

立法會
Legislative Council

LC Paper No. CB(2)1692/07-08
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by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

**Minutes of special meeting
held on Wednesday, 2 January 2008, at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon LI Kwok-ying, MH, JP
Hon Daniel LAM Wai-keung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man
- Members attending** : Hon Audrey EU Yuet-mee, SC, JP
Dr Hon KWOK Ka-ki
- Members absent** : Hon WONG Yung-kan, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP

Public Offices attending : Development Bureau

Mrs Carrie LAM
Secretary for Development

Miss Janet WONG
Deputy Secretary (Works)¹

Leisure and Cultural Services Department

Mr Thomas CHOW
Director of Leisure and Cultural Services

Dr Louis NG
Assistant Director (Heritage & Museums)

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)²

Staff in attendance : Ms Joanne MAK
Senior Council Secretary (2)²

Ms Anna CHEUNG
Legislative Assistant (2)²

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I. Heritage conservation policy
[LC Paper Nos. CB(2)637/07-08(01) and (02)]

Briefing by the Administration

The Secretary for Development (SDEV) briefed members on the current position in regard to the implementation of initiatives on heritage conservation as set out in the Legislative Council (LegCo) Brief "Heritage Conservation Policy" issued on 11 October 2007 [DEVB(CR)(W) 1-55/68/01].

2. Members also noted that the Legislative Council Secretariat prepared a background brief entitled "Heritage conservation policy" [LC Paper No. CB(2)637/07-08(02)] for members' reference.

Issues raised by members

Failures to introduce any legislative amendment or devote additional resources

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under the new policy

3. Dr KWOK Ka-ki, Mr Albert CHAN and Mr James TO expressed disappointment at the absence of any concrete policy measures in the LegCo Brief under reference which could demonstrate the Administration's determination or a clear policy direction on heritage conservation. Mr CHAN remarked that the Administration's decision not to pursue revamping the Antiquities and Monuments Ordinance (A&M Ordinance) nor introduce a new piece of legislation was wrong. He considered that the Administration should set up a fund for heritage conservation as soon as possible and the Administration should inject, say, \$5 billion to it. Mr CHAN was of the view that, without devoting additional new resources or introducing legislative amendments, no improvements could be made in heritage conservation. Mr TO considered that the Star Ferry Pier and the Queen's Pier Incidents had shown that, under the existing legislation, the threshold of historical, archaeological or palaeontological significance qualifying a building as a monument was very high, which rendered a historic building very difficult to meet the threshold for preservation. The Administration should consider revamping the legislation, or setting up a fund for buying those privately-owned historic buildings which were under threat of demolition.

4. Dr KWOK Ka-ki was of the view that the Administration had to take prompt and effective measures to protect historic buildings from demolition or dilapidation. Referring to the incident of King Yin Lei, Dr KWOK expressed concern whether there were other similarly important historic buildings which were also under threat of demolition. He had learnt that action was being taken by the Hospital Authority to demolish the Nursing Quarter - Block A in Queen Mary Hospital, which was a 70-year-old historic building. He asked when the Administration could report any progress in its consideration of setting up of a heritage conservation trust.

5. SDEV responded that the A&M Ordinance did provide for effective protection of those historic buildings which merited statutory protection. The Administration had considered the desirability for revamping the A&M Ordinance to protect graded buildings, but came to a view not to pursue this route for the time being for reasons as explained in paragraph 10 of the LegCo Brief. As regards additional resources, SDEV invited members to note that the Administration had proposed to provide \$1 billion to support the operation of the Revitalising Historic Buildings Through Partnership Scheme (Revitalisation Scheme), and to create the post of Commissioner for Heritage to be supported by a team of non-directorate staff, which would be discussed later at the meeting.

6. SDEV further said that the Administration adopted an open position on the issue of setting up a heritage conservation trust and would study overseas experience to assess its suitability for application to local circumstances. She was planning to undertake duty visits in the current year to study overseas

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experience of implementation of a heritage trust. SDEV explained that a heritage trust would be considered in the longer term when heritage conservation work had gained wider recognition in the community. In this connection, the Administration would strengthen public education and publicity on heritage conservation.

7. The Chairman noted from paragraph 10 of the LegCo Brief that the Administration decided not to consider revamping the A&M Ordinance as it would be a protracted exercise. She asked when the Administration would consider appropriate to pursue this route and whether it considered that the revamping of the A&M Ordinance should be pursued after completion of the on-going heritage assessment for the 1 400 historic buildings.

8. SDEV said that she was unable to provide a timetable for introducing legislative amendment. She reiterated that the A&M Ordinance was effective in protecting historic buildings which merited statutory protection. As regards the concern that the threshold imposed under the Ordinance for a building to be qualified as a monument was too high, SDEV said that, to tackle the problem, it was necessary to ascertain the number of heritage buildings which were considered worthy of conservation but failed to meet the threshold. She pointed out that, if the Administration proposed to amend the A&M Ordinance by extending the rigid form of protection provided by the Ordinance to all the existing Grade I historic buildings, say, by listing them in the form of a Schedule to the A&M Ordinance, such a move would definitely arouse controversies in the community.

9. The Chairman asked whether the Administration would put on hold any redevelopment projects involving any of these 1 400 buildings, before any legislative amendment was introduced. Dr KWOK Ka-ki requested the Administration to give an undertaking that all of the 1 400-plus historic buildings would be preserved intact.

10. SDEV responded that she was unable to give such an undertaking as many of these buildings were under private ownership. She clarified that the heritage significance of the 1 400 historic buildings had yet to be established, as the heritage assessment was underway. She, however, pointed out that the Administration had put in place a mechanism whereby an owner was required to apply for the Building Authority's prior approval for structural works, including demolition of buildings. Upon receipt of any such application, the Buildings Department would notify the Antiquities and Monuments Office (AMO) for taking necessary action. The Administration might consider, where necessary, declaring a historic building a proposed monument, which would be effective for 12 months to provide time for negotiation between the Administration and the owner concerned on possible ways of preservation of the property involved.

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11. SDEV further said that as set out in the LegCo Brief, the Administration had also adopted the following measures to enhance heritage conservation in the private sector domain -

- (a) expanding the existing scheme of maintenance of historic buildings to assist private owners of both declared monuments and graded historic buildings to carry out repairs and regular maintenance, as set out in paragraph 30 of the LegCo Brief; and
- (b) recognising the need for appropriate economic incentive schemes in order to facilitate private owners to preserve historic buildings under their ownership, and undertaking to actively engage relevant stakeholders in devising appropriate measures, as set out in paragraphs 25 to 28 of the LegCo Brief.

12. Mr James TO remained dissatisfied with SDEV's response. He maintained that it would not be possible to bring about any real improvement to heritage conservation, unless amendments were made to the A&M Ordinance to provide for different levels of statutory protection for different grades of historic buildings. He considered that the Administration could not only rely on implementing administrative measures, such as maintenance schemes, because private owners would not be prevented from demolishing historic buildings under their ownership for making profits.

13. Mr James TIEN, however, took the view that, if a policy was adopted which disallowed any structural works or demolition from being carried out in any privately-owned historic building even though the building did not attain a monument status, such rigid restrictions would adversely affect the property value of the building and the interest of the private owner concerned.

Slow progress in the formulation of new heritage conservation initiatives and heritage assessment for the some 1 400 historic buildings

14. The Deputy Chairman said that the Democratic Party in general supported the policy objective of enhancing heritage conservation. The greatest discontent, however, lay with the slow progress of implementing relevant work. He said that it was disappointing that the Administration had not come up with a plan for the conservation of the 1 400 historic buildings and for protection of privately-owned historic buildings from destruction. He urged the Administration to expedite its consideration of economic incentives to be offered, the issue of setting up a heritage trust, and review of relevant legislation. He requested the Administration to draw up a timetable for taking forward the work in all these areas.

15. Professor Patrick LAU said that, as the former chairman of the expert panel under AAB, he also found that the Administration had been too slow in taking forward the heritage assessment for the 1 400 historic buildings. He

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recalled that, in the previous few years, the Administration had consulted the expert panel only on a few of those buildings each year.

16. SDEV informed members that the Administration would soon put forward proposed economic incentives to facilitate preservation of King Yin Lei, and it wished to take the opportunity to arouse public discussion on the price of conservation. SDEV informed members that the Administration had come up with a plan to expedite the heritage assessment for the 1 400 historic buildings, in order to facilitate the Administration in working out a plan for the conservation of the buildings involved. The Director for Leisure and Cultural Services (DLCS) supplemented that, at the request of SDEV and with the enhanced support rendered by AMO, the expert panel now planned to conduct heritage assessment for 80 to 100 historic buildings each month. He added that the exercise was expected to be completed by end 2008.

17. Professor Patrick LAU considered that preservation of historic buildings should not be done in a piecemeal approach but should be implemented in the wider context of district planning. He suggested that the Administration should publish the 1 400 historic buildings and consult District Councils (DCs) and the local community on the preservation of those buildings.

18. DLCS explained that, as some of the historic buildings were under private ownership, the Administration considered it more prudent not to release information on those buildings until the heritage assessment was completed. He explained that, as the expert panel might need to refine their marks on individual buildings by comparing their value with other historic buildings, the panel could not submit their assessment until they had completed their overall assessment for the 1 400 historic buildings. So the list of the 1 400 historic buildings could not be published at the present stage.

19. Professor Patrick LAU suggested that whenever the expert panel had completed the assessment of a group of historic buildings located within the same district, the relevant assessment should be released at the earliest opportunity to enable public engagement within that district. DLCS responded that the expert panel did not have such a plan but he would convey the suggestion to the expert panel for consideration.

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The new policy statement to guide heritage conservation work

20. Ms Audrey EU and Dr Fernando CHEUNG both considered that the new policy statement failed to provide concrete details or objective criteria of applying the guiding principles stated therein. Ms EU asked what difference would have been made if the Administration had applied this new policy statement in handling the conservation of the Star Ferry Pier and the Queen's Pier. Dr CHEUNG also considered that there was little substance in the policy statement which failed to provide any guiding principle for resolving conflicts between heritage conservation and economic development needs.

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21. Citing the short and precise wording of the policy statement on public health services, SDEV explained that the new policy statement on heritage conservation was formulated along the same principle, i.e. to set out the fundamental considerations adopted. She further elaborated on the new concepts incorporated into the policy statement, e.g. scope of protection covering historic and heritage buildings as well as sites, adaptive re-use of historic buildings, and accepting in principle the need for economic incentives to facilitate preservation of privately-owned heritage. SDEV pointed out that the Administration had adopted these important concepts in response to new demands made by the community on heritage conservation over the past year.

22. Ms Audrey EU asked how the principle of "active engagement of stakeholders and the general public" stated in the new policy statement would be realised. She considered that the rigid position adopted by the Administration in handling the demands of the H15 Concern Group in relation to keeping the tenement buildings in Lee Tung Street had contradicted this principle. SDEV explained that the Town Planning Board had already considered carefully all the proposals submitted by various concern groups. The Administration and the Urban Renewal Authority simply could not suspend its work whenever an objection to redevelopment was raised.

Lack of criteria for the selection of conservation approach for specific heritage items

23. Miss CHAN Yuen-han considered that the LegCo Brief under reference failed to provide clear objective criteria for deciding on the appropriate conservation approach to be adopted for specific heritage items. She said that it seemed that it was merely the Chief Executive's own decision in deciding on the way forward for individual heritage items. While the Administration was willing to consider the preservation of the entire King Yin Lei which might necessitate land exchange, the Administration did not propose to preserve the 600-year-old Nga Tsin Wai Village intact despite its high conservation value. She added that it was also not clear how the seven buildings included in the Revitalisation Scheme were selected.

24. SDEV responded that the rationale of the current conservation plan for Nga Tsin Wai Village had been explained on various occasions. She said that the conservation proposal for the Nga Tsin Wai Village project could satisfy fully the preservation requirements suggested by AAB. She could not agree that the heritage conservation policy was based on individual preference of government officials. She invited members to note that the LegCo Brief had not only set out a new policy statement on heritage conservation but also provided a package of relevant initiatives. With the release of the heritage conservation policy, heritage conservation work would have to fully comply with the guiding principles stated in the policy statement. SDEV also clarified that the Revitalisation Scheme did not necessarily have to be restricted to the

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seven buildings being proposed. She said that, after smooth implementation of the Revitalisation Scheme, the Administration would consider the applicability of the Scheme to additional historic buildings.

II. Revitalising Historic Building Through Partnership Scheme
[LC Paper No. CB(2)637/07-08(03)]

Briefing by the Administration

25. SDEV briefed members on the proposal of the Revitalisation Scheme as detailed in the Administration's paper [LC Paper No. CB(2)637/07-08(03)]. She invited members to note that while the current proposal concerned the creation of a non-recurrent item, "Revitalising Historic Buildings Through Partnership Scheme", of the amount of \$100 million for five years for supporting the operation of the Scheme, the Administration would seek approval for capital works funding for the necessary renovation works for each of the historic buildings under the Scheme separately in the future. She explained that upon approval of a successful application, the historic building would have to be renovated in accordance with the proposal received. The Administration would provide appropriate financial support and had earmarked \$1 billion under the Capital Works Reserve Fund for this purpose. The Administration would seek approval separately for capital works funding for these works in the normal manner by making submissions to the Public Works Subcommittee (PWSC) of the Finance Committee (FC).

Issues raised by members

Proposed modus operandi

26. Mr James TIEN said that the Liberal Party was supportive of the Revitalisation Scheme. Referring to paragraph 6(b) of the Administration's paper, Mr TIEN asked whether the corporate social enterprises set up by commercial corporations and which solely engaged in charity business were regarded as equivalent to charitable organisations under section 88 of the Inland Revenue Ordinance (IRO), and thereby were eligible to submit proposals under the Scheme.

27. SDEV said that the current Scheme would only accept application from Non-governmental organisations (NGOs) which had to be non-profit making organisations having acquired charitable status under section 88 of IRO. The corporate social enterprises referred to by Mr TIEN would be eligible to submit proposals under the Scheme only if they had succeeded in applying as charitable organisations under section 88 of IRO. However, the Administration might exercise flexibility in handling applications submitted by non-profit making organisations which were in the course of applying as charitable organisations under section 88 of IRO.

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28. SDEV further said that the Administration was also exploring the suitability of some other historic buildings for inclusion in the next batch of the Scheme, which might be implemented by an open tender approach involving private enterprises in commercial operations. However, as far as the seven buildings under discussion were concerned, the Administration had decided to adopt the approach of collaboration with non-profit making NGOs in the form of social enterprise (SE).

29. Miss CHAN Yuen-han expressed concern that the operation of the Scheme might not be satisfactory if applicants were restricted to non-profit making organisations having acquired charitable status under section 88 of IRO. She suggested that no restrictions should be imposed on the nature of the participating organisations as long as these organisations agreed to use the proceeds generated from operation of SE for charity purpose. She added that reference could be made to the experience of implementing SEs in the United Kingdom as she had elaborated during the motion debate on "Promoting SEs" moved by her at the Council meeting held on 5 December 2007. SDEV responded that Miss CHAN's suggestion required more in-depth study and was being followed up by the Labour and Welfare Bureau. She, however, considered it not appropriate to explore the issue in the present context of the Revitalisation Scheme.

Maintenance of the historic buildings included in the Scheme

30. Miss CHAN Yuen-han expressed concern about the adequacy of measures under the Scheme to ensure proper conservation of the historic buildings involved. She suggested that a maintenance fund, similar to the maintenance scheme implemented by the Housing Authority, should be set up to facilitate the maintenance of the historic buildings involved.

31. SDEV explained that there was no need for setting up a maintenance fund for the historic buildings as these buildings were all Government-owned. The Government would continue to be responsible for funding the maintenance and repair of the structural parts of and slopes adjacent to the buildings after they had been let to the successful NGOs. Dr Fernando CHEUNG stressed that as the maintenance cost was a major concern to NGOs, the Administration must not change its commitment in this regard.

Prevention of damages done to the seven historic buildings involved

32. Citing the case of the ex-Marine Police Headquarters in Tsim Sha Tsui which had been seriously damaged under the redevelopment plan of the private developer concerned, Mr Albert CHAN expressed concern about how the Administration would prevent the same problem from happening to the seven historic buildings under the Scheme.

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33. SDEV pointed out that, under the Scheme, the historic buildings involved remained to be owned by the Government and the NGOs concerned only played the role of operators during the tenancy period. The Administration would consider discontinuing collaboration with a NGO and taking back the building concerned if any improper use of the building was detected.

Provision of guidelines and information on the historical significance of the historic buildings

34. Dr Fernando CHEUNG considered that the revitalisation plan for the historic buildings involved should aim to bring out effectively their historical significance. In order to achieve this aim, Dr CHEUNG suggested that AMO should provide detailed information and guidelines on the historical significance of the buildings involved for reference by the applicants. He added that opportunities should be provided, after the second round of selection of proposals, for the local community to give comments and suggestions to the selected proposals too.

35. The Chairman said that the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) was supportive of the Revitalisation Scheme. She hoped that the Administration would very soon identify more suitable historic buildings for inclusion into the Scheme. She suggested that historic buildings of relatively larger size could be included in the next batch.

36. Summing up the views expressed by members at the meeting, the Chairman concluded that the Panel supported submission of the current funding proposal to FC for consideration at its meeting on 1 February 2008.

III. Creation of the post of Commissioner for Heritage

[LC Paper No. CB(2)637/07-08(04)]

Briefing by the Administration

37. SDEV briefed members on the Administration's paper [LC Paper No. CB(2)637/07-08(04)] on the proposed creation of the Commissioner for Heritage (C for H) post, at Administrative Officer Staff Grade C (AOSG'C') (D2) level, in the Works Branch (WB) of the Development Bureau (DEVB). SDEV said that C for H would head a new dedicated heritage office, i.e. a new Commissioner for Heritage's Office (CHO), to be set up in DEVB.

Discussion

38. Referring to Annexes 3a and 3b to the Administration's paper, Mr James TIEN said that there were already six officers at D2 level in the Bureau. He asked whether the Administration had explored the possibility of absorbing the

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heritage conservation workload by internal redeployment instead of creating the proposed additional directorate post in the Bureau. SDEV clarified that among the six officers at D2 level in the Bureau, two were deputy legal advisers who were legal staff responsible for handling legal and litigation matters. The proposed increase was in actual from four to five D2 officers. Deputy Secretary (Works)1 (DS(W)1) added that the Administration had explored all possibilities of internal redeployment and considered that the existing four officers had no spare capacity to absorb the additional workload.

39. Mr Albert CHAN considered that the current staffing proposal would achieve no practical effect in the absence of an effective legislative and policy framework for heritage conservation. He considered that the proposed new CHO could not function effectively unless the C for H was conferred necessary powers by legislation and his office provided with adequate resources to implement the policy on heritage conservation. He asked whether SDEV would give an undertaking that she would give thought to initiating legislative amendments or resources redeployment with a view to supporting the work of CHO.

40. SDEV responded that as she had explained to members under agenda item I, the Administration had already earmarked \$1 billion under the Capital Works Reserve Fund for supporting the Revitalisation Scheme and there was still room for allocation of more funds under the Capital Works Reserve Fund for the same purpose. She assured members that there should be no worry about resources support for the work of CHO. She further said that, while she could not give an undertaking to amend the A&M Ordinance, the current staffing proposal would be conducive to heritage conservation work by strengthening the staffing support for the work.

41. Dr Fernando CHEUNG and Miss CHAN Yuen-han expressed support for creating the C for H post to serve as a focal point of contact in taking forward heritage conservation work. They, however, were concerned whether the rank of the new post might not be high enough to discharge effectively the wide range of important duties and responsibilities required. Miss CHAN was particularly concerned whether the new post which only pitched at D2 level could handle liaison and policy coordination with other policy bureaux/departments effectively.

42. SDEV assured members that with the creation of the new C for H post, she and DEVB would render full support to his work in heritage conservation. She would continue to be involved directly in handling relatively sensitive issues such as economic incentive schemes for heritage conservation purpose.

43. Dr Fernando CHEUNG further asked about the division of work between CHO and AMO in future, and whether it would be C for H or AMO to assume the role of providing professional advice to the Antiquities Authority (AA). SDEV responded that as AMO also came directly under DEVB, there

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would be no problem in coordination of work between AMO and CHO which would be established in DEVB. She added that AMO would continue to provide professional advice to AA in handling cases of monument declaration.

44. The Chairman said that DAB was supportive of the current proposal which would be conducive to enhancing heritage conservation work in Hong Kong. Summing up the views expressed by members at the meeting, the Chairman concluded that the Panel supported submission of the current staffing proposal to the Establishment Subcommittee of FC for consideration and approval.

45. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
22 April 2008