

LEGISLATIVE COUNCIL BRIEF

Wild Animals Protection Ordinance (Chapter 170)

WILD ANIMALS PROTECTION ORDINANCE (AMENDMENT OF SCHEDULE 6) NOTICE 2020

INTRODUCTION

The Secretary for the Environment made the Wild Animals Protection Ordinance (Amendment of Schedule 6) Notice 2020 (the Amendment Notice) at **Annex A** under section 22(1) of the Wild Animals Protection Ordinance (Cap. 170) (the Ordinance), to expand the restricted area of the sandy beach at Sham Wan, Lamma Island (Sham Wan Restricted Area) so as to include the inlet of the sea adjoining the beach (the Beach) and to extend the restricted period for strengthening the protection of Green Turtles.

JUSTIFICATIONS

Green Turtles in Hong Kong

2. Green Turtles are one of the species listed as “endangered” under the International Union for Conservation of Nature’s Red List of Threatened Species. It is also the only sea turtle species that nests in Hong Kong. In the breeding season, Green Turtles migrate from their feeding grounds to their natal beaches to nest. The nesting season of Green Turtles generally spans from June to October, during which they come ashore to nest for multiple times at intervals of about 14 days. Green Turtles usually stay in the adjacent waters before and in between nesting.

3. The sandy beach at Sham Wan on Lamma Island is the only site in Hong Kong and one of the few sites in South China Sea at which Green Turtles nest from time to time. Since it is habitual for Green Turtles to return to nest invariably at where they were born after 20 years or more when they reach sexual maturity, Sham Wan is an important habitat to the breeding and survival of this species in the local and regional context.

Current Protection Measures for Green Turtles and Their Nesting Site

4. The Government has been implementing various conservation measures to protect Green Turtles and their nesting site, including listing Green Turtle as protected wild animal¹ under the Ordinance. No person shall, except in accordance with a special permit, hunt, wilfully disturb, possess, sell or export any local protected wild animals, or take, remove, injure, destroy or wilfully disturb their nests or eggs. Any person contravening the relevant legislation is liable on conviction to a maximum fine of \$100,000 and imprisonment for one year. In order to minimise disturbance to Green Turtles as well as their nests and eggs, the Government gazetted the 0.5-hectare sandy beach at Sham Wan on Lamma Island in 1999 as a restricted area under the Ordinance to restrict public access to the area between 1 June and 31 October each year. An entry permit granted by the Director of Agriculture, Fisheries and Conservation is required for entry into the restricted area unless otherwise specified in the Ordinance. Unauthorised entry is subject to a maximum fine of \$50,000.

5. During the restricted period, Agriculture, Fisheries and Conservation Department (AFCD) carries out patrol and surveillance to control unauthorised entry and monitor the conditions of the nesting site. Habitat management actions at the nesting site are carried out before the nesting season every year, including clearing of climbers and refuse from the Beach as well as removal of abandoned fishing nets from the sea inlet of Sham Wan. AFCD also undertakes scientific studies, conducts publicity and education programmes from time to time, and maintains regional and international collaboration with relevant organisations for conservation of Green Turtles.

Strengthening the Protection of Green Turtles' Breeding Ground

6. Green Turtles are known to stay in the waters adjacent to their natal beaches before and in between their nesting. During this period, breeding Green Turtles are particularly sensitive to disturbance from human activities such as glare, noise and marine traffic, which may frighten them and cause them to abandon nesting. At present, the sea inlet of Sham Wan leading to the Beach is not a restricted area. However, the place has become a popular spot for recreational boating and some commercial fishing activities also take place there. To strengthen the protection of breeding Green Turtles, there is a

¹ Green Turtles are one of the endangered species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora and thus are also protected by local legislation under the Protection of Endangered Animals and Plants Ordinance (Cap. 586).

genuine need to include the sea inlet into the Sham Wan Restricted Area to restrict access, so as to minimise human disturbance in this area during the breeding season of Green Turtles.

7. In light of the above, the Government announced in the 2018 Policy Agenda the proposal to expand the Sham Wan Restricted Area to cover Green Turtles' breeding ground in the adjacent waters.

PROPOSAL

Proposal on Expansion of the Sham Wan Restricted Area and Extension of the Restricted Period

8. To better protect Green Turtles, the Government proposes the expansion of the Sham Wan Restricted Area on Lamma Island from the 0.5-hectare Beach to the sea inlet adjoining the Beach (about 98.2 hectares of waters at Sham Wan) (**Annex B**). It is also proposed that the restricted period be extended from five months (i.e. from 1 June to 31 October) to seven months (i.e. 1 April to 31 October) each year.

9. The expansion of the Sham Wan Restricted Area and extension of the restricted period are expected to greatly reduce the level of human disturbance to Green Turtles at the waters adjoining the nesting site before and during the nesting period. On the other hand, activities like recreational boating and commercial fishing can still take place outside the breeding season of Green Turtles (i.e. from 1 November to 31 March).

Management of the Expanded Sham Wan Restricted Area

10. Upon the expansion of the Sham Wan Restricted Area, AFCD will take forward multi-pronged measures to enhance management of the Sham Wan Restricted Area and strengthen the protection of Green Turtles. In order to prevent unintended access and reduce the risk of boats colliding with Green Turtles, AFCD will set up notice boards at conspicuous locations of the headlands of the sea inlet of Sham Wan for demarcating the seaward boundary of the Sham Wan Restricted Area and reminding passing vessels not to enter the area without permission during the restricted period. Prior to the start of the restricted period every year, AFCD will contact relevant stakeholders such as fishermen organisations and marina clubs to remind them of the effective period and control measures of the Sham Wan Restricted Area.

11. Apart from stepping up patrol in the waters to combat unauthorised entry during the restricted period, AFCD will explore ways to enhance surveillance capacity, e.g. deployment of remote control surveillance cameras, so as to facilitate rapid response against irregularities. In addition, AFCD will conduct regular inspection at the Sham Wan Restricted Area and remove abandoned fishing nets, rubbish and unwanted vegetation to maintain appropriate habitats for breeding Green Turtles. AFCD also plans to invite relevant stakeholders to join hands in maintaining the Sham Wan Restricted Area and carrying out education and promotion programmes for conservation of Green Turtles.

LEGISLATIVE AMENDMENTS

12. To give effect to the proposal as mentioned in paragraph 8 above, the Government proposes the amendment of the delineation of Area C and relevant provisions in Schedule 6 to the Ordinance through the Amendment Notice, which specifies:

- (a) to extend the existing restricted area of the sandy beach at Sham Wan, Lamma Island to include the inlet of the sea adjoining the beach (extended restricted area); and
- (b) to specify the restricted period for the extended restricted area, that is, from 1 April to 31 October (both days inclusive) every year.

LEGISLATIVE TIMETABLE

13. The Amendment Notice is tabled at the Legislative Council (LegCo) for negative vetting with a view to implementing the proposal by the start of the next breeding season of Green Turtles. The legislative timetable is as follows:

Publication in Gazette	11 December 2020
Tabling at the LegCo	16 December 2020
Commencement of the Amendment Notice	1 April 2021

IMPLICATIONS OF THE PROPOSAL

14. After the expansion of the restricted area and the extension of the restricted period, we anticipate that the human disturbance to Green Turtles in the waters adjoining their natal beaches before and in-between their nesting will be greatly reduced. The new measure will help strengthen protection of endangered Green Turtles and their important breeding ground, which will have

positive impact to the survival of Green Turtles in the long run. The expansion of the restricted area will also increase the area of protected and well managed marine habitat significantly which will be conducive to the biodiversity of marine life and its sustainability. The proposed Amendment Notice is in conformity with the Basic Law, including the provisions concerning human rights. The proposal does not affect the current binding effect of provisions of the Ordinance and its sub-legislations. It has no significant financial, civil service, economic, productivity, family and gender implications.

Public Consultation

15. AFCD consulted relevant stakeholders on the proposal in 2019 and 2020. These include trade associations, residents' organisations and Government's advisory and statutory bodies, namely fishermen associations, green groups, local marina clubs, the Tourism, Agriculture, Fisheries, Environmental Hygiene and Climate Change Committee of the Islands District Council, Lamma Island (South) Rural Committee, Nature Conservation Sub-committee of Advisory Council on the Environment (ACE-NCSC), Fisheries Sub-committee of Advisory Committee on Agriculture and Fisheries (ACAF-FSC) and Local Vessels Advisory Committee.

16. Overall speaking, green groups and local marina clubs supported the proposal in general, and ACE-NCSC members gave full support to the proposal. While ACAF-FSC and most of the fishermen associations had once expressed concern over the impact of the proposal on fishing activities, they had no in-principle objection once learning that fishing activities could still take place outside the restricted period. They also urged the Government to allocate sufficient resources to combat illegal fishing and make clear demarcation of the Sham Wan Restricted Area. Some fishermen representatives suggested a reduced expansion of the Sham Wan Restricted Area and the shortening of the proposed extension of the restricted period. We consider that the current proposal has already struck a balance between the livelihood of fishermen and protection of Green Turtles. We also consulted the LegCo Panel on Environmental Affairs on the proposal on 23 November 2020, which was generally supported by Panel Members. Some Panel Members considered the Government should allocate more resources to strengthen law enforcement and combat illegal fishing.

Publicity

17. We will inform the relevant fishermen associations, green groups and local marina clubs the commencement date (i.e. 1 April 2021) of the abovementioned legislative amendments. A press release will be issued on 11 December 2020. A government spokesperson has been arranged to handle media enquiries.

Enquiries

18. Any enquiries on this brief may be addressed to Ms Bella MUI, Assistant Director (Nature Conservation) of the Environmental Protection Department at telephone number 3151 7160 or Mr Simon CHAN, Assistant Director (Conservation) of AFCD at telephone number 2150 6605.

Environment Bureau

Agriculture, Fisheries and Conservation Department

8 December 2020

Wild Animals Protection Ordinance (Amendment of Schedule 6) Notice 2020

(Made by the Secretary for the Environment under section 22(1) of the Wild
Animals Protection Ordinance (Cap. 170))

1. Commencement

This Notice comes into operation on 1 April 2021.

2. Wild Animals Protection Ordinance amended

The Wild Animals Protection Ordinance (Cap. 170) is amended as set out in section 3.

3. Schedule 6 amended (areas in which entry or presence is restricted)

Schedule 6—

Repeal the item relating to Area C

Substitute

“Area C

Restricted Period

The sandy beach at Sham
Wan, Lamma Island and
the inlet of the sea
adjoining the beach.

From 1 April to 31 October,
both days inclusive.

Area C is delineated and marked in green on a plan entitled “WILD ANIMALS PROTECTION ORDINANCE (CHAPTER 170), SCHEDULE 6—AREA C” which was signed by the Director of Agriculture, Fisheries and Conservation on 25 November 2020 and deposited in the Land Registry. The plan may be inspected at the Land Registry and

copies are available for inspection at all District Offices in the New Territories.”.

Secretary for the Environment

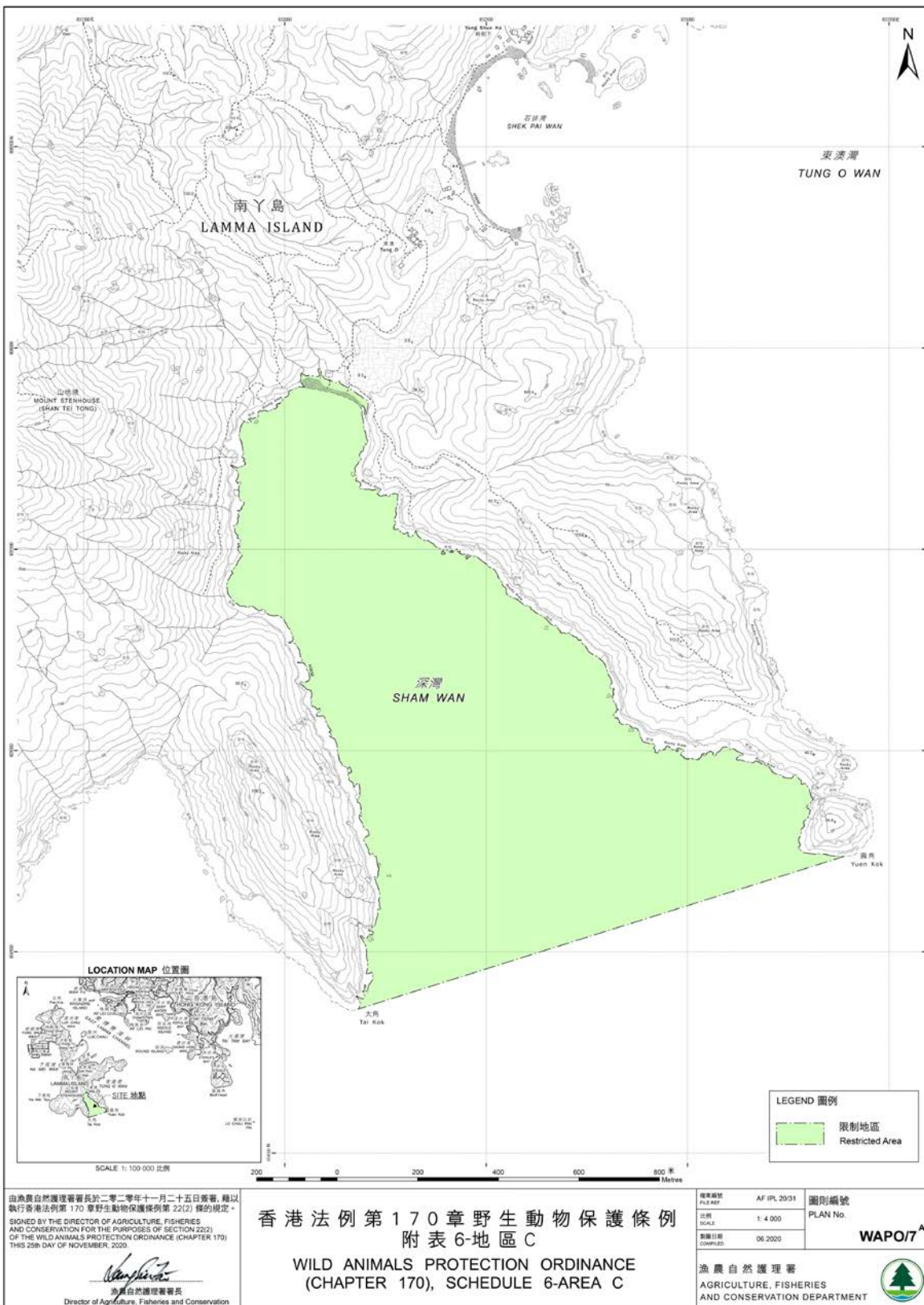
2020

Explanatory Note

Section 13(1) of the Wild Animals Protection Ordinance (Cap. 170) (*Ordinance*) provides that a person must not, except in accordance with a permit, enter into or be within an area specified in Schedule 6 to the Ordinance (*restricted area*) during the period specified for the restricted area (*restricted period*).

2. This Notice amends Schedule 6 to the Ordinance—
 - (a) to extend the existing restricted area of the sandy beach at Sham Wan, Lamma Island to include the inlet of the sea adjoining the beach (*extended restricted area*); and
 - (b) to specify the restricted period for the extended restricted area, that is, from 1 April to 31 October.

Sham Wan Restricted Area after Proposed Expansion



由漁農自然護理署署長於二零二零年十一月二十五日簽署，藉以執行香港法例第 170 章野生動物保護條例第 22(2) 條的規定。
 SIGNED BY THE DIRECTOR OF AGRICULTURE, FISHERIES AND CONSERVATION FOR THE PURPOSES OF SECTION 22(2) OF THE WILD ANIMALS PROTECTION ORDINANCE (CHAPTER 170) THIS 25th DAY OF NOVEMBER, 2020.

Wong Siu-kit
 漁農自然護理署署長
 Director of Agriculture, Fisheries and Conservation

香港法例第 170 章野生動物保護條例
 附表 6-地區 C
 WILD ANIMALS PROTECTION ORDINANCE
 (CHAPTER 170), SCHEDULE 6-AREA C

檔案編號 FILE REF.	AF 0PL 20/31	圖則編號 PLAN No.	WAP017 ^A
比例 SCALE	1:4 000		
製圖日期 COMPILED	06/2020		

漁農自然護理署
 AGRICULTURE, FISHERIES
 AND CONSERVATION DEPARTMENT