

**立法會**  
**Legislative Council**

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**Paper for the House Committee meeting on 14 December 2018**

**Report of the Subcommittee on Antiquities and Monuments  
(Declaration of Monuments and Historical Buildings) (Consolidation)  
(Amendment) Notice 2018**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2018 ("the Subcommittee").

**Background**

Statutory monument declaration system

2. Under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53) ("the Ordinance"), the Secretary for Development ("SDEV") as the Antiquities Authority may, after consultation with the Antiquities Advisory Board ("AAB")<sup>1</sup> and with the approval of the Chief Executive, by notice in the Gazette, declare any place, building, site or structure, which SDEV 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.<sup>2</sup> Monuments are subject to statutory protection provided under the

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<sup>1</sup> AAB is a statutory body established under section 17 of the Ordinance to advise the Antiquities Authority on any matters relating to antiquities, proposed monuments or monuments or referred to it for consultation under section 2A(1), section 3(1) or section 6(4) of the Ordinance.

<sup>2</sup> Under section 2 of the Ordinance, "monument" is defined as a place, building, site or structure which is declared to be a monument, historical building or archaeological or paleontological site or structure.

Ordinance. Pursuant to section 6(1) of the Ordinance, the protection includes prohibition of any excavation, carrying on building or other works on the monument, and any action to demolish, remove, obstruct, deface or interfere with the monument unless a permit is granted by the Antiquities Authority. Under section 19(2) of the Ordinance, 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.

### Administrative grading system

3. AAB, having regard to the assessments of the heritage value of individual historic buildings by an independent Historic Buildings Assessment Panel and the views and additional information received from members of the public and the owners of the buildings concerned during public consultation, has accorded Grade 1, Grade 2 and Grade 3 (or Nil Grade) status to individual historic buildings.<sup>3</sup> Since 2005, the following six criteria have been adopted to assess the heritage value of historic buildings: historical interest, architectural merit, group value, social value and local interest, authenticity, and rarity. Compared with monument declaration, the grading system is administrative in nature which provides an objective basis for determining the heritage value, and hence the preservation need, of historic buildings in Hong Kong.

### **The Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2018 (L.N. 224 of 2018)**

4. After consultation with AAB, and with the approval of the Chief Executive, SDEV has decided to declare the exteriors of three Grade 1 historic buildings, namely Fung Ping Shan Building (馮平山樓), Eliot Hall (儀禮堂) and May Hall (梅堂) of The University of Hong Kong ("the University") (hereafter referred to as "the three buildings" collectively), to be historical buildings ("historical building" is one type of "monument" as defined under the Ordinance). For this purpose, the Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2018 ("the Notice"), made by SDEV under section 3(1) of the Ordinance, was published in the Gazette on 16 November 2018 and tabled before the Legislative Council ("LegCo") on

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<sup>3</sup> Under the grading system:

- Grade 1 status refers to buildings of outstanding merit, which every effort should be made to preserve if possible;
- Grade 2 status refers to buildings of special merit; efforts should be made to selectively preserve; and
- 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.

21 November 2018 for negative vetting. The Notice came into operation on 16 November 2018.

### **The Subcommittee**

5. At the House Committee meeting on 23 November 2018, Members agreed to form a subcommittee to study the Notice. The membership list of the Subcommittee is in the **Appendix**. Under the chairmanship of Dr Hon KWOK Ka-ki, the Subcommittee has held one meeting with the Administration to examine the Notice. The Subcommittee has also invited written views from the public on the subsidiary legislation.<sup>4</sup>

6. To allow more time for the Subcommittee to prepare a report on its deliberations for submission to the House Committee, the Subcommittee Chairman moved a motion at the LegCo meeting of 12 December 2018 to extend the scrutiny period of the Notice to the LegCo meeting of 9 January 2019. The motion was passed.

### **Deliberations of the Subcommittee**

7. In recognition of the significant heritage value of the three buildings, members of the Subcommittee generally welcome and support the Notice. The deliberations of the Subcommittee are summarized in the ensuing paragraphs.

#### Financial assistance for maintenance of privately-owned declared monuments and graded historic buildings

8. The Subcommittee takes the view that the Administration should actively consider providing subsidies to the University, and to other owners of privately-owned declared monuments and graded historic buildings in general, in lieu of requests/applications from the owners for such financial assistance, for carrying out maintenance works of the buildings concerned.

9. The Administration has advised that the grading of historic buildings or their declaration as monuments will not affect the ownership, usage and management rights of the buildings concerned. In the current case, the University remains the owner after the declaration of the exteriors of the three buildings as monuments, and the related regular maintenance costs, estimated to be about \$0.7 million a year, will continue to be borne by the University. If

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<sup>4</sup> By the deadline of the Subcommittee's invitation for written views from the public, no submission was received.

necessary, the University may apply for one-off subsidies from the Antiquities and Monuments Office ("AMO") for major repairs or more complicated maintenance works. AMO also stands ready to offer technical advice to the University on its proposed maintenance works for the three buildings in future.

10. As regards privately-owned graded historic buildings, the Administration has advised that funding is available under the Financial Assistance for Maintenance Scheme on Built Heritage for the private owners to carry out maintenance works. Each applicant may make multiple applications to the Scheme in respect of the maintenance of different parts of the building in question. According to the Administration, it will continue to promote the Scheme to owners of privately-owned graded historic buildings including issuing letters to them. Since the introduction of the Scheme in 2008, 60 applications have been approved as at end November 2018, involving a total grant of over \$68 million. At the request of the Subcommittee, the Administration has provided supplementary information on the approved applications.<sup>5</sup>

11. As regards the interiors of the three buildings, the Administration has advised that they remain Grade 1 historic buildings after the declaration of the buildings' exteriors as monuments. The Government will continue to discuss with and facilitate the University to preserve the interiors of the three buildings as appropriate.

#### Statutory monument declaration system and administrative grading system

12. Noting that there are only 120 declared monuments (including the three buildings) and 180 buildings with Grade 1 status at present, some members have criticized the Administration for its slow progress in the assessment of the heritage value of historic buildings for the purpose of monument declaration. Given that administrative grading of the building per se will not put the building under statutory protection under the Ordinance, and with reference to several cases (including the declaration of Hung Lau as a proposed monument in 2017 after the building has been accorded Grade 1 status since 1981; the demolition of the Lugard Wing of the Old Halls of the University in 1992; as well as the recent application made by The Garden Company Limited ("The Garden") to redevelop its Grade 2 historic building in Sham Shui Po), the Subcommittee is concerned that historic buildings may deteriorate over time due to the lack of maintenance, or may be demolished for re-development while pending grading assessment or monument declaration. As such, the Subcommittee has urged the Administration to take more proactive actions in protecting historic buildings

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<sup>5</sup> For details, please refer to the Administration's paper (LC Paper No. CB(1)293/18-19(02)) issued to the Subcommittee on 7 December 2018.

from damages and demolition by:

- (a) reviewing and improving both the statutory monument declaration system and the administrative grading system;
- (b) setting specific timeframes for conducting assessments under the above two systems; and
- (c) allocating more manpower resources if necessary, with a view to expediting the progress of assessments and increasing the target number of graded historic buildings for declaration as monuments each year.

In connection with the above, some members including the Chairman, Hon Tony TSE and Hon CHU Hoi-dick have further suggested that the Administration should review the grading of graded historic buildings from time to time having regard to potential changes in heritage value and architectural design value over the years, as well as conduct new surveys to identify new items for in-depth assessment of their heritage value.

13. The Administration has advised that AAB completed the preliminary assessment of 1 444 historic buildings and drew up their proposed grading in March 2009.<sup>6</sup> Since then, AAB has been working on confirming the grading of the historic buildings with reference to information provided by AMO and views and additional information received from the owners concerned and members of the public. AAB will also consider the heritage value and grading of the new items proposed by the public for assessment. Apart from the 1 444 buildings, around 300 suggestions for grading some other items have been received from the public so far. AAB has adopted a step-by-step approach, focusing first on the 1 444 buildings. In view of the variety of the new items and the tremendous efforts required for research such as document checking, site inspection, information recording, etc., AAB will handle the new items in phases based on the cogent need for assessment. As at the last AAB meeting on 6 September 2018, AAB has finalized the grading of 1 446 buildings. The number of remaining buildings on the list of 1 444 buildings and the new items pending grading finalization or assessment is around 250.

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<sup>6</sup> A territory-wide survey on the buildings in Hong Kong mainly built before 1950 was carried out by AMO in 1996-2000. Some 8 800 buildings were then recorded. A more in-depth survey of 1 444 buildings with higher heritage value selected from the 8 800 surveyed buildings was carried out by AMO in 2002-2004.

14. The Administration has further advised that an independent Historic Buildings Assessment ("HBA") Panel, which was established in March 2005, has been entrusted to undertake in-depth evaluation of the heritage value of historic buildings under the grading assessment. The Panel comprises historians as well as members of the Hong Kong Institute of Architects, the Hong Kong Institute of Planners and the Hong Kong Institution of Engineers. HBA Panel will discuss and recommend a proposed grading of a building for AAB's consideration. AAB will deliberate the building's grading at open meetings taking into account the assessment results of the HBA Panel and the views and additional information received during public consultation.

15. The Administration has pointed out that since 2008, all Grade 1 historic buildings have been put on the list for consideration of monument declaration and the Administration's target is to declare three graded historic buildings as monuments each year. On the question of whether a more aggressive target can be set, the Administration has elaborated that the crux of the issue is whether there is any Grade 1 historic building having reached the "high threshold" of monument with assessments conducted in a stringent and professional manner.

16. Addressing the Subcommittee's concern about the lack of statutory protection for graded historic buildings, the Administration has explained that an internal mechanism is in place to monitor any demolition of/alterations to declared monuments/proposed monuments or graded buildings/buildings proposed to be graded. Under the mechanism, the Buildings Department, Lands Department and Planning Department will alert the Commissioner for Heritage's Office ("CHO") of the Development Bureau and AMO regarding any identified possible threat which may affect privately-owned sites of archaeological interests, monuments and historic buildings that have been brought to the departments' attention through applications and enquiries received and in the normal course of duty such as regular inspections. The monitoring mechanism enables CHO and AMO to take timely follow-up actions with the private owners concerned. CHO and AMO will approach them to explore preservation-cum-development options, including possible provision of economic incentives that are commensurate with the heritage value of the graded buildings. For instance, the Administration has discussed with The Garden after the latter's submission to the Town Planning Board of a redevelopment plan involving the company's Grade 2 historic building in Sham Shui Po. The Garden has subsequently revised its redevelopment plan under the preservation-cum-development approach to address AAB's recommendations which require preservation of the building's character defining elements (e.g. the bakery chef logos on the building façade) to reflect its heritage value and Grade 2 status.

### Promotion of the heritage value of the three buildings

17. The Subcommittee considers it incumbent upon the Administration to foster public awareness of the heritage value of the three buildings through education and publicity programmes, and has suggested measures including:

- (a) allowing reasonable public access, such as in the form of guided educational tours at specified hours, to appropriate parts of the buildings for appreciation of their cultural heritage;
- (b) producing and installing information signs at suitable locations of the three buildings;
- (c) making available publicity pamphlets about the three buildings to guided tour participants; and
- (d) providing financial and/or other assistance to the University for implementing the relevant measures (if any).

18. The Administration has advised that Fung Ping Shan Building has been converted into the Fung Ping Shan Museum (and renamed the University Museum and Art Gallery in 1994), which is open to the public according to specified schedules. As regards Eliot Hall and May Hall, they have been converted into administrative offices of the University. The Administration has indicated that it will take the Subcommittee's suggestions into account when discussing with the University on possible publicity programmes. In this regard, the Administration has provided supplementary information on the potential measures/programmes for the Subcommittee's reference.<sup>7</sup>

### Drafting issues

19. The Legal Adviser to the Subcommittee has invited the Administration to clarify the reference to "roof" in the English version of the newly added section 3(cg) under the Notice in connection with the exterior structure of Fung Ping Shan Building, whereas "roofs" is used instead in sections 3(ch) and 3(ci) when referring to the exterior structure of Eliot Hall and May Hall respectively. The Administration has clarified that "roofs" is used in sections 3(ch) and 3(ci) because each of the buildings concerned has more than one roof. The Subcommittee has noted the Administration's response and raised no further questions in this regard.

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<sup>7</sup> Please refer to the Administration's paper (LC Paper No. CB(1)293/18-19(02)) issued to the Subcommittee on 7 December 2018.

## **Recommendation**

20. Subcommittee members have no objection to the Notice and will not move any amendment to the subsidiary legislation. The Subcommittee also notes that the Administration will not move amendments to the Notice.

## **Advice sought**

21. Members of the House Committee are requested to note the deliberations of the Subcommittee.

Council Business Division 1  
Legislative Council Secretariat  
13 December 2018



**Subcommittee on Antiquities and Monuments  
(Declaration of Monuments and Historical Buildings) (Consolidation)  
(Amendment) Notice 2018**

**Membership list**

<b>Chairman</b>	Dr Hon KWOK Ka-ki
<b>Members</b>	Hon YIU Si-wing, BBS Hon CHU Hoi-dick Dr Hon Junius HO Kwan-yiu, JP Hon HUI Chi-fung LAU Kwok-fan, MH Hon Tony TSE Wai-chuen, BBS  (Total: 7 members)
<b>Clerk</b>	Ms Angel SHEK
<b>Legal Adviser</b>	Mr Alvin CHUI