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

Background brief

Purpose

This paper provides background information on the Marine Parks (Designation) (Amendment) Order 2016 ("Amendment Order"), and summarizes the major views and concerns expressed by Members when issues related to the designation of The Brothers Marine Park ("BMP") were discussed by relevant committees of the Legislative Council ("LegCo").

Background

Designation of marine parks for marine conservation

2. Enacted in 1995, the Marine Parks Ordinance (Cap. 476) ("MPO") provides for the designation, control and management of marine parks and marine reserves for the purpose of marine conservation, and stipulates the Director of Agriculture, Fisheries and Conservation as the Country and Marine Parks Authority ("the Authority"). The Marine Parks and Marine Reserves Regulation (Cap. 476A) ("the Regulation") was enacted in 1996 to provide for the prohibition and control of certain activities in marine parks or marine reserves. At present, four marine parks and one marine reserve have been designated.¹

Proposed designation of The Brothers Marine Park

3 The Brothers are a group of islands (including West Brother (Tai Mo To), East Brother (Siu Mo To), and Tsz Kan Chau) located at the north of

¹ They are the Hoi Ha Wan Marine Park, Yan Chau Tong Marine Park, Sha Chau and Lung Kwu Chau Marine Park, Tung Ping Chau Marine Park, and Cape D'Aguiar Marine Reserve.

Lantau. The designation of The Brothers as a marine park was proposed in the Environmental Impact Assessment report of the Hong Kong-Zhuhai-Macao Bridge Hong Kong Boundary Crossing Facilities project as one of the mitigation measures to compensate for the loss of habitat of Chinese White Dolphins ("CWDs") arising from the reclamation and marine works of the project. The relevant Environmental Permit granted in November 2009 included the designation of BMP as one of the conditions.

4. The Administration engaged consultants to carry out studies on the boundary and management plan for BMP in 2009 and 2013, and conducted a fish resources study in 2012 to update the fisheries profile around The Brothers. Taking into account dolphin usage of the waters around The Brothers, existing facilities in the area, the associated marine traffic and water quality, the Administration has drawn up the boundary of BMP which covers a sea area of about 970 hectares.

5. Two rounds of public consultations for the proposed BMP were conducted in 2014 and 2015. The Administration also consulted the Country and Marine Parks Board and its Marine Parks Committee in 2015. The draft map for BMP was made available for public inspection from February to April 2016 in accordance with the statutory process stipulated in MPO. The Authority did not receive any objection to the draft map during the inspection period.

Marine Parks (Designation) (Amendment) Order 2016

6. The Amendment Order was published in the Gazette on 4 November 2016 and tabled before LegCo on 9 November 2016 for negative vetting. It seeks to amend the Marine Parks (Designation) Order (Cap. 476B) for the purpose of designating BMP. The Amendment Order will take effect from 30 December 2016.

Major views and concerns expressed by Members

7. Matters related to the designation of BMP and its implications on fishing activities were brought up by Members at the meetings of the Panel on Environmental Affairs on 25 June 2014 and 22 February 2016, meetings of the Subcommittee to Follow Up Issues Relating to the Three-runway System at the Hong Kong International Airport, and during examination of the Estimates of Expenditure 2016-2017. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

Fishing activities in marine parks

8. At the meeting of the Panel on Environmental Affairs on 25 June 2014, members passed a motion requesting the Administration to, among other things, review MPO to strike a balance between environmental conservation and sustainable development of the fisheries industry. It was suggested that the Administration should consider the feasibility of lifting the full fishing ban in the "no-take" zones of marine parks, and replacing it by other less restrictive measures like prescribing speed limits of fishing vessels in restricted zones at the marine parks. In addition, a Panel member expressed dissatisfaction that transfers of fishing permits were not allowed under the marine park fishing permit system, thereby affecting the livelihood of fishermen families.

9. The Administration pointed out that the establishment of marine parks was meant to protect and manage ecologically-important marine environment for the purposes of conservation, education and recreation. Fishing was prohibited in marine parks under MPO. However, according to the Regulation, the Authority might grant a fishing permit to a bona fide fisherman or a person who ordinarily resided near a marine park to which the permit related. The Administration had already adopted enhancement measures on the permit requirements, including allowing succession of marine park fishing permits to immediate family members and restricted transfers of fishing permits to authorized persons listed in any of the fishing permits issued for the same marine park.² From 2009 to 2013, 12 applications for permit inheritance were received and six of them were approved. The main reason for rejecting the other applications was that the applicants were not the authorized persons listed in the fishing permits concerned, or the fishing permits had been invalid for a long time.

10. In its replies to Members' questions on the Estimates of Expenditures 2016-2017, the Administration advised that it had held 12 consultation meetings with major fishermen's organizations and fishermen representatives from relevant home ports during the two-stage public consultations for the proposed BMP. At the meetings, the Administration had explained to the stakeholders how the establishment of BMP would not affect the sustainability of the fisheries industry.

Mitigation measures to conserve Chinese White Dolphins

11. Members expressed concerns about the impacts of several infrastructure projects under construction or planning near Lantau on marine ecology of the affected waters and habitats for CWDs. They opined that environmental

² The Agriculture, Fisheries and Conservation Department announced the enhanced permit system in July 2015 and has been processing applications in relation to the succession and transfer of marine park fishing permits accordingly.

monitoring and audit programmes should be put in place to ensure proper implementation of mitigation measures, and marine protected areas should be established for the protection of CWDs before construction of the relevant projects.

12. The Administration responded that it had engaged dolphin experts to conduct on-site field monitoring of CWDs, and commenced a non-statutory "cumulative environmental impact assessment" study in 2013 to assess the cumulative impacts of on-going/potential works projects in the western waters on four environmental aspects, including marine ecology (in particular CWDs), fisheries, air quality and water quality. Findings of the studies conducted at Sha Chau and Lung Kwu Chau Marine Park over a decade revealed that designation of marine parks was an effective measure for the conservation of CWDs.

Council questions

13. At the Council meetings of 30 January 2013, 13 November 2013, 4 December 2013, 18 March 2015 and 24 June 2015, Hon Kenneth LEUNG, Hon WU Chi-wai, Hon CHAN Yuen-han and Hon Steven HO raised questions related to marine parks. Issues covered in the questions include the proposal to ban commercial fishing in marine parks, progress of the designation of new marine parks, transfer of marine park fishing permits, and impact of the designation of BMP on accessibility of the affected waters. The questions and the Administration's replies are hyperlinked in the **Appendix**.

Latest development

14. At the House Committee on 11 November 2016, Members agreed to form a subcommittee to study the Amendment Order.

Relevant papers

15. A list of relevant papers is set out in the **Appendix**.

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List of relevant papers

Date	Event	Paper
25 June 2014	Special meeting of the Panel on Environmental Affairs	Administration's paper on "Impact of construction works on important species, marine ecology and the fisheries industry" (LC Paper No. CB(1)1648/13-14(01)) Minutes of meeting (LC Paper No. CB(1)2068/13-14) Administration's follow-up paper (LC Paper No. CB(1)2004/13-14(01))
22 February 2016	Meeting of the Panel on Environmental Affairs	Administration's paper on "Update on the protection of endangered species and biodiversity in Hong Kong" (LC Paper No. CB(1)557/15-16(04)) Minutes of meeting (LC Paper No. CB(1)857/15-16)
6 April 2016	Special meeting of the Finance Committee for examination of Estimates of Expenditure 2016-2017	Written questions raised by Members and the Administration's replies (Reply serial numbers: ENB006, 007, 013 and 224)
9 November 2016	The Marine Parks (Designation) (Amendment) Order 2016 was tabled at the Legislative Council meeting	The Amendment Order Legislative Council Brief Legal Service Division Report (LC Paper No. LS8/16-17)

Hyperlinks to relevant Council Question:

Date	Council Question
30 January 2013	Press release on Council question (written) raised by Hon Kenneth LEUNG
13 November 2013	Press release on Council question (written) raised by Hon WU Chi-wai
4 December 2013	Press release on Council question (written) raised by Hon CHAN Yuen-han
18 March 2015	Press release on Council question (written) raised by Hon Steven HO
24 June 2015	Press release on Council question (written) raised by Hon Steven HO