

Hong Kong, March 5, 2007

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Hong Kong  
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## **Heritage Policy Review**

Honorable Chair and Members,

Attached please find four papers relevant to the development of a heritage policy:

1. The Comprehensive Review of the Town Planning Ordinance, by the Planning Department, 1991
2. Saving Hong Kong's Cultural Heritage, by Civic Exchange, 2002
3. Heritage for the People , Position Paper by the Conservancy Association, 2003
4. Report on Heritage Conservation - We All Gain - by the Conservancy Association to the Lord Wilson Heritage Trust, 2005

Embedded in these reports you find a series of recommendations which make a comprehensive 'Heritage Conservation Policy'.

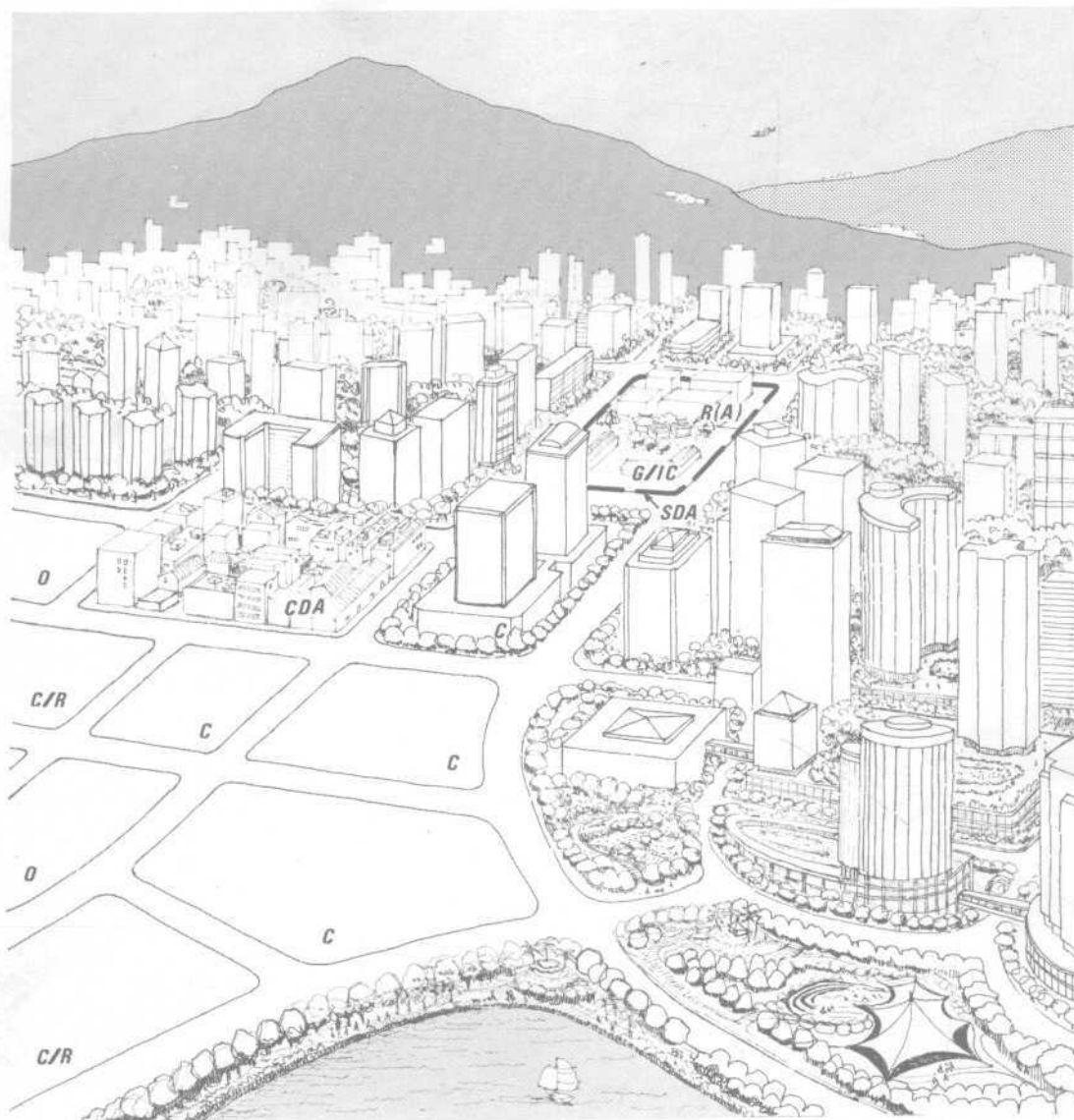
The key issues to address are funding arrangements and amendments of various existing institutional arrangements from departmental responsibilities, operating procedures to ordinances.

We herewith so submit for your consideration.

Yours sincerely,



Paul Zimmerman  
Convenor  
Designing Hong Kong Harbour District



# COMPREHENSIVE REVIEW OF THE TOWN PLANNING ORDINANCE

executive summary

JULY 1991

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Planning, Environment and Lands Branch  
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# COMPREHENSIVE REVIEW OF THE TOWN PLANNING ORDINANCE

## EXECUTIVE SUMMARY

### 1. INTRODUCTION

1.1 The Town Planning Ordinance (Cap. 131) (the Ordinance) was enacted in 1939. Until the enactment of the Town Planning (Amendment) Ordinance 1991 (the Amendment Ordinance 1991), there had been no fundamental changes to the Ordinance apart from a number of piecemeal amendments. With the significant changes in Hong Kong's political, social and economic circumstances in recent decades, the Ordinance is no longer able to provide the necessary degree of guidance and control for planning and development in Hong Kong. Accordingly, in September 1987, the Executive Council ordered that an overall review of the Ordinance should be carried out with a view to introducing a new piece of legislation to replace the existing one.

1.2 The overall review of the Ordinance has now been completed. The various changes proposed to the Ordinance are set out in a Consultative Document for public comments and summarized in this Executive Summary. References to paragraphs in the Consultative Document are given in brackets.

### 2. THE EXISTING STATUTORY PLANNING SYSTEM

2.1 The existing Ordinance provides for the preparation of statutory plans (comprising both outline zoning plans (OZPs) and development permission area (DPA) plans) by the Town Planning Board (TPB) and the operation of a planning application system. The statutory plans provide a reasonable degree of certainty to land owners and developers as to the types of use to which they can put their land or building, while flexibility is maintained through the planning application system to cope with changing needs.

2.2 The existing system of statutory plans and planning applications is regarded as generally flexible and efficient, but there is plenty of room for improvement, particularly in its working procedures. In the following sections, the problems of the existing system are analyzed and proposals for changes are discussed.

### 3. PLAN-MAKING PROCESS

#### Problems

- 3.1 The contents of statutory plans are presently specified under section 4(1) of the Ordinance. The detailing of such specifications in the main Ordinance is restrictive and not always flexible enough to cope with changing circumstances.
- 3.2 Under the existing Ordinance, the TPB is the authority to prepare and publish draft plans, hear objections and submit draft plans to the Governor in Council (G in C) for approval. In approving the draft plan, the G in C takes into account the objections not withdrawn but does not actually decide on individual objections. While the present system has the merit of providing a channel for direct dialogue and negotiation between the TPB and the objectors, it has been criticized as unfair in that the hearing of objections to draft plans is conducted by the same body which prepares the plans. The hearing procedure is also cumbersome, and there is no statutory time limit for the completion of the procedure.
- 3.3 Insufficient public involvement in the present plan-making process is another cause of public complaint. Apart from the exhibition of plans, there is no requirement under the Ordinance for public consultation before a plan is prepared, nor for interested parties to make representations or suggestions on the plan, other than in the form of objections. There is also no provision for the public to make application for amendments to a statutory plan.
- 3.4 Another concern relates to the commencement of development during the objection process. As a draft plan takes immediate statutory effect upon publication, development conforming to the plan can take place regardless of whether the development site is a subject of objection being considered by the TPB. As a result, the TPB's decision on the objection can be pre-empted.

## Proposals

- 3.5 To provide more flexibility for introducing new zoning designations as and when circumstances so required, detailed zoning specifications would not be made in the new Ordinance but set out in the form of regulations to be made by the G in C (paragraph 3.3). Express provisions would also be incorporated in the new Ordinance to confirm the existing power of the TPB in controlling various aspects of development (paragraphs 3.4 and 3.5).
- 3.6 The existing hierarchy of planning organizations comprising the G in C, the TPB (to be retitled Planning Board (PB)) and its committees would be retained. To maintain negotiation and dialogue with representers, the new PB would continue the practice of the existing TPB in considering and hearing representations on statutory plans. Final decisions on the representations would be made by the G in C. An Appeal Board (AB) is proposed to provide separate independent consideration of appeals against decisions of the PB and the Planning Authority (i.e. the Director of Planning). There should be no overlapping in membership of the two Boards. The division of responsibilities among these various bodies would be:-
- (a) The G in C would remain as the approving authority for statutory plans. It would decide on all representations not withdrawn on draft statutory plans. The direction to prepare statutory plans would still be given by the Governor. In addition, the Governor might, if he considered the public interest so required, give directions to the PB in relation to the performance of its functions or the exercise of its powers under the Ordinance (paragraphs 3.15, 3.17 and 3.20).
  - (b) The PB would prepare, amend and publish statutory plans (including OZPs and DPA plans); consider and hear representations on these plans; submit draft plans and any representations not withdrawn to the G in C; make recommendations on resumption of land to implement proposals contained in the plans; consider and review planning applications; and might advise the Government on the overall planning of the Territory. Some of the functions of the PB would be delegated to its committees and public officers within the limits set down in the Ordinance. The Planning Authority would be the principal executive officer of the PB (paragraph 3.16).

- (c) The AB would be appointed by the Governor to deal with appeals against the PB's decisions on planning applications and the Planning Authority's decisions on other planning matters. It would also serve as a review body on representations on draft plans upon the G in C's referral. It would be served by a secretariat independent of the Planning Authority (paragraph 3.18).

3.7 The following provisions would be made in the new Ordinance for a greater degree of public involvement in the plan-making process ;-

- (a) There would be publicity before a plan was actually drawn up. A planning study would be published in the course of preparation of a draft OZP for public comments for a period of three months (paragraph 3.22).
- (b) Any member of the public would be able to submit representations (not just objections) on a draft plan **when** it was exhibited for public inspection for a period of two months. The representations received would also be publicized by the PB (paragraphs 3.24 and 3.26).
- (c) The exhibition period for amendments made to a draft plan would be extended from three to six weeks to allow sufficient time for the public to make representations (paragraph 3.34).

3.8 In order not to pre-empt the decision on objections to a draft plan, no new development would be approved on a site which was the subject of objection. The issue of planning certificates for all new building development within the area **covered** by the draft plan (for amendment plan, in the **area(s)** covered by the amendment item(s)) would be withheld and decisions on planning applications submitted under the plan would be deferred during the plan exhibition period and, if there were objections received, during the objection consideration period as well until all related objections were decided by the G in C. To avoid undue delay in the development process, all representations (including objections) received on a draft plan would be required to be submitted with the draft plan to the G in C within nine months of the expiry of the plan exhibition period (paragraphs 3.24, 3.25 and 3.29).

3.9 The objection hearing procedure would be streamlined. The PB would publicize details of all representations for public comments. Those who had made written submissions on the representations and the original representers would be informed of the PB's preliminary views on the representations before deciding whether or not to request a hearing before the PB. The PB would then hear the representations and make recommendations to the G in C for final decision (paragraphs 3.26 to 3.29).

3.10 The new Ordinance would allow the public to submit applications to the PB for amendments to a draft plan or an approved plan. Such applications should however not be related to any site which was a subject of objection yet to be decided on. There would be no right of appeal if such applications were not accepted by the PB (paragraph 3.33).

#### 4. PLANNING APPLICATIONS

##### Problems

4.1 While being able to maintain a high degree of flexibility within the zoning control framework set by statutory plans, the existing planning application system has drawbacks in three main areas : public involvement, appeals and control of temporary uses.

4.2 At present there is little public involvement in the planning application system. Planning applications are generally not publicized and the public are not given an opportunity to submit their views on the applications directly to the TPB.

4.3 Another drawback relates to appeals against decisions on planning applications. Review of the TPB's decision is conducted by the TPB itself rather than a separate independent body, and there is no provision for review of the conditions of approval. Though the existing system allows the applicant to appeal by way of petition to the G in C, the G in C may not always give a hearing to the aggrieved applicant. Legislative amendments are proposed in the Town Planning (Amendment) Bill 1991 recently introduced into the Legislative Council to provide for the setting up of an independent Appeal Board to hear such appeals, and at the same time to allow the TPB to review the conditions imposed in granting planning permission.



4.4 On temporary **uses**, the present control through the Notes of the OZPs focuses on the duration rather than the nature of uses. It is however the nature of use which causes environmental problems and land use incompatibility. At present, no planning control is exercised over temporary uses which are expected to be five years or less in areas covered by OZPs. In DPAs, however, no distinction is made between temporary and permanent uses which are both subject to the same planning control.

#### Proposals

4.5 The broad structure of the existing planning application system is considered generally flexible and efficient and should be maintained. A number of modifications are proposed to make the system fairer and more efficient, including :-

- (a) If an applicant was not the owner of the land/premises under application, he should either have obtained the written consent of the owner or have served a notice on the owner (paragraph 4.10).
- (b) The PB should publicize planning applications for public inspection and comments prior to consideration. Two options were possible: either requiring the PB to publicize all planning applications, or allowing the PB the discretion to decide what planning applications should be publicized (paragraph 4.11).
- (c) To allow sufficient time for public notification and comments, the maximum statutory period for consideration of planning applications by the PB would be extended from the existing two months to three months under the full public notification option. Under the limited notification option, it would be necessary to extend the statutory period for all applications to four months, although applications which required no notification would in practice be processed in less than three months (paragraph 4.11).
- (d) An independent AB. would be established to consider appeals against the PB's decisions on planning applications. An appeal should be lodged by the applicant within sixty days of being notified of the PB's decision, and would be considered by the AB within three months (paragraphs 4.15 and 4.16).

- (e) Consideration of planning applications for any development on sites which were the subject of objections to a draft statutory plan would be deferred pending the G in C's decision on the related objections (paragraph 4.17).
- (f) The Governor should have the reserve power to transfer an application from the PB for his own decision where the subject development was considered to be of territorial or security significance (paragraph 4.18).
- (g) A register of all planning applications would be established and made available for public inspection (paragraph 4.20).

4.6 New provisions are also proposed to the effect that : -

- (a) The PB should be empowered to impose conditions of planning permission requiring an applicant to make a reasonable dedication of land for the provision of public facilities in a development scheme, to pay a monetary contribution for the provision, and/or to carry out actual construction of the facilities (paragraph 4.23).
- (b) An applicant should be allowed to apply for minor amendment to a development that had been granted planning permission under a fast-track approach (paragraph 4.24).
- (c) Control over development should be based on the nature, rather than the duration, of the development. All development, whether temporary or permanent, should be subject to the same zoning control. A list of temporary uses which could be exempted from planning application would be clearly spelt out in the Notes attached to statutory plans. Applications for any other development on land involving no permanent structure might also be made to the PB (paragraphs 4.25 and 4.26).
- (d) The Planning Authority might charge an administrative fee on a planning application (paragraph 4.27).

## 5. DEVELOPMENT CONTROL

### Problems

5.1 Until recently, development control in Hong Kong is carried out mainly through the Buildings Ordinance and conditions in the land leases. Under the Buildings Ordinance, development control is achieved mainly through the rejection of building plans if such plans contravene the provisions of a statutory plan (section 16(1)(d) and (da) of Buildings Ordinance); or will result in a building differing in height, design, type or intended use from buildings in the immediate neighbourhood (section 16(1)(g)); or if the buildings are used for both domestic purposes and dangerous trades (section 16(1)(n)); or if the building works are to be carried out on site with no adequate connexion to a public street (section 16(1)(p)). Also, any change of use can be prohibited if the building is not suitable by reason of its construction for its intended use (section 25). Development control through the Buildings Ordinance is, however, only effective where the development involves building works and where submission of building plans is required. Indirect control of planning matters through the Buildings Ordinance also results in a blurring of the purpose of the Ordinance and an overlapping of responsibilities and functions between the Building Authority and the Planning Authority.

5.2 Building (Planning) Regulations impose control on development density. Regulations 19 to 23 restrict the plot ratio and site coverage of any building to the level specified in the First Schedule of the Regulations, which is designed to control development density in high density (Zone 1) areas. For medium and low density (Zones 2 and 3) areas, more restrictive density control has to rely on the lease conditions and statutory OZPs. This has resulted in a dual system of statutory control on development density.

5.3 The land lease cannot provide an effective and satisfactory means of development control either. It is inflexible because once a lease is executed, it cannot be modified without mutual consent of the lessor and the lessee. Many old leases are virtually unrestricted and require no lease modification for redevelopment or change of use. Even for restricted leases, the user restriction is often not definitive. When a breach of lease conditions occurs, enforcement action is time-consuming and cumbersome.

5.4 A direct means of enforcement has become available since the commencement of the Amendment Ordinance 1991. The Amendment Ordinance defines unauthorized development and provides a system of enforcement against such development in DPAs. Such enforcement provisions are not applicable in areas already covered by OZPs (mainly the main urban areas and the new towns). In view of the existing inadequacy in development control through other legislation and the lease, there is a strong case to extend the enforcement provisions to cover the entire Territory.

### Proposals

5.5 The following provisions are proposed : -

#### Enforcement Provisions

- (a) There would be enforcement provisions for areas covered by a statutory plan, whether an OZP or DPA plan. No person should undertake or continue development unless (a) the development was an existing use; (b) the development was permitted under the plan; or (c) the necessary planning permission had been obtained (paragraph 5.16).
- (b) Existing use would be defined as a use of a building or land that was in existence immediately before the first publication of the subject DPA plan or OZP. In areas already covered by OZPs when the new Ordinance was enacted, existing use would be the use of a building or land that had been in existence immediately prior to the commencement of the new Ordinance (paragraph 5.16).
- (c) The procedures for the serving of Enforcement Notices, Stop Notices and Reinstatement Notices in areas covered by statutory plans would be as set out currently in section 23 of the Ordinance in relation to DPAs (paragraph 5.17). Any person who failed to comply with the requirement of such a notice would commit an offence and be liable to a fine (paragraph 5.19).
- (d) The Planning Authority might enter the land and take such necessary steps, if considered necessary, to remedy the breach of development control and costs should be recoverable from the offender (paragraph 5.20).

- (e) Any person aggrieved by the Planning Authority's decision to serve a Reinstatement Notice would be able to appeal, within thirty days after service of the Notice, to the AB which should consider the appeal within three months (paragraph 5.21).
- (f) All Enforcement, Stop and Reinstatement Notices would be registered in the Land Office and kept in a register to be set up in the Planning Department for public inspection (paragraph 5.23).

#### Planning Certificate

- (g) Based on the principle that planning matters should be dealt with under the Planning Ordinance and that the Buildings Ordinance should be confined to matters relating to the construction of buildings, it is proposed that the planning related provisions in the Buildings Ordinance should be consolidated in the new Planning Ordinance (paragraph 5.24).
- (h) To prevent the possibility of building works being carried out in contravention with planning requirements, a planning certificate would be required for all new building development, and would cover matters contained in section 16(1)(d), (da), (g), (n), (p) of the Buildings Ordinance and regulations 19 to 23 of the Building (Planning) Regulations. To obtain a planning certificate, only sketch/concept plans setting out the planning aspects of a development would be required. The certificate would be issued by the Planning Authority if the proposed building development satisfied all planning requirements under the new Planning Ordinance. The certificate would be a **pre-requisite** for the Building Authority's approval of building plans under the Buildings Ordinance (paragraph 5.25).
- (i) Applications for planning certificates would be considered by the Planning Authority within sixty days (paragraph 5.25).
- (j) Any person aggrieved by the Planning Authority's refusal to issue a planning certificate could appeal to the AB (paragraph 5.26).
- (k) Consequential amendments to the Buildings Ordinance would be required (paragraph 5.27).

### Density Control

- (l) Control on development density would be consolidated in the new Planning Ordinance by transferring regulations 19 to 23 and the First Schedule in the Building (Planning) Regulations to the new Planning Ordinance (paragraph 5.29).
- (m) New schedules setting out the maximum plot ratio and site coverage for Density Zones 2 and 3 areas would be incorporated as regulations in the new planning legislation (paragraph 5.30).

## 6. COMPENSATION AND BETTERMENT

6.1 Planning can totally remove or reduce, as well as increase, value of private property. Under the existing system, compensation is payable for total removal of private development right but no compensation is payable for restrictions imposed through statutory plans which reduce such right. There is no betterment charge on any increase in property value arising from planning actions.

6.2 The issue of compensation for loss and betterment for enhancement of property value arising from planning actions is highly complicated and controversial. In order to maintain a fair balance of public and private interests, the issue will be referred to a Special Committee commissioned for the purpose. The Consultative Document only sets out the broad principles of compensation and betterment, and the arguments for and against compensation to provide a basis for the public to comment on.

## 7. AREAS OF SPECIAL CONTROL

7.1 To supplement general zoning control, special controls are needed in three major areas - environment, conservation, and landscape and civic design.

### Assessment of Environmental Impact

#### Problems

7.2 Assessment of the environmental impact of a development constitutes an integral component of planning. There is no specific statutory provision in

the existing Ordinance to require the inclusion of an assessment on environmental impact in the plan-making process nor in the planning application system.

#### Proposals

- 7.3 (a) Environmental considerations should be taken into account at the stage of plan-making and processing an application (paragraph 7.3).
- (b) Environmental considerations **should** be set out in the planning study published before a draft plan was drawn up (paragraph 7.3).
- (c) A statement on environmental implications should be included in all planning applications (paragraph 7.3).
- (d) Regulations would be made to declare specific class or description of development as 'designated development'. Planning application for such development should be accompanied by a full environmental impact assessment (paragraph 7.4).

#### Conservation

#### Problems

- 7.4 There is existing legislation to provide for the preservation of an individual place, **building**, site or **structure** of special architectural or historical interest as a monument but there is no control over the built environment surrounding the **monument**. There is a need to protect our built heritage and to **ensure** that development is in harmony with a nearby monument.

#### Proposals

- 7.5 Areas which were of special architectural or historical interest would be designated as '**Special Design Area**' (SDA) on a statutory **plan**, within which planning permission would be required for all developments **to ensure** that they were in harmony with the conservation objectives of the designated area (paragraphs 7.8 and **7.10**).

## Civic Design

### Problems

7.6 Civic design improves the quality of the built environment. Existing control is possible only when a development falls within a comprehensive development area, or where there are special landscape and design, disposition and height clauses in the lease, or in a limited manner, through section 16(1)(g) of the Buildings Ordinance. The existing means of control also tend to focus on individual buildings rather than the totality of the wider area. In areas of special civic design interest, there is a need for a comprehensive civic design framework to ensure that individual buildings and the public spaces surrounding them properly relate to one another.

### Proposals

- 7.7 (a) To ensure that the layout and design of buildings in areas of special civic design interest would conform to the broad design objectives specified in a statutory plan, such areas would be designated as SDA, within which planning permission would be required for all developments (paragraph 7.15).
- (b) The planning intention behind designating a SDA would be set out in the planning study. The public would be able to make representations on the designation of the SDA and the design objectives when the plan was gazetted for public inspection (paragraphs 7.9 and 7.15).

## 8. NON-CONFORMING EXISTING USES

### Problems

8.1 Under the existing practice, uses already in existence before the publication of a statutory plan are permitted to continue to exist, even if these uses do not conform to the statutory plan. Conformity is required only when there is a material change of use or upon redevelopment. These non-conforming existing uses are, very often, causes of environmental nuisance, physical or social incongruity, and public health and safety problems.



8.2 Various means of eliminating non-conforming existing uses have been examined, which include planning incentives such as upzoning to a 'higher-value' use, land administration measures (e.g. land exchange, transfer of development right, resumption), licensing and designation for comprehensive redevelopment. These measures, however, can only be applied in limited circumstances.

### Proposals

8.3 A variety of approaches to deal with non-conforming uses are proposed :-

- (a) The majority of non-conforming uses which did not cause serious problems would be permitted to continue to exist under the new Ordinance (paragraph 8.7).
- (b) Non-conforming uses on open land or occupying parts of conforming buildings that critically frustrated the planning intention and had deleterious effects would be designated as 'Amortization Area' on statutory plans and set out in the Notes attached to the plans. These non-conforming uses would then be required to terminate or change to conform to the zoned use within certain amortization periods as specified in the Notes. Amortization would form part of the plan-making process and would be subject to full public representation and hearing procedures (paragraph 8.10(a)). An 'Amortization Notice' would be served by the Planning Authority on the owner of a non-conforming use that was subject to amortization. In the Notice, certain performance standards might be specified which should be complied with during the amortization period in order to mitigate the harmful effects caused by the non-conforming use. Appeals against these requirements could be made to the AB (paragraph 8.10(b)). The amortization period would be site-specific or use-specific and long enough for the owner/occupier concerned to recoup his investment and prepare for the change (paragraph 8.10(c)).

- (c) The concept of amortization would not apply to substantial non-conforming buildings which involved heavy private investments. To eliminate these non-conforming buildings, other measures would be used, such as upzoning, designation for comprehensive development, land exchange, transfer of development right and possibly resumption (paragraph 8.9).

## 9. OTHER ISSUES

9.1 There are a number of issues that have been studied in the review of the Ordinance but for which no specific proposals are made in the new legislation. Two such issues are tree preservation and control over advertisement signs. Additional control over these aspects in the Planning Ordinance is not considered necessary because adequate control has already been provided in other legislation.

9.2 Another issue studied relates to private participation in comprehensive development. As site assembly problem is one of the biggest constraints to comprehensive development, one possible way to encourage and facilitate private comprehensive development could be for the Government to carry out compulsory acquisition of minority interests for private developers who managed to acquire the majority of land holdings, provided certain public planning gains could be demonstrated from the comprehensive development. Since this issue involves the transfer of development rights from one private party to another in the name of public interest, public views on the issue are necessary before any legislative proposals can be made. Views from the public on the issue are welcome.

## 10. FINANCIAL IMPLICATIONS

10.1 The proposals made in the Consultative Document would generate a considerable amount of planning work. It is, however, not possible to assess accurately the financial and staff implications arising from the new planning legislation at this stage. Areas which would likely require additional resources are mainly in the operation of the PB and AB and their secretariats, exhibition of planning studies, publicity of objection sites and all representations, public notification of planning applications, and carrying out of enforcement

actions. Proposals have **been** made to streamline procedures, and to recover costs incurred in certain aspects of **planning** work such as the processing of planning applications. Certain aspects of implementation **could** be undertaken in phases so as to spread out the demand for resources. On compensation and betterment, it **is** impossible to estimate the financial implications involved until the Government has made a decision based on the recommendations of the Special Committee.

## 11. How You Can Help

11.1 To facilitate the Government in making a decision on the provisions of the new Planning Ordinance, views from the public are very important. All comments from the public on the proposals set out in the Consultative Document are **welcome** and should be sent by 30 November 1991 to : -

Town Planning Ordinance Review Unit,  
Planning Department,  
Murray Building,  
Garden Road,  
Hong Kong.

Written submissions and/or requests for a hearing on the issue of compensation and **betterment** should be made direct to the Special Committee at the following address : -

The **Secretary**,  
Special Committee on Compensation and Betterment,  
7th Floor, Club Lusitano,  
Ice House Street,  
Hong Kong.

The consultation period for this special issue will also end on 30 November 1991.

11.2 At the conclusion of the consultation **period**, the Government will take account of **all** the views **collected** before drawing up the new Planning Ordinance for Hong Kong.



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Comprehensive review of  
the Town Planning  
Ordinance : executive  
summary. [1991]

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# SAVING HONG KONG'S CULTURAL HERITAGE

BY CECILIA CHU AND KYLIE UEBERGANG

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## ABBREVIATIONS

AAB	Antiquities Advisory Board
AFCD	Agriculture, Fisheries and Conservation Department
AMO	Antiquities and Monuments Office
ASD	Architectural Services Department
BURRA CHARTER, THE	The Burra Charter – The Australian ICOMOS Charter for Places of Cultural Significance, 1999
CHC	Culture and Heritage Commission
EIAO	Environmental Impact Assessment Ordinance
EPD	Environmental Protection Department
GPA	Government Property Agent
GOVERNMENT, THE	The Government of the Hong Kong Special Administrative Region
HAB	Home Affairs Bureau
HKSPG	Hong Kong Standards and Planning Guidelines
HKTb	Hong Kong Tourist Board
HTTF	Heritage Tourism Task Force
ICOMOS	International Council on Monuments and Sites
LCSD	Leisure and Cultural Services Department
LDC	Land Development Commission
OZP	Outline Zoning Plan
PLB	Planning and Lands Bureau
SHP	Small House Policy
TDR	Transfer of Development Rights
TPB	Town Planning Board
TPO	Town Planning Ordinance
UNESCO	United Nations Education, Scientific and Cultural Organisation
URA	Urban Renewal Authority
URAO	Urban Renewal Authority Ordinance



## TERMINOLOGY

In Hong Kong, terms relating to heritage conservation are often misunderstood and misused. For this reason, some internationally accepted definitions relating to heritage conservation are outlined below.<sup>100</sup>

<b>Cultural Heritage Assets</b>	can be either tangible or intangible entities. In the context of architectural heritage, these may include tangible structures such as buildings, historic areas, special heritage districts or cultural landscapes. Cultural heritage assets may include intangible assets relating to the traditional lifestyle of a society. This can include daily activities, customs, beliefs, rituals, ways of life and music.
<b>Place</b>	means a site, area, land, landscape, building or other work, group of buildings or other work and may include components, contents, spaces and views.
<b>Heritage Value</b> <sup>101</sup>	means the aesthetic, historic, scientific, social or spiritual value for past, present or future generations. It is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.
<b>Conservation</b>	means all the processes of looking after a place so as to retain its value or cultural significance. Conservation is closely associated with maintenance, which means continuously protecting the fabric and setting of a place. It is to be distinguished from repair, which involves restoration or reconstruction.
<b>Preservation</b>	is the action taken to maintain the fabric of a place in its existing state and retard deterioration.
<b>Restoration</b>	means returning the existing fabric of a place to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.
<b>Reconstruction</b>	means returning a place to a known earlier state and is distinguished from restoration by the introduction of new material into the fabric.
<b>Adaptation</b>	means modifying a place to suit the existing or a proposed use.

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<sup>100</sup> The following terms are extracted from “The Burra Charter” - The Australian ICOMOS Charter for Places of Cultural Significance, 1999. See also section 1.25 of this report for explanation of ICOMOS and other international bodies involved in heritage conservation.

<sup>101</sup> The term “heritage value” is synonymous with “cultural significance” and “heritage significance.” See Article 1 of The Burra Charter.

**Use**

means the functions of a place, as well as the activities and practices that may occur at the place.

## EXECUTIVE SUMMARY

The conservation of cultural heritage is a crucial factor in the long-term prosperity of a city. Not only does cultural heritage ensure the diversity and uniqueness of a city, it also helps to strengthen the residents' sense of place and civic pride. These benefits help support cultural and economic vibrancy. An effective heritage conservation strategy is therefore crucial in sustaining the competitiveness of a city.

The biggest challenges to heritage conservation in Hong Kong are limited developable land, current land policy and a growing population. These are further hampered by a lack of leadership, a lack of long-term design vision and a mismatch of resources and legislation. It is clear that Hong Kong is in critical need of a comprehensive conservation strategy.

This report provides an overview of the existing system of heritage conservation and proposes a number of policy options to enable effective heritage conservation management. The key recommendations are:

**-Establish a dedicated conservation authority** at the highest decision making level to develop and apply consistent heritage conservation principles. This body needs to ensure the efficient cooperation of existing government and non-governmental conservation bodies and the ongoing provision of funds for the implementation of conservation efforts.

**-Formulate and develop a heritage conservation policy.** This legally-backed policy needs to include strategies to alleviate threats to conservation and benchmarks to measure progress.

**-Develop mechanisms that promote private sector participation** in heritage conservation. These mechanisms must recognize existing economic forces in order to develop tools which promote sensitive land development and protection of heritage assets.

**-Push initiatives that encourage general public involvement** in heritage conservation. These initiatives should identify community values, promote education and develop consensus-building processes which involve genuine public contribution to policy formulation and decision making.

**-Improve the effective operation of existing ordinances and administrative bodies.** A number of specific improvements have been identified, including:

-Improvements to existing ordinances such as an extension of protection to incorporate all areas and districts, building types and other intangible heritage assets, creation of zoning categories which provide for the protection of heritage assets, inclusion of heritage conservation as a "public purpose," requirement for housing projects to undergo environmental impact assessments, and inclusion of heritage considerations in the New Territories Small House Policy.

-Improvements to the operation of existing conservation-related bodies, including a revision of existing grading systems to ensure protection of buildings beyond those that are "monument quality," increased resources to reduce the backlog of sites under consideration for protection, creation of mechanisms to identify heritage sites within

the town planning process, proper maintenance of government-owned vacant heritage sites and development of a tourism management system and guidelines.

Decision makers have tended to overlook issues of conservation, especially when conservation is pitted against short-term economic incentives. However, with open debate and a willingness to address concerns, it should be possible to derive an effective strategy that incorporates the needs and concerns of all stakeholders. This report was written in the spirit of constructive cooperation.

## INTRODUCTION

Cultural heritage plays an important role in forming our sense of self and identity. It sustains our values and communities and allows us to share a collective history. For this reason, it is an invaluable public asset that represents the “social capital” of a city. The management of heritage conservation is a vital part of maintaining and enhancing this “social capital.” Well-managed conservation efforts not only enhance the quality of urban life, but also contribute significantly to the international competitiveness of a city.

In Hong Kong, there is a pressing need to cope with the effects of untrammelled development. With limited usable land and a rapidly expanding population, Hong Kong has been under continuous pressure to redevelop its existing structures and neighbourhoods. Driven by this pressure, many of the city’s old buildings and traditional areas have been replaced in the past 30 years. The conservation of the limited remaining heritage assets is becoming an urgent matter.

The urgency of heritage conservation has not been lost on the government. The government is beginning to recognise that buildings, areas and customs that preserve significant aspects of previous lifestyles are important, not only for quality of life and for international competitiveness, but also as a key component of tourism.

In his 1999 Policy Address, the Chief Executive of Hong Kong, Mr. Tung Chee Hwa, pronounced the importance of preservation as an objective for sustainable development and heritage tourism:

*“It is important to rehabilitate and preserve unique buildings as this not only accords with our objective of sustainable development but also facilitates the retention of the inherent characteristics of different districts, and helps promote tourism..Hong Kong possesses a unique cultural history going back several thousand years. This not only helps us to establish our identity but also serves to attract tourists.”<sup>102</sup>*

Along with the government’s renewed interest in conservation, an increasing number of citizens are beginning to express concern about heritage conservation. A growing appreciation of city pursuits and an urge to strengthen a sense of place after Hong Kong’s reunification with China seem to reflect changed urban values and increasing awareness of the quality of life. With a new vision of Hong Kong as a world city, it is time to begin deriving a practical, broad-based and long-term strategy to conserve our cultural heritage.

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<sup>102</sup> See, Paragraphs 133 and 164, 1999 Policy Address of the Chief Executive.

## ABOUT THIS REPORT

Conducted over a six-month period, this report attempts to give an overview of the issue of heritage conservation in Hong Kong, as well as a discussion of mechanisms that may be used to implement conservation objectives. A comprehensive list of recommendations is also provided to serve as a basis for formulating a long-term conservation strategy.

**Part I** of the report examines the issue of heritage conservation from a number of perspectives, including exploring the meaning of cultural heritage as well as identifying the obstacles and potentials of the conservation process in Hong Kong. **Part I**, section 1.4 examines the current administrative and legal framework and pinpoints areas where improvements or changes are needed to facilitate an effective conservation process.

**Part II** builds on the discussion in the previous section and provides a series of concrete recommendations for improving conservation practices in Hong Kong. **Part III** then reviews two case studies of important heritage sites that are in danger of being destroyed due to existing or proposed development plans. Our discussion of the case studies are intended to illustrate both the constraints of the existing heritage conservation system and to outline how our recommendations could lead to improved conservation outcomes in these and similar situations.

The following report and recommendations represent constructive co-operation in the civic process. We hope that ideas discussed here will serve as a launching pad for vigorous and constructive debate on how to move towards a more successful approach to conservation for Hong Kong.

## PART I: CONSERVING HONG KONG

### 1.1 CONCEPTUAL FRAMEWORK

#### 1.11 WHY CONSERVE?

Places of cultural significance enrich people's lives by providing a deep sense of connection to the past and to lived experiences. Heritage acts as an historical record and tangible expression of a people's identity. It reflects the diversity of our communities, sustains our urban values and allows future generations to connect to the collective history we share as a society. Heritage conservation is a key component in maintaining our "social capital," a product of shared values that acts as an important basis for the common interests and trust that support social and economic life.

"Placelessness" is a common phenomenon felt by many people in modern metropolises. The apathy that often accompanies it imposes significant costs on a city. Conserving heritage can strengthen a sense of place and civic pride for the population. This is also of vital importance on an individual level, as it instils a sense of purpose, connection and meaning in one's daily life.

From an urban planning perspective, the conservation of historical contexts contributes to the diversity and character of our environment, distinguishing it from yet another anonymous urban metropolis. The conservation of cultural heritage also contributes to a city's competitiveness. Differentiation is a key component of competition (economic and otherwise) and cultural and historical features are almost impossible to recreate once lost.

Cultural complexity allows for flexibility and adaptability, which is crucial for broad economic and social stability. In addition, through the process of maintaining and regenerating urban landscapes, conservation has the potential to attract international skilled professionals and visitors who would like to experience a different way of life from their own. The growth of heritage tourism can also bring economic benefits by diversifying the tourism product range and enhancing the variety of experiences offered to potential visitors.

#### 1.12 HERITAGE CONSERVATION MANAGEMENT

The preceding section points towards several important features of successful heritage conservation:

- *The first is that conservation is not simply about preserving buildings or objects. It is about preserving places that embody heritage values so that they retain their cultural significance.*
- *The second is that conservation decisions should balance economic imperatives with preservation.*

删除:

In order to achieve these dual goals, conservation decisions require considerable initial research to understand the significance of a place or area. It is only with sensitivity to its contextual meanings that correct decisions can be made to protect its heritage value. Heritage conservation should be based on a respect for the existing fabric, use, associations and meanings of a place.<sup>103</sup> Changes should not distort the physical or other evidence it provides, nor be based on conjecture.

<sup>103</sup> For further explanation of key conservation terms, refer to the terminology section in this report.

This also means that particular attention needs to be paid to balance the need to preserve places without change and the imperative of revitalization, accompanied by new, economically viable uses. This requires a cautious approach<sup>104</sup> with sensitivity, research, and community involvement. The approach should be informed by an underlying commitment to solutions that engage present generations without betraying the spirit of previous generations.

The most beneficial research relating to heritage decisions, as well as the most effective subsequent management of heritage sites, must involve the participation of the people most closely related to the significance of the heritage area. Without this, it is difficult to preserve beyond a mere façade.

The attention to balance is equally important when considering the tourism appeal of potential conservation efforts. It is tempting to showcase sights for tourist consumption, but ultimately this may attract only tourists looking for easy sightseeing. This sort of practice, while appealing in its simplicity, runs the risk of not attracting repeat visitors, of palling in comparison with more holistic cultural experiences in competing tourist destinations and of doing a substantial disservice to Hong Kong society.

### **1.13 CHALLENGES OF HERITAGE CONSERVATION IN HONG KONG**

In Hong Kong, the biggest challenge to heritage conservation undoubtedly lies on the limitation of usable land, the current land policy and a growing population. This creates pressure to continuously redevelop existing urban fabrics to accommodate new structures.

Development has always been given primary consideration because it is seen as a major way to promote economic growth. As a result, many of the city's historic buildings have already surrendered to the prevailing commercial imperative.<sup>105</sup>

In the face of these pressures, successfully undertaking conservation will require a design vision for the city that articulates the role of heritage conservation. To be successful, such a vision must explicitly recognise the social importance of conservation. It must also establish a framework that will allow for an inclusive, flexible and ongoing identification of areas of heritage value. In addition, it requires a means of prioritising competing interests and concerns in the process of achieving this vision.

However, in Hong Kong there are a number of additional factors that pose obstacles to the practice of heritage conservation. These include:

- Lack of understanding of heritage conservation and its potential;
- Lack of a broad-based, long-term conservation policy;
- Fragmented priorities and inadequate coordination of government departments involved in present heritage conservation practice;
- Lack of mechanisms to compensate developers and property owners; and
- Lack of public involvement in decision making.

These issues will be explored in greater detail in section 1.4.

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<sup>104</sup> Further discussion of the principle of “cautious approach” is outlined in Article 2 of The Burra Charter.

<sup>105</sup> See, “Urban Renewal & Regeneration: Making People-friendly Places & Public Spaces” by Peter Cookson Smith in HKIA Journal, Issue No. 24, 2nd quarter, 2000



## 1.14 AN OVERVIEW OF HERITAGE CONSERVATION IN HONG KONG

Heritage conservation was first introduced to Hong Kong in 1976 when the government enacted the Antiquities and Monuments Ordinance<sup>106</sup> with the aim of protecting historical monuments and promoting awareness of heritage values. However, until recently, heritage conservation has neither been considered important by the public nor has fuelled public debate and participation. Efforts and advocacy traditionally arose from local green groups who fought for the protection of Hong Kong's historical and natural environment.

Hong Kong's conservation practice has suffered from a narrow understanding cultural heritage. For example, places and sites with heritage value include vernacular village houses, colonial buildings, tenement buildings<sup>107</sup> as well as other types of places which may not fit into a pre-established category of "antiquities"<sup>108</sup> or "monuments."<sup>109</sup> However, it has been almost exclusively buildings with "monumental quality,"<sup>110</sup> mostly either examples of colonial architecture or Chinese temples that have been preserved at the expense of the more typical architecture and neighbourhoods of Hong Kong's past.

However, criticism of Hong Kong's heritage conservation policies has heightened recently. This has largely arisen because of the loss of important historical buildings and areas such as the old Wan Chai market and the remnants of old walled cities, particularly the Kowloon walled city. These losses have compounded past demolitions of historical landmarks including the Lee Theatre, the former General Post Office, the old Hong Kong Club and Repulse Bay Hotel and the former Kowloon-Canton Railway Station. There is a growing community awareness of the cost of losing the past and a growing desire to strengthen Hong Kong's unique character and identity.

Efforts undertaken by the government to preserve cultural heritage assets have been criticised as being piecemeal and for often resulting in inaccessible museum-type venues that are not in line with the original character of the buildings or the general atmosphere of their surroundings.<sup>111</sup> For example, the flattening of Li Chit Street in Wan Chai, which was replaced by a fake façade of traditional houses and the relocation of Yuen Po Street (known as Bird Street) from a Mongkok back alley to a small garden next to the railway in Prince Edward, have both been criticized as resulting in a loss of character of these original areas.

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<sup>106</sup> Antiquities and Monuments Ordinance, Cap.53 of the laws of Hong Kong.

<sup>107</sup> Tenement buildings, or so-called "Tong Lau" (buildings for the Chinese) are mostly two to three stories buildings built prior to the 1950's in Hong Kong's urban area. They serve both commercial and residential purposes and are typical of working class districts of early Hong Kong. Many can still be found in older districts like Shamshuipo and Yaumatei but are disappearing at an alarming rate due to pressure for redevelopment. For further discussion, see, "Tenement Buildings: In Light of their Origin" by Ferdinand K.H. Cheung in HKIA Journal Issue No. 24, 2<sup>nd</sup> Quarter 2000.

<sup>108</sup> As outlined in Section 2 of the Antiquities and Monuments Ordinance, "antiquity" means (a) relic; and (b) a place, building, site or structure erected, formed or built by human agency before the year 1800 and the ruins or remains of any such place, building, site or structure, whether or not the same has been modified, added to or restored after the year 1799.

<sup>109</sup> As outlined in Section 2 of the Antiquities and Monuments Ordinance, "monument" means a place, building, site or structure which is declared to be a monument, historical building or archaeological or palaeontological site or structure under section 3 of the Ordinance.

<sup>110</sup> "Monumental quality" generally refers to the special architectural or historical merits possessed by historical buildings.

<sup>111</sup> See, South China Morning Post article "Concrete Blots on Our Urban Landscape," 14 April 2001.

Furthermore, government efforts to conserve areas such as Western Market in Sheung Wan have elicited a number of complaints because of the resulting loss of character to the building, in part due to tourist-type shops replacing the formerly lively trade of the market.

It is not only local residents who decry the lack of heritage preservation efforts. In 2001, a Japanese travel association wrote to the government urging it to “preserve its historic urban sites” if it does not want Hong Kong to lose its appeal to visitors.<sup>112</sup> Heritage has also been identified as an area of special interest in ongoing visitor surveys carried out by the Hong Kong Tourist Board (formerly the Hong Kong Tourist Association).

While many argue that it is too late for heritage conservation, a recently completed survey commissioned by the government and facilitated by the Antiquities and Monuments Office (AMO), revealed that Hong Kong still has over 9,000 pre-1950 structures of varying forms and quality.<sup>113</sup>

However, the loss of important heritage assets continues. The absence of a supported heritage conservation policy, an inability to coordinate existing government departments and a shortfall in the statutory mechanisms to implement heritage conservation all contribute to this situation.

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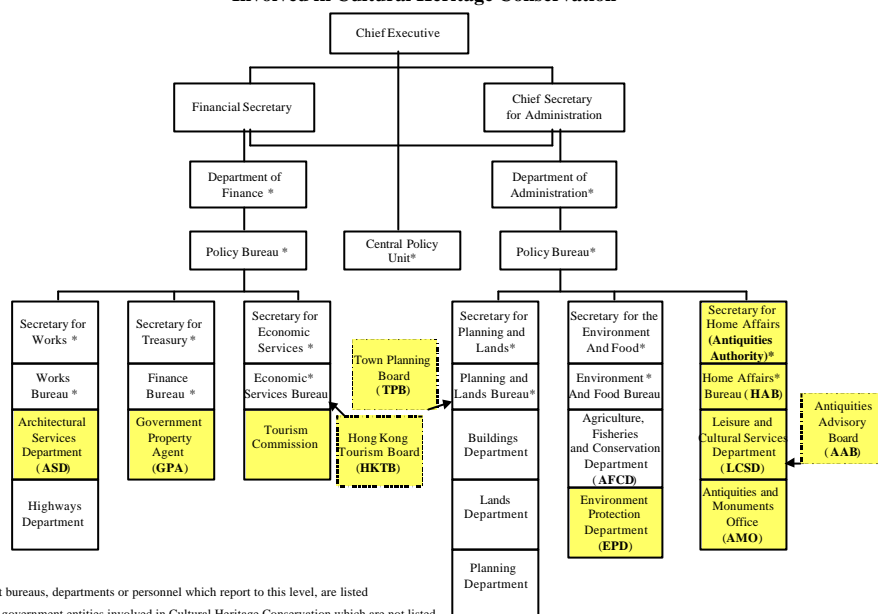
<sup>112</sup> See, South China Morning Post editorial “Preserving the Past” and article “Japanese Urge Tung to Preserve SAR’s Heritage,” 10 August 2001.

<sup>113</sup> A territory-wide historical buildings survey was undertaken in 1997 by eight research teams coordinated by the AMO. The teams, led by university professors and historians, compiled information on over 9,000 buildings that were either built before 1950 or were otherwise noteworthy.

## 1.2 PRACTICAL FRAMEWORK

### 1.21 EXISTING HERITAGE CONSERVATION FRAMEWORK

**Figure 1: Organisation Chart of the Government of HKSAR's Bureaus, Boards and Departments Involved in Cultural Heritage Conservation \*\***



Although the existing cultural heritage conservation administrative and legal framework is officially within the scope of the Antiquities and Monuments Ordinance and administered through the AMO and the Antiquities Advisory Board (AAB), the task of cultural heritage conservation involves many government and non-government bodies and laws in practice.

The AMO operates within the Leisure and Cultural Services Department (LCSD), which is an operational department under the Home Affairs Bureau (HAB). Established under the Antiquities and Monuments Ordinance, the AAB consists of members appointed by the Chief Executive of Hong Kong.<sup>114</sup> The role of the AAB is to provide advice and guidance on any matters relating to antiquities, monuments or proposed monuments to the Antiquities Authority (the Secretary for Home Affairs) and to guide the work of the AMO.<sup>115</sup>

<sup>114</sup> As of 31 December 2001, there were 20 members on the AAB. Meetings of the AAB are not open to the public.

<sup>115</sup> The work of the AMO, as outlined in the "Report of the Antiquities Advisory Board 1992 & 1993" published by the AMO, consists mainly of (1) identifying, recording and researching buildings and items of historical interest; (2) organizing and coordinating surveys and excavations of areas of archaeological significance; (3) maintaining and developing archives of written and photographic material relating to these places and items; (4) organizing the protection, restoration and maintenance of monuments; and (5) fostering public awareness in Hong Kong's heritage through a series of education and publicity programs.

A summary of the government bodies involved in cultural heritage conservation is highlighted above in Figure 1.

## **1.22 LEGAL FRAMEWORK**

Four ordinances constitute the primary instruments of cultural heritage protection in Hong Kong. This section outlines these laws and their respective administrative frameworks.

### **A. Antiquities and Monuments Ordinance**

Enacted in 1976, the Antiquities and Monuments Ordinance was, and is, the most comprehensive statutory protection for cultural heritage in Hong Kong. The AMO, providing support and secretarial services for the AAB, assists the Antiquities Authority (Secretary for Home Affairs) in implementing the Antiquities and Monuments Ordinance. Under the Antiquities and Monuments Ordinance, the “[Antiquities] Authority may, after consultation with the AAB and with the approval of the Chief Executive, declare any place, building, site or structure, which the [Antiquities] Authority considers to be of public interest by reason of its historical, archaeological or palaeontological site or structure.”<sup>116</sup>

Declaration is one of the major means of protecting heritage survival, as government money for rehabilitation, renovation and restoration comes with the declaration of a site as a monument.<sup>117</sup> The AMO facilitates declaration and once declared, no person may undertake acts that are prohibited under the Antiquities and Monuments Ordinance, such as demolition or building, unless a permit is obtained from the Antiquities Authority through the AMO. There are currently seventy two declared monuments in Hong Kong.<sup>118</sup> However, some 9,000 historical buildings have been identified by the AMO as either built before 1950 or exhibiting other cultural value, such as City Hall. Once identified as having potential for conservation, buildings are entered into a record and are ‘graded’ by the AMO to show their relative importance.<sup>119</sup>

To varying degrees, the AMO interacts with government departments and non-government bodies on matters relating to cultural heritage conservation. This is illustrated below in Figure 2.

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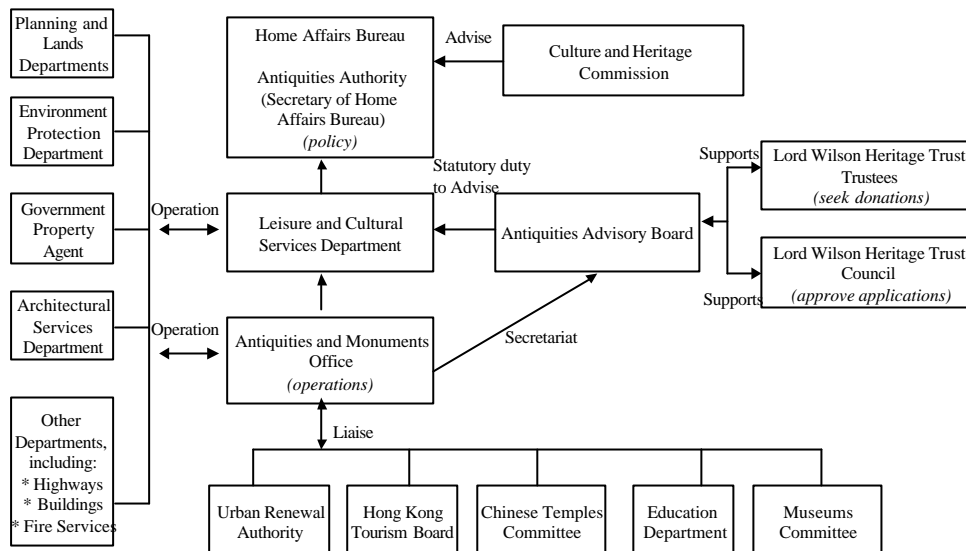
<sup>116</sup> Antiquities and Monuments Ordinance (Cap. 53), Section 3(1).

<sup>117</sup> Monument is used as a generic term for monument, historic building, archaeological or palaeontological site or structure.

<sup>118</sup> The Leisure and Cultural Services Department declared 72 monuments in Hong Kong as of 29 December 2000. Further information is located at [http://www.lcds.gov.hk/CE/Museum/Monument/culture\\_e5c\\_1.htm](http://www.lcds.gov.hk/CE/Museum/Monument/culture_e5c_1.htm), accessed on 17 September 2001.

<sup>119</sup> Proposed gradings are submitted to AAB for approval. Agreed gradings are subject to periodic review and revision.

**Figure: 2 Formal and Working Relationships of Antiquities and Monuments Office within the Government**



Source: Hong Kong University, Department of Architecture, Architectural Conservation Programme

To encourage the community's commitment in heritage conservation, the AMO launched a Friends of Heritage scheme in 1999, aiming to recruit heritage enthusiasts for voluntary work and further promote heritage conservation in the community. The AMO also launched a Heritage Awards scheme in 2000, to promote the preservation of Hong Kong's heritage and foster among the public a sense of identity and belonging through community and school groups.

## B. Town Planning Ordinance (TPO)

The Planning and Lands Bureau (PLB) also influences cultural heritage matters through the work of its various departments and advisory boards, particularly the Town Planning Board (TPB), which is responsible for the drafting of statutory zoning plans for all districts in Hong Kong (refer to Appendix One for a summary of the Hong Kong Planning Hierarchy). Zoning categories, as determined by the TPB and as outlined in the TPO,<sup>120</sup> may include: Coastal Protection Areas (CPAs), Sites of Special Scientific Interest (SSSIs), Green Belts (GBs) or other areas that promote conservation or protect the environment. However there are no zoning categories designed to promote heritage and cultural protection.

An amended Town Planning Bill has been proposed which would enhance the protection of heritage areas. One of the new provisions in the Town Planning Bill, which would enhance the protection of heritage areas, is to empower the TPB to designate key areas, where environmental and design considerations are of sufficient importance, as Environmentally Sensitive Areas or Special Design Areas. This will enable areas to be master planned in a more comprehensive manner. It will also require applications, in the case of an Environmentally Sensitive Area, to be accompanied by a report on the key planning and environmental issues, and in the case of a Special Design Area, by an urban design plan, master layout plan and landscape plan. This new provision could be used, for example, to

<sup>120</sup> The Town Planning Board Ordinance, Cap. 131 of the Laws of Hong Kong.

zone a whole street or neighbourhood and ensure that the important characteristics are preserved as an entity. However, the Town Planning Bill, unfortunately, has been shelved due to the complexity of the legislation and the timing of its presentation to the Legislative Council.<sup>121</sup>

The Planning Department also undertakes planning studies involving heritage conservation issues (such as the study of Hong Kong's cultural facilities)<sup>122</sup> and develops the Hong Kong Planning Standards and Guidelines, a policy document that sets out standards of provisions and location guidelines for various land uses and facilities. Chapter 10 of the Hong Kong Standards and Planning Guidelines is dedicated to natural and heritage conservation considerations including the "Conservation of Historic Buildings, Archaeological sites and other Antiquities."<sup>123</sup>

The Planning Department also undertook a study on Sustainable Development for the 21<sup>st</sup> Century and is conducting an ongoing review of the Territorial Development Strategy "Hong Kong 2030: Planning and Vision Strategy," which focuses on developing a land use, transport and environmental framework for Hong Kong to ensure the most efficient use of existing resources.<sup>124</sup> Under the over-arching goal of sustainable development, one of the "Hong Kong 2030: Planning and Vision Strategy" specific objectives is to "conserve significant natural landscape and cultural heritage."<sup>125</sup>

### **C. Environmental Impact Assessment Ordinance (EIAO)**

The EIAO<sup>126</sup> is an additional piece of legislation that provides limited protection to sites of cultural and heritage value which are threatened by certain kinds of development. Instituted in 1997, the authority for the ordinance is the Director of Environmental Protection. The EIAO, requires certain designated projects (generally major infrastructure projects) to undergo an Environmental Impact Assessment before they can be granted an environmental permit for development to proceed. This ensures a measure of control over what was previously a carte blanche for infrastructure developers. For instance, the Environmental Impact Assessment for the West Rail project required the KCRC to mitigate against potential damage to certain heritage sites.

A Technical Memorandum contains guidance on the criteria and guidelines to use for assessment of impact on sites of cultural heritage. The Technical Memorandum generally favours the protection and conservation of all sites of cultural heritage and requires that impacts be kept to the absolute minimum. While there is no quantitative standard in deciding

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<sup>121</sup> After a comprehensive review in 1991, a White paper was published in 1996 and the bill finally gazetted in early 2000. While a Legislative Council bills committee was set up, due to the complexity of the bill and insufficient time, the committee was dissolved in May 2000. The less controversial aspects of the bill will be reintroduced to the Legislative Council in 2003.

<sup>122</sup> "Cultural Facilities – A Study on Their Requirements and the Formulation of New Planning Standards and Guidelines." For further information on this study, see the Planning Studies section of [http://www.info.gov.hk/planning/index\\_e.htm](http://www.info.gov.hk/planning/index_e.htm).

<sup>123</sup> For further information on the Conservation section within the HKSPG see the Technical Documents section of [http://www.info.gov.hk/planning/index\\_e.htm](http://www.info.gov.hk/planning/index_e.htm).

<sup>124</sup> "Hong Kong 2030: Planning Vision and Strategy." For further information on this study, see the Planning Studies section of [http://www.info.gov.hk/planning/index\\_e.htm](http://www.info.gov.hk/planning/index_e.htm).

<sup>125</sup> See, The Planning Department's newsletter (No. 2 of 2000), page 2.

<sup>126</sup> Environmental Impact Assessment Ordinance (Cap. 499) of the laws of Hong Kong, outlines the purpose, requirements and process of the EIA.

the relative importance of these sites, sites of unique archaeological, historical or architectural value are considered highly significant.

#### **D. Urban Renewal Authority Ordinance (URAO)**

While the recently established Urban Renewal Authority (URA)<sup>127</sup> is neither a government body nor agent, the Secretary for Planning and Lands provides the URA with input and may prepare urban renewal strategies for the purposes of carrying out urban renewal.<sup>128</sup>

Unlike the former Land Development Corporation (LDC), the URA is empowered to identify and “preserve buildings, sites and structures of historical, cultural or architectural interest,”<sup>129</sup> including the preservation “as far as practicable of local characteristics.”<sup>130</sup> The URA is also given comprehensive powers to acquire or hold land for development and to “alter, construct, demolish, maintain, repair, preserve or restore and building, premises or structure.”<sup>131</sup>

In order to coordinate heritage conservation with other relevant government bodies, the URA should also “ensure proper interface” with the AAB, CHC, the HAB and the LCSD and the URA board should “consider opening its meetings to the public as far as practicable.”<sup>132</sup>

In an effort to involve public participation, the URA announced it would create a total of seven District Advisory Committees, comprising “residents, district dignitaries, professionals and academics.”<sup>133</sup> The role of these District Advisory Committees is “to advise on issues relating to urban renewal, including redevelopment, preservation, revitalization and rehabilitation, in the districts concerned.”<sup>134</sup> To date, the URA has set up four District Advisory Committees, tying in with its announced development plans for each of these districts.<sup>135</sup>

### **1.23 Administrative Framework**

This section outlines other administrative bodies and policies that affect cultural heritage conservation in Hong Kong.

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<sup>127</sup> The Urban Renewal Authority was established in May 2001 under section 3 of the Urban Renewal Authority Ordinance (URAO), Cap.563. The URA replaces the Land Development Corporation (which was formerly established under the Land Development Corporation Ordinance, Cap. 15), a former government entity operating under the Planning and Lands Department. The URA is an Authority that has powers and duties as are conferred and imposed on it by the URAO.

<sup>128</sup> URAO (Cap. 563), section 20.

<sup>129</sup> URAO, (Cap. 563), Section 5(e) and also outlined in the Urban Renewal Strategy Consultation Paper, published by the Planning and Lands Bureau (July 2001), page 2.

<sup>130</sup> Ibid.

<sup>131</sup> URAO (Cap. 563), Sections 29 and 6(1)(e).

<sup>132</sup> As outlined in the Urban Renewal Strategy Consultation Paper pages 3 and 6.

<sup>133</sup> See, URA press release dated 10 January 2002, “Urban Renewal Authority set up Four District Advisory Committees” <http://www.hkura.org/html/c402000e16.html>, (accessed 27 January 2002).

<sup>134</sup> Ibid.

<sup>135</sup> The first four established District Advisory Committees represent the areas of Wan Chai, Sham Shui Po, Yau Tsim Mong and Central and Western Districts. The remaining three will represent the areas of Kwun Tong, Kowloon City and Tsuen Wan. For further details see <http://www.hkura.org/html/c402000e16.html> (accessed 27 January 2002).

#### **A. Lord Wilson Heritage Trust**

The Lord Wilson Heritage Trust was established in 1992, following the enactment of an Ordinance<sup>136</sup> bearing the same name, to promote the preservation and conservation of Hong Kong's human heritage, including historical, archaeological and palaeontological objects, sites and structures. The trust is currently administered by the HAB. Grants made by the trust have largely been for heritage research and education. For instance, past grants of the trust have funded AMO-organized events such as "Year of Heritage" and the Heritage and Tourism Conference held in 1999. Funding allocated to non-governmental research has included studies such as the contribution of the Indian community to Hong Kong's cultural capital and a study of a new model to assist in planning for sustainable cultural heritage tourism.

#### **B. Government Property Agent (GPA)**

The GPA administers the use of many declared monuments owned by the government. The GPA maintains a list of all government-owned buildings that have been declared under the Antiquities and Monuments Ordinance or which have been graded by the AMO/AAB. The GPA administers and determines the use of these buildings. However, certain buildings such as police stations are effectively administered themselves. With self-administered buildings, the GPA ensures that the needs of the government users are met within the building. If the needs are not met, then the GPA will assist the government user to find more suitable accommodation within the available supply of government-owned buildings. In reality, any government-owned buildings that are not occupied are usually in poor condition and are not attractive to government users.

Guidelines circulated in 1997<sup>137</sup> regularised the process of giving preference for government-owned buildings (inclusive of heritage and non-heritage buildings) to government users. Prior to 1997, the process of allocating uses for government-owned heritage buildings was less regulated. For instance, old military buildings and the British military hospital were granted to charities and non-government organizations, while the Peak Café and Stanley 88 (an old police station) were leased on a commercial basis.

#### **C. Architectural Services Department (ASD)**

The ASD maintains the structure of all government-owned buildings (both in Hong Kong and overseas) while the Electrical Maintenance and Services Department undertake the electrical and mechanical maintenance. The ASD operates a heritage buildings section under its property services management department.

#### **D. Lands Department – New Territories Small House Policy (SHP)**

Although the Lands Department is not directly involved in efforts to conserve cultural heritage, the SHP, which is administered by the Lands Department, has had a far-reaching negative effect on the heritage of New Territories indigenous villages.

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<sup>136</sup> Lord Wilson Heritage Trust Ordinance (Cap. 425) of the laws of Hong Kong.

<sup>137</sup> Accommodation Circular 1, 1997, outlined the process to accommodate government owned buildings. These guidelines outline that first preference for usage of government-owned buildings must be given to government departments. If no department requests the building, it may be offered for commercial use. Finally, if no adequate commercial user is found, the building may be offered to a non-government organization, although this is not common.



The SHP, implemented in 1972, was formulated to “allow an indigenous villager to apply for permission to erect for himself during his lifetime a small house on a suitable site within his own village.”<sup>138</sup> Under this policy, if an indigenous villager owns a piece of land within the village environs, he can erect a 700 square feet, three storey house on it, regardless of what sort of structure or dwelling currently exists on the land. From a heritage standpoint, the failure of this policy rests in the interpretation undertaken by villagers who utilised this policy to build modern residential dwellings that bore no resemblance to the traditional type village housing or to the surrounding agricultural land. Furthermore, these new low-rise dwellings may be exempt from the Buildings Ordinance and sometime pose sewerage, drainage and fire hazard problems.

## **E. Culture and Heritage Commission (CHC)**

Recent efforts by the government to improve the protection of Hong Kong’s cultural heritage include the establishment of the CHC in November 2000.<sup>139</sup> The CHC is a non-executive body whose role is to advise the government on policy and funding priorities for culture and arts. “A key responsibility of the commission is to formulate a set of principles and strategies to promote the long-term development of culture in Hong Kong.”<sup>140</sup>

To date, the CHC has invited public submissions<sup>141</sup> and developed working groups reviewing culture and arts education, the West Kowloon reclamation, libraries and museums. Future deliberations of the commission include: heritage, cultural facilities, resources and cultural exchange. The CHC has not yet published any findings of these reviews.

## **1.24 TOURISM BODIES**

Cultural heritage is widely recognized as a tourist product with expanding potential. There are a number of government and non-governmental organizations that are involved in the promotion and development of heritage sites as tourist attractions. This section outlines the various bodies involved in the promotion and development of heritage tourism.

### **A. Tourism Commission**

The first Commissioner for Tourism was appointed in 1999 to promote the development of the tourism industry. Operating under the Economic Services Bureau, the Tourism Commission is tasked with formulating tourism-related policy. A Tourism Strategy Group

<sup>138</sup> As outlined in, “The New Territories Small House Policy – How to Apply for a Small House Grant” produced by the Lands Department – June 2001, page 7.

<sup>139</sup> From the period 1 April 2000, to 31 March 2002, there were eighteen members on the CHC including the chairmen of the AAB, the Board of Governors of the Hong Kong Arts Centre, the Hong Kong Arts Development Council, Council of the Hong Kong Academy of Performing Arts, the Secretary for Home Affairs and the Director of Leisure and Cultural Services and a secretary. Meetings of the CHC are not open to the public, but press releases are usually posted on the CHC website ( see <http://www.chc.org.hk/>) after every meeting.

<sup>140</sup> Further information on the role and objectives of the CHC can be accessed at <http://www.chc.org.hk/>

<sup>141</sup> The CHC published a Consultation Paper in March 2002, entitled “Gathering of Talents for Continual Innovation,” with the aim of seeking the public’s views on strategies of promoting cultural development in Hong Kong and the future direction of the work of the CHC. The official consultation period ended at the end of June 2001. Details of the consultation paper and summary of public responses can be accessed at <http://www.chc.org.hk/>

(which is chaired by the Commissioner for Tourism) was formed in October 1999 to ‘draw up a strategic plan for the future development of tourism in Hong Kong.’<sup>142</sup> A further sub-group on “Heritage and Culture” was then formed from within the Tourism Strategy Group with the aim of “identifying institutional issues which should be addressed by the government in taking forward heritage tourism projects, such as Wu Yiu Pottery Kiln, Victoria Prison and the Central Police Station Complex. The sub-group will also examine the role of the Heritage Tourism Task Force in promoting heritage for tourism purposes and consider the way forward.”<sup>143</sup>

## **B. Hong Kong Tourist Board (HKTB)**

The HKTB (formerly known as the Hong Kong Tourist Association<sup>144</sup>) acts as the marketing arm of the tourism industry and is involved in a number of heritage initiatives including the ongoing planning and publishing of materials on Hong Kong’s history, monuments, museums, festivals, traditions heritage trails and tours. Events arranged by the HKTB range from the provision of audio equipment for self-guided heritage tours, such as the Central and Western Heritage Trails, to fully guided living history “people and places” tours, such as the New Territories Heritage and Feng Shui Tours.<sup>145</sup> The HKTB is also involved in local museums through the administration of a museum pass that allows visitors to access five of the most prominent museums by shuttle bus.

In certain instances, the HKTB conducts planning studies on the tourism potential of historic buildings and areas, such as the theatre and surrounding area in Yaumatei.<sup>146</sup> The HKTB also undertakes visitor surveys and studies in order to identify future marketing strategies.<sup>147</sup>

In order to promote and implement its activities, the HKTB works with the AMO and AAB and the local District Councils.

## **C. Heritage Tourism Task Force (HTTF)**

The HTTF was established by the government in 1998 to “focus on individual initiatives and on a broader strategy for promoting our heritage sites and developing opportunities for joint promotions with the Mainland and other regional destinations.”<sup>148</sup> The Tourism Strategy

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<sup>142</sup> See, Tourism Strategy Group meeting minutes (13 October 1999) at [http://www.info.gov.hk/tc/tourism\\_sg/index3.htm](http://www.info.gov.hk/tc/tourism_sg/index3.htm) (accessed 22 November 2001).

<sup>143</sup> Ibid.

<sup>144</sup> The Hong Kong Tourist Association (HKTA) was reconstituted as the Hong Kong Tourism Board on 1 April 2001, upon the enactment of amendments to the Hong Kong Tourist Association Ordinance (Cap. 302). This change was a result of recommendations arising from a recent Strategic Organization Review undertaken by the HKTA. The principal tasks now taken on by the HKTB are to promote Hong Kong as a tourist destination, to enrich visitors’ travel experience and to enhance Hong Kong’s attractiveness through improving and developing tourism itineraries in collaboration with the tourism industry.

<sup>145</sup> Recent developments of the HKTB include the franchising of certain tours to professional tour companies.

<sup>146</sup> The Yaumatei Tourism Planning Study was completed in 2000 by the old HKTA. The newly formed HKTB may not be involved in similar planning studies in the future.

<sup>147</sup> HKTB visitor surveys showed that 17% of all tourists surveyed in 2000 had a special interest in heritage; 17% had an interest in art and cultural exhibits and 13% had an interest in traditional Chinese festivals.

<sup>148</sup> As outlined in the 1998 Policy Address of the Chief Executive (paragraph 47) at [www.info.gov.hk/pa98/english/econ2.htm](http://www.info.gov.hk/pa98/english/econ2.htm) (accessed 22 November 2001).

sub-group on Heritage and Culture recommended that the HTTF “should become a permanent body under the HKTb responsible for developing tourism products with particular regard to cultural and heritage tourism.”<sup>149</sup>

## **1.25 INTERNATIONAL BODIES**

In addition to local legal and administrative guidelines, there are a number of international bodies, charters and guidelines on cultural heritage. Principles from these international bodies, charters and guidelines could be incorporated into Hong Kong cultural heritage conservation legislation, such as the Antiquities and Monuments Ordinance, and they could be incorporated and adapted (to suit local requirements and circumstances) into a set of guiding heritage conservation principles for Hong Kong. As guided by international experience, all relevant stakeholders (such as the government, private land owners, heritage conservation organisations and tourism bodies) must endorse any agreed heritage conservation principles or guidelines.

China is in the process of finalising, releasing and disseminating heritage conservation principals, which have been developed with reference to The Burra Charter (see below) and the Australian Heritage Foundation.

### **A. UNESCO**

- Internationally recognized guidelines have been developed by the United Nations and affiliated non-government organisations since the 1960s. The World Heritage Convention, embodied in an international agreement adopted by the United Nations Education, Scientific and Cultural Organisation (UNESCO) in 1972, aims to “define and conserve the world’s heritage, by drawing up a list of sites whose outstanding values should be preserved for all humanity and to ensure their protection through a closer co-operation of nations.”<sup>150</sup> There are currently 690 properties on the World Heritage List and over 160 state parties have signed the convention.
- UNESCO also established the Asia-Pacific Heritage Awards in 1999 to recognise efforts in the conservation of privately owned buildings and structures that are more than 50 years old and have been restored within the last ten years.<sup>151</sup> Hong Kong has been credited by UNESCO’s Asia-Pacific Outstanding Project Awards twice in recent years.<sup>152</sup>
- UNESCO has offered The University of Hong Kong’s Department of Architecture a Chair in Culture Resources Management, which is currently being processed. This provides formal recognition of the university’s “Architectural Conservation Programme” and positions the university in UNESCO’s regional network of conservation bodies.
- UNESCO has nominated 2002 as the “Year of International Heritage.”

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<sup>149</sup> See meeting minutes (31 August 2000) of the Tourism Strategy Sub-Group on “Heritage and Culture” at [http://www.info.gov.hk/tc/tourism\\_sg/index3.htm](http://www.info.gov.hk/tc/tourism_sg/index3.htm) (accessed 22 November 2001).

<sup>150</sup> <http://www.unesco.org/whc/heritage.htm> (accessed 8 November 2001).

<sup>151</sup> [http://www.unescobkk.org/culture/culture\\_press\\_kit/heritage\\_awards.htm](http://www.unescobkk.org/culture/culture_press_kit/heritage_awards.htm) (accessed 8 November 2000).

<sup>152</sup> The century-old Ohel Leah Synagogue (off Robinson Road) and the restoration of the 19<sup>th</sup> century Hung Shing Temple (Kau Sai Chau) have both been credited by UNESCO’s Asia-Pacific Outstanding Project Awards.

## B. ICOMOS

- The International Council on Monuments and Sites (ICOMOS) is UNESCO's principal advisor in matters concerning the conservation and protection of monuments and sites. With IUCN-The World Conservation Union, ICOMOS has an international role under the World Heritage Convention to advise the World Heritage Committee and UNESCO on the nomination of new sites to the World Heritage List.<sup>153</sup>
- Members of the countries belonging to ICOMOS are formed into National Committees, which participate in a range of conservation projects, research work, intercultural exchanges and co-operative activities.
- A Chapter of ICOMOS China is in process of being arranged in Hong Kong and Macau, which will act as a formal link to ICOMOS.<sup>154</sup>

## C. International Charters

- ICOMOS seeks to establish international standards for the preservation, restoration and management of the cultural environment. Many of these standards have been promulgated as Charters by the organization as a result of adoption by the ICOMOS General Assembly.<sup>155</sup>

Examples of Charters adopted by the General Assembly of ICOMOS include:<sup>156</sup>

- International Charter for the Conservation and Restoration of Monuments and Sites (Venice Charter – 1964);
  - Charter for Conservation of Historic Towns and Urban Areas (Washington Charter – 1987);
  - Charter for the Protection and Management of The Archaeological Heritage (1990);
  - International Charter on Cultural Tourism (1999); and
  - Charter on the Built Vernacular Heritage (1999).
- In the years following the international communities adoption of the Venice Charter, many countries have developed their own charter through the ICOMOS National Committees, adapting the conservation principles to their local conditions.

Examples of Charters adopted by the ICOMOS National Committees include:

- Charter for the Conservation of Places of Cultural Heritage Value (1992) (ICOMOS New Zealand);
- A Preservation Charter for the Historic Towns and Areas of the United States of America (1992) (US ICOMOS); and
- The Australian ICOMOS Charter for the Conservation of Places of Cultural Significance, 1999 (The Burra Charter<sup>157</sup>) (Australian ICOMOS).

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<sup>153</sup> <http://www.international.icomos.org/about.htm> (accessed 8 November 2001).

<sup>154</sup> The Hong Kong/Macau ICOMOS National Committee is expected to be formed during 2002.

<sup>155</sup> <http://www.international.icomos.org/about.htm> (accessed 8 November 2001).

<sup>156</sup> For further information on the ICOMOS Charters, see [http://www.international.icomos.org/e\\_charte.htm](http://www.international.icomos.org/e_charte.htm) (accessed 26 November 2001).

### 1.3 PRIVATE SECTOR PARTICIPATION

This section outlines the interest and participation of the private sector in cultural heritage conservation.

#### A. Private Corporations and Funds

Local property developers have been involved in the conservation of cultural heritage sites and the excavation of archaeological sites, such as the 6,000-year-old discoveries from Ma Wan Island in 1993.<sup>158</sup> There are also examples of successful urban heritage conservation efforts which have only been made possible with the assistance of private developers. However, efforts undertaken by developers to conserve heritage have traditionally arose as a form of crisis management rather than from pro-active efforts.

More recent initiatives by private developers, such as the proposal for the conservation and development of the Victoria Prison/Central Police Station and surrounding environs, appear to be more proactive from a conservation perspective, perhaps even balancing the need to maintain heritage value and still be profitable.<sup>159</sup> The developer in this case is willing to take on refurbishment and regeneration of the entire area in return for the grant of a 21-year government lease.

There are also private heritage funds which contribute to the conservation of cultural heritage. For instance, the Hong Kong-based China Heritage Fund raised over HK\$4 million to rebuild the pavilions and walkways of Beijing's Forbidden City, which were destroyed by fire in 1923. Similarly, the Hong Kong Jockey Club, through its Charities Trust, has funded heritage conservation efforts, such as providing a grant for wall restoration at Lo Wai (Fanling) in 1997 and restoring the Hung Shing Temple at Kau Sai Chau, Sai Kung in 1999 (which was granted an Outstanding Project Award in 2001 by UNESCO). Nevertheless, to date, the amount of privately funded conservation in Hong Kong has been minimal.

#### B. Non-profit, Education, Professional Bodies and the Community

There are a number of non-profit conservation groups that fight for both nature and heritage conservation, such as the Conservancy Association and Urban Watch, both of which are dedicated to the protection of the environment and the conservation of natural, urban and cultural heritage. They achieve this by evaluating existing process and frameworks, advocating appropriate policies, monitoring government action, promoting environmental education and taking a lead in community participation.

Intellectual associations, such as the Hong Kong Institute for the Promotion of Chinese Culture and the Hong Kong branch of the Royal Asiatic Society, also take a keen interest in

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<sup>157</sup> The Burra Charter was originally adopted in 1979. It was revised in 1981, 1988 and again in November 1999 (for further information see <http://www.icomos.org/australia/burra.html>, accessed 26 January 2002).

<sup>158</sup> The Ma Wan Island archeological discovery was made on a site planned for large-scale residential development by Sun Hung Kai Properties Ltd., who later funded the resulting excavations. Sun Hung Kai plans to build a museum to house the excavation finds once the residential development is finished.

<sup>159</sup> For further information see, SCMP article "The Key to Tourism," 1 September 2001.

local cultural heritage and often work on a volunteer basis with the AMO to research and record information on cultural heritage assets

The University of Hong Kong offers a post-graduate “Architectural Conservation Programme,” designed with advice from UNESCO, to meet the continuing needs of professionals in Hong Kong, Macau and Mainland China. There is also conservation material within other Hong Kong University faculties such as the Centre of Urban Planning and Environmental Management and the Geography department, reflecting a greater awareness of the importance of heritage conservation across a variety of disciplines. Furthermore, the Hong Kong Polytechnic University is planning to offer a Cultural Tourism course within the next year or so.

Professional bodies such as the Hong Kong Institutes of Planners, Architects, Landscape Architects and Surveyors are often involved in the development of proposals to conserve urban cultural heritage. These proposals are normally submitted to the relevant government authorities as a part of the various public consultations that have been undertaken during recent years.

Increasingly, the general public is becoming involved in heritage conservation issues in Hong Kong. This has been illustrated through cases such as the public victory in preventing the destruction of the Woodside house in 1998, which was originally thought to be a losing battle because the site was zoned for residential housing under the government’s Home Ownership Scheme. The community campaign to preserve the area played a significant part in influencing the TPB’s view that the zoning of this area should be changed to a green belt, a move which protected the Woodside house.

However, it is still more common for public support to be channelled through conservation groups and/or professional organisations.

#### **1.4 CONSTRAINTS WITHIN THE HERITAGE CONSERVATION FRAMEWORK**

This section discusses the constraints of the current heritage conservation framework. This is not meant to be an exhaustive list, but an outline of the types of issues which inhibit the effectiveness of the existing heritage conservation framework.

##### **1.41 OVERALL**

While there are specific issues and constraints within the existing legal and administrative framework, overall conservation efforts are severely hobbled by an absence of an effective overarching heritage management system. The existing reactionary management system lacks the leadership and foresight to create and implement effective long-term conservation strategies, which are supported by both government and the community. In the absence of an effective heritage management system, efforts at the legislative and administrative level are unlikely to achieve effective results. This section highlights the constraints which reduce the overall effectiveness of the existing system.

##### **A. Leadership, Guidance and Authority**

Hong Kong is fortunate in its abundance of legislation and government departmental participation in heritage conservation, as is illustrated in the preceding section. However, many of the government departments involved are horizontally linked bodies, each of which

are tasked with defined responsibilities. There is no encompassing body or authority at a high level that plans the overall objectives and policies for heritage conservation. It is therefore understandable that the existing framework is hobbled by a lack of leadership, guidance and authority.

Lack of leadership, guidance and authority is also witnessed through:

- the absence of a broad-based long-term cultural heritage conservation policy; and
- an absence of a dedicated conservation body/authority that has the leadership and power to push conservation issues within government. This body needs to be able to compete against other policy objectives for funding and other government resources.

## **B. Political Will**

As with any infrastructure changes which require significant investment, such as the creation of a leadership conservation body, there needs to be top management buy-in and support. The changes required will require the full support of the Chief Executive and the government. In previous policy addresses, the Chief Executive has referred to the importance of cultural heritage,<sup>160</sup> but there has been very little follow-up and no significant changes to the existing system to date. Many of changes proposed in this report are not new; they have been advocated for the past decade with little success. Lack of success can only be attributed to the government's lack of political will to implement change.

Lack of political will to implement change is also witnessed through:

- the low value attributed to cultural heritage conservation. Hong Kong has witnessed a long history of economic development at the cost of heritage losses;
- a lack of understanding of the principles of heritage. The government believes heritage conservation should be driven by tourism and economics and not treated in the same way as other social and education services;
- economic interest to keep property values high. Owning almost 100% of land in Hong Kong, the government has incentive to maximise returns on developable land; and
- lack of reliable and independent funding. Existing funding, which is largely allocated as a proportion of departmental funding, relies on market forces and the political mood of the day.

## **C. Coordination and Integration of Existing Government Departments**

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<sup>160</sup> In the 1998 Policy Address (paragraph 47) the Chief Executive announced the creation of the Heritage Tourism Task Force to "focus on initiatives and on a broader strategy for promoting heritage sites." In the 1999 Policy Address (paragraph 133), the Chief Executive stressed the "importance to rehabilitate and preserve unique buildings...the concept of preserving our heritage should be incorporated into all projects for redeveloping old areas." Furthermore, in the 2001 Policy Address (paragraph 94), the Chief Executive stated, "urban development and long-term planning for Hong Kong must take into account our cultural heritage."

However, our review of the existing legal and administrative heritage conservation framework shows that there are many positive conservation initiatives being undertaken by various bodies. It also shows that more recent legislative changes, both proposed and implemented, are both informed and empathetic to the issue of heritage conservation. Nevertheless, our review has also revealed that there are a number of common constraints among existing legislation and administrative bodies, which reduce the overall effectiveness of the heritage conservation system. Overall, there appears to be an inability to coordinate and integrate existing government departments and legislation.

Inability to coordinate and integrate existing government departments and legislation is illustrated by:

- inconsistency of definitions, terminology and objectives in existing policy and legislation;<sup>161</sup>
- duplication of efforts. Heritage conservation involves antiquities, planning and land economics, environmental issues and tourism, each of which has developed departments, legislation, boards, committees and resources to review and undertake cultural heritage conservation;
- a lack of coordination between existing bodies. Each body pushes their own agenda with very limited horizontal coordination and co-operation. No one department is responsible for the overall coordination of cultural heritage, leading to piecemeal results. This also results in a slow cumbersome decision making process which more often than not results in an inability to make overriding decisions;
- absence of a system of consultation. There is no process whereby all relevant departments and non-governmental bodies are consulted on heritage issues;
- confusion of the existing system. With many departments responsible for different areas within a heritage project (e.g. antiquities, highways, planning and land, tourism, finance), it is confusing and time consuming to deal with heritage issues;
- the fragmentation of conservation priorities. Conservation is of varying importance in each department, which leads to inconsistent objective and policies. Heritage conservation objectives are often overlooked or compromised by competing departmental responsibilities;
- an absence of active management of sites. Sites which are not either declared or included in existing country parks are not actively managed or even maintained in their existing conditions; and
- lack of expertise. Apart from the AMO, there are very few people with any heritage conservation experience, or indeed expertise, within government.

#### **D. Private Sector and General Public Involvement**

Ultimately, heritage conservation needs to be advocated by the people for the enjoyment of present and future generations. While the government should provide a framework, both the private sector and the general public need to actively participate in heritage conservation. For a variety of reasons, further discussed below, there is an absence of private sector participation in heritage preservation and a lack of general public involvement in the decision making process.

<sup>161</sup> For further information on the comparison of existing conservation related documents and legislation as of 15 February 2001, refer to "Index of Conservation Related Documents and Legislation of Hong Kong," prepared by the Faculty of Architecture, University of Hong Kong.



**Absence of private sector involvement** in undertaking conservation has arisen due to:

- the need to maximize investment returns. The opportunity cost of development is high because private land owners expect a high return on investments;
- the absence of private land owner compensation mechanisms. There are no land swap mechanisms currently available to compensate private land owners for the conservation of heritage sites. However, the government has recently begun to explore the possibility of transferring development rights as a means of “employing market forces to pay for the preservation of (these) historical buildings,”<sup>162</sup> and
- the lack of financial incentives to conserve heritage. Without reasonable financial incentives, either in the form of direct funding assistance or reductions in premiums and taxes, private owners have generally been unwilling to offer their properties for conservation, as far higher incentives exist in the form of property development, which usually involves the demolition of the potential heritage asset.

Lack of public involvement in the decision-making process, which has arisen due to:

- an absence of a decision making process which incorporates the public opinion and
- a lack of grassroots support for heritage conservation.

While many of the problems noted above are detrimental to the effective operation of the overall heritage conservation management system, there are also constraints within specific ordinances and administrative bodies, briefly summarised below.

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<sup>162</sup> For further information on the government’s recent exploration of Transfer of Development rights, see the speech of the Secretary of Planning and Lands, Mr. John C Tsang, at the annual general meeting of the Hong Kong Institute of Architects (18 December 2001) “Transfer of Development Rights for the Preservation of Historical Buildings in Hong Kong.”

**A. Antiquities and Monuments Ordinance**

<b>Definition of Cultural Heritage</b>	While the Antiquities and Monuments Ordinance defines “antiquity” <sup>163</sup> and “monument,” <sup>164</sup> both aspects of cultural heritage, it does not include any definition of “cultural heritage,” “cultural significance” or “heritage value.” Without a comprehensive definition and understanding of cultural heritage, it is impossible to create a system to protect it.
<b>Conservation Principles</b>	There is an absence of stated conservation principles. <sup>165</sup> In the absence of developing their own conservation principles, countries often follow or adopt international best practices, such as those outlined in international charters such as the Venice or Burra Charter. These are then adapted to suit the particular characteristics of the local conservation efforts.
<b>Conservation Terminology</b>	The Antiquities and Monuments Ordinance does not define terminology related to conservation, the practice of conservation, or indeed the word “conservation” itself.
<b>Ordinance Name</b>	“Antiquities” and “monuments” are both colonial terms which are no longer representative of cultural heritage assets in Hong Kong. It is therefore necessary to change the name of the existing ordinance to one that is more understandable and appropriate such as the “Heritage Conservation Ordinance.”
<b>Heritage Areas and Districts – Group Heritage Value</b>	The Antiquities and Monuments Ordinance provides only for the declaration of individual structures. While it allows for the inclusion of areas or land required for fencing, covering or protecting a declared monument or for providing access to a monument, there is no capacity to designate areas which incorporate groups of heritage assets or supporting scenic landscapes and environments. For instance, in the case of walled villages, the outer walls, street patterns, water channels, street signs and public amenities cannot be collectively protected. <sup>166</sup>
<b>Intangible Assets</b>	The Antiquities and Monuments Ordinance does not provide for the protection of cultural heritage in intangible (non-physical) forms, such as customs, festivals, beliefs, rituals, trade crafts and music etc.

<sup>163</sup> As outlined in Section 2 of the Antiquities and Monuments Ordinance: “antiquity” means (a) a relic; and (b) a place, building, site or structure erected, formed or built by human agency before the year 1800 and the ruins or remains of any such place, building, site or structure, whether or not the same has been modified, added to or restored after the year 1799.

<sup>164</sup> As outlined in Section 2 of the Antiquities and Monuments Ordinance: “monument” means a place, building, site or structure which is declared to be a monument, historical building or archaeological or palaeontological site or structure under section 3.

<sup>165</sup> Conservation principals involve the consideration of the philosophy, terminology, methodology and techniques of cultural heritage conservation.

<sup>166</sup> Although group heritage value recognition is notably absent in the Antiquities and Monuments Ordinance, the AAB recently graded Tai Long Wan village as a whole. The AAB gave the highest grading to the village based on the group value of the village houses.

<b>Natural Environment And Zones</b>	The Antiquities and Monuments Ordinance is not able to properly protect areas that combine natural landscapes with heritage sites of historic local villages, such as Sha Lo Tung and Tai Long Wan. The Antiquities and Monuments Ordinance also lacks the power to create heritage zones around declared monuments to restrain development within the zone. Furthermore, there is no ability to control non-conforming developments that may threaten nearby declared monuments.
<b>Private Owners Approval</b>	Private owners have the right to petition the Chief Executive against the protection of a monument or a proposed monument. This has led to the AMO adopting a policy of gaining the prior approval of private owners before declaring or proposing to declare a monument. As a result, very few privately owned heritage assets are protected. Most monuments declared to date were already owned by the government prior to their declaration.
<b>Compliance with other Ordinances</b>	Even after a heritage site is declared, it is still affected by all of Hong Kong's planning and construction ordinances. For instance, in the case of a walled village, the declaration is usually restricted to the wall and its complementary structures such as watchtowers and gates. The space within the wall comes under the jurisdiction of other governmental bodies, including the Planning and Lands Bureau (PLB) and the Lands Department's Small House Policy. These bodies often do not share the heritage conservation objectives stated in the Antiquities and Monuments Ordinance.

## **B. Town Planning Ordinance**

<b>Zoning Categories</b>	<p>There are no existing statutory zoning categories that specifically provide for the protection of cultural heritage areas or structures. While existing zones such as Sites of Specific Scientific Interest theoretically<sup>167</sup> protect areas of fauna and flora and other natural features with special scientific value, the existing legislation does not protect areas or assets of high cultural heritage value. Furthermore, the existing system does not protect areas of high cultural value that are located under areas zoned for non-conservation purposes. For instance, walled villages that are included in zones designated for agriculture or development cannot be individually protected. Similarly, village or residential zones may include heritage streets and neighbourhoods that cannot be protected.</p> <p>A review undertaken by the Conservancy Association<sup>168</sup> suggested that land use categories such as "sites of significant historical value," "sites of significant rural character" and "sites of significant cultural value" could be</p>
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<sup>167</sup> Protection is theoretical in that there is currently no management of such areas. Furthermore, Sites of Special Scientific Interest that are not identified or included in an Outline Zoning Plan have no real protection. However, even if an area is identified in a statutory plan, the only recourse for unauthorized land usage is enforcement of the Town Planning Ordinance which only allows for a response to an unauthorized development. See, Mary Felley, *A Biodiversity Conservation Policy and Legal Framework for Hong Kong*, (Centre of Urban Planning and Environmental Management, University of Hong Kong; MSc Thesis 1996).

<sup>168</sup> See, "Achieving Conservation – A Positive Conservation Policy for Hong Kong." The Conservancy Association – August 2000.

incorporated into the town planning framework to allow for the identification and protection of individual sites or extended areas of cultural heritage importance.

<b>Public Purpose</b>	As heritage conservation is not considered to be of “public interest” or for a “public purpose,” the existing rules available to the TPB relating to land resumption <sup>169</sup> and compensation are not applicable. <sup>170</sup>
<b>Identification of Cultural Heritage</b>	Although the HKPSG provides guidelines for cultural heritage considerations, there is no clear mechanism for the systematic identification and review of cultural heritage assets within the planning system. Perhaps a simple legislative mechanism (which could be administered through the TPB) forcing developers to obtain a licence before any pre-1950’ s building can be demolished could act as a form of control.
<b>Town Planning Bill</b>	An amended Town Planning Bill has been proposed for some years to overhaul and modernise the planning system, make it more transparent, enhance public participation in the planning process and improve enforcement powers. However, this still is several years away from enactment. Such complicated legislation should be presented for review at the beginning of the next Legislative Council election cycle in order to provide enough time to fully review the bill.

### **C. Environmental Impact Assessment Ordinance**

<b>Heritage Definition</b>	The EIAO does provide for heritage impact assessment. However, “heritage” is not defined precisely so the application of the EIAO is a matter of administrative judgment. As a result, the EPD is unwilling to take responsibility for judgment over heritage value and relies almost entirely on heritage that has been declared under the Antiquities and Monuments Ordinance. This means that only declared assets have heritage value. One solution to this would be for EPD to rely on the combined advice of the AMO and the Antiquities and Monuments Ordinance.
<b>Absolute Authority</b>	There is no absolute guard against destruction of sites that are unique. For instance, archaeological sites at Penny’ s Bay will be destroyed as a result of the development of the Walt Disney theme park.
<b>Scope of EIAO</b>	The EIAO does not apply to housing projects, often the main cause of loss of heritage sites in urban areas.

### **D. Urban Renewal Authority Ordinance**

<b>Mechanism</b>	There is no stated mechanism for the identification and preservation of heritage sites. <sup>171</sup>
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<sup>169</sup> See, Lands Resumption Ordinance (Cap. 124) Section 3 “Whenever the Chief Executive in Council decides that the resumption of any land is required for a public purpose, the Chief Executive may order the resumption thereof under this Ordinance.”

<sup>170</sup> See, SCMP article by Nicholas Brooke, “Urban Renewal Stalls as Thinking Caps Cool,” 14 November 2001.

<b>Timing of Conservation</b>	Heritage conservation proposals are only included in the URA's agenda if and when the areas where they are located are incorporated into a proposed urban renewal project. In the interim, sites which require conservation remain open to development proposals and do not receive proper and preventative maintenance.
<b>Competing Objectives</b>	The URA will need to find a balance between upgrading current building conditions and retaining their character.
<b>Economic Viability</b>	Although "prudent commercial principles" are no longer a statutory requirement of the URA in relation to its proposed urban renewal strategy, as it was with the LDC, there is still pressure to ensure that proposed strategies are "economically viable." <sup>172</sup>

#### **1.43 Deficiencies in the Administrative Framework**

##### **A. AMO and AAB**

<b>Inter-Departmental Cooperation</b>	As can be shown in Figure 2 in Section 1.22, the AMO is a relatively low level body within the organization of the government. As a result, the AMO lacks the power to lead and influence other departments in the government bureaucracy.
<b>AAB Authority</b>	Although the Antiquities Authority must consult the AAB on matters of antiquities under statutory provision, there is no assurance that views and proposals of the AAB will be implemented.
<b>AMO Structure</b>	In order to be assured the efficient allocation of available resources, an audit of the structure and existing resource use of the AMO/AAB is necessary. This will be even more important after the Antiquities and Monuments Ordinance is revised to reflect necessary changes (as outlined above).
<b>Grading System:</b>	<p>Although the AMO has developed a system to grade potential monuments, this system is inadequate. There are a number of issues which could be improved in the current grading system, including:</p> <p><i>Monumental Quality:</i> The current grading system protects only monumental quality buildings (i.e. those which great architectural or historical significance). Therefore, the grassroots history of Hong Kong is not captured under current grading system. For instance, many of the tenement buildings which capture the typical working class neighbourhoods of the early 20<sup>th</sup> century have been demolished.</p> <p><i>Misuse of Grading Level:</i> There are many misunderstandings with the current grading descriptions. Although the current grading levels are widely recognized by other government departments, developers and the</p>

<sup>171</sup> Concerns raised by the Hong Kong Institute of Architects and Hong Kong University as noted in the Bills Committee on Urban Renewal Authority Bill "Summary of Major Concerns/Views Raised by Deputations and in Submissions on the Urban Renewal Authority Bill" (Position as of 15 April 2000).

<sup>172</sup> Comments made by URA representatives.

community, there is a lack of understanding and consequently a lack of consistent treatment by the various users. Different stakeholders have made their own interpretations of the AMO grading structure leading to misuse of the existing grading structure. For instance, stakeholders often consider that only grade 1 buildings are intended to be ‘declared’ while grade 3 buildings can be demolished. The AMO emphasizes that this is incorrect. Grade 3 means that the building or site deserves to be protected but is not necessarily a priority to be ‘declared’ in its present physical condition.

#### **Inventory of Heritage**

*Inventory Definition:* The 1997 Historical Buildings survey mainly identified pre-1950s buildings, along with a few other notable buildings. By focusing on pre-1950s buildings, the inventory ignores the importance of post-1950’s buildings which form a crucial part of the history of Hong Kong. For instance, buildings such as early 1960s public housing estates are “microcosm(s) of Hong Kong history since the 1960s.”<sup>173</sup> Other buildings, such as the Bank of China building, form a critical part of the urban fabric of Hong Kong, yet they are not accredited for their heritage value under the existing inventory system.

*Computerised Inventory:* Although the AMO undertook a territory-wide survey of all historical buildings in 1997, the necessary computerized recording of this inventory is not yet complete.

*Regular Review:* There is no regular review mechanism in place to ensure the continual updating of the database. The database should include: details of buildings already on the list, identification of buildings that have been demolished (and reasons why) and listings of any new buildings identified since the survey. Even by the survey definition, buildings built before 1955 should be included in the inventory because it is five years since the survey was completed.

#### **Resources**

Of the 9,000 sites of historical interest identified in the 1997 survey, there are currently over 500 structures that are being considered by the AMO/AAB for declaration. However, the process of declaration is slow and only 3 structures were declared in 2000. Indeed, most of the 9,000 structures have not yet been graded and will likely be demolished before they are even reviewed by the AMO/AAB. This backlog of sites and structures which may be worthy of conservation efforts is largely as a result of the lack of resources available to the AAB/AMO including manpower, expertise and funds available for maintenance and acquisition of privately-owned heritage sites.

### **B. Government Property Agent**

**Public Use** Any declared government-owned building must be used for public purpose regardless of its former use or most suitable continuing use.

### **C. Architectural Services Department**

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<sup>173</sup> See SCMP 28 January 2002, “Residents Gather Their Memories of Life in Condemned Housing Estate.”

<b>Maintenance of Vacant Buildings</b>	Government-owned heritage buildings are only actively maintained by the ASD when they are occupied. Unoccupied heritage buildings (such as the old mental hospital in Western District) often suffer from structural neglect. This leads to the destruction of heritage features and the inability to use heritage buildings for any viable purpose.
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#### **D. Lands Department – Small House Policy**

<b>Heritage Considerations</b>	The current policy allows indigenous village land owners to develop their land regardless of historic or cultural value. The failure of this policy rests in the interpretation undertaken by villagers who utilized this policy to build modern residential dwellings that bore no resemblance to traditional village housing or to the surrounding agricultural land
<b>Exemption from Buildings Ordinance</b>	A New Territories building is exempt from the Buildings Ordinance (Cap. 123) if it meets certain criteria relating to the dimensions of the building. <sup>174</sup> As a result, these villages houses often pose sewerage, drainage and fire hazard problems because emergency vehicle access is not a requirement.
<b>Traditional Contexts</b>	In sanctioning the kinds of new construction or improvements on village-type structures made by landowners, a height limit of 25 feet and volume of no more than 700 square feet was stipulated in the SHP. However, this policy was interpreted by property owners and builders differently, who shaped the 700 square feet in form of extruded box, usually clad with shiny tiles. The result is a new form of residential vernacular, which bears no relationship and compatibility with traditional contexts. Many historic homes within walled villages continued to be demolished and replaced by these ad hoc new constructions. <sup>175</sup>
<b>Villager's Rights</b>	After an indigenous villager sells his land to other people (principally developers accumulating land), the villager still retains his right to build a house. Under normal circumstances, an owner has no claim on his land after he sells it. However, some indigenous villagers still claiming rights after selling their land, on the grounds that they have not executed their right to build a house. This happened in Sha Lo Tung where villagers sold their land to developers, but are still claiming compensation for the loss of their right to build a house.

#### **E. Culture and Heritage Commission (CHC)<sup>176</sup>**

<b>Definition of Cultural Heritage</b>	The Commission's definition of cultural heritage is not consistent with international best practice descriptions of "cultural significance," such as those outlined in The Burra Charter.
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<sup>174</sup> For further details see, "The Purchase of a Village House in the New Territories" produced by the Lands Department – September 1998, page 10.

<sup>175</sup> For further discussion of the effects of the SHP see Jeffrey Cody's article "Wai Not?: The Largely Unprotected Heritage of Hong Kong's Walled Villages," September, 2000.

<sup>176</sup> Concerns (as outlined in the table) in relation to the role and strategies of the CHC have been extracted from the summary of public responses to the CHC consultation paper, which can be accessed at:

[http://www.chc.org.hk/eng\\_consultation\\_papers2](http://www.chc.org.hk/eng_consultation_papers2) (accessed on 19 November 2001).

<b>Role of the Commission</b>	As the CHC is a non-statutory body with no executive power, there is a risk that it will become a "talking shop."
<b>Vision</b>	Cultural enhancement and the strengthening of social cohesion are long-term goals, only achievable over a long time.
<b>People Oriented</b>	In relation to the people orientated strategy outlined by the CHC, some suggest that the "inclination towards short-term interests and utilitarianism" as mentioned in the Consultation Paper is the prevailing social ethos in Hong Kong, which is difficult to change (or should not be changed).
<b>Pluralism</b>	In relation to building a "cultural environment that is grounded in Chinese culture but pluralistic and open to the world," <sup>177</sup> some say that Chinese culture was given too little emphasis in the past, and this should be rectified. On the other hand, some caution that putting too much emphasis on Chinese culture will jeopardise Hong Kong's reputation as an open and culturally pluralistic city.
<b>Holistic Approach</b>	In outlining the areas that influence cultural heritage development (also the areas in which the government should take cultural development as an important consideration in formulating policies and enacting legislation), the CHC consultation paper mentions education, urban planning, tourism, creative industries, and trade and economic development. However, the media was omitted.
<b>Partnership</b>	In response to the strategy that the "government must allocate adequate resources on culture, encourage community participation and establish partnership among the Government, the business community and the cultural sector," <sup>178</sup> some point out that the Commission should put more emphasis on the significance of the business sectors and district bodies, particularly the District Councils, as partners.
<b>Community Driven</b>	The CHC says that "in the long run, non-government organisations should take the lead in cultural development and the government should gradually reduce its direct involvement and management in cultural facilities and activities." <sup>179</sup> However, a considerable number of respondents caution that the private sector may not be ready to take the lead yet. If the private sector assumes a leading role, problems such as conflict of interests and mismatch of resources may arise. Some also caution that market forces may dominate in a complete private sector-led scenario. There is also concern that this emphasis on NGO activism may be a pretext for the government to cut subsidies.

#### **1.44 DEFICIENCIES IN THE TOURISM BODIES**

##### **A. Tourism Commission**

<sup>177</sup> CHC consultation paper, which can be accessed at:  
[http://www.chc.org.hk/eng\\_consultation\\_comments.html](http://www.chc.org.hk/eng_consultation_comments.html)

<sup>178</sup> Ibid.

<sup>179</sup> Ibid.



<b>Heritage Tourism Management System</b>	There is a need for an integrated management system to ensure the long-term growth of heritage tourism and the protection of the tourist related heritage assets. Existing heritage sites are not being managed in a way that makes them attractive to tourists. For instance, tourists are unable to fully appreciate the heritage value of the Victoria Barracks buildings because they are inaccessible. One is being used as an orphanage and the other is a hospital.
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<b>Principles and Guidelines</b>	There is a need for the development of principles and guidelines to outline best practices for individual tourist operators. Adoption of principles in ICOMOS International Charters such as those outlined in the “International Charter of Cultural Tourism (1999)” could act as a point of reference.
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**B. Hong Kong Tourist Board**

<b>Involvement In Heritage</b>	Although culture and heritage is being promoted by the HKTb as a tourist feature, the HKTb is not involved in the protection and maintenance of heritage sites.
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<b>Utilisation of Heritage</b>	The HKTb generally does not review or monitor usage and popularity of heritage sites. As a result, there is very little information available on utilization (and resulting “value”) of heritage sites by the Hong Kong public and tourists.
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<b>Quality Control</b>	The HKTb has recently outsourced the management and facilitation of certain heritage tours to an industry tour company. This highlights concerns of quality control and concern for the care and maintenance of heritage sites.
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<b>District Council Support</b>	There is a lack of District Council support for the implementation of HKTb heritage tourism promotions, particularly in the New Territories.
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**C. Heritage Tourism Task Force**

<b>Findings</b>	To date, there have been very few recommendations proposed by the task force, which critics have blamed on lack of leadership and lack of influence in the government bureaucracy. <sup>180</sup>
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<sup>180</sup> See, “All Talk but Little Action on ‘Vision’ for Heritage Tourism,” by Kevin Sinclair in the South China Morning Post, 5 September 2001.

## **PART II: ACHIEVING CONSERVATION**

### **2.1 RECOMMENDATIONS**

There is little doubt that the current legal and administrative heritage conservation structure inadequately serves heritage conservation requirements. Many of the changes that would help to strengthen conservation practice in Hong Kong have already been outlined implicitly in Part I. However, Part II introduces explicit recommendations for improvement. The recommendations should not be thought of as an exhaustive list, but rather should serve as a starting point.

While we have attempted to provide recommendations for practical and workable conservation strategies, we expect that some of the recommendations proposed in this section will be difficult to implement and will require the full backing of the Chief Executive and government. Other recommendations are more straightforward and should be possible to implement within the existing conservation framework. Accordingly, we have first outlined recommendations which would require changes to the structure of the existing heritage conservation system, followed by a number of recommendations which focus on specific legislative and administrative constraints within the existing framework.

#### **2.11 OVERALL RECOMMENDATIONS**

There is no effective heritage management system in Hong Kong. All recommendations are made within the context of the need to create a heritage management system which clarifies the allocation of heritage conservation responsibilities such as long-term planning, strategy, facilitation, monitoring and day-to-day operations.

Recommendations which require changes to the structure of the existing heritage conservation system in order to formulate an effective heritage management system, include:

1. Creation of a dedicated, conservation authority with responsibility for nature and heritage conservation;
2. Establishment of a heritage conservation policy;
3. Creation of mechanisms to promote private sector participation in heritage conservation; and
4. Creation of initiatives to provide for and encourage general public involvement in heritage conservation.

These recommendations are discussed in further detail below.

##### **A. Creation of a Dedicated Conservation Authority**

There clearly needs to be an authority dedicated to all forms of conservation at the highest decision making level, such as the policy or bureau level. This will ensure that heritage conservation principles are understood and applied consistently by all relevant departments within government. This will also serve as a clear message about the value placed on heritage by decision making authorities.

While the HAB strives to administer existing heritage conservation efforts, it fails to display the necessary leadership and direction required for the comprehensive protection of heritage assets. This may largely be due to the extensive policy responsibilities of the HAB, which include human rights, youth development, gambling, religion and sport. A more focused bureau is required to deal with conservation issues. Furthermore, as many issues facing the conservation of natural heritage appear similar to those facing cultural heritage, it may be effective to combine these efforts under one bureau head.<sup>181</sup>

Considerations in creating a dedicated conservation authority may include:

- Consideration of the most effective form of conservation authority, including considerations of the creation of ministerial positions, advisory committees or statutorily backed authorities;
- Consideration of the merits of amalgamating heritage conservation and natural conservation under one policy head;
- A review of each government department's working practices and their impact on heritage conservation;
- Establishment of regular inter-bureau and inter-departmental meetings aimed at coordinating matters of heritage conservation; and
- Creation of funding sources that are not linked to the political will of the government, such as a Conservation Trust Fund.

## **B. Establish a Long Term Heritage Conservation Policy**

There is currently no stated government cultural heritage conservation policy.<sup>182</sup> The lack of coordination between bureaus and departments is heightened by the absence of a conservation policy.

Considerations in creating a long-term heritage conservation policy may include:

- Definitions of Hong Kong's heritage conservation principles and values, perhaps through the endorsement of ICOMOS;
- Protection of all facets of cultural heritage, not only structures and monuments;
- The creation of a Master Conservation Plan establishing guiding criteria and prioritisation as well as the development of strategies to alleviate threats to conservation and benchmarks to measure progress;<sup>183</sup>
- The creation of appropriate legislative backing to support the policy; and
- Re-definition of "public purpose" to include conservation objectives.

## **C. Mechanisms to Promote Private Sector Participation in Heritage Conservation**

<sup>181</sup> For a full discussion on the issues constraining natural conservation efforts in Hong Kong, see Civic Exchange's research report "Creating Opportunities: Saving Hong Kong's Natural Heritage," the first paper in this series.

<sup>182</sup> The HAB is currently reviewing cultural heritage conservation issues within Hong Kong. The review is expected to be released for public comment during 2002. However, it is not clear what the scope of the HAB review is and whether the review will result in the adoption of a cultural heritage conservation policy for Hong Kong.

<sup>183</sup> For discussion on the planning process for nature conservation, see William Weeks, *Beyond the Ark: Tools for an Ecosystem Approach to Conservation*, Island Press, Washington D.C., 1997.

In Hong Kong, economics are a paramount driving force. Land owners' desire to maximize returns on their properties and government land policies aimed at maintaining high property values create a high opportunity cost for conservation. Effective conservation strategies need to recognize existing economic forces in order to develop tools that promote sensitive land development and protection of heritage assets. Existing legislation and administration does not encourage private sector participation in the heritage conservation process. This could be remedied, at least partially, with the development of mechanisms to provide financial incentives for private land owners to conserve heritage.

Potential mechanisms include:<sup>184</sup>

**1. *Transfer of plot ratios (i.e. Transfer of Development Rights)***

The Planning and Lands Bureau recently proposed a Transfer of Development Rights scheme with the aim that "owners of historical buildings of value will be able to keep their existing buildings and use or sell the unused development rights as they see fit."<sup>185</sup> At present, "transfer" of development rights or permissible gross floor area is only allowed between different parts of the same development site. This method should actually be more accurately referred to as clustering of gross floor area.

The options of plot ratio/ transfer of development rights being explored include:

- a. amalgamating an owner's development rights from a group of associated but non-adjacent parcels into one larger site of the same land use category and in the same statutory town plan;\*
- b. amalgamating an owner's development rights from contiguous sites (i.e. those sharing common borders) into one larger site of the same land use category and in the same statutory town plan;\* forming a Comprehensive Development Area;
- c. surrendering ownership of a constellation of sites to the government and then having the government re-grant ownership for a new, larger parcel with more development rights (usually within the same district).

*\* In exceptional cases, the unused development rights could also be transferred to a contiguous Outline Zoning Plan.*

**2. *Granting of further plot ratio in exchange for the creation of public amenities or the conservation of heritage sites.***

For instance, in 1994/1995 Hutchison Whampoa purchased the old Hilton Hotel site in Central. It also requested that the government sell two other sites adjacent to this site (Beaconsfield House and a car park) for redevelopment of a 60-story tower. Two Grade I buildings were affected by this project: St. John's Cathedral (1849-72) and the former French Mission Building (1874-1915, now Hong Kong's Court of Final Appeal). The TPB agreed to grant a higher plot ratio for Cheung Kong in exchange for providing a public park

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<sup>184</sup> For further discussion of alternative mechanisms to compensate private land owners, see "Transfer of Development Rights as an Incentive for Historic Preservation: the Hong Kong Case," by Jeffrey W. Cody, Associate Professor, Department of Architecture, the Chinese University of Hong Kong.

<sup>185</sup> For further information on the government's recent exploration of Transfer of Development rights, see the speech of the Secretary of Planning and Lands, Mr. John C Tsang, at the annual general meeting of the Hong Kong Institute of Architects (18 December 2001) "Transfer of Development Rights for the Preservation of Historical Buildings in Hong Kong."

at ground level and for paying maintenance costs for St. John's and the Court of Final Appeal, both of which are declared monuments under the Antiquities and Monuments Ordinance.<sup>186</sup> In the TPB's view, opening up views of St. John's and the former French Mission Building from Queens Road Central was also a positive benefit to the public.

### **3. *Land Swaps***

Land swaps involve the swapping of land proposed for development, but which have a high conservation value for land with a high development value. To some extent, land swaps for heritage conservation have already occurred. A developer secured additional redevelopment area at its Tiger Balm Gardens residential development (in exchange for the conservation of Haw Par Mansion and its private garden) by applying for a land exchange to combine neighbouring developable government land in its project.

### **4. *Tradable development rights***

Tradable development rights might take the form of tradable certificates, such as the Letter A/B system, used in Hong Kong the early 1960s.<sup>187</sup>

### **5. *Reduction of land premium payable to the government in return for the preservation of heritage sites.***

In one example, a developer obtained a concession in land premium in a deal with the government by surrendering the Haw Par Mansion and its private garden, part of the Tiger Balm Gardens. The 66 year old mansion and the private garden were preserved and declared a monument under the AMO.

### **6. *Contracts for the preservation and maintenance of heritage sites in return for development rights on adjacent sites.***

This is effectively a variation of the transfer of development rights as discussed above.

In the instance of Pun UK, near Yuen Long New Town in the New Territories, the developer retained Pun UK and mitigated against damage to the historic property in exchange for the right to develop a certain number of units on an adjoining parcel of land (1994). In a similar intervention in 1994, a developer proposed building two 30 storey residential blocks adjacent to two historic sites: Hop Yat Church and the former London Mission Building. After a number of proposals, which included the demolition of the London Mission Building, the TPB called for the renovation of the London Mission structure, which "not only saves the historical building from demolition but also allows the retention of more trees."

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<sup>186</sup> See, "Cheung Kong's Soothing Deal," [www.scmp.com/ZZZKAL8YHPC.html](http://www.scmp.com/ZZZKAL8YHPC.html), 25 July 2001, site accessed 17 September 2001.

<sup>187</sup> The Letter B system was a mechanism for land resumption initiated by the government in 1960 (restricted for use only in the New Territories and allowed to expire in 1997. For further discussions of the Letters A/B system see Civic Exchange's research report "Creating Opportunities: Saving Hong Kong's Natural Heritage", the first paper in this series.

## **7. *Extension of land resumption to cover heritage sites.***

By including heritage conservation as a “public purpose,” the government may resume land for conservation purposes. Compensation for the land would be in accordance with compensation stipulated by the Lands Resumption Ordinance (Cap. 124). The Tourism Strategy Sub-Group on “Heritage and Culture,” concluded that “the simple approach of resumption with cash compensation was preferred to various means of non-cash compensation including land exchange and transfer of plot ratio in most cases.”<sup>188</sup>

## **8. *Conservation easements in return for cash compensation.***

A less heavy-handed approach than land resumption is a conservation easement. A conservation easement is a voluntary agreement between a private conservation trust or government agency and a land owner, which permanently restricts the redevelopment rights of land in return for cash compensation.<sup>189</sup> Requirements to maintain specific heritage features can be included in such agreements. Although this approach has been successful internationally, the particular nature of Hong Kong’s property system, the generally high land values, and the absence of large-scale private conservation bodies means that the government would have to take a leading role in making conservation easements practical.

## **D. Initiatives to encourage general public involvement in heritage conservation**

There is a two-fold problem in relation to general public involvement in heritage conservation. The first is the lack of public grassroots support of heritage conservation and the second is the absence of an avenue for the general public to be involved in the government’s decision making processes. These problems feed on each other as a lack of ability to actively participate leads to lethargy and a general lack of awareness and support. Conversely, a lack of awareness and support results in a lack of pressure to become involved in decision making. Although the government has increasingly conducted consultation exercises to stimulate public comment and debate, this falls short of genuine public involvement in the development of policies, as public consultation rarely results in radical change of the government’s initial position.

Considerations in providing for increased general public involvement in heritage conservation may include:

- The incorporation of a consensus building processes that engages the public in the formulation of policies and decision making;
- Enhanced education on heritage conservation values and objectives;
- Promotion of community effort and support. For instance the initiation of community awareness projects could help identify areas within communities that are in need of protection.<sup>190</sup>

<sup>188</sup> See Tourism Strategy Group meeting minutes of 31 August 2000 at [http://www.info.gov.hk/tc/tourism\\_sg/index3.htm](http://www.info.gov.hk/tc/tourism_sg/index3.htm) (accessed 22 November 2001).

<sup>189</sup> For further discussions of conservation easements see Civic Exchange’s research report “Creating Opportunities: Saving Hong Kong’s Natural Heritage,” the first paper in this series.

<sup>190</sup> For example, in an effort to improve grassroots involvement, the Canadian government set up committees at the village/town level in the 1980s. These committees, which were made up of people of all ages, ethnic and socio-economic backgrounds, were given limited funding and asked to think about

- Review and recognition of the individual needs and values of different district localities, including an understanding of the existing community efforts in heritage conservation. For instance, certain districts within Hong Kong have integrated oral history programs into the programs of local museums. These initiatives illustrate the importance of living history as opposed to structural history.
- The involvement of voluntary or charitable organizations and other non-governmental bodies connected with preservation. These may have a significant role in raising public consciousness and in educating the public on conservation issues.

## **2.12 LEGAL AND ADMINISTRATIVE RECOMMENDATIONS**

As discussed in section 1.4, there are problems with every ordinance and administrative body. However, the following are the most significant recommendations:

1. Extension of heritage protection to incorporate all building types, areas and districts, intangible assets and the surrounding environment (see Antiquities and Monuments Ordinance, section 1.42);
2. Revision of current grading system to ensure a consistent understanding of the grading system and to include more than just monumental quality heritage assets (see Antiquities and Monuments Ordinance, section 1.42);
3. Increased resources to reduce the backlog of sites under consideration for protection;
4. Inclusion of zoning categories which specifically provide for the protection of heritage assets (see TPO, section 1.42);
5. Inclusion of cultural heritage as a “public purpose” (see TPO, section 1.42);
6. Mechanism for identification of cultural heritage sites in town planning process (see TPO, Section 2.42);
7. Extension of the EIAO to include housing projects (see EIAO, section 1.42);
8. Provision for active maintenance of vacant buildings and sites (see ASD, section 1.43);
9. Inclusion of heritage considerations in the New Territories Small House Policy (see SHP, section 1.43); and
10. Development of a Tourism Management System and guidelines (See Tourism Commission, section 1.44).

Adoption of even a few of the legal and administrative modifications listed above would be a significant move towards heritage conservation in Hong Kong.

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what they valued in their community, including both tangible and non-tangible aspects. These efforts initiated stronger levels of community interest and generated community activities.

## PART III: CASE STUDIES

### 3.1 NGA TSIN WAI VILLAGE

#### 3.11 INTRODUCTION

Although not a “declared monument,” Nga Tsin Wai Village is important in the history of Hong Kong. Built in 1352 during the rise of Ming Dynasty by Hakka immigrants, it is one of the oldest walled villages in the region and the last remaining in Hong Kong’s urban area.<sup>191</sup> Once a major agricultural centre of a large clan network, the walled village is closely related to the social, cultural and economical development of its surrounding region.<sup>192</sup>

Built according to a typical “wai” format, Nga Tsin Wai is a variation on a form of vernacular architecture in the Pearl River Delta where the “wai”, or wall, results from the need for protection and clan unity.<sup>193</sup> The fixed geometry of the “wai” not only serves a defensive function but helps to ensure the village can not grow beyond a sustainable level economically and administratively. In this way, walled cities represent the ecological, economic and social unit of traditional Chinese society. Walled cities are also an important link to the social history of pre-colonial Hong Kong, which generally receives little attention.

Once a prosperous village, Nga Tsin Wai has experienced a series of crises over the past century. With the opening of the Tai Po Road and the railway in the beginning of the century, many of the businesses closed. Starting in the 1920s, the city declined. Decline accelerated during the Japanese occupation when many fortifications were damaged. After the war, some original inhabitants moved out to find new jobs and many new immigrants from Mainland China moved in as tenants. After the demolition of Kowloon City, the surrounding area of Nga Tsin Wai was almost all redeveloped, leaving the village dwarfed by a sea of high-rises.

But despite this somewhat awkward contrast, the village still holds its original form and setting: the gate, the street layout and much of the wall still stands intact. Within the walls still stands a Tin Hau Temple, 650 years old, with a history of miraculous interventions by the deity.<sup>194</sup> Some original houses survive while others have either been demolished or redeveloped. In recent years, encroachment problems have intensified, with increasing number of squatter huts built adjacent to the wall, making the village invisible from outside.

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<sup>191</sup> See, “Battle for Priceless Village” in South China Morning Post, 13 June 1999.

<sup>192</sup> See, “Beside the Yamen: Nga Tsin Wai Village” by Patrick Hase in the Journal of the Hong Kong Branch of the Royal Asiatic Society, 2001.

<sup>193</sup> For details of the layout of Nga Tsin Wai Village, see “Nga Tsin Wai – The Last Urban Village” by Lin Li in HKIA Journal Issue No. 27, 1<sup>st</sup> Quarter 2001.

<sup>194</sup> See, “Beside the Yamen: Nga Tsin Wai Village” by Patrick Hase in the Journal of the Hong Kong Branch of the Royal Asiatic Society, 2001.



### 3.12 THREATS

#### Pressure to demolish

The most serious threat to Nga Tsin Wai is redevelopment. Starting in 1982, a property developer began to acquire individual properties within the village. The plan is to ultimately redevelop the entire site into a new high-rise residential complex, which would greatly raise the property value of the site.

Right now, about 50-60 percent of the houses have been acquired.<sup>195</sup> Earlier this year, the developer decided to demolish all the old houses it had acquired to date, presumably to make management easier and to increase pressure to speed up redevelopment.

#### Lack of Protection

In 1960, the government included all the remaining houses within Nga Tsin Wai's walls in its squatter survey. The survey gave each house the squatter survey number it still shows painted on its outer walls. In such a way, the ancient houses of Nga Tsin Wai were classified, ironically, as squatter structures subject to future demolishment.

Despite local politicians' and village elders' efforts to call for conservation of the ancient village, the Antiquities and Monuments Office decided in 1994 that the village possessed no "monumental quality," leaving it open to redevelopment.

#### Continuous Neglect

Like other walled villages in Hong Kong, there is no effective way to stop individual owners from rebuilding or demolishing their houses. Similarly, there is also no way to stop the encroachment of structures within and outside the wall. This leads to inevitable transformation of the village, leaving it with the appearance of a large squatter settlement.

In 1992, the former Land Development Corporation (LDC) conducted a study on the village and concluded that it was imperative to redevelop Nga Tsin Wai:

*"Nga Tsin Wai Village is the last remaining walled village in urban Hong Kong. Renewal of the area is imperative because existing living conditions in the village, which comprises one and two-storey stone structures, are far from satisfactory with inadequate sanitation facilities."*<sup>196</sup>

#### Lack of Coordination

Until six months ago, the government had not considered preserving Nga Tsin Wai. Recently, it had second thoughts. Preservation of Nga Tsin Wai is supported by the Hong Kong Tourist Board as well as many members of the Antiquities and Monument Advisory Board.<sup>197</sup> Despite this sudden show of concern, conservation efforts continue to be largely

<sup>195</sup> See, "Learning from Nga Tsin Wai: Deriving a Design Strategy for Preservation in Hong Kong" – Project for Culture III: Materializing Culture, MA in Design, Hong Kong Polytechnic University, 2000

<sup>196</sup> Quote from record of Land Development Corporation (Ref: X:\PRD\WILLA\CR-Enquiry\000425-K01.doc), 25 April 2000.

<sup>197</sup> See, South China Morning Post editorial "Preserving the Past," 13 June 1999.

uncoordinated. According to the original plan of the LDC, the site is scheduled to be demolished by 2004.

### **3.13 IMPACTS**

#### **Cultural Significance of Nga Tsin Wai**

Although not strictly a monument, Nga Tsin Wai Village provides an understanding of the grassroots history of Hong Kong, which has been generally ignored. Nga Tsin Wai's "typicalness" and "ordinariness," contrary to the common understanding of what is worth preservation, is exactly why it possesses heritage value.<sup>198</sup> Embedded within the ancient village are not only physical structures, but tremendous intangible assets that embody associations and relations with the past and are not possible to re-create.

As one of the few remaining points of contact between pre-British Hong Kong and post-colonial era, Nga Tsin Wai Village marks the transformation from past to present. Its conservation could ultimately play an important role in strengthening Hong Kong identity and developing a greater awareness of and interest in Hong Kong's history and Chinese culture.<sup>199</sup>

#### **Diversity in Urban Context**

For a city so bereft of historical buildings, there is also a value to having a more diverse urban landscape. If Nga Tsin Wai is redeveloped into a high-rise complex, there will be no differentiation between this once historic area and any of the other apartment blocks in the area. A monoculture of city spaces not only erases any trace of history, but detracts from the liveability of the city.

#### **Potential for Heritage Tourism**

A large percentage of local and foreign tourists have interest in heritage sites, or at least are interested in a range and mix of tourism options. It is easy to build modern attractions, such as shopping areas and amusement parks, but heritage sites are impossible to "build" once lost. Destroying Nga Tsin Wai is an irrevocable decision that eliminates what could become an important factor in the tourism industry.<sup>200</sup>

### **3.14 APPLICATION OF RECOMMENDATIONS**

Given Nga Tsin Wai's considerable heritage value, it is tragic that it is on the verge of erasure. If the recommendations described in Part II were already in place, it is unlikely that the situation would have deteriorated to this point. The case of Nga Tsin Wai Village illustrates two key problem areas: Without considerable political will, there is essentially no way to protect a diffuse but important site, like a village. In addition, there are no established mechanisms to compensate owners and investors for any development shortfall that may result from conservation efforts.

<sup>198</sup> See, South China Morning Post article "Battle for Priceless Village," 13 June 1999.

<sup>199</sup> Comments made by Dr. Patrick Hase in interview with Civic Exchange in October 2001.

<sup>200</sup> See, South China Morning Post article "Japanese Urge Tung to Preserve SAR's Heritage," 10 August 2001. A Japanese travel association that brings a million visitors to Hong Kong specifically requested that the government overrule the decision to pull down Nga Tsin Wai Village, a unique cultural heritage site in the eyes of Japanese tourists.

The recommendations presented in Part II would address the situation in Nga Tsin Wai in the following ways:

- A dedicated conservation authority would have the power and mandate to organize the disparate voices discussing the village's heritage value.
- A long-term heritage conservation policy would provide the guiding principles for the conservation authority to make decisions about the role of the village in Hong Kong's future and to balance competing interests and goals.
- The outlined mechanisms would provide financial incentives for private sector participation in the conservation process and reduce pressure for development by giving villagers other economically attractive options besides selling out.
- Initiatives to encourage public involvement in heritage would allow a stronger community voice in determining the heritage value of the village. This "third voice" would balance the perspectives of developers and the government.
- The legal and administrative recommendations listed would provide significantly more points of leverage for the government and community groups to influence the fate of Nga Tsin Wai. Particularly significant in this regard would be suggestions 1 (extension of Antiquities and Monuments Ordinance protection to incorporate areas and districts), 2 (revision of current Antiquities and Monuments Ordinance grading scheme) and 9 (inclusion of heritage considerations in the New Territories Small House Policy).

However, given Nga Tsin Wai's precarious position, it is also relevant to consider what can be done in the immediate future to preserve the village. Three options are noted below:

- One option proposed by the former Land Development Corporation and the developer of the site is to retain the gate of the wall and the Tin Hau Temple alone.<sup>201</sup> Although this seems better than complete destruction, it clearly fails to conserve any meaningful portion of Nga Tsin Wai's character or ambience. The result would be another isolated relic disconnected from its context.
- A second option put forward by the village elders and local politicians is to simply restore the village with the possibility of turning it into some kind of museum.<sup>202</sup> The problem with this option, as with many other existing heritage sites in Hong Kong, is that the proposed new use is not in line with the original character of the place and will fail to enhance and protect its heritage value. Without a clear vision of an economically viable future, the preservation of the site will only result in stagnation and isolation.

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<sup>201</sup> This proposal was documented in the former LDC pamphlet (April 2000). The same pamphlet pictured the ancient Tin Hau Temple of Nga Tsin Wai sandwiched between two high-rise residential towers.

<sup>202</sup> This proposal was introduced by Mr. Leung Sik Lun of the East Kowloon District Residents' Committee in an interview with students from the Hong Kong Polytechnic University on a research project on Hong Kong's cultural heritage (April 2000).

- A third option would involve preserving the village with a comprehensive plan that will allow for some changes in the uses of the site to allow it to become economically viable. It may make sense for the remaining authentic features to be preserved and for some features to be restored or reconstructed if needed (the site has been significantly transformed and damaged in its more recent history). A small museum could be constructed in part of the village area and act as a cornerstone for developing cultural tourism, including heritage trails around the village.<sup>203</sup> Another part of the village could be used as a youth hostel, which would generate income for the project and bring more tourists into the area. The remaining half of the area could be retained for commercial use with the possibility of promoting it as a “historic products and food” area. This would allow for viable but diverse business activities which would attract both local and foreign visitors. With the involvement of the villagers, an authority could be established to oversee the preservation and development process.

In this case, the developer would clearly need to be compensated. The most appropriate mechanisms would be either a transfer of plot ratios or a land swap. The conservation easement approach might be best suited to dealing with the holdings of the remaining villagers. It would allow the villagers to retain ownership rights and be financially compensated while protecting the conservation features of the area. By retaining the presence and involvement of the local residents, non-physical components of the area’s heritage, such as local festivals, customs and community bonds, can be partially retained. With input from the villagers, conservation experts, the government, entrepreneurs and tourism groups and operators, Nga Tsin Wai has the potential to become a unique multi-use heritage zone, enjoyed by tourists and Hong Kong people alike.

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<sup>203</sup> This proposal was suggested by an anonymous government official who expressed an interest in the conservation of Nga Tsin Wai Village.

## **3.2 YAUMATEI DISTRICT**

### **3.21 INTRODUCTION**

One of Hong Kong's oldest urban districts, Yaumatei has historically been characterized by its diverse and varied makeup. It is at once metropolitan and suburban, industrial, commercial and residential, seafaring and land-based. This juxtaposition of diverse elements reflects the profound transformations at the core of the history and culture of the Kowloon Peninsula.<sup>204</sup>

Originally a narrow anchorage used by fisherman, Yaumatei grew to become a prosperous market town in the late 19<sup>th</sup> century. In 1904, the government reclaimed a large piece of land in the coastal area and created a typhoon shelter for the boat people. As Hong Kong began its rapid expansion in the early 1900s, Yaumatai was incorporated into the city and became one of the busiest residential and commercial districts. Rows of shop-houses and tenement buildings sprang up. The area soon became the centre of entertainment in Kowloon, with plenty of cinemas, theatres, and bustling street performances. It was also in this period that it adopted the name “the poor men's nightclub,” which is still widely used today.

Primarily a working class district, Yaumatei's built structures resemble an old, typical urban street block pattern in early Hong Kong. The pattern bears Anglo-Chinese influences and is not uniform. Characteristic features, such as clustering of businesses engaged in related trades, demonstrates the traditions and human richness of the area. The traditional and newer business clusters continue to display a symbiotic relationship that is unusual in the standardized commercial areas of modern Hong Kong. Perhaps because of this historical tradition, the Yaumatei district still retains many street activities, such as the popular Cantonese opera which relies on the interactive relationship between performers, audience and the immediate physical context.

Unfortunately, Yaumatei's richness is under threat, partially because few of its buildings possess “monumental qualities.” But it is exactly this “typicalness” and “ordinariness” that grants the area its heritage value, for it embodies the social-cultural heritage of Hong Kong's grassroots population.

### **3.22 THREATS**

#### **The Rebuilding Process**

High property values have constantly presented opportunities for owners to redevelop properties. However, rebuilding can negatively affect traditional business tenants. Redevelopment deprives tenants of their business premises for the period of building work and also results in the construction of properties which are usually much more expensive to rent than the original.

Due to this rise in rents, tenants do not usually return to the same address after rebuilding. If the business owner is elderly, he/she often decides to exit the business. Business clusters are under constant pressure of this kind, but the natural synergy of the cluster and the fact that

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<sup>204</sup> See, “Yaumatei and Old Kowloon” in *Street Studies in Hong Kong: Localities in a Chinese City* by Frank Leeming, Oxford University Press, 1977.

rebuilding is usually done on an individual property basis allows some traditional clusters to persist.

### **Lack of Maintenance of Old Buildings**

Most old buildings, especially tenement buildings, suffer from a lack of maintenance. This accelerates the rate by which buildings becoming dilapidated and primed for redevelopment.

### **Urban Renewal and Redevelopment**

Conservation has not generally been considered in urban renewal projects in the past. For example, the area bounded by Tung Kun Street, Reclamation Street, Ching Ping Street and Public Square Street (now known as Prosperous Garden), was completely bulldozed in 1995 for redevelopment under the former Land Development Corporation (LDC).<sup>205</sup> None of the old buildings nor street patterns were conserved and it is impossible to relate the new development to old Yaumatei.

Other areas in the Yaumatei district have also been identified by LDC for redevelopment in the near future. (The work is to be taken over by the newly established URA). Although for the first time “heritage preservation” was mentioned in the URA consultation paper<sup>206</sup> as a criteria in future urban renewal projects, no mechanisms have been put forward.

### **Multiple Ownership**

Many properties are owned by multiple owners. This complicates the process of conservation as owners may have disparate wishes. In many cases, the buildings are allowed to deteriorate until new construction seems like the only reasonable solution.

### **Lack of Awareness and Support**

Yaumatei is still primarily a working-class area, and people generally lack awareness of cultural heritage. Many people consider improved living conditions a priority and tend to respond positively to new development in the area without considering heritage loss.

## **3.23 IMPACTS**

### **Cultural Significance of Yaumatei**

Yaumatei represents a vital specimen of the unique Hong Kong city form that evolved through the rapid industrialization and population increases of the 20th century. It lacks “showcase” buildings, but is still recognizable as having a special link to the past. For Hong Kong to maintain living links to the story of its struggles and successes, areas such as Yaumatei need to retain their traditional character.

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<sup>205</sup> See, Case Study Report – “In the Heart of the Metropolis: Yau Ma Tei and its Cultural Heritage,” Urban Planning Workshop II: Cultural Heritage in the Urban Area “Good Practice,” University of Hong Kong.

<sup>206</sup> See, Section 16-18, Urban Renewal Strategy Consultation Paper by the Planning and Lands Bureau, July 2001.

## **Diversity in Urban Context**

Hong Kong's shopping and living experiences increasingly take place in large shopping centres and linked apartment block complexes. Yaumatei represents a more textured and human scale historical version of the Hong Kong way of life. It is increasingly recognized that having a variety of urban settings and spaces has significant value for enriching people's encounters with their city.

## **Component of Hong Kong's Heritage Tourism**

Some areas in Yaumatei are already established tourist destinations, most notably Temple Street and the jade market. Additionally, HKTB is also promoting Shanghai Street as a tourist walking area. If Yaumatei loses its remaining historical quality, there are few areas of Hong Kong that can replace it. Although tourists are not drawn to the area by any individual sight, many have enhanced trips to Hong Kong with time spent in the Yaumatei area.

### **3.24 APPLICATION OF RECOMMENDATIONS**

Yaumatei's distinctive ambience is in danger of being eroded by continuing redevelopment. It is already recognized as an area with heritage and tourism value, but current conservation practice lacks the scope to preserve its cultural value. As in the case of Nga Tsin Wai, there are two key problem areas. The first is that, aside from piecemeal championing at high levels of government, there is essentially no way to protect neighbourhoods that have significant heritage value, but lack monumental structures. The second issue is the lack of established mechanisms to compensate owners and investors for any development shortfall that may result from conservation efforts.

The recommendations presented in Part II would address the situation in Yaumatei in the following ways:

- A dedicated conservation authority would have the visibility and clout to organize disparate conservation efforts. To preserve Yaumatei's character, while also allowing it to modernize and be economically vital requires creative, integrated planning. A high-level conservation authority would be positioned to coordinate the private and public sector initiatives that would make this heritage area contribute best to Hong Kong's future.
- An overall heritage conservation policy for Hong Kong would provide a framework to make decisions about the preservation of neighbourhoods such as Yaumatei. A clear articulation of the overarching heritage vision would help guide long-term decisions.
- The outlined mechanisms to provide financial incentives for private sector participation in the conservation process would make the redevelopment of historical buildings and areas one of several options, rather than inevitable.
- Initiatives to provide for and encourage public involvement would allow a greater public role in determining the districts that should be conserved in Hong Kong. On a local level, community involvement would help to guide conservation planning in a way that would be sensitive to local feelings.

- The legal and administrative recommendations outlined on p89 would make it much easier to implement conservation measures in the Yaumatei area. Particularly important in this regard would be recommendations 1 (extension of Antiquities and Monuments Ordinance protection to incorporate areas and districts), 2 (revision of the current grading system) and 4 (inclusion of zoning categories that include specific conservation considerations).

There have been some efforts to conserve Yaumatei, but most focus on land use planning for the territory or on the architectural design of individual buildings. Recently, a number of buildings have been declared as heritage buildings, notably the Yaumatei Theatre, the Tin Hau Temple, the Old Yaumatei Post office and the Yaumatei Police Station.<sup>207</sup> Both the AAB and the TPB have initiated a number of proposals for a conservation programme including suggestions for the new usage of certain sites. Unfortunately, proposals are done in a piecemeal manner and remain unimplemented.

One suggestion which would remedy this tendency towards fragmented efforts would be to identify and designate a ‘Special Design Area’(SDA)<sup>208</sup> in the district. All developments that fall within an SDA area would require the submission of an urban design plan, a master layout plan, as well as a master landscape plan for the approval of the TPB in order to ensure the compatible neighbourhood use surrounding a building with special value (e.g. Waterloo Street/Yunnan Lane in Yaumatei were designated in this way in 1996). The SDA designation would aid heritage conservation by controlling the design and layout of surrounding environment.<sup>209</sup>

<sup>207</sup> See, Case Study Report – “In the Heart of the Metropolis: Yau Ma Tei and its Cultural Heritage”, Urban Planning Workshop II: Cultural Heritage in the Urban Area “Good Practice,” University of Hong Kong.

<sup>208</sup> The proposal of “SDA” was stated in the White Bill on Town Planning Ordinance in 1996 which implies that “any area of architectural, historical and special urban design interest” should be encouraged.

<sup>209</sup> See, Case Study Report – “In the Heart of the Metropolis: Yau Ma Tei and its Cultural Heritage,” Urban Planning Workshop II: Cultural Heritage in the Urban Area “Good Practice,” University of Hong Kong.



## CONCLUSION

The underlying tragedy of heritage conservation in Hong Kong is that, despite the involvement of large numbers of well-intentioned government and affiliated bodies, extraordinarily little has been achieved. Outside of a few showcase sites, which are largely government-owned, the destruction of Hong Kong's cultural heritage continues. The aim of this paper is to promote a broadened understanding of the scope of heritage conservation, a reappraisal of its importance, and to attempt to show some of the underlying causes for the difficulties that have hindered conservation efforts in Hong Kong for generations. We have also suggested recommendations that may help to reduce these difficulties.

There continues to be widespread misunderstanding about the importance of cultural heritage. This lack of understanding may be the heart of Hong Kong's conservation predicament. As "social capital," cultural heritage is one of the most important factors in civic stability and is ultimately a critical determinant of long-term economic prosperity. The power of sharing a sense of place and history cannot be replicated, yet ironically, its significance and value may only be understood once it is gone.

As with all forms of social capital, it can be difficult to precisely quantify benefits and devise mechanisms to protect heritage. However, even when allowing for these difficulties, it is clear that decision makers throughout the years have systematically overlooked issues of conservation. When it is championed, it has too often been limited to playing a part of tourism promotion schemes. Heritage conservation is difficult given the short-term economic incentives of redevelopment. However, we still have a choice, as there are a multitude of heritage assets that can still be saved. By leveraging worldwide experiences and addressing bureaucratic and development issues, it is possible to charter a more balanced path to success.

It is hoped that, at a minimum, the perspective presented in this report will generate discussion and stimulate efforts to move towards a more comprehensive approach to heritage conservation.

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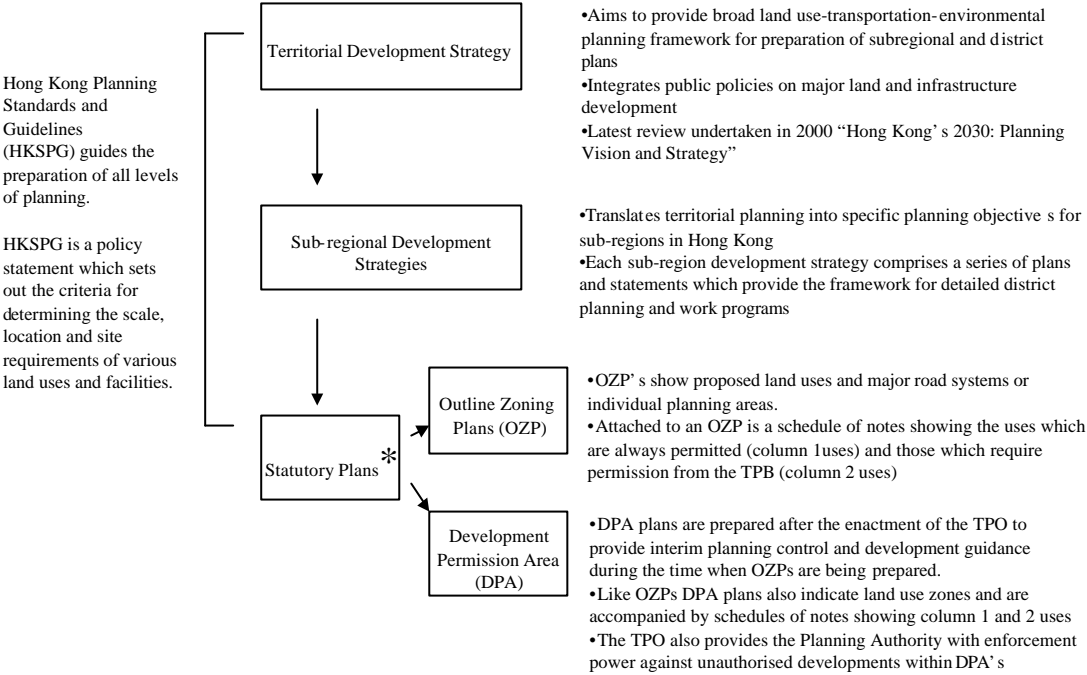
WAN, Joyce, Civic Exchange

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# Hong Kong's Planning

# Appendix One



\* Statutory Plans are prepared and published by the Town Planning Board under the provisions of the Town Planning Ordinance

**Heritage for the People**  
*Position Paper by the Conservancy Association*  
*October 2003*



**長春社** since 1968

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## **Introduction**

1. Historical heritage is important to a city's identity and character. When a historical building is demolished, the loss is irrevocable. If Hong Kong is really to become Asia's World City, we must preserve our valuable cultural heritage.
2. This position paper sets out the Conservancy Association's views on the policy on cultural heritage conservation. In this paper we shall
  - discuss the rationale for heritage conservation,
  - share CA's encounters and experience,
  - from our experience, draw out two important dimensions in heritage conservation, namely, community involvement and government policy,
  - articulate a set of policy proposals on conservation of historical heritage.

## **Rationale**

3. In 2003, SARS and the mass movement on 1 July have combined to show that Hong Kong is more than an economic city. They have demonstrated that beneath the surface of vibrant economy lies considerable strength of character as a mature civil society.
4. In their own separate ways, SARS and 1 July provided the opportunity for Hong Kong to make a kind of statement about itself: a statement that this "world city of Asia" is a city of both substance and depth. We have come to realise that our society embodies not just economic success but also some important, if intangible, assets which are the source of our social cohesion and collective confidence – perhaps befitting the description of "Hong Kong culture" or "Hong Kong character".
5. The Conservancy Association considers that natural and cultural heritage is one such invaluable public asset that belongs to society and posterity. It is part of the "social capital" of Hong Kong. We preserve heritage buildings not just for their architectural merits, but for the character and substance of the society which they embody, the softer side of Hong Kong history and society which Hong Kong stands for. Management of

this asset in a sustainable manner will not only enhance our quality of life, but also contribute to Hong Kong's competitiveness. To take a stronger stand in heritage, against vested interests, also reflects a confidence in ourselves.

6. In many ways, heritage conservation is also a matter of sustainable development and cross-generational equity. We do not have the right to deplete our natural or cultural resource, especially if they are non-renewable, to the detriment of our future generations.
7. Cultural heritage is part of our social capital stock, which is particularly unique on account of their sociological, existential, environmental and artistic elements. Heritage provides a way to understand and interpret the cultural and historical context of a society as a "living" entity. Like natural and ecological resources, the heritage stock is finite and any loss is irreplaceable, hence the need to conserve heritage resources.
8. As early as 1980 the Conservancy Association has been a champion of a comprehensive conservation policy. A renewed call was made in 1993 when the Association published its "Agenda 21 for Hong Kong", and then again in 1996 in response to the Third Review of the 1989 White Paper. In the Hong Kong Conservation Strategy published in 1981 and the Agenda 21 for Hong Kong in 1993, the Conservancy Association advocated a number of principles on government's role in conservation, highlighting the following:
  - a clear mandate for different government agencies;
  - a permanent mechanism for consultation and coordination;
  - the need for an authoritative institution for coordination and compliance;
  - sufficient financial resources for implementation;
  - community empowerment and public participation.
9. All along the Association has emphasized the importance of cultural and historical heritage as an integral part of our environment. As early as 1981, we called for the agriculture to be maintained not just as an economic activity but as part of our cultural diversity. We advocated the preservation and use of space for cultural institutions and activities in the face of growing urbanization.

10. Even though considerable progress had been made in environmental conservation, with respect to heritage, for many years the CA had been a lone voice, and little value was accorded to heritage conservation. Thankfully, this is changing in recent years. Increasingly heritage is cherished by the community at large, perhaps because the stock is diminishing. Heritage conservation is no longer the domain of a few activists, but a concern of the wider community.
11. In recent years, the business community has become a vocal champion for better environment and quality of life. They have abandoned the outdated attitude that conservation and development are opposed to each other. The community, at the same time, increasingly treasures local identity and culture. Tourists are more and more attracted to heritage tourism.
12. All these point to increasingly widespread public support for a sensible government policy on heritage conservation. The time has thus come for a serious examination of Hong Kong's heritage conservation policy.
13. We shall first identify the key issues through sharing the Conservancy Association's own experience and encounters.

### **Preserving heritage: CA's encounters**

#### **Some past experience**

14. Since 1968, the Conservancy Association has been involved directly in a number of important cases in heritage preservation, often without success, though there were also some notable victories.
15. One example was the different fate that befell the old Hong Kong Club building and the Supreme Court. Despite a campaign mounted by the CA in the 1970s, the fine Victorian building of the Hong Kong Club was demolished to give way to the present building. By contrast, in the same campaign, the neighbouring Supreme Court building was preserved

and now houses the Legislative Council. The different outcome was very much a reflection of the difficulty involved in preserving buildings in private hands, although it must be said that public ownership was itself no guarantee for successful preservation. The Kowloon-Canton Railway Terminus was a case in point, the KCRC being then a government department. Despite lobbying by the CA, the Terminal building was demolished, with only the clock tower preserved.

16. Another heritage in government hands which was not spared was Victoria Barracks. CA's campaign did not prevent the historic site from being developed into present-day Pacific Place. As a compromise the barrack's Murray House has been reconstructed and now stands in Stanley.
17. Of CA's experience in campaigning for preservation, the case of the Marine Police Headquarter in Tsim Sha Tsui was instructive. CA's campaign went back as early as 1977 when the government planned to level the Tsim Sha Tsui Hill on which the Marine Police Headquarter stands, to replace it with a commercial/residential complex and a public transport terminus. CA formally objected to the plan in 1979.
18. Our rationale for preservation was based not just on the architectural merits of the Marine Police Headquarter, but the fact that the whole Tsim Sha Tsui Hill "as an integrated natural feature would provide pedestrian relief from street level noise, pollution, heat and overcrowding". CA's campaign was detailed in a 50-page report entitled "Retention of Tsim Sha Tsui Hill – A Joint Submission of the Conservancy Association and the Hong Kong Heritage Society" published in 1979.
19. The most notable feature of CA's campaign was the formation of a coalition involving the Heritage Society, the Hong Kong Museum of History, the Hong Kong Archaeological Society, the Hong Kong History Society, the Hong Kong Birdwatching Society and the Hong Kong Institute of Architects, as well as reputable individuals including the then Chairman of Urban Council Mr A de O Sales. This combination of effort – albeit from a relatively narrow section of the community – was surely critical in persuading the government to preserve the site.



20. Although the Marine Police Headquarter was thus spared from bulldozers, the battle was only half-won. The site was merely prevented from disappearing, but nothing was done to use it sensibly to “return” it to the community. As museums after museums were built in its immediate vicinity, the site was left to idle for more than 20 years. It is only recently that the site was being earmarked for a development for heritage tourism.
21. That experience tells us clearly that preserving from demolition is only the minimum in conservation of cultural heritage. A more positive way is needed to relate the heritage value to the community for whom the sites are preserved.
22. In the meantime, under strong development pressure, other buildings of high historical value disappeared one by one, such as Lee Theatre, Wanchai Methodist Church and Tiger Balm Garden, as well as government property like the old market in Peking Road.

### **Present-day challenges**

23. In recent years the CA was involved in a number of campaigns to preserve Hong Kong’s heritage. In many instances, heritage preservation went hand in hand with nature conservation. Sha Lo Tung is a case in point. The valley is best known as an example of a successful campaign by green groups to preserve an ecologically sensitive site. What is less often mentioned is that the valley houses a rare Hakka village of unique historical value. CA is concerned not just with ecological preservation but also the conservation of the rare Hakka village in its entirety. In that respect, the battle is still not entirely won.
24. Likewise, in campaigning for the preservation of Tai Long Wan, CA has succeeded in preventing large-scale development from taking place. However, our interest was not just in preserving the natural environment and landscape, important as they are; but also the high heritage value of what is a unique Catholic village in Hong Kong. Again, this aspect of Tai Long Wan’s preservation is still not assured.

25. As a green group that champions sustainable development, CA is often involved in cases where nature and heritage conservation converges, such as the Former Explosives Magazine in Admiralty, with its own small forest in the midst of the urban concrete jungle.
26. However, there are also many instances where CA's involvement was purely focused on built heritage, Edinburgh Place, for example. In 1999 CA objected to a government plan to turn the historic Edinburgh Place into a temporary highway. CA's objection was heeded and the plan was withdrawn. Furthermore, with a revision in the town plan, it was decided that the City Hall would be preserved as part of Central's "historical corridor". Edinburgh Place and City Hall would, together, become a significant heritage landmark. It is worrying, however, that the temporary highway plan is now being resurrected – an issue which CA is still taking up with the government.
27. The problem becomes more complex with private property. Kam Tong Hall, the former residence of noted historical figure Ho Kom Tong, was a case in point, as is 64 Kennedy Road, the former residence of China Motor Bus founder Ngan Shing Kwan, is another. At this point, the fate of these buildings is still unknown.

### **Community and government policy**

28. CA has been involved in all of the cases cited above. Through our experience two issues have stood out clearly as being, in our view, the most important in ensuring successful and meaningful heritage preservation. One is community involvement; the other is government policy.

### **Engaging the community and stakeholders**

29. As a community group itself, CA has always emphasized the need to engage the community in sustainable development. It should be emphasized that CA's conception of community is an inclusive one that takes all the interested parties into account as stakeholders. Hence, in cases like Kom Tong Hall and 64 Kennedy Road, CA has kept

on trying to open a dialogue with the landowners, although so far little response has been received.

30. In the case of the former explosives magazine of Victoria Barracks at Queen's Lines, Admiralty, CA did not object to the proposal by the Asia Society to use the site as their headquarter; on the contrary the Association supported the beneficial adaptive use of the site for modern cultural purpose. However, CA raised strong objection to the erection of a bulky and highly incompatible building overshadowing the original heritage. At this point the fate of the project and of the heritage site still remains uncertain, and CA's approach to the Asia Society has remained ignored. We have not concluded that therefore the Asia Society was not serious in respecting local cultural traditions, but our experience did reflect the difficulty in heritage conservation, if even a purported cultural body takes that attitude.
31. Another encounter of the CA is that of the Old Stanley Police Station, the oldest police station in Hong Kong. CA raised strong objection when it became known that the site had been rented out by the Government Property Agent for use as a supermarket. We believed it was an incompatible use and besides posing potential risk to the building, did not accord well with the character of the heritage.
32. Given that the leasing was a fait accompli, CA undertook to engage the government and the operator in dialogue. Although the supermarket is now operational, it appears that some form of solution is becoming possible, if the proposal by the CA to establish a compatible Heritage Corridor can be implemented. This would enhance the heritage value of the building, without jeopardizing the commercial operation, and vice versa, with the community – including the supermarket operator – as joint beneficiaries. At the time of this paper, CA and the operator are still engaged in discussion.
33. While CA would persevere in engaging in dialogue with the interested parties, the local community is, in our experience, a most important element to be engaged. The best example from our involvement is the preservation of Woodside.

34. Woodside is a red-brick, two-storey house in Quarry Bay under government ownership, originally built in 1917 for managers of the Swire company. It is the only remaining early-20<sup>th</sup> century civilian residential house in Hong Kong. The woodland around Woodside is an urban oasis enjoyed by residents.
35. In 1998, the government gazetted plans to turn Woodside and its surrounding woodland into 1,880 flats under the Home Ownership Scheme. The CA led a campaign with the District Council to oppose the plan. Given that government's plan was drawn up in the heyday of the "85,000" housing policy, CA's campaign had seemed a lost cause. With the strong backing of the community (including no less than 16,000 signatures), however, CA submitted a request to the Town Planning Board to re-zone the site to green belt. In September 1998, the Board acceded to the request and changed the zoning accordingly, thus saving Woodside and the woodland. No doubt the community campaign had played the critical part in swaying the Town Planning Board's view.
36. Woodside was a landmark case for heritage preservation, a fine example of sustainable development involving the local community. It has demonstrated that it is possible to mobilize the community, harnessing and reinforcing their care for their own environment, quality of life and sense of belonging. More importantly, success is possible in a non-confrontational way, making use of existing mechanisms of government and administration (in this case, a re-zoning in the town plan). Indeed, much more could have been done to save our heritage, if the mechanism of government and administration can be strengthened.

### **Government policy**

37. The experience of environmental protection is instructive. As a green group, CA does not under-estimate the immense problems and big challenges in the environmental agenda. On the other hand, as the oldest green group, CA has witnessed genuine progress in the environmental movement over the past 20 years. Behind such progress lies strong community involvement resulting from years of effort in community, as well as marked development in government policy. The latter lies at the heart of the problem in heritage conservation.

38. In a paper entitled “Achieving Conservation – A Positive Conservation Policy for Hong Kong” published in 2000, CA has called for a comprehensive conservation policy, covering not just nature conservation but also heritage conservation. We have highlighted possible implementation options such as direct government resumption, setting up a charitable trust, public-private partnership, etc., which are workable solutions already being adopted in other jurisdictions.

39. Now that the government has issued a consultation paper to begin the policy review on nature conservation, a similar exercise on cultural heritage preservation would be an imminent need, given the close association between the two.

40. Using the principles from the more general conservation policy paper of the CA in 2000, we have developed a framework for heritage conservation policy, with concrete policy proposals, which we shall outline in the rest of this paper. The broad structure of our policy model is as follows.

- We shall first highlight the importance for a clear policy direction.
- We shall outline a number of tools for heritage conservation.
- To implement the tools would require a strategy on deploying resources.
- The tools and the resources strategy must be supported by an effective institutional structure.
- Finally, we shall put forward a practical way in combining the various elements of government policy objectives with the involvement of the community, through establishing a Heritage Trust.

### **Articulating a policy framework**

#### **I. Policy direction**

41. In any policy review, it is important to first stay focused on the nature of the problem and the objectives of the review. The present challenge is not to develop a policy from

scratch – there are existing administrative tools, and arguably, some existing policies in favour of heritage conservation. What is needed upfront is therefore a clear statement setting out what we want to achieve.

42. To make a general statement to emphasise heritage conservation should be a relatively easy task, for instance, in the Chief Executive's Policy Address. What is more important is to find a way to substantiate this statement, so as to give it "flesh" while at the same time demonstrating that it is a policy-directing statement, not empty rhetoric.

43. We propose that the way to substantiate the policy statement is to make a commitment to benchmark Hong Kong's heritage conservation policy with that of international standards. This can be done simply by committing to accede to well-recognised charters and principles, of which we would propose three, namely:

- the Venice Charter (International Charter for the Conservation and Restoration of Monuments and Sites 1964),
- the New Zealand ICOMOS (International Council on Monuments and Sites) Charter for the Conservation of Places of Cultural Heritage Value,
- the more recent "Principles for the Conservation of Heritage Sites in China" (or "China Principles").

44. Adoption of these charters and principles signifies a determination to fulfill our obligations for heritage conservation. While detailed implementation will take time, an immediate benefit will be to give a strong boost to existing and ongoing efforts. Indeed, with a renewed attitude within the Administration, a lot more can be achieved even within the present system.

45. Even without making any structural changes, under the present policy and administrative framework, heritage conservation can be further enhanced in a number of ways, for instance:

- Requiring all declared monuments and important graded buildings to display information about the site history;

- Making more use of the Lord Wilson's Trust in heritage preservation projects;
- Devoting more resources to the Antiquities and Monuments Office and the Antiquities Advisory Board so as to speed up the task of grading and declaration of monuments;
- Introducing an administrative guideline to make it necessary for prior notice to the AMO to be given for any development proposal or building alteration to all post-war buildings;
- Requiring the Government Property Agent to consult the AAB for use of every historical building in its hands.
- Developing some sort of statement of significance to guide after-use of existing or acquired heritage sites.
- Documenting all the history of all existing heritage/cultural sites of HK

## **II. Tools for heritage conservation**

46. We shall outline four ways in which heritage can be better protected through government policy, namely, planning control, government resumption, public-private partnership, and transfer of development rights.

### *(a) Planning control: new zoning mechanism*

Planning control such as new zoning and tightening of the Hong Kong Planning Standard and Guidelines can be an effective way to achieve heritage conservation. The result will be to impose more stringent conditions on possible developments related to heritage sites, thus often resulting in more constraints on developers. However, this does not mean the additional planning control must be anti-development. On the contrary, we must not under-estimate the problem-solving ability of Hong Kong community, and our ability to find creative win-win solutions.

Accordingly, we propose four new planning tools to enhance heritage conservation.

- (i) A new conservation zoning, "sites of significant historical value", can be introduced into the planning system to define more clearly the heritage to be

protected. This can be applied to individual buildings, building lots or whole areas. It can provide bigger coverage than present declared monuments or archeological sites which are specific to buildings or confined spots.

- (ii) Another zoning called “sites of significant rural character” can be created to describe rural areas such as Lam Tsuen Valley and Long Valley. With or without important habitats or historical monuments, these areas are worthy of preservation because of their rural and cultural character, which in itself is an important heritage.
- (iii) A third type of zoning, “sites of significant cultural value”, can be used to designate a site or area with a local way of life which is recognized and valued by the community, whether in the urban or rural areas. Examples Tai O in Lantau and Shanghai Street in Yamautei.
- (iv) The fourth proposal is to build into the planning guidelines the precautionary principle in treatment of specific classes of historical structures, such as pre-War buildings. Just as fishponds are protected by planning control whereby permission has to be sought for all pond filling, all pre-War buildings can be deemed to have conservation value and while demolition is not ruled out, they should all be subject to Section applications under Section 16 of the Town Planning Ordinance, whereby consultation with the AMO is made mandatory.

*(b) Government resumption or buy out*

For the government to acquire the heritage site and undertake its management, would be an extreme option which can only be used in exceptional circumstances. However, as an option, it should not be ruled out. Obviously, there is a need for elaborate procedures to be established before this can be applied.



*(c) Public-private partnership*

“Public-private partnership” denotes an approach rather than a mechanism. There are many ways in which partnership can take place, for example, the declaration of ancestral halls as monuments to be maintained by the government and open to the public, can be considered a kind of public-private partnership. But the most contentious form of public-private partnership would be those that involve the creation of development rights in exchange for conservation. Thus the private sector may be allowed some development over and above what he is entitled to, in order to provide incentive for him to become a party to conservation (a public sector objective).

In order to avoid abuse, in adopting a public-private partnership approach, it must be made very clear at the outset that the objective is conservation and the partnership is merely a means to achieve that.

*(d) Non in situ exchange - transfer of development rights*

Problems often arise when conservation of valuable historical resources conflicts with established development rights, such as areas with a residential or village zoning. For these cases, conservation can be achieved through transferring the development right elsewhere so that no development eventually takes place in the area to be conserved area. Such a concept is generally accepted amongst conservationists and planners as a practical tool to effect heritage preservation with relatively less financial burden. In the government’s consultation paper on nature conservation, the same concept is discussed briefly (too briefly, in CA’s view). For heritage conservation, especially of the built-heritage, the concept can be much more easily applied, as the area involved is often smaller.

47. In the CA’s earlier paper, we proposed three options to implement transfer of development rights. These three options are still relevant:

- i. A land-swap option: exchanging some government land elsewhere for the conservation area, for example, re-siting traditional villages.

- ii. Upgrading development potential of areas owned by the same developer elsewhere. This could be in the form of extra plot ratio, or up-zoning of areas which would not otherwise have been allowed. This option implies intensive negotiation with the owner or developer.
- iii. Monetisation: The development right is made a commodity which can be freely exchanged.

### **III. Redeploying public resources**

48. Whatever mechanism is adopted for heritage preservation, some public resources will have to be used – or their value would have to be forgone – such as funds for resumption, expenses for maintenance, government land used for land swap, more public resources used to deal with increased congestion in areas accorded higher plot ratio, etc. The public resources will either have to be generated anew, or some form of redeployment of public resources will be needed.
49. Before considering new sources of funding, the government should first exhaust all existing avenues. For instance, if heritage buildings and their immediate surroundings are regarded as “public open space”, then one would find that considerable resources are already available for upgrading of public open space.
50. The Leisure and Cultural Services Department can make heritage preservation a regular consideration in their open space programme, thus diverting resources into heritage preservation and maintenance. Likewise, the District Councils should be encouraged to be involved more in heritage projects.
51. Another approach in re-balancing the resources for conservation is to consider reducing the cost of conservation. Can the conservation cost be minimized by paying only a “fair price”, rather than a speculative price? It is important to differentiate between compensations paid to genuine owners of heritage, and speculative “market-makers” whose sole aim is to achieve an intermediary financial gain through exploitation of development rights.

52. A “see-through” approach similar to the audit-trail concept used by tax authorities in tax assessment against tax avoidance, is worth exploring when determining the “reasonable cost” for acquiring or compensating for conservation.
53. However, at the end of the day, given the magnitude of the problem, new sources of funding will have to be required. The most straightforward solution would be to introduce a development tax for conservation. It has the advantage of linking development explicitly to conservation, thus reminding the public that development means enhancing our heritage, not destroying our past – a logic which the public can easily understand.

#### **IV. Institutional reform**

54. Due to the multi-disciplinary nature of heritage conservation, a strong institutional setup is crucial to its success. This should include two elements, namely, an appropriate legislation, with a commensurate authority.
55. We propose that a new Heritage Impact Assessment Bill be introduced. This should take heritage impact assessment away from its currently highly compromised form in the Environmental Impact Assessment Ordinance, thus giving it a proper place in the development process. To have an HIA bill is not a controversial proposal, and given the experience in the EIA Ordinance, an HIA bill should be relatively easy to enact.
56. Of equal importance to policy and legislation is the implementing authority. Currently, different conservation objectives are spread out in different government departments. Our rural heritage embodies buildings, rural land use, landscape and customs, which fall under different departments such as Agriculture Fisheries and Conservation, Planning, Lands, and Home Affairs.
57. A comprehensive solution would entail a re-structuring of the conservation duties, which should best be achieved through the creation of one single entity with a clear mandate for

heritage conservation, for example, an upgrading of the AMO and the AAB into an authority.

58. In the longer term and looking at the broader context, there are many areas of possible convergence in the conservation of nature and cultural heritage, hence the merits of a total revamp in the institutional structure for conservation should be seriously examined, for example, the formation of one single Conservation Authority to undertake various aspects of conservation.

## **V. Heritage Trust – combining policy and community involvement**

59. We recognize that policy overhaul and institutional reform will take time. To spearhead this process, the Conservancy Association would like to make a proposal that integrates the important elements of the framework mentioned above, namely, involving the community, regulating appropriate cultural uses, harnessing resources, and driving institutional change – namely, by creating an authoritative Heritage Trust.

60. The Trust can be created as a public-private partnership, with both government and the private sector contributing to its start-up. Initially, the government should help persuade resource-rich bodies like the Jockey Club to contribute. Since government itself also has a responsibility towards conservation, a substantial contribution should be well justified, perhaps as a one-off grant rather than a recurrent expenditure. Another important source will be the private sector's contribution, especially by developers under other forms of private-public partnership.

61. As a professional body accountable to the public, the Trust should be a much more effective vehicle in raising funds for its recurrent activities, and hence ensure that the heritage under its care will be managed in a sustainable way.

62. The merit of the Trust concept is that it will put our cultural heritage into public ownership, and provide a sustainable way to conserve them.

63. Perhaps the UK National Trust can be used as an example to illustrate the function of the Trust we have in mind. It should be well-resourced enough to buy up land and buildings of high heritage value and manage them, hopefully for a sustainable return.
64. More importantly, only a central body with dedicated professional expertise will be able to conserve and enhance the value of our scattered and varied heritage resources in an integral and wholistic manner.
65. The Conservancy Association has proposed the establishment of nature and heritage trails for every district. If a Heritage Trust were established, it could go further and “connect dots into lines, and lines into networks”.
66. Since the object of the Trust is, in the broadest sense, to safeguard the community’s assets, the best institutional form for the Trust would be to establish it as an independent statutory body, perhaps modeled upon the Community Chest. This has the added advantage of making the Trust a permanent structure in the institutional framework for conservation, thus paving the way for other institutional reform to follow.
67. Although not a “regulator” as such, an effective Nature Conservation Trust will act as Hong Kong’s guardian of our scarce natural and cultural heritage. Through the various stakeholders represented on the Trust, the SAR’s conservation interests will be safeguarded in a professional manner. It could, for example, provide the necessary guidance over problems such as when private sector initiative would be helpful, or when intervention by the public sector is appropriate.
68. By its very nature, the Heritage Trust must be professional in its duty, but fully community-based in its mission. It will be engaged with the community on a day-to-day basis, thus helping develop an informed participatory process by the public. In other words, a professional an expert approach in defining and maintaining heritage will be balanced by a community approach to reflect the public view of what constitutes important collective memory, and what deserves higher priorities for protection. The higher level of public appreciation and acceptance will in turn strengthen the political will and mobilization of public resource for heritage conservation.

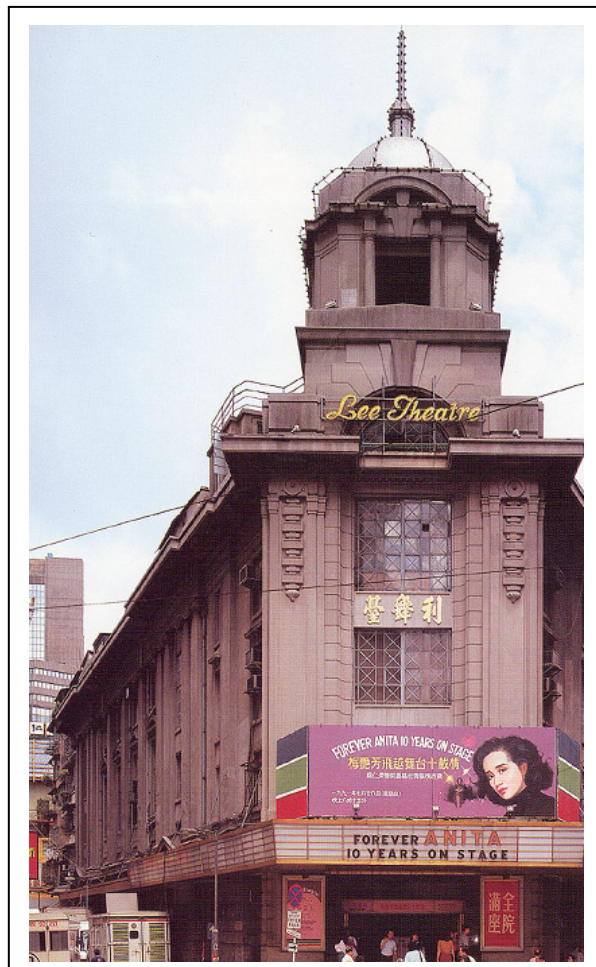
## **Conclusion**

69. As the title of our paper suggests, our heritage belongs to the people of Hong Kong. As historical structures, buildings, environments and neighbourhoods disappear one by one, Hong Kong as a community will need to move fast to protect our cultural heritage and make the best and most relevant use of them.

70. Through this paper we have proposed a framework for the policy review on heritage conservation. We have emphasized the importance of engaging the community in heritage conservation. We have also proposed, as an immediate step, the establishment of a Heritage Trust to galvanise efforts in community involvement and institutional reform. We call on the government and the community of Hong Kong to work together positively to safeguard Hong Kong's valuable heritage.



# Report on Heritage Conservation – we all gain



**The Conservancy Association**

**June 2005**

**Sponsored by Lord Wilson Heritage Trust**



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## A. Background

To bridge up the phase one and phase two of the heritage conservation consultation document, The Conservancy Association organized a project called “Heritage Conservation – we all gain” to understand the viewpoint and attitude of the general public towards heritage conservation. This project was made possible under the generous support of Lord Wilson Heritage Trust. The project not only provide a territorial-wide picture of public’s view but also an in-depth view from the focus group and stakeholders on the direction of heritage conservation in Hong Kong.

The project comprised of 6 sessions including, 2 focus group meetings, 4 regional workshops, 11 exhibitions, a 18-district outdoor survey, post questionnaires, and a citizen hearing. Summary of the project’s activities are as follows:

<b>Date</b>	<b>Time</b>	<b>Activity</b>	<b>Venue</b>	<b>Anticipated No. of Participants</b>	<b>No. of Participants</b>
18/6/04 -12/7/04	---	<b>Post Questionnaires</b>	---	1000	<b>1012</b>
26/6/04	10am-12pm	<b>Focus Group</b> (HK Island)	City Hall	30	<b>19</b>
26/6/04 -8/7/04	9am –1pm 2pm –6pm	<b>Exhibition</b>	11 spots (see exhibition summary)	4500	<b>5900</b>
29/6/04 - 6/7/04	9am –1pm 2pm –6pm	<b>Outdoor Survey</b>	18 districts (see survey summary)	2250	<b>2250</b>
27/6/04	3-5pm	<b>Workshop</b> (Kowloon)	Hong Kong Scout Centre	80-100	<b>36</b>
3/7/04	10am-12pm	<b>Focus Group</b> (Kowloon)	Hong Kong Scout Centre	30	<b>15</b>
4/7/04	10-12pm	<b>Workshop</b> (HK Island)	Causeway Bay Community Centre	80-100	<b>33</b>
4/7/04	10am-12pm	<b>Workshop</b> (NT West)	Tuen Mun City Hall	80-100	<b>21</b>
11/7/04	3-5pm	<b>Workshop</b> (NT East)	Lung Hang Community Centre	80-100	<b>20</b>
18/7/04	3-5pm	<b>Citizen Hearing</b>	City University	200-300	<b>66</b>
Total				8510	<b>9372</b>

Nearly 10000 people joined the program and expressed their opinions on heritage conservation. Reports were compiled on the Focus Group meetings, outdoor

survey and post questionnaires, Workshops and Citizen Hearing.

## **B. Objectives achieved:**

### **1. Collect People's Views and Comments on Heritage Conservation and the recent Consultation Document on "Review of Built Heritage Conservancy Policy" published by the Government.**

A number of public-view collection programs including 2 focus group meetings, 4 regional workshops, one citizen hearing had been organized from June to July. During these programs, participants were asked about their comments on heritage conservation and the recent consultation document on "review of built heritage conservation policy". Besides, a total of 3262 sets of questionnaires were received from the general public on the attitudes towards heritage conservation. The views collected revealed the public expectation on the direction of heritage conservation. For example, more than half of the people interviewed agreed that they are willing to pay \$35 for heritage conservation every year.

### **2. Understand the most concerned areas in heritage conservation that are identified by the public**

This objective was well achieved through the focus group meetings, workshops and citizen hearing, majority of the participants could readily spell out their most concerned areas in heritage conservation. For example, they showed concern on the funding sources for heritage conservation as well as the usage of such resources in the conserved heritage. The participants also expressed their interest over further conservation work to be done on certain declared heritage monuments in the questionnaires.

### **3. Investigate how much the public would like to give, in terms of economic or non-economic point of views, on heritage conservation**

Through the questionnaires, the economic point of views on heritage conservation were solicited. The respondents were asked as to the amount they would pay for heritage conservation given the GDP of a year. The understanding of this topic is crucial as the results reflected the attitude of the public on heritage conservation issue and the value of heritage conservation. The results acted as a useful reference tool for us and relevant bodies to establish appropriate planning, activities and policies regarding the direction and resources to be invested in heritage conservation.

### **4. Putting Forward the Public's Comments to the Government**

The comments we have collected were put forward to Home Affairs Bureau upon completion of the projects. With the information/views collected from the public, a report will be prepared in which we will summarize the views/suggestions of the public and recommendations will be given. This process is critical as the success of heritage conservation relies on proactive participation of the Government and how the government understand the expectations of the citizens. The report outlined the objectives achieved through the Project, the results from the surveys, interpretations on the public's comments regarding the Consultation document, our evaluation on the project and our recommendations on heritage conservation.

### **5. Strengthen Public's knowledge on heritage conservation, encourage all parties to participate actively in the discussion on conservation policy**

The exhibitions held in 18 districts has served two main purposes: (1) as a good channel to strengthen the public's knowledge and their appreciation on heritage conservation, and (2) to encourage more public participation in the topic, in particular, the policy aspect. Most people were attracted by the beautiful and familiar photos of the heritage, then they started to go into details on the current system in protecting heritage in Hong Kong, the importance of conserving heritage and how to conserve heritage. Apart from the exhibitions in 18 districts, workshops in 4 main regions in Hong Kong were held. Through the workshops, we provided background knowledge on heritage conservation to the layman participants so that we can generate proactive discussions on heritage conservation. As a result, the general public from the 18 districts not only improved their knowledge in their regional and territorial-wise heritage, but also significantly raise their awareness and enhance their attitude on heritage conservation. Finally, they would put this knowledge into actions, contributing in heritage conservation.

## **C. Project Content**

### **1. Focus Group Meeting**

#### **I. Background**

Funding was granted to the Conservancy Association by the Lord Wilson Heritage Trust to conduct a project on heritage conservation. The key element of this project is to gather the public's views and opinions on heritage conservation. As part of the Study, two focus group meetings were held in which selected professionals, including town planners, and representatives from the government and the business sector, were invited to participate. The focus group meetings provided a forum for the open exchange of views amongst individuals from a variety of disciplines and backgrounds.

Two focus group meetings held on 26 June 2004 and 3 July 2004 at City Hall in Central and the Hong Kong Scout Centre in Tsim Sha Tsui, respectively. Both meetings were well attended with 19 participants in the first meeting and 15 participants in the latter. The participants included representatives from Government, private sector developers and consultants, academics, NGOs as well as individuals concerned with heritage conservation in Hong Kong. A list of attendees is attached in Appendix 1. Each meeting lasted for 2 hours within which participants were first presented a brief power point on current efforts in heritage preservation in Hong Kong and then they were invited to express their views on the following questions:

- What mechanisms for heritage conservation do you think are most appropriate for Hong Kong?
- Who should be responsible for funding heritage conservation?
- How should funds be allocated?
- What long-term uses are appropriate for heritage monuments?

For each of the questions above, a list of non-exhaustive alternatives were displayed to arouse and facilitate discussions. These are provided at Appendix 2. The following is a summary of the different views collected. (please see Appendix 3 and 4 for the sample and the result of the questionnaire.)

## **II. Mechanisms for Heritage Conservation**

As a general principle, it was widely agreed that heritage conservation should not take away private sector rights. However, within this understanding, various differing opinions were discussed.

### **a. Zoning of Private Lots**

It was suggested that Government could expand its coverage of the existing “OU-heritage” zoning (which is currently in very limited use to reflect the AMO declared monuments) as a more proactive means for heritage zoning. The zoning process allow private land owners a chance to object to the zoning, whilst there would also be a list of uses which may be permitted within the zone upon application to the Town Planning Board (TPB). However, the scope of the TPB in relation to existing responsibilities of the AMO would need to be clarified further.

It was also noted that the zoning of heritage sites would require support by other mechanisms, since zoning alone could not ensure that heritage monuments would be maintained in good condition.

Some participants however considered the “OU-heritage zone” to be a down-zoning of sites. This led to debates on whether the transfer of development rights should be associated with the “OU-heritage” zone. There was concern with regard to “fairness” in the planning system whether this transfer of rights be allowed, since many privates sites have been down zoned to other zonings in the past with no redress from Government.

The restriction on private sector rights was also seen as a deterrent to heritage conservation. One participant queried on the incentive for private owners to maintain their sites in good condition, if such efforts (and resources) would mean that the future redevelopment potential of the site is reduced.

### **b. Private Sector Incentives**

It was suggested that the private sector could be encouraged to donate heritage monuments to Government in exchange for permanent recognition. However, the development rights associated with the heritage monument should not be lost. These rights should transferred by means of transfer of GFA or plot ratio elsewhere. One point of concern was that the amount of development rights to be transferred should be determined by the overall development value (e.g. the transfer of development rights to a site in a less valuable location should be reflected in an

increase of GFA or plot ratio.)

It was also suggested that bonus plot ratio may be granted to a developer who undertakes to conserve and maintain the heritage monument is conserved and opens it up for public use. However, the bonus plot ratio suggested is just a concept, not a concrete figure.

### c. Resumption of Private Lands

The need to deal with different sectors of the public was recognized, i.e. those with and without knowledge of heritage conservation. Whilst informed members of the public may play a greater role in conserving and maintaining heritage properties, Government should also derive mechanisms to conserve heritage buildings in deteriorating condition or in danger of ruin.

With reference to the UK system of Stop Purchase Orders, it was suggested that Government should have the right to purchase heritage sites in danger of redevelopment. The value of the site would be based on existing, rather than potential GFA.

## **III. Funding**

### a. Various sources of funding were considered including:

- Land tax or land rates
- A special developer's tax on the heritage site, which could be factored in by the developer as an overall development cost
- Private sector donations of funds or heritage buildings and other resources. This would however require the setting up of an appropriate body to receive and manage such donations.
- Entrance fees to heritage buildings
- Cross funding from the Urban Renewal Authority (URA) or other parties

However, the participants did not indicate the priority of the sources of funding.

## **IV. Allocation of Funds**

### a. Creation of a Heritage Trust

It was broadly agreed that a Heritage Trust should be set up to be able to receive, manage and allocate funds for heritage conservation in Hong Kong. It was suggested that Government heritage sites (such as the Victoria Prison Complex in Central) should be given to the Trust to dispose of. The funds obtained from the sales of such prominent sites would create a large pool of resources to manage

and maintain other heritage monuments throughout Hong Kong. At the same time, the Heritage Trust should consider profit-generating activities from other heritage resources to help finance its operations. Reference was made to the UK system which has experienced a degree of commercial success.

## **V. Long-Term Uses for Heritage Monuments**

### **a. Profit-Generating or Not? Open/Closed to Public?**

The following options were suggested as uses for heritage monuments, although there was no clear conclusion on what was considered to be the most “appropriate” use:

- Museum
- Residential
- Boutique Hotel
- Community Facilities
- Continuation of existing uses

It was generally agreed that the use of a monument depends very much on the monument itself, the surrounding land uses, and its context in society. The party (ies) responsible for the use of the monument should be aware of the elements that are most valued by the public and endeavor to preserve those elements.

Consideration should also be made to the original design and intent of heritage buildings to ensure that the building can withstand the increased load and amount of traffic that may be associated with certain uses. Structural improvements should not adversely affect the heritage value. Therefore, the workshops did not draw any priority in the appropriate uses of heritage.

## **VI. Other Issues Discussed**

### **a. Expanded Role of the Antiques & Monuments Office (AMO)?**

The AMO is the current authority for heritage conservation. However, they only have the resources to list approximately 8 buildings each year and lack the powers to inspect buildings under private ownerships. With over 8,500 buildings built before 1950 in Hong Kong, query was raised whether the AMO should have an expanded role and associated powers. At the same time, since local residents should be most familiar with their own neighborhoods and local history, should the community at large be involved in determining what should be conserved?

### b. What is Heritage?

“Heritage” is a broad term which encompass man-made structures or natural resources to less tangible items like “living heritage” (e.g. traditions and events). Whilst most participants agreed on the need to conserve man-made structures, there was higher uncertainty with regard to preserving the “living heritage”.

## **VII. General Conclusions**

- There is a need for greater heritage conservation in Hong Kong
- Conservation should not be considered on a single project basis, but rather in its overall context
- Government needs to recognize the public benefits of heritage conservation and educate the public on the value of heritage preservation
- There should be recognition and protection of commercial interests when conserving buildings in private ownership
- Heritage conservation should be a win-win situation for all parties involved



## **2. Questionnaires analysis**

### **I. Background**

In June and July, The Conservancy Association randomly sent out 2500 questionnaires to 20 companies, 30 Housing estates, 18 organizations and 20 schools. 1012 questionnaires were returned, the students and their family members contributed to the high returned rate of the questionnaire. In late June, 2 teams of interviewer were sent to 18 districts to survey citizens on their attitude towards heritage conservation. Finally, 2250 questionnaires were resulted. 125 questionnaires were conducted for each of the 18 districts. Together with the 1012 questionnaires mentioned above, a brief analysis of the 3262 results was conducted as below. Details of the figures and findings is attached under questionnaires result section.

Listed below is the background of the respondents for reference:

- 51% of the respondents are male while 49 % are female
- 59% of the respondents are aged between 15-30 while 31% are 31-55 and 10% are above 55 respectively
- 10% of the respondents are primary of school level or below, 43% are secondary graduate and 47% with secondary school education background or above
- 79% earns less than \$10000, 19% earns from \$10000-\$30000 while 2% earns more than \$30000 respectively

### **II. Analysis**

When the respondents were asked about the 4 criteria to conserve a heritage, more than 66% of the respondents agree on all 4 criteria. 79% respondents believed that building with unique structural characteristic such as Kam Tong Hall (甘棠第) should be “an important” or “very important” criterion to conserve the building. 82% of the respondents believed that building with important historical background such as Nga Chin Wei Village (衙前圍邨) should be an important or very important criterion when considering conserving that building. While 66% and 70% of the respondents respectively agreed that local culture or collective memories and traditional rural culture should be deemed as “important” or “very important” criterion to consider.

From question 1 results, it showed that the respondents are of great diversity in the criteria to heritage conservation that 66% of the respondents agreed on all the 4

criteria.

In view of the most appropriate tool to conserve a heritage, 4 options were provided for the respondents' consideration. 75% of the respondents believed that legislation or legal enforcement against the demolition of heritage and heritage trust establishments are the most appropriate tools for heritage conservation. 63% of the respondents thought that offering incentive to the heritage owner for conserving the heritage is an appropriate tool. The least respondents, with still more than half of survey target, 54% agreed that transfer of the development right is the most proper tool for conserving the heritage.

From the response of question 2, we can see that the respondents opt for an integrated approach to conserve the heritage with both a long-term tool: establishing a heritage trust and an immediate tool: legislation or legal enforcement.

When considering what a heritage should become if it is being conserved, 74% of the respondents agreed or strongly agreed that it should become a public facility such as museum or community centre office. While 62% and 60% believed that it should be kept as it is and open regularly for visitor respectively. 54% responded that the heritage should be developed as a self-sustained commercial facility such as a tourist spot.

Regarding the funding to conserve the heritage, almost 2/3 of the respondents agreed that it should come from the Government. It showed that citizen still believed that government should take the responsibility to conserve heritage. A point to note is that more than 1/3 of the respondents thought that to develop the heritage as a self-sustain commercial facility is not a feasible way to conserve the heritage, so they put this option as the 4<sup>th</sup> and 5<sup>th</sup> priority.

In view of the Government expenditure to conserve heritage, 61% of the respondents agreed that the Government should use 240 million i.e. 0.1% of the total Government expenditure for heritage conservation. However, 28% of the respondents believed the Government should spend more, around 2.4 billion or 1% of the total Government expenditure. From result of question 5, it is concluded that the Government should spend more to conserve heritage as compare to the small amount \$577 million (including cultural heritage and museum service) in 2002-03 on heritage conservation.

54% of the respondents, are willing to pay \$35 every year for heritage conservation. Around 30% of the respondents will pay more than \$35 for heritage conservation if

they were asked to pay for an amount for heritage conservation. From response of question 6, over 90% of the respondents believed that they are willing to pay for heritage conservation in Hong Kong with minimum 35% every year. Government may consider devote more resources to conserve heritage to meet citizen's expectation.

When the respondents were being asked on the allocation of heritage conservation expenditure, around 80% believed that the money should be used to preserve and protect the declared heritages. 66% thought that the expenditure should be used for education towards heritage conservation while 44% should be used to buy the heritage.

In view of the heritage buildings that had been demolished, the respondents given a list of over 20 heritage which were worth conserving such as Lee Theatre, Tiger and Palm Garden, Tiu Keng Leng village and Diamond Hill Squatter Area. However, there are some heritages such as TST Clock Tower and Star Ferry Pier have not been demolished. It showed that the heritage knowledge of some of the respondents is not very high. However, echoing to the result of question 1, the heritage mentioned in this question are of great diversity including important historical background such as Sung Wong Toi (宋皇台), unique structural characteristic such as the Tiger and Palm Garden, local culture or collective memories such as Bird Market in Hong Lok Street (雀仔街), Lai Chi Kok Amusement Park (荔園), and rural culture such as Yim Tin in Tai O (大澳鹽田).

Regarding the heritage to be conserved, among the 13 options, more than half of the respondents regarded that wishing tree of Lam Tsuen (林村許願樹) and Victoria Harbor are the heritage that they would like to conserve. On the other hand, only around 1/6 respondent believed that the Wanchai Market and the gathering on June 4 is worth conserving.

### **3. Regional Workshop**

#### **I. Background**

A core objective of this project is to gather the current public views on heritage conservation in Hong Kong. Similar like the focus group meetings, the workshops provided a platform where participants' views were exchanged, discussed and meticulously recorded. What sets it apart from the former is that the workshops encompassed individuals from all walks of life who are interested in heritage conservation and are willing to share their thoughts instead of the selected professionals.

Four 2-hours workshops were organized within a three-week period in four different regions in Hong Kong:

<b>Date</b>	<b>Venue</b>	<b>Number of Participants</b>
27/6/2004 am	Kowloon (Jordan)	36
3/7/2004 am	Hong Kong Island (North Point)	33
3/7/2004 pm	NT West (Tuen Mun)	21
11/7/2004 am	NT East (Tai Wai)	20

Each workshop began with a short briefing by the lead facilitator to familiarize participants with the general situation of heritage conservation in Hong Kong. Afterwards, participants were divided into groups of about ten, exchanging views on the four questions that were also discussed in focus group meetings:

- What mechanisms for heritage conservation do you think are most appropriate for Hong Kong?
- Who should be responsible for funding heritage conservation?
- How should funds be allocated?
- What long-term uses are appropriate for heritage monuments?

Two facilitators, trained and well-briefed on the discussion topics, were assigned to each group to record participants' opinions and guide the group in its discussions (see Appendix 5 for the outline of the briefing by the lead facilitators in the regional workshops). Each issue were then discussed within a pre-set amount of time, after which each group reported the discussion outcomes. The following is a summary of opinions collected from the four workshops.

#### **II. Mechanisms for Heritage Conservation**

In each workshop, the Conservancy Association provided a list of six mechanisms to initiate discussions. Participants were then encouraged to comment on the pros and cons of each mechanism, and on any new mechanisms they initiated in the discussion. At the end, participants were allowed to vote for three mechanisms which they think would work best in Hong Kong. On tabulating the votes after the four workshops, TDR and Heritage Trust clearly received, by far, the most votes. It is worth pointing out that participants in general feel reserved about choosing any one of the mechanisms as 'the best'; rather, the general consensus was that mechanisms work best as a package, and different mechanisms may be appropriate in different situations. The following is a brief digest on the comments.

<b>Mechanisms</b>	<b>Percentage</b>
Donated by owner	9%
Maintain by Govt. but open to public	13%
Increase the plot ratio	14%
Demolition restriction by Law	9%
Transfer of Development Right	23%
Independent Heritage Trust	32%

#### a. Preferred mechanisms

##### *i. Transfer of Development Rights (including Letter B)*

TDR, or the exchange of land at an alternate site to compensate for the development restriction to protect a built heritage at the original site, is widely considered as the most practical mechanism by the participants. Indeed, it has the effect of turning built heritage from a liability to an asset. Having a building declared as a monument will no longer be a disastrous event for the property owner, as the development potential lost by a demolition restriction will be compensated by a development right elsewhere. However, calculating such a fair exchange will not be easy. In addition, TDR requires significant government resources (even though costs may be hidden), as land in Hong Kong is always a precious commodity.

##### *ii. Independent Heritage Trust*

The idea of the Heritage Trust, an organization independent from the government and which manages and finances heritage conservation activities, was also widely supported by participants. An arrangement already operating successfully in many Western countries (of particular note is UK's *English Heritage*), Hong Kong can learn much from these cases. Participants see the heritage trust as a more dedicated organization, being established for the sole purpose of heritage

conservation. It is also more capable to do its job, having centralized resources, power and expertise into one entity, which are now scattered among too many government departments. Furthermore, it is also financially more dependable and flexible. It is able to receive donations and use earnings from profitable projects to subsidize the unprofitable ones. At the same time, participants noted that high transparency and public participation in its operations would be crucial for the trust to gain the legitimacy it needs to succeed.

b. Others mechanisms for specific scenarios

Apart from the two mechanisms highlighted above, other mechanisms discussed in the workshops were found to be useful in some specific situations.

i. *When the owner lacks money for maintenance*

If maintenance cost is the problem for the landowner, then it is possible to apply the arrangement where the government takes over maintenance responsibilities while leaving the property use unchanged, but requires the landowner to grant public access to its properties on certain days. This is the mechanism currently utilized to conserve Sheung Shui's Ho Sheung Heung Hau Ku Shek Ancestral Hall. However, for this to be successful, both the property itself and the use involved has to be suitable for public visits.

ii. *When involving large landowners*

If the property owning a structure that requires preservation also owns the surrounding land, the mechanism to allow for the increase of plot ratio on the surrounding land in exchange for preservation of the building will be a useful option. But the resulting overshadowing of the conserved building and densification of built areas may be a problematic trade-off.

iii. *Last resorts*

In case of emergencies, demolition restriction by law can halt demolition until other arrangements are worked out may be useful. Other participants suggested the relocation of buildings to another site as an option when all others fail: at least the building will not be permanently lost.

iv. *To be encouraged at all times*

Finally, donation of the heritage by the property owner is an option that participants feel could be encouraged. While it would be unrealistic to rely on this as the only mechanism for heritage conservation, arguably, instances of property donations can be encouraged with government medals or tax incentives, as participants from various workshops have suggested.

### III. Funding

In the discussion of the source of money to fund heritage activities, suggestions by participants fall roughly in three broad categories.

#### a. Government

There seems to be a broad consensus that any new taxes to fund heritage activities should come from non-essential items and activities not directly related to daily life. Not one participant suggested increasing income tax or establishing sales tax for the purpose of heritage conservation. Options that were frequently suggested include:

- Gambling taxes
- Alcohol/ tobacco tax
- Airport tax, tax on tourists
- Periodic transfer from Mark Six funds

Reducing expenditures in other areas as a method for deriving heritage conservation funds were also **considered unlikely**. Stiff opposition is anticipated from affected sectors.

#### b. Levies along the development process

As it is ultimately the re-development process that leads to demolition of heritage buildings, many participants suggested adding a surcharge on the land development process to contribute to the funding in heritage conservation. Proposals include adding a heritage surcharge on the lot price when developers purchase land from the government.

#### c. Donations and fundraising activities

Donations require the establishment of a heritage trust as a legitimate destination for the funds. Ideas include:

- Public donations
- *Adopt-a-Building* scheme
- Horse-racing Heritage Cup

### IV. Allocation of Funds

In our discussions, participants were asked to decide how the money for heritage conservation should be used (including purchasing buildings, maintenance, and education), assuming that there is a budget for heritage conservation.

Several points are apparent from the workshop discussions.

1. The proportion will shift over time. The right mix of funding allocation for now might not be the right mix in a few years' time. The proportion will be adjusted

constantly to reflect the actual need at the time.

2. The proportion depends on the total amount of funds available. An example is purchasing buildings. The cost of each building is so great that it may be meaningless to allocate a percentage of funds for purchasing, even if it is deemed important, if it means an exhaustion of fundings available.
3. Ranking for importance does not equal the ranking for monetary allocation. For example, while purchasing buildings may not be as high a priority, it may still occupy a disproportionate sum of the fund. Similarly, education may be considered the most important, but a much smaller fund (in comparison to the fund for purchasing buildings) may already suffice.
4. No consensus emerged from the workshops as to how heritage fund should be allocated. Participants' views were quite diverse in this issue, and each use is considered important by at least some participants.

#### a. Purchase first

Participants who believed that purchasing buildings is the most important use of heritage funds argued that purchasing is often the only way to protect a certain structure before it is too late. Even if education efforts are successful and everybody comes to a consensus that old buildings should be preserved, if no funding has been spent on purchases there might be none for educated citizens to visit by that time.

#### b. Maintenance first

Participants who believed that maintenance should be given priority over purchasing buildings as purchasing is too expensive an exercise to be carried out more once or twice a year.. In reality, the conservation of buildings should be left to other less expensive mechanisms and the heritage funding should instead be concentrated in maintaining the buildings already under the government or the trust's ownership.

#### c. Education first

There are also participants who argued that education is the most important, seeing it as a long-term investment that will pay-off eventually even if no immediate results come up. They saw education as a necessary precondition for meaningful public participation, and before citizens can conduct rational discussions on what heritage should be preserved.

#### d. Other ideas

Besides using heritage funds in the three ways listed above, participants also came up with other ideas for allocation. The following are two suggestions. (1) Some



participants believed that the funds, whether as a loan or as a grant, could be used to encourage people to turn heritage buildings into some sort of profitable business. (2) Rather than spending the initial heritage fund, making investment using those fund to build a large financial based would be a priority for the first few years.

## **V. Long-Term Uses of Heritage Building**

As for how the protected buildings should be best put into use, some consensus were gathered from the discussions in the four workshops. First of all, just like the discussion on mechanisms, it is impossible to nominate just one 'best' use that fits all heritage buildings. Instead, decisions on how a building should be best used should be based on the building's character, uniqueness in design, as well as keeping in mind the structure's physical constraints. In addition, successful conservation will also involve supporting infrastructure and comprehensive planning in the surrounding area.

As for the specific uses, the options are quite broad. The decision of how to use a building can rest with the Heritage Fund, which would have a responsibility to actively gather public opinions and make a decision that reflects their suggestions. The following list contains only a selection of different uses that is raised by participants in the various workshops.

### **a. Distinct theme**

Repackaged a built heritage into a themed destination to attract more tourists. An example is Taipei's former US Embassy, which had been abandoned for decades before the building is renovated and transformed into a films centre, which include classrooms, cafes, cinemas, and a bookstore on its grounds. It is now a popular gathering place in Taipei.

### **b. For-profit uses**

If making money is an important goal for a particular building, Philadelphia's *Historic Landmark for Living* is a useful example. *Historic Landmark for Living* is a for-profit developer that specialises in purchasing old buildings with distinctive architectural merit, and transforming these buildings into residential units. The result is luxurious apartments that are quite popular. Renovation into hotels is another possibility.

### **c. Public access guarantee**

If the consensus is that public access to the building should be guaranteed, then a community use for the building might be preferred. The former Tsang Yuk Hospital in Sai Ying Pun is now turned into the Western District Community Centre. Other

communities use that guarantees public access include museums and galleries.

## **VI. General Conclusions**

- TDR and Heritage Trust are two preferred mechanisms for heritage conservation that participants believe are applicable to Hong Kong.
- Flexibility in the approach is essential, whether in choosing the right mechanism in conservation, the right proportion in allocation of heritage funds, or the right use for conserved buildings.
- Public education is a precondition to rational discussion and successful conservation.
- Conservation efforts should make on neighborhoods as the planning unit, and not just individual buildings.

And consistently raised by participants even though it is not an issue to be discussed in the workshops is this final point:

- Hong Kong still lacks a clear idea of what heritage should represent. It will be fundamental to the successful heritage conservation to develop a shared consensus on what heritage actually is, and what should be conserved.

## **4. Citizen Hearing**

### **I. Background**

The Conservancy Association has been granted funding by the Lord Wilson Heritage Trust to conduct a project on heritage conservation. One key part of this project is to gather the public's views and opinions on heritage conservation. To conclude the study, a citizen hearing was carried out to sum up and present the findings in the earlier stages. Participants from various sectors were invited, and they were strongly encouraged to give a short presentation on their views and stance towards the heritage issue.

Citizen hearing provided a channel for professionals to share their expertise and perceptions with the general public, and vice versa.

The citizen hearing was held on 18<sup>th</sup> July 2004 at Wei Hing Theatre in City University. There were 66 participants, including representatives from district council, private sector developers and consultants, professional institutes, academics, NGOs and individuals concerned with the heritage conservation in Hong Kong. The citizen hearing lasted for two and a half hours, it consisted of a panel of 3 representatives and a moderator. Summary of the data which drawn from the consultation exercises such as workshop and questionnaires were presented at the beginning. Followed by the presentation from the speakers, and finally the presentation of the citizens. There were 6 speakers in total represented different institutions and organizations in presenting their viewpoints and some of them on their own behalf. Name of the individuals who has given the original opinions were stated in brackets. For others who showed support or concur to opinions given or with slightly different views were not considered as personal opinion and thus were not quoted.

### **II. Views of guest speakers:**

#### **a. What are heritages?**

Heritages include both cultural and building conservation, it is about customs, traditions, festivals and street life, and it can be a collective memory and a cultural identity. Mentioned by Mr. Chan W. K. from the Panel, heritage is a cross-generational topic, and it is one of the sustainability issues.

Some participants think that whether a heritage worth public concern is largely depended on the media (Ada Wong). Wan Chai Market which is the last Bauhaus style building in Hong Kong, is highly recommended by the expert to conserve it.

However, according to the survey conducted by the Conservancy Association, it had the least votes. Furthermore in the survey conducted by HKU (Agenda 21), about 70% of respondents think that Wan Chai Market can be demolished. People concerns about compensation over the value of the heritage, and it is believed that due to the high publicity generated by the media, the issue of King Ying Lei got the highest score among all (Ada Wong). While Wan Chai Market has not been widely reported on its status and features, it is only a wet and dirty old market in citizens' eyes.

Beauty is in the eye of the beholder, collective memory in the eyes of expert may not be a 'memory' that the public had experienced. There is the discrepancy between the eyes and perception of expert and the laymen. Planners' eyes are idealized, therefore public consultation is needed to draw a consensus between both parties.

#### *i. The change of heritage conservation*

Hong Kong is unique in its heritage, we have Victorian style buildings and Chinese styles harmoniously. If they were gone, Hong Kong would be no different than any other cities.

The heritage conservation policy was ad-hoc and passive (Mr. Andrew Chan – the former planner of the government). Two international examples are stated, U.S. and Australia. U.S. concerned about heroic-related heritage, and has become more about social history nowadays, while Australia, has a shorter history, therefore it focuses on natural conservation.

#### b. How to conserve?

Heritage should not be conserved individually by buildings, the surrounding areas should be taken into account. UK is the pioneer to conserve the whole area for heritage.

#### *i. Points, lines, surfaces*

A holistic approach is suggested to conserve heritage, from points (building) to line (street) and at last the surface (area) (Mr. Roger Tang from HKIP). The example of Chinatown in Singapore illustrates how heritage is being conserved by conserving the whole area. He further suggested that applying this example into Sheung Wan area, by linking the Western Market and the Dry Seafood Street (Mr. Roger Tang from HKIP).

*ii. Inter-departmental cooperation*

Heritage is a cross-sectional issue, inter-departmental cooperation is important and coordination between departments is needed. The current situation in Hong Kong is fragmented, each department solely cares about their own interests. Some think that a clear mechanism should be set with regulation and policy, before talking about private ownership right, and it is suggested to have an inter-departmental unit to manage heritage issues (Mr. Daniel Cheung from CARE).

*iii. Transparency of the mechanism*

The criteria in conserving heritage are unclear, it is not opened to the public and it does not state which kind or type of buildings need to be preserved. A more transparent mechanism and assessment system is necessary to enhance a more comprehensive heritage conservation. Moreover, some think that heritage conservation should be carried out ideologically and technically, in which the value of the heritage should not be assessed by the grading system, and collective memory and the cultural identity should be taken into consideration (Mr. Louis Ng).

*iv. Social development and heritage conservation*

In UK, issues of social inclusion and exclusion are highly aware. Participant of the hearing suggested that Hong Kong should pay more attention on the relation between heritage conservation and social development, and it is further advised that Hong Kong could apply the example in UK into the case of Wan Chai, in which community connection is important, and how can heritage conservation facilitate harmonious community and sustain the 'core values' of the district (Mr. Louis Ng).

*v. Management*

Some participants commented that the conservation and use of heritage are fragmented (Ms. Betty Ho). AMO is in charge of assessing and declaration of heritage sites/ buildings but GPA and Lands Department are responsible for future use of the heritage. It is suggested that land use and management should be considered together (Ms. Betty Ho). However, these are often based on monetary return rather than suitability of the use. Integrated approach with inter and intra departmental cooperation and coordination is required. An independent office in charge of both the declaration of heritage and use and management should be set up. Some also agreed that a management plan is needed when declaring a monument or an area, to ensure that the heritage

would turn into a compatible and suitable use (Mr. Andrew Chan).

*vi. Education*

In addition, speakers agreed that education is important in conserving heritage in the long run. By using the case of Wan Chai Market, experts have different angle of views from the citizens, the questions of what, how and which to conserve require a consensus between both parties. Education can help to pave the way for reaching a consensus in the future.

*c. Funding*

*i. Consensus Building on Heritage Trust Fund*

It is required to build consensus to find out how much should the funding be and who should pay for it, to rank the priority of conserving different heritage and to decide how much it needs. The government should extract part of the land sales money into a Heritage Trust Fund to act as a starting point, private donations is highly encouraged and funding can also be drawn from taxes, e.g. development tax.

*ii. Government subsidy*

In order to sustain heritage conservation, government subsidy is essential. Some speakers insisted the important of setting up a Trust to finance the projects (Mr. Daniel Cheung). Some participants tended to think, "If government want to conserve the heritage, he must subsidize the funding, there is no free lunch." (Mr. Daniel Cheung)

*iii. Other issues discussed*

- There must be a good incentive offered for the developers or owners to motivate conservation effort.
- It is suggested that heritage is an asset of Hong Kong, it can be a profit-making tool through tourism. Apart from the revenue from tourism, there are also intangible benefits generated through the heritage (Mr. Wong Wang Tai).
- Mr. Stephen Chan raised a question for audience to think, "How to 'revitalize' the place in consideration of the collective memory, how can the old business and heritages be sustained?" He used "NPH – Nam Pak Hang" as a case to illustrate how the collective memory is lost.
- Some disagrees with the way to use legislation to restrict the demolition of heritage buildings. A more transparent mechanism is expected, which can enhance the understanding of the public towards the heritage and convince them about the value of the heritage (Mr. Felix Chan). Mutual

consensus is important in using taxpayers' money to purchase private properties for preservation. It is further suggested that an independent body funded by donation or contribution from the betting duty could be set up to finance the projects (Mr. Felix Chan). In addition, it is suggested that a two-tier approach in educating the public about heritage, namely youth and adult levels respectively (Mr. Felix Chan). At the youth level, heritage can be included into school curriculum, while in the adult level, electronic media can be used to transmit the message, such as voting exercise carried out by SMS. On one hand it can collect data, on the other hand, charges of the SMS can be put into the funding. "Heritage conservation should be achieved through dialogue and education" (Mr. Felix Chan).

### **III. General conclusion**

In general, speakers agreed that heritage should be conserved with the consideration to the surrounding areas, conservation on individual buildings would neglect the collective memory in the area, and therefore in some cases the whole areas have to be conserved in order to maintain the cultural identity and collective memory.

Coordination and cooperation between different departments is another important issue that raise by most speakers, they agreed that it is essential to have inter-departmental cooperation to facilitate better conservation policies.

In the long run, education is crucial in preparing for a group of citizens to become more aware of the heritage issues before they are gone forever. Some of the speakers strongly agreed that the importance of heritage conservation is lying upon a good foundation of education. Some further emphasized that education is the key to reach mutual consensus on heritage issue, it is important to reinforce 'collective memory' and 'cultural identity', and that heritage should be included into the school curriculum to enhance understanding of heritage in the younger generations (Ms. Betty Ho).

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