	(A) Existing arrangements (based on FCR(93-94)72 as approved by Finance Committee on 23 July 1993)	(B) Proposed new arrangements
Mariculturists		
4. Suspended solids test	<p>EGA may be granted if the concentration of suspended solids in a fish culture zone:</p> <p>(a) reaches 100% more than the highest level recorded there in the previous 5 years; or</p> <p>(b) reaches 50 milligrams per litre.</p>	<p><u>New proximity test</u></p> <p>Mariculturists may opt to receive EGAs covering 2 years provided the shortest water distance between the boundary of the sand dredging or mud disposal site and the gazetted zone boundary of a nearby fish culture zone is 5 kilometres or less, irrespective of the concentration of suspended solids. Upon expiry of the first 2-year period, the mariculturist may be granted EGA again only if the existing suspended solids criteria are exceeded.</p> <p>For sand dredging / mud disposal more than 5 kilometres away and other types of works, payment of EGA should continue to be subject to the existing suspended solids test.</p>
5. Options which mariculturists may take in receiving EGA payment	<p>Mariculturists who have been deemed eligible for EGA may:</p> <p>(a) continue their business at their own risk and receive EGA equivalent to 50% of the loss of income for a normal 2-year fish culture cycle; or</p> <p>(b) suspend their business for 2 years and receive EGA equivalent to the loss of income for a normal 2-year fish culture cycle; or</p>	<p>No change to existing arrangements.</p>

	<p style="text-align: center;">(A) Existing arrangements (based on FCR(93-94)72 as approved by Finance Committee on 23 July 1993)</p>	<p style="text-align: center;">(B) Proposed new arrangements</p>
	<p>(c) cease their business permanently and receive an extinguishment allowance to cover the loss of income for 2 years and the loss of capital investment in rafts/cages.</p>	