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Panel on Development

Meeting on 25 November 2014

**Background brief on policy relating to preservation of
historical remains discovered at works sites and
archaeological discoveries at To Kwa Wan Station**

Purpose

This paper provides background information on the Administration's policy relating to preservation of historical remains discovered at the works sites and the recent archaeological discoveries at To Kwa Wan Station of the Shatin to Central Link ("SCL"). It also summarizes major views and concerns expressed by Members on the subject at the meetings of the Legislative Council ("LegCo") and its committees since the 2012-2013 legislative session.

Background

2. In Hong Kong, historical remains discovered at the works sites have been preserved in accordance with the established statutory and administrative measures. The Antiquities and Monuments Ordinance ("A&MO") (Cap. 53) and the Environmental Impact Assessment Ordinance ("EIAO") (Cap. 499) are the two pieces of legislation protecting and preserving archaeological heritage. A&MO regulates the discovery and excavation of antiquities and EIAO requires the conduct of the environmental impact assessment ("EIA") study for all designated projects, which may include a cultural heritage impact assessment. Moreover, project proponents should implement mitigation measures as set out in the EIA report to minimize impact on the sites of cultural heritage concerned.

3. According to the Administration¹, it has undertaken a number of administrative measures to protect objects of historic or archaeological interest. For example, project proponents and relevant works departments for all new capital works projects are required to conduct a heritage impact assessment ("HIA") if their projects will affect sites or buildings of historic or archaeological significance. Under the HIA mechanism, mitigation measures are devised if necessary and the public are engaged at an early stage. An outline of these statutory and administrative measures is in **Appendix I**.

4. In recent years, there has been a growing concern over the preservation of antiques unearthed at the works sites. At its meeting on 27 November 2012, the Panel on Development ("DEV Panel") discussed with the Administration the discovery of fragments of the seawall of the mid-19th century at the works site of the MTR Corporation Limited ("MTRCL") at Harcourt Garden in Admiralty. Some members expressed concern that the public had not been informed of the archaeological discoveries in a timely manner. To address public concerns, the Administration advised that it had enhanced the relevant notification measures so that archaeological discoveries, irrespective of the heritage value, would be reported to the Antiquities Advisory Board ("AAB") at an early stage.

Archaeological discoveries at To Kwa Wan Station of the Shatin to Central Link

5. SCL is a 17-kilometre railway comprising 10 stations and MTRCL is entrusted to implement the SCL construction project. As recommended by the relevant EIA report, an independent archaeologist was engaged by the SCL contractor to carry out an archaeological survey-cum-excavation at a confined area within To Kwa Wan Station (i.e. the first archaeological work area) before the commencement of the construction of the station. The locations of the three archaeological work areas within the works site at To Kwa Wan Station are shown in **Appendix II**. The survey-cum-excavation, which commenced in November 2012 and was completed in December 2013, was to define the precise horizontal extent and the nature of the archaeological deposits, and retrieve the archaeological data completely within this confined area at the Sacred Hill Area.

¹ Source: The Administration's paper on "Review of Policy on the Conservation of Built Heritage, Progress Report on Heritage Conservation Initiatives and Policy Relating to Preservation of Historical Remains Discovered at Works Sites" (LC Paper No. CB(1)1623/13-14(05))

6. Among the remnants and relics unearthed in the first archaeological work area is a well-preserved square-shaped stone well of the Song Dynasty. Having regard to the significant heritage value of the well, the Administration decides to preserve it in-situ. According to the Administration², the well is located outside the station area and does not affect the construction works of the station. Nevertheless, the Administration has changed the alignment of a proposed carriageway in the Kai Tak Development Area, so as to divert the carriageway from the location of the well to facilitate its future display to the public.

7. In view of the discovery of archaeological relics at the works site outside the survey-cum-excavation area, the Antiquities and Monuments Office ("AMO") initiated and MTRCL agreed to expand the archaeological work area. To ensure that the archaeological finds unearthed are properly protected, MTRCL has suspended the construction works within the archaeological work areas.

8. As regards the second archaeological work area, the archaeological fieldwork that commenced in December 2013 has been completed, except for those in the T1 Area at the south-west corner of the work area. Another square-shaped stone well of the Song Dynasty and stone building remnants are discovered at the T1 Area, but this well is not as intact as the one found in the first archaeological work area. MTRCL has implemented measures to protect the stone well and the stone building remnants. According to the Administration³, this well is located within the boundary of To Kwa Wan Station but away from the alignment of the SCL tunnel. Preliminary assessment indicates that the well will not affect the SCL alignment. However, there is a need to revise the design of To Kwa Wan Station and modify the originally planned construction method if the well is preserved in-situ. The Administration subsequently decided to preserve in-situ the stone well and the stone building remnants found in the T1 Area⁴.

9. In April 2014, the archaeological fieldwork was further extended to the third archaeological work area. Two archaeological features are uncovered in the work area, namely (a) a stone well of the Song-Yuen

² Source: The Administration's paper on "Progress update of the construction of the Shatin to Central Link" (LC Paper No. CB(1)1722/13-14(03))

³ Source: The Administration's reply to Question No. 2 raised at the Council meeting on 21 May 2014

⁴ Source: The Administration's paper on "Archaeological Features Discovered at To Kwa Wan Station of the Shatin to Central Link (SCL) and Their Proposed Preliminary Conversation and Interpretation Plans" to AAB on 20 November 2014 (http://www.aab.gov.hk/form/special_meetings/AAB_45_2013-14.pdf)

period (named Well J2), associated with an early 20th century stone water channel; and (b) a stone structure of the Song-Yuen period in Adit C. However, the archaeological value of Well J2 is less important than the other two stone wells that have been found. It was expected that the archaeological fieldwork would be completed in the third quarter of this year⁵.

10. With the exception of areas where the archaeological work is still underway, the SCL contractor has gradually resumed the construction works of the station. The Administration will formulate appropriate preservation proposals and measures upon the completion of the fieldwork and a thorough assessment of the archaeological discoveries.

Impact of the archaeological discoveries on the railway project

11. To better understand the impact of the archaeological discoveries on the works progress of SCL, the Panel on Transport and some other LegCo Members paid a visit to the works site of To Kwa Wan Station on 3 June 2014. At the meeting of DEV Panel on 24 June 2014 and the meeting of the Subcommittee on Matters Relating to Railways under the Panel on Transport on 4 July 2014, some members urged the Administration and MTRCL to strike a balance between protecting archaeological discoveries and minimizing the impact of the archaeological work on the progress of the SCL project at To Kwa Wan Station. The Administration advised that it had closely monitored the SCL project through a Project Supervision Committee led by the Director of Highways. The joint liaison group between the Development Bureau and the Transport and Housing Bureau would also ensure that, in preserving the historical remains, the impact on the construction of SCL would be kept to the minimal.

Preservation of the archaeological heritage

12. Members have made various suggestions on the preservation of the historical remains discovered in the course of construction of SCL, which included preserving them in-situ or relocating them to other places for better preservation. To preserve the Song-Yuan remains in-situ, some members have proposed an adjustment to the design of To Kwa Wan Station so that SCL would pass beneath these remains.

⁵ Sources: (a) The Administration's paper on "Progress update of the construction of the Shatin to Central Link" (LC Paper No. CB(1)1722/13-14(03)) to the Subcommittee on Matters Relating to Railways on 4 July 2014, and (b) The Administration's paper on "Archaeological Features Discovered at To Kwa Wan Station of the Shatin to Central Link (SCL) and Their Proposed Preliminary Conversation and Interpretation Plans" to AAB on 20 November 2014.

Impartiality and transparency of the archaeological work

13. Some members held the view that the transparency of the archaeological work carried out at the works site should be enhanced and an independent archaeological expert group should be appointed to ensure impartiality in protecting the archaeological discoveries. The Administration advised that the public were kept informed about the latest development of the archaeological work as the monthly progress reports prepared by AMO were uploaded onto the Internet and the AAB meetings were open to public with its papers and minutes made available on its website. Regarding the independent archaeologist appointed by the SCL contractor, the archaeologist concerned should report the progress and findings of all the archeological works to AMO direct. AMO also conducted weekly site inspections to ensure the compliance of MTRCL with the heritage protection provisions.

Latest development

14. According to the Administration⁶, the archaeological fieldworks at To Kwa Wan Station were substantially completed by the end of September 2014 and on-site recordings were completed in October 2014. Detailed processing of the findings is now in progress.

15. At AAB's meeting held on 20 November 2014, the Administration put forward four conservation options for Well J2 and the associated water channel, and two conservation options for the stone structure in Adit C for members' advice. According to the Administration, when deciding which options to take, it will take into account the heritage value of the archaeological features, construction risks and impact on station design, etc.

⁶ Source: The Administration's paper on "Archaeological Features Discovered at To Kwa Wan Station of the Shatin to Central Link (SCL) and Their Proposed Preliminary Conversation and Interpretation Plans" to AAB on 20 November 2014

16. At the media session held on the same day, the Administration announced that the archaeological and related works had caused a delay in the construction of To Kwa Wan Station for at least 11 months, inducing additional construction and other costs of \$3.1 billion. Another \$1 billion would be incurred for in-situ preservation for most structures and remnants of the Song-Yuan period unearthed at To Kwa Wan Station⁷.

17. Regarding the preservation of Well J2, the water channel and the stone structure in Adit C, the Administration estimated that an additional cost up to \$1.3 billion would be required, depending on which conservation options would be taken. The Administration wishes to make the decision as soon as possible since each month's delay will result in an additional cost of about \$250 million and a further delay on the progress of the SCL project.

18. The Administration will update DEV Panel on 25 November 2014 on the discovery of archaeological features at To Kwa Wan Station, and brief members on the proposed preliminary conservation and interpretation concept plans.

Relevant papers

19. A list of relevant papers with hyperlinks is in **Appendix III**.

Council Business Division 1
Legislative Council Secretariat
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⁷ Sources: Transcripts of remarks by the Secretary for Development and the Secretary for Transport and Housing at the media session held on 20 November 2014 (<http://www.info.gov.hk/gia/general/201411/20/P201411200818.htm>, <http://www.info.gov.hk/gia/general/201411/20/P201411200674.htm> and <http://www.info.gov.hk/gia/general/201411/20/P201411200725.htm>)

Preservation of Objects of Historical Interest Discovered at Works Sites⁸

This note describes the statutory and administrative measures for the preservation of objects of archaeological and historical interest in Hong Kong.

STATUTORY PROTECTION

2. According to section 11 of the Antiquities and Monuments Ordinance ("the Ordinance") (Cap. 53), any person who discovers, or knows of the discovery of an antiquity or supposed antiquity shall forthwith report the discovery to the Antiquities Authority (i.e. the Secretary for Development) or to a designated person, and shall take all reasonable measures to protect it; and the Antiquities Authority and any designated person authorised by him may enter upon and inspect the site of the discovery of an antiquity or supposed antiquity. Section 12 of the Ordinance also provides that, except for the Antiquities Authority and a designated person authorised by him, other persons shall obtain a licence granted by the Antiquities Authority in order to excavate and search for antiquities. Pursuant to section 13 of the Ordinance, the Antiquities Authority may only grant a licence if he is satisfied that the applicant for licence has had sufficient scientific training or experience and has at his disposal sufficient staff and financial or other resources to enable him to carry out the excavation and search satisfactorily, and is able to conduct, or arrange for, a proper scientific study of any antiquities discovered as a result of the excavation and search; and the Antiquities Authority may include such conditions as to the conduct of any excavation and search, as well as preservation of materials discovered etc. in the licence as he considers appropriate. Besides, according to section 3 of the Ordinance, the Antiquities Authority may, after consultation with the Antiquities Advisory Board ("AAB") and with the approval of the Chief Executive, by notice in the Gazette, declare any place or site which he considers to be of archaeological significance to be a monument.

3. The Environmental Impact Assessment Ordinance ("EIAO") (Cap. 499) is part of government's efforts to protect the environment. It requires proper evaluation, at the earliest possible stage, of the environmental impacts of development projects and ensures the satisfactory implementation of necessary

⁸ Source: Administration's paper on "Review of Policy on the Conservation of Built Heritage, Progress Report on Heritage Conservation Initiatives and Policy Relating to Preservation of Historical Remains Discovered at Works Sites" (LC Paper No. CB(1)1623/13-14(05))

prevention and mitigation measures to protect the environment. It has provisions related to the protection and preservation of archaeological heritage.

4. According to Schedule 1 of the EIAO, "site of cultural heritage" means "an antiquity or monument, whether being a place, building, site or structure or a relic, as defined in the Ordinance and any place, building, site, or structure or a relic identified by the Antiquities and Monuments Office ("AMO") to be of archaeological, historical or palaeontological significance". The EIAO provides that environmental impact assessment ("EIA") study, which may include cultural heritage impact assessment comprising a built heritage impact assessment and an archaeological impact assessment, should be conducted for all designated projects. Project proponents should implement the mitigation measures as set out in the EIA report to minimise impact on the sites of cultural heritage concerned.

ADMINISTRATIVE PROTECTION

5. AMO has provided the relevant departments (such as Planning Department, Lands Department, Civil Engineering and Development Department, Architectural Services Department, Home Affairs Department, etc.) with a list of archaeological sites (including those which have not been declared as monument), with plans delineating their boundaries, for reference to facilitate relevant departments to make early consideration on the protection of archaeological sites at the initial planning stage of a works project or development proposal. There are currently 208 sites and the AMO updates the list and circulates it to relevant departments regularly.

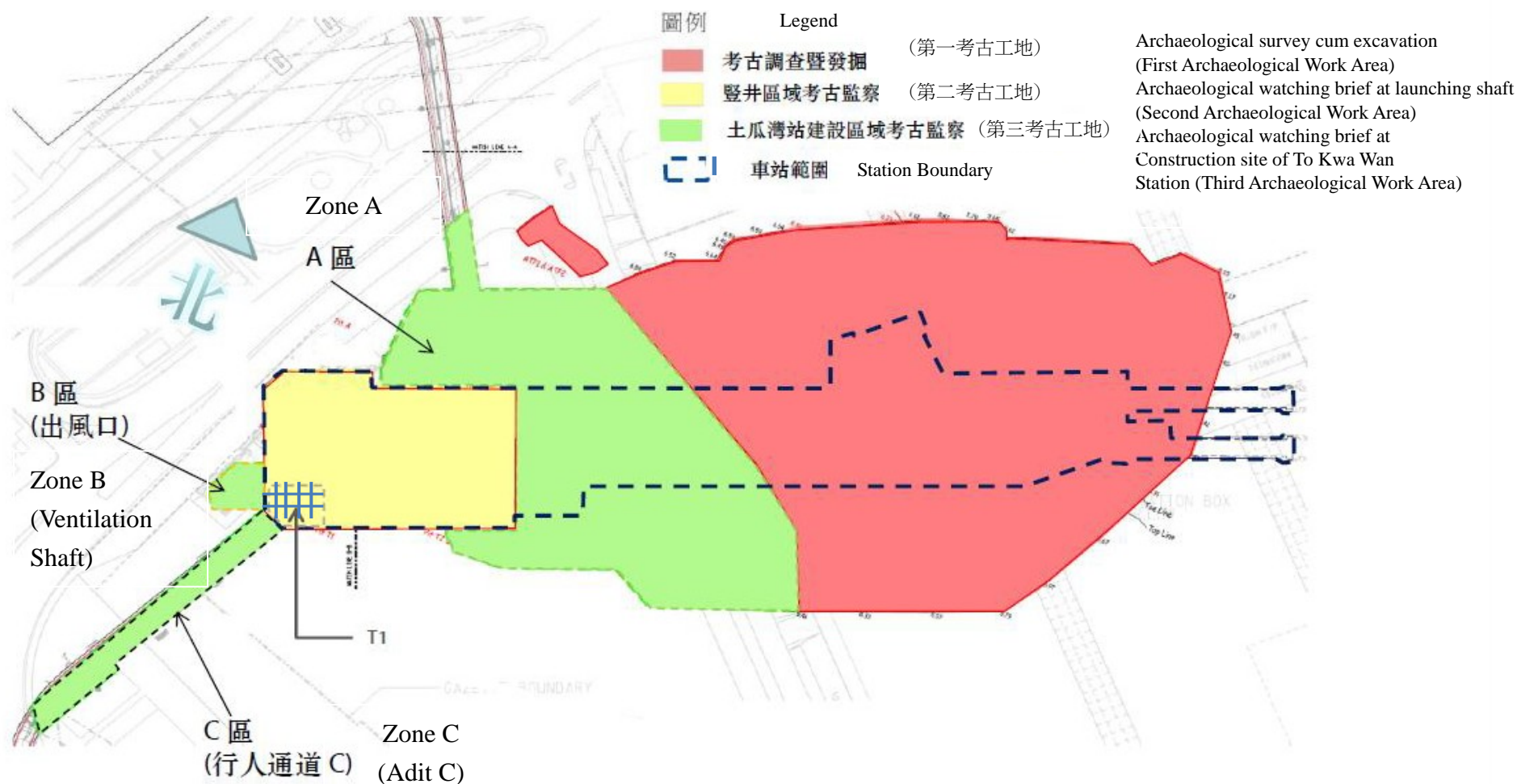
6. Besides, the Administration has since 2008 requires the project proponents and relevant works departments of all new capital works projects to examine whether the works projects will affect sites or buildings of historic or archaeological significance. If the answer is in the affirmative, then a Heritage Impact Assessment ("HIA") would be required and conservation management plan and protection guidelines should be delineated to ensure that sites or buildings of historic or archaeological significance would not be damaged; or if damage is unavoidable, mitigation measures should be formulated to minimise the damage. The HIA should be submitted to the AAB for consideration. The HIA mechanism seeks to ensure a balance be struck between the requirements for development initiated by Government and heritage conservation, starting from the project inception stage. It also demonstrates Government's commitment to enhance heritage conservation; and engages the public at an early stage.

7. Notification to the AAB, the public and the District Council ("DC") has been enhanced for early announcement of archaeological discoveries since 2012. Apart from regular reporting of the progress of archaeological projects to AAB at its meetings and arranging site visits if important archaeological findings are discovered, sections relevant to archaeology in EIA Reports shall be submitted to the AAB. AAB will also be informed once AMO has been notified of archaeological discoveries and has completed preliminary assessment on the heritage value of such discoveries and before AMO informed the project proponent/archaeologist concerned of the agreed preservation method.

8. All reports compiled by the archaeologists concerned upon completion of the archaeological works shall be uploaded to the websites of the AAB and AMO. If archaeology discoveries of special archaeological, paleontological or historical interest are found, the information note circulated to AAB shall be uploaded onto its website if the reports compiled by the archaeologists concerned are not yet available.

9. If archaeological discoveries of special archaeological, paleontological or historical interest are found, the reports compiled by the archaeologists concerned shall be submitted to the relevant DCs for information. If the reports are not yet available, the information note circulated to AAB shall be submitted to the DCs concerned.

在土瓜灣站工地內的3個考古工地
The three archaeological work areas within the works site at To Kwa Wan Station



資料來源：政府當局就2014年6月4日立法會會議上所提第15號質詢作出的答覆附件一
Source: Annex 1 to the Administration's reply to Question No. 15 raised at the Council meeting on 4 June 2014

Appendix III

Policy relating to preservation of historical remains discovered at works sites and archaeological discoveries at To Kwa Wan Station

List of relevant papers

Council/Committee	Date of meeting	Paper
Panel on Development	27 November 2012	Administration's paper on "Policy and Matters Relating to Preservation of Historical Remains Discovered at Works Sites" [LC Paper No. CB(1)197/12-13(05)] http://www.legco.gov.hk/yr12-13/english/panels/dev/papers/dev1127cb1-197-5-e.pdf Minutes of meeting [LC Paper No. CB(1)429/12-13] http://www.legco.gov.hk/yr12-13/english/panels/dev/minutes/dev20121127.pdf
Council meeting	21 May 2014	Written question (No. 2) on "Monuments and antiques unearthed at railway construction sites" http://www.info.gov.hk/gia/general/201405/21/P201405210429.htm
Panel on Development	26 May 2014	Administration's response to the letters from Hon Gary FAN Kwok-wai and Dr Hon KWOK Ka-ki on discovery of historical remains at the works site of the Shatin to Central Link [LC Paper No. CB(1)1518/13-14(01)] http://www.legco.gov.hk/yr13-14/english/panels/dev/papers/devcb1-1518-1-e.pdf
Council meeting	4 June 2014	Written question (No. 15) on "Construction works of Shatin to Central Link" http://www.info.gov.hk/gia/general/201406/04/P201406040323.htm

Council/Committee	Date of meeting	Paper
Council meeting	18 June 2014	<p>Written question (No. 13) on "Antiquities and monuments excavated from works site of MTR Shatin to Central Link"</p> <p>http://www.info.gov.hk/gia/general/201406/18/P201406180605.htm</p>
Panel on Development	24 June 2014	<p>Administration's paper on "Review of Policy on the Conservation of Built Heritage, Progress Report on Heritage Conservation Initiatives and Policy Relating to Preservation of Historical Remains Discovered at Works Sites" [LC Paper No. CB(1)1623/13-14(05)]</p> <p>http://www.legco.gov.hk/yr13-14/english/panels/dev/papers/dev0624cb1-1623-5-e.pdf</p> <p>Minutes of meeting [LC Paper No. CB(1)214/14-15]</p> <p>http://www.legco.gov.hk/yr13-14/english/panels/dev/minutes/dev20140624.pdf</p>
Subcommittee on Matters Relating to Railways	4 July 2014	<p>Administration's paper on "Progress update of the construction of the Shatin to Central Link" [LC Paper No. CB(1)1722/13-14(03)]</p> <p>http://www.legco.gov.hk/yr13-14/english/panels/tp/tp_rdp/papers/tp_rdp0704cb1-1722-3-e.pdf</p> <p>Minutes of meeting [LC Paper No. CB(1)139/14-15]</p> <p>http://www.legco.gov.hk/yr13-14/english/panels/tp/tp_rdp/minutes/rdp20140704.pdf</p>