

立法會
Legislative Council

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by the Administration)

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Subcommittee on Marine Parks (Designation) (Amendment) Order 2016

Minutes of first meeting
held on Tuesday, 22 November 2016, at 10:45 am
in Conference Room 2A of the Legislative Council Complex

- Members present** : Hon Tanya CHAN (Chairman)
Hon Steven HO Chun-yin, BBS
Hon YIU Si-wing, BBS
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon SHIU Ka-fai
Hon HUI Chi-fung
Hon Jeremy TAM Man-ho
Dr Hon YIU Chung-yim
- Public Officers attending** : **For item II**
- Mrs Vicki KWOK
Deputy Director of Environmental Protection (2)
Environmental Protection Department
- Mr Elvis AU, JP
Assistant Director (Nature Conservation and
Infrastructure Planning)
Environmental Protection Department
- Mr Patrick LAI
Assistant Director (Country and Marine Parks)
Agriculture, Fisheries and Conservation Department

Mr Alan CHAN
Senior Marine Parks Officer
Agriculture, Fisheries and Conservation Department

Ms LI Hiu-yan
Marine Parks Officer (Development)
Agriculture, Fisheries and Conservation Department

Mr WONG Lok-king
Government Counsel
Department of Justice

Clerk in Attendance : Ms Angel SHEK
Chief Council Secretary (1)1

Staff in attendance : Miss Rachel DAI
Assistant Legal Adviser 2

Mr Joey LO
Senior Council Secretary (1)8

Mr Jason KONG
Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

I. Election of Chairman

Mr Steven HO, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Ms Tanya CHAN was nominated by Mr Jeremy TAM and the nomination was seconded by Mr HUI Chi-fung. Ms Tanya CHAN accepted the nomination. There being no other nominations, Ms CHAN was declared Chairman of the Subcommittee.

Action

3. Members agreed that there was no need to elect a Deputy Chairman.

II. Meeting with the Administration

(L.N. 166 of 2016 — Marine Parks (Designation)
(Amendment) Order 2016

(issued by the Environmental Protection Department and Agriculture, Fisheries and Conservation Department on 2 November 2016) — Legislative Council Brief

LC Paper No. LS8/16-17 — Legal Service Division Report

LC Paper No. CB(1)153/16-17(01) — Marked-up copy of relevant provisions to be amended by the subsidiary legislation prepared by the Legal Service Division (Restricted to members)

LC Paper No. CB(1)153/16-17(02) — Background brief prepared by the Legislative Council Secretariat)

Discussion

4. The Deputy Director of Environmental Protection (2) briefed members on the Marine Parks (Designation) (Amendment) Order 2016 ("the Amendment Order").

5. The Subcommittee deliberated (index of proceedings attached at the **Annex**) and completed examination of the provisions of the Amendment Order.

Follow-up actions to be taken by the Administration

Admin 6. To address members' concerns about the cumulative impacts of designation of marine parks including The Brothers Marine Park on the sustainable development of the fisheries industry, the Administration was requested to provide supplementary information on:

Action

- (a) the direction and timetable of and enhancement measures (if any) being considered in the review on fisheries management in marine parks and marine reserves, and whether the Administration would consider amending the relevant legislation (e.g. Fisheries Protection Ordinance (Cap. 171), Marine Parks Ordinance (Cap. 476) and the Marine Parks and Marine Reserves Regulation (Cap. 476A)) to dispense with the homeport system for registering inshore fishing vessels, and/or relax the restrictions on the transfer and inheritance of marine park fishing permits; and
- (b) measures to strengthen law enforcement actions to curb illegal fishing activities in Hong Kong waters (including marine parks), in particular those involving non-local fishing vessels; and how the Marine Region of the Hong Kong Police Force would coordinate with the Country and Marine Parks Authority in carrying out enforcement actions.

7. The Subcommittee agreed that subject to any views members might have on the Administration's written response, the Chairman would decide whether to hold a further meeting.

(Post-meeting note: The Administration's written response was issued vide LC Paper No. CB(1)222/16-17(01) on 30 November 2016. By the deadline of 12:00 noon on 2 December 2016, the Secretariat did not receive any request from members for holding a further meeting.)

III. Any other business

Legislative timetable

8. Members noted that the scrutiny period of the Amendment Order would expire at the Council meeting of 7 December 2016, and the deadline for giving notice of amendments to the subsidiary legislation was 30 November 2016 if the scrutiny period was not extended. To allow more time for the Subcommittee to study the Amendment Order, members agreed that the Chairman should move a motion at the Council meeting of 30 November (or 7 December 2016) to extend the scrutiny period to 11 January 2017. The Chairman would report the deliberations of the Subcommittee to the House Committee at its meeting on 16 December 2016.

Action

(*Post-meeting* note: The motion moved by the Chairman to extend the scrutiny period of the Order to 11 January 2017 was passed at the Council meeting of 30 November 2016.)

9. There being no other business, the meeting ended at 12:27 pm.

Council Business Division 1
Legislative Council Secretariat
3 January 2017

Subcommittee on Marine Parks (Designation) (Amendment) Order 2016

**Proceedings of the first meeting
on Tuesday, 22 November 2016, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I — Election of Chairman</i>			
000214 – 000348	Mr Steven HO Ms Tanya CHAN Mr HUI Chi-fung Mr Jeremy TAM	Election of Chairman	
<i>Agenda Item II — Meeting with the Administration</i>			
000349 – 000457	Chairman	Opening remarks	
000458 – 000829	Administration	Briefing by the Administration on the Marine Parks (Designation) (Amendment) Order 2016 ("the Amendment Order")	
000830 – 001339	Chairman Mr YIU Si-wing Administration	<p>Mr YIU expressed support for the Order. He sought details on the control of different types of vessels (e.g. dolphin watching vessels) and activities in marine parks, and how the Administration would tackle pollution caused by oil spill from vessels in marine parks.</p> <p>The Administration explained that:</p> <p>(a) the Marine Parks and Marine Reserves Regulation (Cap. 476A) ("MPMRR") provided that no person should operate a power-driven vessel at a speed exceeding 10 knots at any time in a marine park or marine reserve. This requirement applied to all vessels;</p> <p>(b) a buffer would be maintained between the boundary of The Brothers Marine Park ("BMP") and high speed crafts' fairways;</p> <p>(c) the Agriculture, Fisheries and Conservation Department ("AFCD") patrolled marine parks to enforce against illegal activities;</p> <p>(d) AFCD and the Marine Department had put in place contingency measures to deal with incidents (such as oil spill from vessels) in marine parks; and</p>	

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		(e) AFCD had published a Code of Conduct for Dolphin Watching Activities.	
001340 – 002411	Chairman Mr Steven HO Administration	<p>Mr HO asked about the change in the number of marine park fishing permits since the introduction of MPMRR in 1996, and made the following comments and suggestions:</p> <p>(a) the Administration should strike a proper balance between nature conservation and sustainable development of the fisheries industry;</p> <p>(b) AFCD appeared to be too stringent in vetting and approving applications for transfer of marine park fishing permits, or inclusion of persons who were not immediate family members (e.g. employees) as authorized persons in the fishing permits issued; and</p> <p>(c) the Administration should expeditiously review the fisheries management regime and consider relaxing the restrictions on the transfer and succession of marine park fishing permits.</p> <p>The Administration responded that:</p> <p>(a) marine parks were set up for the purposes of marine conservation, recreation and education. Findings of the long-term monitoring conducted by AFCD confirmed that designation of marine parks contributed to protection and enhancement of fisheries resources in the subject waters;</p> <p>(b) the size of the Core Area (where no fishing activities were allowed) of BMP had been reduced having regard to concerns about depletion of fishing grounds as a result of the marine park's designation;</p> <p>(c) the marine park fishing permit system had been enhanced to allow succession of permits by immediate family members, and restricted transfers of permits to authorized persons listed in any of the permits issued for the same marine park;</p> <p>(d) some 860 marine park fishing permits were issued initially upon enactment of MPMRR, and around 350 of them remained valid at</p>	

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		<p>present; and</p> <p>(e) the Administration had commenced a review on fisheries management in marine parks and would consider further enhancement measures on the premise that these would not compromise the conservation objectives of marine parks. The review would study the possible measures to further enhance the mode of existing fisheries management in marine parks, which might involve legislative amendments.</p>	
002412 – 003334	Chairman Dr YIU Chung-yim Administration	<p>Dr YIU expressed support for the Amendment Order. Dr YIU and the Chairman sought elucidation on the following:</p> <p>(a) measures apart from the aforementioned vessel speed limit and fishing permit system for protection of the marine ecology in BMP, and the relevant monitoring mechanism;</p> <p>(b) enforcement of the Marine Parks Ordinance (Cap. 476) and MPMRR, including collection of evidence, prescribed penalties and number of successful prosecutions in the past; and</p> <p>(c) whether the Administration would report the ecological baseline information of marine parks to the Legislative Council ("LegCo") periodically.</p> <p>The Administration advised that:</p> <p>(a) fishing activities in Hong Kong waters were regulated by the Fisheries Protection Ordinance (Cap. 171) ("FPO");</p> <p>(b) fishing activities would be prohibited in the Core Area of BMP, and marine ecological measures such as placement of artificial reefs and release of fish fry would be carried out in the Core Area with a view to enhancing the overall marine biodiversity of the marine park;</p> <p>(c) AFCD would report the monitoring data and findings on marine parks to the Marine Parks Committee of the Country and Marine Parks Board on a regular basis. The Administration could provide the relevant information to the Panel on Environmental Affairs of LegCo upon</p>	

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		<p>request;</p> <p>(d) in the past three years, AFCD conducted around 5 000 patrols and 5 000 inspections of vessels annually within marine parks and marine reserves. For the future control and management of BMP, AFCD would procure a new patrol vessel and deploy additional manpower resources;</p> <p>(e) data/images obtained from radars and other relevant devices were used to monitor the speed of vessels in marine parks and marine reserve. While there might be difficulties in collecting and adducing evidence of exceedance of vessel speed limit, there were past cases of successful convictions. In the past three years, around 20 to 35 prosecutions were instituted under MPMRR annually. The maximum penalty prescribed for offences under MPMRR was a fine at \$25,000 and imprisonment for one year; and</p> <p>(f) AFCD, the Marine Region of the Hong Kong Police Force ("the Marine Police") and the Guangdong Fisheries Administration General Brigade organized joint operations on a regular basis to combat illegal fishing activities.</p>	
003335 – 003949	Chairman Mr HUI Chi-fung Administration	<p>Mr HUI expressed concern about the potential adverse impact on marine ecology within BMP arising from the planned reclamation and construction works at Tung Chung East. He asked about the additional mitigation measures, if any, to minimize the impact.</p> <p>The Administration advised that the Environmental Impact Assessment ("EIA") report of the Tung Chung New Town Extension Project had taken into account the cumulative impacts arising from the reclamation works and other planned/ongoing projects in the vicinity, and proposed various mitigation measures to minimize the works' impact on BMP and other water sensitive receivers concerned.</p>	
003950 – 004638	Chairman Ir Dr LO Wai-kwok Administration	Ir Dr LO expressed support for the Amendment Order. He sought details on the effectiveness of designating marine parks in rehabilitating marine ecosystems.	

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		<p>The Administration responded that:</p> <p>(a) each marine park was set up for a unique purpose having regard to its location, marine fauna and ecological value. Generally speaking, the designation of a marine park enabled better protection of the marine ecosystem in the subject waters;</p> <p>(b) according to the long-term monitoring surveys conducted by AFCD, the level of fisheries resources in existing marine parks had remained stable or improved, demonstrating that designation of marine parks and the relevant management and ecological enhancement measures were effective in maintaining/enhancing the marine resources thereat;</p> <p>(c) a study commissioned by the Administration and conducted by the Chinese University of Hong Kong at the Sha Chau and Lung Kwu Chau Marine Park ("SCLKCMP") revealed high dolphin usage of the waters around Lung Kwu Chau; and</p> <p>(d) as the designation of BMP was aimed to enhance protection of Chinese White Dolphins ("CWDs") in particular, the Administration would conduct relevant studies to assess BMP's effectiveness in this regard.</p>	
004639 – 005444	Chairman Mr Jeremy TAM Mr Steven HO Administration	<p>In response to Mr TAM's enquiries, the Administration explained that boundary marker buoys and signboards would be placed for demarcation and management of BMP. On enforcement of MPMRR, there were 31 related prosecutions in 2013, 35 in 2014 and 20 in 2015. The penalty for each case was determined by the court having regard to the severity of the offence and other circumstances. If the offender was a holder of marine park fishing permit, the Working Group on Fishing Permit ("Working Group") would consider whether to suspend or cancel the permit concerned.</p> <p>Mr TAM, Mr HO and the Chairman further enquired about:</p> <p>(a) how the homeport system would affect a fisherman's eligibility for marine park fishing</p>	

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		<p>permit; and</p> <p>(b) the criteria and time required for processing an application for transfer of or inclusion of authorized persons in a marine park fishing permit.</p> <p>The Administration explained that:</p> <p>(a) when assessing the eligibility of a fisherman for a marine park fishing permit, AFCD would consider whether the homeport of his fishing vessel(s) was associated with the affected waters; and</p> <p>(b) as the fisheries operations of the majority of marine park fishing permit holders were small scale or family businesses, which seldom engaged deckhands, their applications usually involved renewal of fishing permits or transfer of the permits to immediate family members. Subject to fulfilment of the specified criteria and submission of the necessary supporting documents, such applications could normally be approved in about three working days after an interview.</p>	
005445 – 010900	Chairman Dr Junius HO Administration	<p>Dr HO noted that the designation of BMP was proposed in the EIA report of the Hong Kong-Zhuhai-Macao Bridge ("HZMB") Hong Kong Boundary Crossing Facilities ("HKBCF") project as one of the mitigation measures to compensate for the loss of CWDs' habitat. He asked about the existing dolphin usage of the waters around The Brothers, and expressed the following views and concerns:</p> <p>(a) the heavy marine traffic and the resultant pollution near The Brothers might affect dolphin usage of the new marine park;</p> <p>(b) the Administration should consider promoting education and eco-tourism in respect of BMP; and</p> <p>(c) enforcement actions in marine parks should be strengthened through better coordination among AFCD, the Environmental Protection Department, the Marine Police and the Marine Department. It might not be cost-effective for AFCD to procure an additional patrol vessel.</p>	

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		<p>The Administration advised that:</p> <ul style="list-style-type: none"> (a) AFCD's long-term monitoring data confirmed that The Brothers was an important habitat for CWDs. Although dolphin sightings in the waters of North Lantau recorded a drop in a recent study, this might be a temporary phenomenon caused by ongoing construction works in the vicinity; (b) with the designation of BMP, the Administration could implement measures to enhance the marine resources near The Brothers, which would be conducive to the conservation of CWDs thereat in the long run; (c) BMP would be connected with the adjacent SCLKCMP and the new marine park to be set up in respect of the Three-Runway System of the Hong Kong International Airport to form a network of marine parks covering a sea area of about 4 500 hectares; and (d) currently, The Brothers was not a popular spot for educational and recreational activities. The Administration would explore the possibility of promoting such activities in BMP. 	
010901 – 011346	Chairman Administration	<p>As the construction of HZMB-HKBCF commenced some years ago, the Chairman queried why BMP was designated at this stage. The Administration explained that the Environmental Permit of the HZMB-HKBCF project required that BMP should be designated immediately after the completion of the project.</p> <p>The Chairman asked about how the Administration would verify whether an applicant for a marine park fishing permit was a bona fide fisherman. The Administration advised that, with the introduction of the registration system for local fishing vessels in the Fisheries Protection (Amendment) Ordinance 2012, bona fide fishermen should possess a fishing vessel with a valid certificate of registration under FPO. Other criteria such as the applicant's homeport and fishing methods/devices would also be taken into account.</p>	

Time marker	Speaker	Subject(s)	Action required
011347 – 012655	Chairman Mr Steven HO Administration	<p>Mr HO reiterated that:</p> <p>(a) the Administration should consider relaxing the restrictions on transfer and succession of marine park fishing permits, or dispense with the homeport system in issuing marine park fishing permits; and</p> <p>(b) the Administration should step up enforcement actions against illegal fishing activities, especially those involving non-local fishing vessels and larger vessels.</p> <p>Mr HO requested the Administration to provide supplementary information on how the Marine Police would work with the Country and Marine Parks Authority to carry out law enforcement actions against illegal fishing activities.</p>	Admin (paragraph 6(b) of the minutes)
012656 – 013115	Chairman Mr YIU Si-wing Administration	<p>In response to Mr YIU's enquiry, the Administration responded that:</p> <p>(a) it would not be feasible to build a public pier at BMP as part of the marine park overlapped with the Hong Kong International Airport Approach Area; and</p> <p>(b) the Administration would promote the Code of Conduct for Dolphin Watching Activities to operators of eco-tours at BMP.</p>	
Agenda Item III — Any other business			
013116 – 013746	Chairman Mr Steven HO Administration Clerk Assistant Legal Adviser 2	<p>Legislative timetable</p> <p>Mr HO requested the Administration to provide supplementary information on the direction and timetable of and enhancement measures (if any) being considered in the review on fisheries management in marine parks and marine reserves, and whether the Administration would consider amending the relevant legislation to dispense with the homeport system for registering inshore fishing vessels, and/or relax the restrictions on the transfer and inheritance of marine park fishing permits.</p>	Admin (paragraph 6(a) of the minutes)

Time marker	Speaker	Subject(s)	Action required
<p><u>Examination of the provisions of the Marine Parks (Designation) (Amendment) Order 2016</u> [The Amendment Order (L.N. 166 of 2016)] [Marked-up copy of the Amendment Order prepared by the Legal Service Division (LC Paper No. CB(1)153/16-17(01)]</p>			
013747 – 013938	Chairman Ir Dr LO Wai-kwok	<p><u>Marine Parks (Designation) (Amendment) Order 2016 (L.N. 166 of 2016)</u></p> <p><i>1 – Commencement</i> <i>2 – Marine Parks (Designation) Order amended</i> <i>3 – Schedule amended</i></p> <p>The Chairman concluded that members did not have any objection to the Amendment Order.</p>	
013939 – 014309	Chairman Mr Steven HO Administration	<p>Members agreed that extension of the scrutiny period of the Amendment Order should be sought.</p> <p>In response to the Chairman's enquiry, the Administration advised that the legal effect of the Amendment Order would not be affected by extension of the scrutiny period, unless the subsidiary legislation was repealed or amendments were passed to change the commencement date, etc.</p>	