

**Regarding assessment of fisheries impact due to marine works
under the statutory Environmental Impact Assessment process**

In response to the letter from Hon. Steven Ho on 19 March 2019 to the Chairman of the Panel on Environmental Affairs of the Legislative Council, the Environmental Protection Department (“EPD”) and the Agriculture, Fisheries and Conservation Department (“AFCD”) provide a reply as follows:

Environmental Impact Assessment Ordinance

The Environmental Impact Assessment Ordinance (hereinafter referred to as “EIAO”) has stringent and objective requirements on the contents, standards and procedures of the Environmental Impact Assessment (hereinafter referred to as the “EIA”). The Technical Memorandum under the EIAO explicitly lists out the principles, procedures, guidelines, requirements and criteria for handling various EIA matters. If the marine works is a Designated Project as stipulated in the EIAO, the project proponent must follow the statutory EIA process to assess in detail the impacts of that project on marine ecology and fisheries; if necessary, shall also adopt mitigation measures to reduce the adverse impact to acceptable level.

The EIA process is rigorous, open and transparent. Members of the public (including affected fishermen and relevant members of the community) and the Advisory Council on the Environment can at different stages (including at the early stage of publishing the project profile and prior to the approval of the EIA report) participate and express their views. If the EIA involves fisheries impact assessment, the EPD will work jointly with the AFCD to consider the relevant views before finalising the contents of the EIA study brief and deciding whether to approve that EIA report ultimately.

Fisheries Impact Assessment

The Technical Memorandum under the EIAO encompasses the guidelines for fisheries impact assessment.

First of all, the fisheries impact assessment shall provide comprehensive and accurate baseline information relating to fisheries. For this purpose, project proponents shall review and verify existing relevant baseline information to reflect the actual situations impartially. The source of relevant baseline information may include those from local fishermen and aquaculturists, marine and fishery biologists, non-government organizations and relevant government departments, etc. The AFCD will require project proponents to consult relevant fishermen and aquaculturists in the early stage of the EIA study to understand the current situation of the industry and their concerns. In addition, project proponents can also refer to relevant survey report, for example, the AFCD conducted an interview survey between 2016 and 2017 on fishing operation and production. If it is found that the baseline information concerned is inadequate or in doubt, proponent proponents shall carry out fishery field survey to ensure that there is adequate and accurate baseline information for conducting the fisheries impact assessment.

After that, the fisheries impact assessment shall base on the general situation of the proposed project development and the fisheries baseline information gathered to predict the potential fishery impacts (including aquaculture and capture fisheries) of the project and to describe and quantify the nature of the impact and its extent respectively. When carrying out the above predictions, the relevant criteria listed out in the Technical

Memorandum shall be referenced. These criteria include the nature of impact, the size of affected area, the loss of fishery resources and production, the destruction and disturbance of nursery and spawning grounds as well as the impacts on fishing and aquaculture activities.

Besides, cost-effective and practicable alternatives and mitigation measures, and recommendations of appropriate monitoring programme shall be proposed in the fisheries impact assessment.

In summary, EIA report shall base on the requirements in the Technical Memorandum to comprehensively, scientifically and objectively predict and assess the potential impacts on fisheries to ensure the sustainable development of fisheries industry.

Cumulative Impact Assessment

When conducting fisheries impact assessment, project proponents shall comprehensively review the potential impact of the project, including the assessment of the cumulative impact on fisheries during the construction and operation of the project with adjacent existing, committed and planned development projects. In reviewing the EIA report, the EPD and the AFCD will also ensure that the cumulative impact assessment is accurate and its findings can meet the relevant statutory acceptable level in the Technical Memorandum.

Mitigation Measures

The Technical Memorandum stipulates that project proponents shall give priority to appropriate options (such as altering location, design and construction methods) to avoid any possible impacts under practicable circumstance. In addition, proponents are required to take appropriate mitigation measures, such as limiting the project or the works process to within specified boundary or season, controlling the pace of construction works, installing silt curtain, recovering the affected or increasing the fishery resources and habitats, etc. to minimise the adverse impact as far as possible. Where necessary, proponents also need to consider adopting further mitigation measures, including increasing fishery resources and habitats outside the boundary of the project.

Taking the “Expansion of Hong Kong International Airport into a Three-Runway System” as an example, the Airport Authority has committed in the EIA report to formulate and implement marine ecology and fishery enhancement strategy, and has also submitted the “Fisheries Management Plan” in accordance with the requirement of the Environmental Permit to support, enhance fisheries and fishery resources in the western waters of Hong Kong (especially in Lantau waters), and to support marine ecology and fishery enhancement strategy.

The government understands that the income of fishermen may be affected by marine works, or the fishermen may need to switch to other fishing areas. Therefore, the government all along has a mechanism to provide ex-gratia allowance to the fishermen affected by marine works in order to alleviate their pressure due to transitioning into new mode of fishing or to new fishing areas. After the review of the relevant mechanism in 2012, the government has significantly adjusted upward the basis of calculating the ex-gratia allowance.