

**MEMORANDUM FOR MEMBERS OF THE
ANTIQUITIES ADVISORY BOARD**

**REVIEW OF THE RELATIONSHIP BETWEEN
THE STATUTORY MONUMENT DECLARATION SYSTEM
AND THE ADMINISTRATIVE GRADING SYSTEM AND
ESTABLISHMENT OF A PROTECTION MECHANISM FOR
PRIVATELY-OWNED MONUMENTS
AND HISTORIC BUILDINGS**

PURPOSE

This paper reports to Members on -

- (a) the outcome of a review on the relationship between the statutory monument declaration system and the administrative grading system for historic buildings of the Antiquities Advisory Board (AAB); and
- (b) the establishment of a protection mechanism for privately-owned monuments and historic buildings.

BACKGROUND

2. Following a review by the Antiquities and Monuments Office (AMO) on the relationship between the statutory monument declaration system under the Antiquities and Monument Ordinance (Cap. 53) (the Ordinance) and the administrative grading system for historic buildings of AAB, AAB endorsed the review outcome at its meeting on 26 November 2008. AMO undertook to review the operation of the new mechanism about one year after its implementation.

3. Starting from 26 November 2008, a relationship has been established between the statutory monument declaration system and AAB's administrative grading system. The administrative gradings accorded to historic buildings also serve as a useful basis to facilitate the implementation of various heritage conservation initiatives.

(A) Review of the Operation of the Administrative Grading System under the New Arrangement

4. Under the new arrangement, AAB will continue to accord gradings (namely Grade 1, 2 and 3) to historic buildings. In carrying out this task, the AAB will focus its assessment on the heritage significance of the buildings concerned. The list of Grade 1 buildings, defined as "buildings of outstanding merit, which every effort should be made to preserve if possible", will be accepted as providing a pool of highly

valuable heritage buildings for consideration by the Antiquities Authority under the Ordinance (i.e. the Secretary for Development) as to whether some of these may have reached the “high threshold” of monuments to be put under statutory protection.

5. Government is committed to considering each and every Grade 1 building as put up by AAB for possible monument declaration. As a corollary, the according of Grade 1 status has to be meticulously assessed and rigorously justified. In the light of the Jessville experience, Grade 1 status should be confirmed with the benefit of site visits by AAB Members and prior notification to the owners such that any material social and historical background could be taken into account.

6. Given the time-consuming statutory procedure for monument declaration and the associated resource requirement, the Antiquities Authority will have to prioritise the list of Grade 1 buildings for consideration, having regard to factors such as the buildings’ heritage significance, demolition risks, the owners’ and the public’s aspirations, and ownership of the buildings. While the AAB will perform its statutory role of giving advice to the Antiquities Authority in the process, it will not be tasked to weigh heritage value against other factors in the overall community interest. Moreover, consequential work in seeking the owner’s consent, matters of compensation or economic incentives, etc. will be handled by the Administration.

7. In essence, the administrative grading system will be one of the means to shortlist candidates for consideration by the Antiquities Authority for monument declaration. But such grading is not the only, nor is it in itself as sufficient, condition for statutory declaration. This proposition is in line with the Judgment handed down by the Hon Justice M H Lam in the judicial review relating to the Queen’s Pier case. The Judgment confirmed that – “...as far as an exercise under Section 3 is concerned, a grading by the Board is only a preliminary step in the screening process by AMO. Having regard to the serious consequence for a declared monument under Section 6, it is perfectly legitimate for the Authority to set a more stringent standard for a Section 3 declaration as opposed to a grading exercise under the administrative grading system.”

(B) Application of the Grading System

8. The grading system of AAB has been accorded added relevance or significance in various new measures on heritage conservation –

- (a) The Heritage Impact Assessment (HIA) mechanism imposes a new requirement for assessing the impacts of Government capital works projects on historic buildings and sites (“heritage sites”) so that conservation will be given due considerations. Like monuments and proposed monuments declared under the Ordinance, all graded historic buildings have been classified as “heritage sites” for the purpose of HIA;
- (b) the Financial Assistance for Maintenance Scheme to encourage preservation of privately-owned historic buildings has been extended from monuments only to graded historic buildings;

- (c) a number of government-owned graded historic buildings have been included in the Revitalising Historic Buildings Through Partnership Scheme for adaptive re-use through the operation of social enterprises by non-profit-making governmental organisations with funding support from Government. Whether changes can be made to the existing elements of the historic buildings under the Scheme would depend on the heritage value of the historic buildings concerned (i.e. the gradings accorded);
- (d) Buildings Department is formulating a set of design guidelines to facilitate compliance with building safety requirements for proposed adaptive re-use of and alteration and addition works to historic buildings. Buildings accorded a grading status will be considered based on their individual merits; and
- (e) Graded buildings along with monuments will be included in public education work as well as the development of local heritage trails in various districts.

Good progress has been made in each and every of the above applications. For details, please see [Annex](#).

9. To enhance the transparency of the grading system and to encourage the preservation of graded historic buildings, the Commissioner for Heritage's Office (CHO) has undertaken to inform private owners of Grade 1 buildings the status and historical significance of their buildings, their eligibility to apply for financial assistance from Government for maintenance of their buildings, the possibility of Government intervention in case the buildings are under a demolition threat (e.g. proposed monument declaration by the Antiquities Authority in order to provide immediate protection to their buildings), and Government's willingness to discuss with the owners possible economic incentives for the preservation of their buildings on a case-by-case basis depending on the merits of each case. Up to 30 November 2009, AMO received a total of 318 (157 written, 161 verbal) submissions from owners on the assessment results. Based on comments received from owners of those privately-owned historic buildings, AMO will review the preliminary assessment result in consultation with AAB's Expert Panel, and submit recommendations to the AAB for consideration.

10. While the finalisation of gradings of the 1,444 historic buildings is still in progress, there are concerns that some private owners might attempt to expedite the redevelopment projects for their currently ungraded buildings which are proposed to be graded, or those already graded buildings which are proposed to be upgraded (especially for those which are proposed to be Grade 1) in this exercise. Nonetheless, to address such concerns pending finalisation of the proposed grading by AAB, we are treating the proposed graded buildings as if they were already graded buildings.

11. Since the establishment of the relationship between the statutory monument declaration system and the administrative grading system, the Antiquities Authority has been actively considering suitable buildings in the list of Grade 1 buildings for

monument declaration. For example, under the 1,444 grading exercise, AMO proposed to accord Grade 1 status to a total of 41 items scattering over six pre-war reservoirs. Although the proposed gradings had yet to be endorsed by AAB at the time, the Antiquities Authority considered that those 41 historic waterworks structures had reached the “high threshold” for monument declaration. AAB was consulted and supported the proposed declaration at its meeting on 21 May 2009. On 18 September 2009, the 41 items were declared as six groups of monuments.

12. While the Antiquities Authority is taking a more active approach in selecting suitable candidates in the list of Grade 1/proposed Grade 1 buildings for monument declaration, we should point out that the established relationship would not oblige the Antiquities Authority to declare all Grade 1 buildings as monuments. The buildings to be declared as monuments must reach the “high threshold”, and other factors (e.g. demolition risks, the owners’ and public’s aspirations and ownership of the buildings) will also need to be taken into account.

13. For Grade 2 and Grade 3 buildings, Government recognises the aspiration of the community to take appropriate actions to preserve them. We consider that these buildings should be preserved in a way that is commensurate with the merits of the buildings concerned, and priority would be given to those with higher heritage value.

14. While the grading exercise for the 1,444 graded buildings is the most comprehensive assessment of historic buildings ever conducted in Hong Kong, the Expert Panel considers that there are certain limitations in the scope and extent of the exercise. For example, new information may surface in future that may lead to new perspectives on the assessment of individual historic buildings, and hitherto ungraded buildings (e.g. because they are less than 50 years old) may become eligible for consideration for grading over time. Indeed, as at 30 November 2009, AMO received suggestions from members of the public on 109 buildings/items which are hitherto ungraded to be assessed. Hence, gradings of the 1,444 historic buildings to be finalised by AAB and the list of graded buildings arising from this ongoing exercise would be subject to refinement as part of a continuous process as more information comes to light on the heritage sites/buildings in Hong Kong.

MECHANISM TO PROTECT PRIVATELY-OWNED MONUMENTS AND GRADED SITES AND BUILDINGS

15. In order to better protect privately-owned declared monuments, proposed monuments and graded historic buildings from demolition threats, an administrative protection mechanism has been set up by CHO with the support of AMO, Buildings Department (BD), Lands Department (LandsD) and Planning Department (PlanD).

16. The protection mechanism works as follows –

- (a) When a private owner intend to carry out alteration or addition works in an existing building or make any material change in use of such a building, or redevelop a site, he or his representatives (e.g. an Authorised Person) will have to submit an application for approval by

BD, LandsD and/or PlanD.

- (b) If the subject site or building is a declared or proposed monument. BD, LandsD and/or PlanD must alert AMO immediately and copy all correspondence to CHO for information and comments. BD, LandsD and/or PlanD will also copy the application among themselves for reference. AMO will inform the applicant in writing of declared/proposed monument status of the site/building, and that any building or other works to demolish, remove, obstruct, deface or interfere with a declared or proposed monument is prohibited unless a permit is granted by the Antiquities Authority. CHO will take the initiative to discuss with the owner possible economic incentives for the preservation of the proposed monument on a case-by-case basis depending on the merits of the case.
- (c) If the subject site or building is graded by AAB, the monitoring mechanism will work as follows:
 - (i) If BD, LandsD and/or PlanD receive an application involving a graded historic site or building, they must alert AMO immediately and copy all correspondences to CHO for information and comments. BD, LandsD and/or PlanD will also copy the application among themselves for reference.
 - (ii) AMO will issue a coordinated reply to BD, LandsD and/or PlanD after receiving comments from CHO on the application. BD, LandsD and/or PlanD will continue to process the application, within the statutory time frames where applicable, and convey AMO's comments in their reply to the applicant.
 - (iii) For Grade 1 historic sites or buildings and in the light of their high heritage value, CHO will take the initiative to inform the private owner concerned of the possibility of Government intervention (e.g. proposed monument declaration by the Antiquities Authority in order to provide immediate protection to the site or building in question), and express willingness to discuss with the owner possible economic incentives for the preservation of the site or building on a case-by-case basis depending on the merits of the case.
 - (iv) For Grade 2 and Grade 3 historic sites and buildings, AMO will provide case-specific comments and issue a letter to BD, LandsD and/or PlanD for onward transmission to the applicant. The letter will cover the following
 - Government is willing to discuss with the owner possible economic incentives that are commensurate with the heritage value of the site or building;

- Government offers assistance in the form of grant through the Financial Assistance for Maintenance Scheme for maintenance of privately-owned graded building;
- The applicant is advised to explore the possibility of “preservation-cum-development” options;
- If in-situ preservation is found infeasible for Grade 3 historic buildings, preservation by both photographic and cartographic recording and salvage of building fabrics with heritage value before demolition should be undertaken by the applicant. The completed photographic and cartographic recording should be submitted to AMO for record purpose; and
- The applicant is advised to engage CHO/AMO in discussion of possible options to preserve the graded historic site or building.

(v) CHO has also sought the assistance of District Offices so that if staff of the latter are aware of any alterations to proposed graded/graded historic sites or buildings during the normal course of discharging their duties, or if they receive relevant complaints/reports, they will inform CHO/AMO.

17. The protection mechanism provides a timely alert to bureaux/departments concerned when a privately-owned declared monument, proposed monument, or graded site or building is under threat of demolition, alteration or renovation works or is subject to any material change in use which may affect its heritage value. The Administration will proactively engage relevant stakeholders in devising appropriate measures to preserve the heritage item.

ADVICE SOUGHT

18. Members are advised to note the contents of this paper and offer their comments.

Antiquities and Monuments Office
Leisure and Cultural Services Department

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