

Confirmed Minutes
37th Nature Conservation Subcommittee Meeting
held on Thursday, 8 June 2023 at 3:00 p.m.

Present:

Dr Theresa KWONG (Chairman)

Ms Carmen CHAN, BBS, JP

Prof Kenneth LEUNG, JP

Dr William YU

Ms Karen CHEK (Secretary)

Absent with Apologies:

Ms Ada FUNG, BBS

Prof WONG Kam-bo

Dr WONG Kwok-yan, MH

In Attendance:

Environment and Ecology Bureau (EEB)

Mr Alan LO, JP Deputy Secretary for Environment and Ecology
(Environment) 2

Mr Desmond WU Principal Assistant Secretary for Environment and
Ecology (Nature Conservation)

Miss Sophia HUI Assistant Secretary for Environment and Ecology
(Nature Conservation) 1

Miss Sally SHEK Executive Officer (CBD) 1

Miss Avynn WONG Executive Officer (CBD) 2

Agriculture, Fisheries and Conservation Department (AFCD)

Mr Simon CHAN Assistant Director (Conservation)

Mr SHEK Chung-tong Senior Fauna Conservation Officer (Acting)

Action

The Chairman welcomed Members for attending the meeting. She informed the meeting that apologies of absence had been received from Ms Ada Fung, Prof Wong Kam-bo and Dr Wong Kwok-yan.

Item 1 : Matters arising

2. The Chairman advised Members that the minutes of the last meeting held on 28 September 2022 were confirmed by circulation on 28 December 2022.
3. There was no matter arising from the minutes of the last meeting.

Item 2 : Proposed Amendments to the Wild Animals Protection Ordinance (Cap. 170) (ACE-NC Paper 1/2023)

4. The Chairman indicated that the paper sought Members' views on the proposed amendments to the Wild Animals Protection Ordinance (Cap. 170) (WAPO) with a view to, amongst others, regulating feeding of feral pigeons as well as increasing the maximum penalty and introducing fixed penalty for illegal feeding of wild animals and feral pigeons.
5. There was no declaration of interest by Members.
6. Mr Shek Chung-tong briefed Members, by way of a PowerPoint presentation, on the proposed amendments to the WAPO as well as their implementation plan.

Level of Penalty

7. In response to a Member's enquiry, Mr Shek Chung-tong explained that the WAPO was last amended in December 2022 to expand the Feeding Ban Area specified in the sub-legislation of the Ordinance. As regulation of the feeding of feral pigeons would involve amendments to the main ordinance and require a longer timeframe with different legislative procedures, it was not feasible to include the currently proposed amendments to the Ordinance in the legislative exercise last year.
8. As some people would consider feeding feral pigeons as an act of charity and the fixed penalty of HK\$1,500 was insignificant to them, a Member opined that more severe punishment should be imposed, such as progressive penalty and imprisonment for repeated offenders or offenders committing illegal feeding of serious nature and degree. Another Member expressed that enforcement of progressive penalty might be difficult as well-off individuals could engage different people to perform the illegal feeding for them. Mr Simon Chan indicated that the current proposal would significantly increase the relevant penalty level to provide sufficient deterrence. Currently, offenders were often required to pay a fine of a few hundred dollars subject to successful conviction.

9. A Member asked about the deciding factors for imposing a fixed penalty and the maximum penalty. Mr Shek Chung-tong advised that repeated offenders or those who commit an offence of a more serious nature, e.g. feeding a large number of wild pigs or feral pigeons in residential areas, might be summoned to court and subject to heavier penalties with a maximum of HK\$100,000 fine and imprisonment of one year upon conviction, instead of being issued a fixed penalty notice. While supportive of the introduction of a fixed penalty system, the Chairman and another Member suggested that more detailed guidelines and explanations should be provided to the front-line staff and the public regarding the enforcement criteria for imposing a fixed penalty or the heavier penalty, such as in terms of the number of animals or the quantity of food involved, to facilitate the smooth enforcement. The Member indicated that suitable support such as a database should be set up for the front-line staff to check immediately whether a person contravening the feeding ban was a repeated offender. Mr Shek responded that guidelines would be provided to front-line staff to ensure consistency and promote effective law enforcement.

10. A Member enquired and Mr Shek Chung-tong replied that feeding of wild animals by religious organisations was less common as compared with mercy release activities. Mr Simon Chan supplemented that under the Prevention of Cruelty to Animals Ordinance (Cap. 169), offenders releasing animals improperly and causing unnecessary suffering to them would be liable to a maximum fine of HK\$200,000 and imprisonment of three years upon conviction.

11. On a Member's question, Mr Simon Chan advised that any persons who hunted or possessed any protected wild animals listed under Schedule 2 of the WAPO would be subject to a maximum penalty of HK\$100,000 and imprisonment of one year upon conviction. Mr Chan added that any people in possession of hunting appliances would be liable to a fine of HK\$50,000 and imprisonment of six months upon conviction. In the past, some people had been arrested for hunting protected wild animals. The Chairman remarked that Members could further comment on the adequacy of the penalty for hunting wild animals under the other agenda item on "Turtle Poaching".

Scope of Legislation

12. Sharing that some members of the public would regularly feed wild animals in private premises such as garage or vehicle maintenance centres, a Member enquired whether such feeding activities were illegal and the corresponding plan to combat them. Mr Shek Chung-tong advised that the feeding ban area had been expanded to cover the entire territory of Hong Kong, and thus feeding of wild animals even within any private premises would be illegal. The Member supplemented that

a few timber companies near Tai Shue Wan in Wong Chuk Hang were allowing access and feeding of wild pigs within their premises on a regular basis. Mr Shek remarked that AFCD would conduct investigation and, if necessary, obtain a search warrant to enter the premises concerned for enforcement.

AFCD

13. A Member was concerned about the stray dogs attack incidents in Tsing Yi and enquired whether stray dog feeding would also be regulated. Mr Simon Chan explained that dogs were categorised as domestic animals and feeding of stray dogs was not regulated under the WAPO. He advised that there was no imminent need to regulate feeding of stray dogs and cats and there was already legislation to tackle such feeding activities if they caused hygiene problems. He added that AFCD had been closely monitoring the situation and would follow up to capture the stray dogs concerned in Tsing Yi.

Public Education and Publicity

14. To solicit the public's support and strengthen public education, a Member suggested with the support of another Member that the Government should liaise with charitable or religious organisations, especially their leaders, to seek their assistance in appealing to their supporters to adopt alternative charitable acts in place of wild animals feeding activities. He gave examples of alternative charitable acts that the Government might advocate such as donations for planting of fruit trees which would provide food sources for animals or donations to animal charities. Mr Simon Chan remarked that the religious/charitable organisations were more involved in animal release rather than animal feeding activities. He thanked Members for their suggestions and agreed that AFCD would continue to strengthen their publicity and public education efforts.

15. A Member suggested that CCTV with photovoltaic panels should be installed at black spots to deter illegal feeding. Mr Simon Chan said that some camera traps had already been installed at black spots. The Member further remarked that putting up signages of surveillance monitoring might already help deter people from illegal feeding.

Implementation Timeline

16. Addressing a Member's question, Mr Simon Chan replied that the proposed amendment bill, covering the regulation of feeding activities of feral pigeons, the increase in maximum penalty and introduction of fixed penalty for illegal feeding of wild animals, was targeted for tabling at the LegCo by the end of the year and taking effect in Q3 2024.

Conclusion

17. The Chairman thanked the presentation team for their detailed explanation and remarked that clear guidelines including the criteria for issuing fixed penalty notices or summons for heavier penalty should be formulated to facilitate enforcement. Mr Simon Chan thanked Members for their suggestions which would be taken into consideration.

[Post-meeting notes: A Member joined the meeting during the discussion of Item 2.]

Item 3 : Any Other Business

(i) Turtle Poaching

18. The Chairman informed the meeting that the issue of turtle poaching, especially in country parks of Hong Kong, was suggested for discussion by two former ACE members through a Member. Members were also informed of ADM Capital Foundation's letter, addressed to the Director of Agriculture, Fisheries and Conservation expressing views on wildlife poaching with particular interest in turtles. AFCD had issued a reply to ADM Capital Foundation. The letter from ADM Capital Foundation and AFCD's reply had been circulated to Members before the meeting.

19. Upon the Chairman's invitation, a Member shared with the meeting the four major suggestions made by the two former Members for tackling the wildlife poaching problems, namely (i) soliciting active participation of the Police in investigation and enforcement; (ii) establishing a special patrol team with well-trained wardens to target wildlife poaching; (iii) deploying technology such as CCTVs at entrances and car parks as well as camera traps to send images to responsible officers direct; and (iv) increasing the penalty for the WAPO. The Chairman also suggested to update the list of protected species to include more threatened local species.

20. In response to the above suggestions, Mr Shek Chung-tong advised Members that AFCD (i) had deployed staff to patrol the countryside areas regularly to inspect if any illegal animal poaching activities were taking place; (ii) had conducted and would continue to conduct joint enforcement operations with other government departments and animal organisations upon receipt of intelligence; (iii) had installed infrared cameras to detect suspicious poaching activities; and (iv) would collaborate with local experts to update/develop Species Action Plans with a view to devising effective and practicable strategies for mitigating threats on and protecting the local population of freshwater turtles.

21. A Member flagged that there was no penalty for poachers who hunted those wild animals outside the list of protected species under the existing legislations. Mr Shek Chung-tong held the view that the penalty of the existing legislation was quite heavy as persons who hunted or possessed any protected wild animals under Schedule 2 of the WAPO would be subject to a maximum penalty of HK\$100,000 and imprisonment of one year upon conviction. Mr Simon Chan added that the possession and sale of endangered species specified under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) such as the big-headed turtle was liable to a maximum penalty of HK\$10 million and imprisonment of 10 years.

22. Mr Simon Chan said that it was difficult to arrest poachers on the spot as they were mostly hunting wild animals by hands which made their escape swift and easy. In addition, the illegal wild animal selling activities were conducted discreetly online which made the investigation work difficult. A Member suggested deploying sensors or trackers to facilitate the arrest of poachers on-site. Mr Chan indicated that the detectable range of sensors available in the market was not sufficient to expose the poachers from distance. He added that AFCD would keep in view of the technological development and utilise tracking devices as and when appropriate.

23. Noting the difficulty of enforcement, a Member further suggested and echoed by another Member that AFCD could solicit the help of the public by inviting volunteers to join the patrol and set up a website with a designated telephone hotline or WhatsApp number for members of the public to report suspicious poaching activities. While Mr Simon Chan appreciated the public's report and assistance, he remarked that as most of the illegal poaching activities were happening at night and at remote locations, patrol work would be too dangerous for ordinary members of the public.

24. A Member added that AFCD might consider collaborating with the Hong Kong Police Force to leverage on their new mobile application "HKSOS" which was designed to locate hikers during rescue missions as a tool to also report and deter poaching activities. The Chairman reminded that network connections in the countryside should be improved to complement the use of technological devices. Mr Simon Chan thanked the Member and the Chairman for their suggestions the feasibility of which would be further examined.

25. The Chairman suggested that AFCD might collaborate with tertiary institutions or animal protection organisations as they might have useful information for the protection of wild animals. Mr Simon Chan advised that it was planned to

devise Species Action Plans for endangered species such as big-headed turtle with a view to devising effective strategies to protect them in collaboration with the relevant organisations.

26. To discourage local sale of wild animals, a Member suggested that AFCD should strengthen publicity efforts to educate the public to identify and not to purchase those protected or endangered species. Mr Simon Chan responded that a list of endangered species had been specified in the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586). Information of the protected species was also available on AFCD's website namely the "Hong Kong Biodiversity Information Hub".

27. The Chairman suggested that there should be clear indication of licensed or authorised breeders/sellers of endangered species to facilitate members of the public to report illegal cases to the authorities. Mr Simon Chan explained that poachers mostly sold the wild animals discreetly online instead of in the shops. He said that AFCD would continue to monitor online illegal activities and conduct inspections regularly.

28. Being mindful of the difficulty in catching the culprits, Members were glad to note the efforts of AFCD in combating illegal animal poaching activities as a whole.

Item 4 : Date of next meeting

29. Members would be advised on the agenda in due course.

30. There being no other business, the meeting ended at 4:30 p.m.

**Nature Conservation Subcommittee Secretariat
July 2023**