

## **COUNTRY AND MARINE PARKS BOARD**

### **Note on the Use or Development of Land within a Country Park Enclave after Inclusion into a Country Park**

#### **1. Purpose**

This paper aims to seek Members' views on the note relating to the use or development of land within a country park enclave after the enclave is included into a country park, and update Members on the progress of the proposal to incorporate the country park enclave of Tai Long Sai Wan (Sai Wan) into the Sai Kung East Country Park (SKECP).

#### **2. Background**

2.1 The Country and Marine Parks Authority (the Authority) obtained the in-principle support of the Country and Marine Parks Board (CMPB) to the proposal to incorporate the Sai Wan into the SKECP at its meeting of 11 October 2011. However, during the consultation with the Sai Kung District Council (SKDC) on 7 February 2012, the majority of the SKDC Members showed strong opposition to the proposal and they urged the Government to respect the private property rights of local villagers. The SKDC then set up a Task Force in a bid to reach a consensus with the villagers on the protection measures for Sai Wan.

2.2 The Task Force of SKDC met twice in March and April 2012 to discuss with the Government about villagers' concerns and identify appropriate means to address them, and paid a visit to Sai Wan in April 2012 to understand the situation therein. Amongst other matters discussed, villagers' concerns raised at the meetings in relation to the proposal to incorporate Sai Wan into the SKECP are summarized as follows:-

- (i) the right for small house development would be affected after inclusion of Sai Wan into the SKECP;
- (ii) the proposal would affect property rights and the development on private land;
- (iii) village development would be impacted as any activity or development such as farming or construction of a vehicle access, etc. in Sai Wan

shall require to seek permission consent from the Authority, and according to their experience, such applications would be rejected by the Authority on the environmental ground.

### **3. The Note on the Use or Development of Land within a Country Park Enclave after Inclusion into a Country Park**

3.1 In response to villagers' concerns in the above, the Authority has, in consultation with relevant departments, prepared an advisory note at the **Appendix**, which aims to provide information for villagers, occupiers or owners of leased land on issues relating to the use or development of land within a country park enclave after the enclave is included into a country park. In gist, the Authority will assess any proposed use or development of land in a country park on the merits of the individual case. The Authority will consider whether the proposed use or development, in particular construction of a small house, would substantially reduce the enjoyment and amenities of the country park concerned. In this connection, the Authority will take into account all relevant factors including land status, location, nature conservation, landscape and visual impacts, and country park users or facilities points of views. If necessary, the Authority will seek advice from the CMPB before deciding whether the proposed use or development is acceptable or not.

3.2 Subject to the advice of the Members, the Authority will issue the Note to the Task Force of SKDC for discussion in the coming meeting, which is scheduled for June 2012. The Task Force is expected to draw up recommendations for consideration by the SKDC around July 2012. The Administration will then decide whether to invoke the statutory procedures under the Country Parks Ordinance to include Sai Wan into the SKECP.

### **4. Advice Sought**

4.1 Members are invited to offer views on the Note on the Use or Development of Land within a Country Park Enclave after Inclusion into a Country Park at the **Appendix**.

Country and Marine Parks Authority  
Agriculture, Fisheries and Conservation Department  
June 2012  
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after Inclusion into a Country Park**

**1. Purpose**

1.1 This note aims to provide information for villagers, occupiers or owners of leased land on issues relating to the use or development of land within a country park enclave after the enclave is included into a country park.

**2. Background**

2.1 Country park enclaves are lands that are surrounded by or adjacent to country parks, but are not part of the country parks. Many of these country park enclaves comprise both private and Government lands.

2.2 In June 2010, excavation works were detected on both private land and Government land in the enclave of Tai Long Sai Wan, arousing significant public concerns on the protection of country park enclaves in Hong Kong. The incident was discussed by the Legislative Council Panel on Environmental Affairs and Panel on Development at a joint meeting held in July 2010 and the Country and Marine Parks Board (CMPB) in August 2010. The Administration agreed that there was an urgent need to enhance the protection of country park enclaves against incompatible uses which may adversely affect the overall beauty and integrity of our country parks. The 2010 Policy Address also pointed out that the Tai Long Sai Wan incident had highlighted the need to take prompt action to regulate land use in the vicinity of country parks to forestall human damage. To meet conservation and social development needs, the Administration will consider either including country park enclaves into country parks, or determining their proper uses through statutory planning.

**3. Development Proposals in Country Parks**

3.1 Use of any leased land within a country park is subject to, among others, the conditions of a lease and relevant provisions of the Country Parks Ordinance (Cap 208) (the Ordinance). Without prejudice to the power of the Country and Marine Parks Authority (the Authority) under section 16 of the Ordinance, no prior approval of the Authority is

required for any of the following works (which conforms with the conditions of the lease concerned) to be carried out within a country park (including a proposed country park) after the publication of a draft map of the country park concerned under section 9(1) of the Ordinance:

- (a) the carrying out of works for the maintenance, improvement or alteration of any building;
- (b) the use of any land for the purpose of agriculture, forestry or fisheries and the use for any of those purposes of any building occupied together with land so used;
- (c) the use of any building or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of dwelling house as such; or
- (d) the carrying out of any works for the purpose of inspecting, repairing or renewing any sewer, mains, pipes, cables or other apparatus.

3.2 For development proposals on Government land, the project proponent is required to submit an application for a short term tenancy to seek an approval from the relevant District Lands Officer (DLO) who is acting in the capacity of the Government land agent and may or may not approve such application, and if he approves the application, he may impose those conditions including the charging of rent and/or fees as he deems appropriate. If the development proposal falls within a leased land and is not in contravention of the lease concerned, then no application is required from the lessee. However, if the proposed development is not permitted under the lease concerned, the land lessee is required to submit an application for lease variation to the DLO who is acting in the lessor capacity and who may or may not exercise his discretion to approve such application, and if he exercises his discretion to approve the application, he may impose those conditions including the charging of premium and/or fees as he deems appropriate. In considering any application for use of Government land or for lease variation within a country park, a DLO normally consults the Authority before making a decision to approve or not approve it.

3.3 The Authority will assess any proposed use or development of land in a country park on the merits of the individual case. The Authority will consider whether the proposed use or development would substantially reduce the enjoyment and amenities of the country park concerned. In this connection, the Authority will take into account all relevant factors including land status, location, nature conservation, landscape and visual impacts, and country park users or facilities points of views. If necessary, the Authority will seek advice from the CMPB before deciding whether the proposed use or development is acceptable or not.

3.4 It should be noted that any use or development sanctioned by the Authority must also conform with all other relevant legislation, any other Government requirements, as may

be applicable, and the Government lease (including any lease variations which may be approved by DLO) concerned.

#### **4. Consideration of use or development**

4.1 Without prejudice to the Authority's consideration of the facts of each individual case, the Authority in general may allow those proposed use or development that are compatible with the purposes of the Ordinance. The Authority may, for example, allow those minor public and engineering works, and development that are essential to villages and related to the well-being of the rural community, as long as such works and development would be compatible with the purposes of the Ordinance.

4.2 The Ordinance provides for the designation, control and management of the countryside as country parks and special areas, and enables them to be developed for nature conservation, outdoor recreational and educational purposes. The country parks are important habitats for flora and fauna of Hong Kong, which are part of our natural heritage that the public treasure and to which attach great importance. Besides playing an indispensable and vital role in maintaining biodiversity, our country parks also serve as valuable places for the public to escape the hustle and bustle of urban life. Members of the public visit our country parks for their natural scenery, tranquility, rural atmosphere, wilderness and clean air as well as for different recreational activities offered by the country parks, such as sightseeing, barbecuing, picnicking, camping, hiking, nature appreciation, photography, etc. To achieve the purposes of the Ordinance, the Authority would take into account any adverse effect of the use or development, or proposed use or development on, for example, the scenic quality, tranquility, completeness, the integrity of country parks, the overall recreation potential of country parks and the ecological important habitats, such as woodland, undisturbed natural coast, or established mangrove stands in considering whether the use or development or proposed use or development would substantially reduce the enjoyment and amenities of the country park. The Authority would consider each case on its own merits.

#### **5. New Territories Small House Development within Country Parks**

5.1 Under the New Territories Small House Policy, an indigenous villager may apply for permission to erect for himself during his lifetime a small house on a "suitable site" within his own village. Such a "suitable site", generally means a site which falls within the environs of a recognized village, i.e. village environs ("VE").

5.2 If a DLO receives a small house application on a “suitable site” within a country park, the DLO will normally consult the Authority before making a decision as to whether to approve or not to approve it. The Authority shall consider whether the proposed small house would substantially reduce the enjoyment and amenities of the country park having regard to the relevant circumstances of each application. Specifically, the following would be considered:

- (a) areas of difficult terrain, dense vegetation, ecological sensitive areas and stream courses within “VE” should be avoided where possible;
- (b) whether construction of the proposed small house would cause any diversion of streams or filling of pond;
- (c) whether the construction would involve any felling of trees, in particular mature trees, rare and protected trees, or old and valuable trees. Compensatory planting shall be required if felling of trees is unavoidable;
- (d) whether construction of the proposed small house would cause any damage to and/or pose cumulative impacts on the ecological values, integrity and biodiversity of the habitat; and
- (e) whether the construction would cause any adverse impacts on existing footpaths or hiking trails, recreational sites and facilities.

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