

**立法會**  
*Legislative Council*

LC Paper No. CB(1)139/17-18(02)

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**Subcommittee on Antiquities and Monuments  
(Declaration of Monuments and Historical Buildings)  
(Consolidation) (Amendment) Notice 2017**

**Background brief**

**Purpose**

This paper provides background information on the Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2017 ("the Declaration Notice 2017"). It also summarizes the views and concerns expressed by Members on the declaration of monuments and related heritage conservation initiatives at meetings of the Panel on Development ("DEV Panel") and relevant subcommittees of the Legislative Council ("LegCo").

**Background**

2. Under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53) ("A&MO"), the Secretary for Development ("SDEV") as the Antiquities Authority ("AA") 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, building, site or structure, which he considers to be of public interest by reason of its historical, archaeological or palaeontological significance, to be a monument, historical building or archaeological or palaeontological site or structure. Once so declared, the place, building, site or structure in question will become a "monument" for the purposes of A&MO and as such will enjoy the protection under section 6(1) which forbids anyone to excavate, carry on building or other works, plant or fell trees or deposit earth or refuse on or in the monument, or demolish, remove, obstruct, deface or interfere with it except in accordance with a permit granted by SDEV. Under section

19(2) of A&MO, any person who contravenes section 6(1) shall be guilty of an offence and shall be liable on conviction to a fine of \$100,000 and imprisonment for one year.

**The Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2017 (L.N. 170 of 2017)**

3. The Declaration Notice 2017 was made by SDEV under section 3(1) of A&MO to declare the following three buildings to be historical buildings,<sup>1</sup> by adding them to paragraph 3 of the Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) Notice (Cap. 53B):

- (a) the building known as Tung Lin Kok Yuen (東蓮覺苑) at 15 Shan Kwong Road, Happy Valley;
- (b) the building known as Kowloon Union Church (九龍佑寧堂) at 4 Jordan Road, Yau Ma Tei; and
- (c) the building known as Yeung Hau Temple (楊侯古廟) at Po Chue Tam, Tai O.<sup>2</sup>

Tung Lin Kok Yuen in Happy Valley

4. Tung Lin Kok Yuen was completed in 1935. It is a Buddhist temple founded by Lady Clara Ho Tung (何張靜蓉) and her husband Sir Robert Ho Tung (何東爵士). When the building was first opened, it housed two educational institutions for girls found by Lady Clara, namely Po Kok Free School (寶覺義學校) and Po Kok Buddhist Seminary (寶覺佛學社). Since its establishment, Tung Lin Kok Yuen has played a significant religious and educational role in the Chinese community for its strong association with the early development of girls' education, and the development and teaching of modern Chinese Buddhism. The building

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<sup>1</sup> Under section 2 of A&MO, "historical building" is a type of "monument".

<sup>2</sup> Copies of plans showing the locations of the three buildings concerned and deposited in the Land Registry are given at Annex C to the LegCo Brief on the Declaration Notice 2017 ([File Ref: DEVB/CHO/1B/CR 141](#)) issued by the Development Bureau on 12 October 2017.

itself is an excellent example of the mixed Chinese Western style of the 1920s and 1930s.

#### Kowloon Union Church in Yau Ma Tei

5. Kowloon Union Church was built by the London Missionary Society with financial support from Sir Paul Chater. The foundation stone was laid on 27 May 1930 by the then Colonial Secretary, The Hon. W.T. Southorn C.M.G., and the church was officially opened on 10 April 1931 by the then Governor Sir William Peel. During the Japanese Occupation, the church building was converted into a horse stable by the Japanese army and suffered severe looting and damage. The church was opened again for public worship with a rededication service held on 19 October 1947 and continues to serve the community until this day. The Church possesses "Perpendicular Gothic" architectural features that are found in only a few churches in Hong Kong, and it is a fine example of a compact traditional design completed with its battlemented tower and a rounded apse.

#### Yeung Hau Temple in Tai O

6. Yeung Hau Temple was probably built in 1699 or earlier with reference to the oldest relic at the temple, an iron bell cast in the 38th year of Kangxi (康熙) reign (1699) of the Qing dynasty (清朝) dedicated to the deity of Hau Wong (侯王). The temple is one of the oldest temples in Tai O. It is also popular for its strong association with the Tai O Dragon Boat Water Parade which is a traditional festive event inscribed onto the third national list of intangible cultural heritage of China in 2011. It is noteworthy also that there is a pair of historic couplets of 1877 and a plaque of 1881 made in lead-tin alloy hanging inside the temple, which are unique artefacts in Hong Kong.

#### Declaration of the three buildings as monuments

7. According to the [LegCo Brief](#) on the Declaration Notice 2017, the above three buildings have been accorded with Grade 1 status (which denotes historical buildings of outstanding merit) by AAB having regard to the recommendations of an independent assessment panel under the existing administrative grading mechanism.<sup>3</sup> As the three buildings are

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<sup>3</sup> Grading of historic buildings is accorded by AAB as follows:

- Grade 1 status refers to buildings of outstanding merit, which every effort should be made to preserve if possible.

situated on private lands,<sup>4</sup> the Administration has obtained the explicit agreement of the owners of the relevant buildings to the declaration proposal.

8. The Declaration Notice 2017 was published in the Gazette on 13 October 2017, and came into operation on the same day.

### **Major views and concerns expressed by Members**

9. The Administration has been providing periodic reports on its heritage conservation efforts to DEV Panel. Subcommittees were formed to study the respective declaration notices relating to Ho Tung Gardens in 2011, the Bethanie and the Cenotaph, and Tat Tak Communal Hall and Fat Tat Tong in 2013, and Hung Lau in Tuen Mun in 2017. Members' major views and concerns expressed during the relevant discussions are summarized in the ensuing paragraphs.

#### Monitoring and protection of historic buildings

10. Members expressed concerns that developers might be induced to purchase a historic building at a low price and damage or demolish it in order to bargain with the Government for compensation in preserving the building. They enquired how the Government would monitor and protect graded historic buildings. Members urged the Administration to take proactive action in protecting graded historic buildings from damages and demolition, and enquired about the compensation mechanism for owners of graded historic buildings, proposed monuments and monuments.

11. The Administration advised that it had put in place a monitoring mechanism in respect of any demolition of/alterations to declared monuments/proposed monuments or graded historic buildings. Relevant government departments (including the Planning Department, the

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- Grade 2 status refers to buildings of special merit; efforts should be made to selectively preserve.
  - Grade 3 status refers to buildings of some merit; preservation in some form would be desirable and alternative means could be considered if preservation is not practicable.

<sup>4</sup> Tung Lin Kok Yuen, Kowloon Union Church and Yeung Hau Temple are currently situated on private lands owned by Tung Lin Kok Yuen, the Trustees of the Kowloon Union Church and the Secretary for Home Affairs Incorporated respectively.

Buildings Department and the Lands Department) would alert the Commissioner for Heritage's Office and the Antiquities and Monuments Office ("AMO") regarding any identified possible threat which might affect privately-owned monuments/proposed monuments or graded historic buildings that had been brought to the departments' attention through applications and enquiries received and in the normal course of duty (e.g. regular inspections). The monitoring mechanism enabled the Commissioner and AMO to take timely follow-up actions with the private owners concerned. Moreover, under the Buildings Ordinance (Cap. 123), prior approval by the Building Authority was required for demolition and alteration works. Consent from the Building Authority should be obtained before the commencement of works.

12. According to the Administration, there were some 100 privately-owned Grade 1 historic buildings in Hong Kong as at April 2017. The majority were temples, churches and ancestral halls. Since 2008, AA had been proactively reviewing whether individual buildings (such as some Grade 1 historic buildings) had reached the "high threshold" of monuments and should be declared as "monument" under A&MO for permanent protection. Under prevailing practice, an agreement with the owner of the historic building shall be reached before declaring the building as monument. Any building, demolition, or excavation works as well as other works in the declared proposed monuments and monuments would be prohibited unless a permit was granted by AA.

13. The Administration recognized that in the premise of respecting private property rights, it was necessary to offer appropriate economic incentives to private owners of historic buildings to compensate them for their loss due to the conservation of the buildings in question. Given individual circumstances, the requisite economic incentives to achieve the policy objective would be considered prudently and on a case-by-case basis. There were a number of successful examples on the preservation of privately-owned graded historic buildings through the provision of economic incentives such as the Cheung Chau Theatre, which was preserved through minor relaxation of plot ratio and site coverage approved by the Town Planning Board. In addition, the Government had launched the Financial Assistance for Maintenance Scheme since 2008 to provide assistance in the form of grant for private owners to carry out maintenance works in a comprehensive manner for privately-owned graded historic buildings.

### Conservation of the neighbourhood of the historical buildings

14. While considering the declaration notices relating to the Bethanie and the Cenotaph, and Tat Tak Communal Hall and Fat Tat Tong, members of the relevant Subcommittees expressed concerns that under A&MO, emphasis was put on the conservation of specific historic buildings, but not their respective surrounding areas. They considered that the Administration should expand the scope of heritage conservation from buildings (point) to streets (line) and surrounding areas (plane), and enhance the cross-departmental coordination work involved. Members noted that a policy review on the conservation of built heritage was underway and the review would cover the issue of adopting the "point-line-plane" approach in heritage conservation.<sup>5</sup>

### Grading of historic buildings

15. In response to Members' enquiries regarding the details about the mechanism of re-assessment of the grading of a historic building if members of the public were dissatisfied with the grading endorsed by AAB, the Administration advised that under the current mechanism, AAB might consider reviewing the grading status of a historic building subject to the validity of the new information provided by the public.

### **Latest development**

16. At the House Committee meeting on 20 October 2017, Members agreed to form a subcommittee to examine the Declaration Notice 2017.

### **Relevant papers**

17. A list of relevant papers is set out in the **Appendix**.

Council Business Division 1  
Legislative Council Secretariat  
30 October 2017

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<sup>5</sup> Sources: LC Paper Nos. [CB\(1\)642/13-14](#) and [CB\(1\)929/13-14](#)

**Antiquities and Monuments  
(Declaration of Monuments and Historical Buildings)  
(Consolidation) (Amendment) Notice 2017**

**List of relevant papers**

Council/Committee	Date of meeting	Paper
Legislative Council	27 November 2013	<p><a href="#">Antiquities and Monuments (Declaration of Historical Buildings) Notice 2013</a></p> <p><a href="#">Legislative Council Brief</a></p> <p>Legal Service Division Report (<a href="#">LC Paper No. LS16/13-14</a>)</p> <p>Report of the Subcommittee (<a href="#">LC Paper No. CB(1)642/13-14</a>)</p>
Legislative Council	8 January 2014	<p><a href="#">Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2013</a></p> <p><a href="#">Legislative Council Brief</a></p> <p>Legal Service Division Report (<a href="#">LC Paper No. LS21/13-14</a>)</p> <p>Report of the Subcommittee (<a href="#">LC Paper No. CB(1)929/13-14</a>)</p>
Panel on Development	21 June 2016	<p>Administration's paper on "Progress Report on Heritage Conservation Initiatives" [<a href="#">LC Paper No. CB(1)1034/15-16(03)</a>]</p> <p>Minutes of meeting [<a href="#">LC Paper No. CB(1)1201/15-16</a>]</p>

Council/Committee	Date of meeting	Paper
Legislative Council	22 March 2017	<p data-bbox="869 257 1449 383"><a href="#">Antiquities and Monuments (Declaration of Proposed Monument) (Hung Lau) Notice</a></p> <p data-bbox="869 427 1257 465"><a href="#">Legislative Council Brief</a></p> <p data-bbox="869 517 1334 595">Legal Service Division Report (<a href="#">LC Paper No. LS45/16-17</a>)</p> <p data-bbox="869 640 1366 719">Report of the Subcommittee (<a href="#">LC Paper No. CB(1)896/16-17</a>)</p>
Legislative Council	18 October 2017	<p data-bbox="869 772 1449 936"><a href="#">Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2017</a></p> <p data-bbox="869 981 1257 1019"><a href="#">Legislative Council Brief</a></p> <p data-bbox="869 1070 1334 1149">Legal Service Division Report (<a href="#">LC Paper No. LS3/17-18</a>)</p>