

Report on the Policy Review on Conservation of Built Heritage



古物諮詢委員會
Antiquities Advisory Board

December 2014

Table of contents

	<u>Page</u>
Foreword	i
Executive summary	iv
	 <u>Paragraph</u>
Chapter 1 Introduction	
1.1 Background	1
1.2 Public awareness programme	9
1.3 Public engagement and consultation	11
 Chapter 2 Protecting historic buildings	
2.1 Regulation on the demolition and alteration of privately-owned historic buildings	14
2.2 Purchase and resumption of privately-owned historic buildings	26
2.3 “Point-line-plane” approach	38
2.4 Alteration and addition works to privately- owned historic buildings	51
 Chapter 3 Resources for protecting historic buildings	
3.1 Built heritage fund	62
3.2 Economic incentives	76
 Chapter 4 Public participation in built heritage conservation	
4.1 Public education and publicity work	95
4.2 Public engagement and consultation	107
4.3 Public access to historic buildings	114
 Chapter 5 Summary of recommendations	123

Foreword

1. Historic buildings are the gems of a city, the legacy of history and culture and a testimony of social changes. They give a sense of belonging and reinforce cultural identity among the community. The Antiquities Advisory Board (AAB) is deeply encouraged to note the increasing commitment and enthusiasm of the community in preserving our historic buildings. In view of the concern of the community on historic buildings and heritage conservation, the AAB will strive to discharge its duties with perseverance and tender its advice to the Antiquities Authority with professionalism and an open mind.

2. Among the opinions gauged from the public during the course of the review, some held similar views whereas others had opposite stances. The AAB has faithfully reflected these views in this report and made them the basis of the recommendations which will serve public interest and meet public expectations. It is by no means an easy task. Firstly, the conservation of built heritage is not a standalone issue but straddles across areas ranging from planning, urban design, use of public fund, building safety, public health to individual rights. It is comprehensible that the depth and breadth of understanding on the subject varies among members of the public. And secondly, even for areas with dominant views, as the advisory body to the Government on conservation of antiquities and monuments, the AAB must consider them holistically, assess cautiously their implications on core values of society such as private property rights, and take into account their feasibility.

3. We had considerable exchange with the public during the public engagement and consultation exercise. We observe that the public generally acknowledges the importance of conserving historic buildings, and expects the policy and framework on built heritage conservation to be taken to new heights. In order to meet these expectations and requests, in addition to stepping up government's efforts, we need to seize the opportunity to enhance public awareness in built heritage conservation. For example, for the question on "development or

conservation”, apart from “development without conservation” and “conservation without development”, the community could explore the pros and cons of the commonly-adopted “preservation-cum-development” approach, or make reference to the practice in other places when assessing the circumstances in Hong Kong. *The Burra Charter*, as an illustration, suggests that new work such as additions or other changes may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation. How this concept should be applied in Hong Kong would require further discussion.

4. Among the recommendations of this report, broadening and deepening the understanding of the community on built heritage conservation is of utmost importance. After all, the success of built heritage conservation does not depend not on government resources alone. In order to preserve and protect historic buildings, the Government should work with the public (including private owners of historic buildings) to enhance the understanding and awareness of the community as a whole towards built heritage conservation, such that the public would support and participate in conservation projects of their own volition.

5. This report responds to the framework and questions set out in AAB’s consultation document published in June 2014. Recommendations raised under different areas complement each other and therefore should be considered as a whole. When examining these recommendations, the Government should therefore note their correlation and adopt a holistic approach when setting policy direction.

6. I wish to thank my colleagues at the AAB and different sectors of the community for their participation in the policy review. On behalf of the AAB, I would like to extend our gratitude to members of the public who contributed their views. They have enabled us to better grasp the opinion of the public in bringing about a more comprehensive review. The AAB hopes that the review could shed light on future policy direction on built heritage conservation and foster collaboration among the Government, private owners of historic buildings,

stakeholders and the general public. And by doing so, the gems of our city could be bequeathed to posterity and the unique cultural landscape of Hong Kong could be preserved.

A handwritten signature in black ink, appearing to read 'Andrew Lam', written over a faint, circular stamp or watermark.

Andrew Lam
Chairman
Antiquities Advisory Board

Executive Summary

1. The Antiquities Advisory Board (AAB) accepted the Administration's invitation to assist in conducting a policy review on the conservation of built heritage and published a consultation document "Respecting Our Heritage While Looking Ahead: Policy on Conservation of Built Heritage" in June 2014. Based on the views gathered from public consultation, engagement sessions and telephone surveys, the Report on the Policy Review on the Conservation of Built Heritage (the Report) was completed in December 2014 and submitted to the Administration.

2. In recent years, heritage conservation has become a matter of increasing interest. Some of these concerns, especially those involving private property rights, allocation and utilisation of public resources and demolition for redevelopment, have sparked controversy in the community. By conducting the review "Respecting Our Heritage While Looking Ahead", the AAB seeks to examine past experiences and understand public expectations on the one hand, and propose principles and directions on key issues for advising the Government and taking forward the policy to cope with social changes on the other.

3. Recommendations of the Report fall into the following three areas:

(I) Setting up a built heritage fund

4. The AAB recommends that the Administration should set up a dedicated fund on the conservation of built heritage. The fund should provide funding for public education and publicity activities, academic researches, public engagement and consultation programmes. It should also cover certain government initiatives and activities on built heritage conservation (Sections 3.1, 4.1 and 4.2).

5. The AAB considers that the Government should step up efforts in public engagement and consultation on issues concerning built heritage conservation. On individual conservation projects and issues at district level, the community could be better consulted through collaboration with partners including District Councils and other non-government organisations (Section 4.2). Building on the existing public education and publicity work, the Administration should enhance the understanding and awareness of the public (including private owners of historic buildings) on the conservation of built heritage (Section 4.1), such as the importance of timely and proper maintenance for historic buildings, through creative means and channels. These public activities should be supported by the aforementioned built heritage fund.

(II) Providing additional incentives and facilitation

6. The AAB understands that alteration and addition works to privately-owned historic buildings must comply with the prescribed standards under the Buildings Ordinance to ensure the safety of users. Nevertheless, in consideration of the views from professional institutes and member of the public, the AAB recommends that the Administration should, without jeopardising building safety and health standards, review the Buildings Ordinance, the relevant Practice Note(s) and the *Practice Guidebook for Adaptive Re-use of and Alteration and Addition Works to Heritage Building 2012* in order to encourage and facilitate private owners of historic buildings to preserve and adaptively re-use their buildings. The Government should promote the adoption of “performance-based” alternative approach in revitalisation works in meeting the requirements under the Ordinance (Section 2.4).

7. Noting that there are diverse views in the community, the AAB considers that public resources should not be used to purchase or resume privately-owned historic buildings (Section 2.2). The AAB also recommended the Government to consolidate and scale up the existing economic incentives and facilitations to encourage private owners to preserve, revitalise and timely maintain their historic buildings (Section 2.1). Prevailing incentives such as relaxation of plot ratio and

land exchange should be offered through a more systematic and well-publicised mechanism according to the scale, building conditions and heritage value of the privately-owned historic buildings (Section 3.2).

8. The AAB is of the view that to respect private property rights, public access to historic buildings should not be a prerequisite for receiving financial assistance for maintenance and repair from the public coffers. Instead, the paramount concern is whether the historic buildings are being preserved. For government-owned historic buildings, public access should be provided as far as practicable. As for privately-owned graded buildings, where there is owners' consent, certain form of public access should be ensured, such as access to the physical buildings or through certain records. The Government should allow flexibility on the requirements on public access to privately-owned graded buildings receiving financial assistance from the Government for preservation and maintenance, if it is justified on grounds such as privacy or building stability. The Administration should prepare detailed records of historic buildings with the aid of new technology where appropriate. The records should be easily accessible by the public (Section 4.3).

(III) The next step

9. The AAB recommends the Administration to examine the setting up of a statutory grading system in the longer run for protection of graded buildings while safeguarding private property rights (Section 2.1). In addition, for application of the "point-line-plane" concept, the Administration should as the first step conduct a study to explore the feasibility of conserving and protecting selected building cluster(s) of unique heritage value under the "point-line-plane" approach. In the medium term, the AAB recommends the Administration to arrange thematic surveys or mapping exercises on building cluster(s) of heritage value for drawing up appropriate conservation strategies and protection measures if necessary, and for future planning (Section 2.3).

Chapter 1 Introduction

1.1 Background

1. This report sets out the recommendations of the Antiquities Advisory Board (AAB) for consideration by the Government with a view to improving the prevailing heritage conservation regime. The recommendations are the results of the review of the policy on conservation of privately-owned historic buildings (Policy Review) which involved an extensive public engagement process since mid-2013.

2. Built heritage has been widely accepted as a reflection of the history and social changes of Hong Kong. The conservation of built heritage has become a matter of increasing public interest. Experience has been gathered since the start of the concerted efforts in heritage conservation in 2007. However, dilemma is often found in cases involving private property rights, demolition of historic buildings for redevelopment and allocation of public resources. The difficulties faced in the attempt to preserve Ho Tung Gardens¹ has led us to revisit the principles and direction laid down in previous heritage policy reviews and search for future direction.

3. This chapter introduces the background of the Policy Review, including details of the public awareness programmes launched during the review, as well as the public engagement and consultation exercise.

¹ Ho Tung Gardens was a Grade 1 building. The Government was not able to reach an agreement with the owner over the financial compensation in accordance with the Antiquities and Monuments Ordinance (Chapter 53 of the Laws of Hong Kong) nor other “preservation-cum-development” proposals. The Antiquities Authority announced in October 2011 his intention to declare the Gardens a monument. However, having considered the objection made by the owner and all the relevant factors, the Chief Executive-in-Council eventually directed that the monument declaration should not be pursued in accordance with the Antiquities and Monuments Ordinance. As a result, the mansion of Ho Tung Gardens had been removed to make way for private redevelopment.

2013 Policy Address

4. In his 2013 Policy Address², the Chief Executive announced that, in light of the challenges and experience gained from built heritage conservation over the past few years, the Government considered that the present policy on the conservation of privately-owned historic buildings should be reviewed. In February 2013, the Secretary for Development invited the AAB to assist the Government in the Policy Review with a view to striking a balance between the need for respecting private property rights and the need for preserving our built heritage.

Scope of the Policy Review on the Conservation of Built Heritage

5. Within the framework set out in the Policy Address, the AAB has come up with several major issues to be tackled through the Policy Review: how to enhance protection for historic buildings while giving due regard to private property rights and development needs, how to share the cost of conservation, and the amount of public resources the community is prepared to invest in conservation work.

6. Questions are drawn up in response to challenges encountered in the conservation of built heritage. Conservation of historic buildings brings both tangible and intangible benefits to society. On the other hand in Hong Kong, privately-owned historic buildings, including those owned in the name of an individual, a company or an organisation (such as a charitable organisation or “*tso tong*”), are private property protected by the Basic Law. Private owners have the rights to determine how their historic buildings are to be used, developed and altered (which may involve alteration, redevelopment or demolition works) in accordance with the prevailing legislations.

² Paragraph 89, 2013 Policy Address.

7. Preservation costs will always be involved irrespective of whether the historic buildings are privately-owned or publicly-owned. In the face of high land value and rehabilitation (that is, restoration after dilapidation) costs for some historic buildings, and given the inherent nature of “old” buildings, the amount of preservation cost for those historic buildings can vary significantly. As a result, some privately-owned historic buildings have been inappropriately altered or have to face the threat of dilapidation and demolition. Despite the fact that the Government has been providing economic incentives and maintenance grants to encourage private owners to conserve their historic buildings, some owners would still consider demolishing their buildings for redevelopment. If private property right is being deprived of, significant amounts will be involved in cases of compensation to owners for their loss of development rights arising from the preservation of those historic buildings.

8. The Policy Review focuses on privately-owned historic buildings, i.e. buildings classified as declared monuments, as well as Grade 1, Grade 2 and Grade 3 historic buildings³ under private ownership. However, in view of the strong public interest and attention on the Revitalising Historic Buildings Through Partnership Scheme (Revitalisation Scheme), which invites and provides funding for non-profit organisations (NPO) to take part in conservation by revitalising *government-owned* historic buildings, the Policy Review has taken into account the Revitalisation Scheme when reviewing the provision of economic incentives as resources to protect historic buildings as a whole.

³ The grading system will be discussed in Chapter 2.

1.2 Public awareness programme

9. The AAB considers it important to understand the views of key stakeholders in making recommendations to the Government for possible improvement measures under the Policy Review. In this connection, the AAB has, since the second half of 2013, arranged a number of meetings with the relevant government departments including representatives from the Planning Department, Buildings Department and the Tourism Commission, as well as non-government stakeholders including members of the Legislative Council, the Chairmen and Vice-chairmen of the 18 District Councils, representatives of the Urban Renewal Authority, the Lord Wilson Heritage Trust, relevant professional bodies⁴, interest groups and owners of graded historic buildings, to gauge their views on the following key aspects –

- (a) the existing administrative grading system for historic buildings;
- (b) ways to preserve privately-owned historic buildings while respecting private property rights;
- (c) preservation of historic buildings or a particular area of heritage interest through town planning tools;
- (d) building requirements for historic buildings;
- (e) setting up of a heritage trust;
- (f) incentives to private owners for preserving their historic buildings;

⁴ The relevant professional bodies included the following institutes/organisations:

- Hong Kong Institute of Architects
- Hong Kong Institute of Architectural Conservationist
- Hong Kong Institute of Planners
- Hong Kong Institution of Engineers
- Hong Kong Institute of Surveyors
- Hong Kong Institute of Landscape Architects
- Hong Kong Institute of Project Management
- Hong Kong Institute of Urban Design

- (g) public education, consultation and publicity works in relation to heritage conservation; and
- (h) public access to and appreciation of historic buildings.

10. Furthermore, to prepare for the launch of the consultation document, the AAB has organised a series of programmes for raising public awareness on heritage conservation issues in order to help better equip the public for giving informed views on the public consultation document on the Policy Review. The public awareness raising programmes, launched during the period from March to June 2014, include –

- (a) roving exhibitions on “Respecting Our Heritage While Looking Ahead”, introducing the monument declaration and grading systems and featured the existing built heritage conservation policies;
- (b) five public lectures offering an array of topics on the conservation of our built heritage, help nurture an appreciation for built heritage and present the revitalisation story of historic buildings in Hong Kong;
- (c) four workshops introducing the aesthetics of built heritage style and exploring the city’s architectural marvels, as well as the “Comics X Built Heritage Workshop” which, in collaboration with the Comix Home Base, invited young comics and illustration talents to conduct an educational and creative comics/illustration of historic buildings for secondary school students;
- (d) a dedicated website (www.builtheritagereview.hk) and a Facebook page for publishing information pamphlets as well as providing background to the Policy Review and current conservation policies; and

- (e) a short video on the dedicated website to introduce the existing heritage conservation policies and initiatives and to promote heritage conservation.

1.3 Public engagement and consultation

11. A public consultation exercise for the Policy Review was launched between June and August 2014. Views, mainly gauged through the following channels, form the important basis for drawing up the recommendations and conclusion in this report –

- (a) Consultation document: The AAB published a consultation document, *Respecting Our Heritage While Looking Ahead: Policy on Conservation of Built Heritage*,⁵ on 4 June 2014. By the end of the

⁵ The consultation document is available at <http://www.builtheritagereview.hk/en/condoc.html>. In the consultation document, the public was consulted on the measures for better conservation of historic buildings in Hong Kong, with the following focused questions –

- (a) Should we regulate or restrict private owners from demolishing or altering their graded historic buildings through the law? If affirmative, what should be the scopes and ways to do so? Should different treatments be applied to buildings with different gradings?
- (b) Should the Government, on the grounds of conservation, purchase or resume historic buildings from private owners? Should there be any predominate requirements (such as depending on the heritage value of the buildings, criteria for and means of compensation or whether the buildings are opened to public)?
- (c) Should we impose restrictions on the development (for instance, to impose restrictions on the heights, uses and designs of buildings, as well as the width of streets) of certain streets or areas (such as Tai O, Kowloon City, Tai Hang and Sai Ying Pun) in order to preserve their heritage merits?
- (d) Should we allow relaxation of or exemption from the legislative requirements for historic buildings while the primary objective of the Buildings Ordinance is to protect structural safety and health standard?
- (e) Do you think that Hong Kong should set up a heritage trust? If so, what should be its functions? Is it appropriate to support the trust with public funds? If yes, which functions of the trust should be supported by public funds?
- (f) Do you think that we should provide more incentives to private owners in order to encourage them to preserve their historic buildings? If yes, what kind of incentives should be provided (for example, should we provide extra developable area in addition to the compensation for the exact loss of developable area as a result of conservation, or should we set up a heritage conservation award for Hong Kong to recognise the efforts of private owners and various organisations in heritage conservation)?

two-month public consultation on 4 August 2014, we have received about 100 written submissions on the policy review from individuals (including owners of graded historic buildings) and organisations (including concern groups, professional bodies, academic institutes, etc.) by means of email, post, facsimile and online feedback form;

(b) Engagement sessions: Based on the consultation document, AAB representatives briefed Members of the Legislative Council Panel on Development, the Heung Yee Kuk, as well as the Chairmen and Vice-Chairmen of the 18 District Councils and accepted the invitation of District Councils to attend their meetings. A public forum and three thematic discussion sessions were held to proactively engage the general public and the relevant stakeholders (including professional bodies, the owners of the graded historic buildings, concern groups, etc.); and

(c) Telephone surveys: An independent survey company was commissioned to conduct telephone surveys to gauge the views of the general public on key issues raised in the Policy Review. Four rounds of survey (each with around 1,000 telephone respondents totalling some 4,000 respondents) were conducted⁶. Report on the

(g) In addition to providing subsidies for heritage maintenance works, should we provide subsidies for consultant's fees and additional construction costs arising from preservation? Should the higher the grading of a historic building, the larger the amount of grant would be given?

(h) Which aspects in the public education, consultation and publicity works in relation to heritage conservation should be further enhanced? What channels can be used to enhance such works?

(i) If certain historic buildings cannot be open to the public, do you accept other viewing methods (such as 3D laser scanning, as well as photographic and cartographic recording, for the public to appreciate the interior of declared monuments and historic buildings)?

⁶ Due to the limited time available to communicate with the respondents in a telephone survey, three to five questions were asked in each round of the survey. Two more critical questions, namely on the protection of privately-owned graded buildings and the purchase/resumption of privately-owned buildings, were asked in all four rounds (i.e. answered by around 4000 respondents). Other questions were asked in one of the four rounds of survey (i.e. answered by around 1000 respondents). These other questions were related to the "point-line-plane" approach, relaxation of or exemption from legislative requirements of the Buildings Ordinance, additional subsidies for maintenance works, extra economic incentives, the heritage trust, public access to historic buildings, and public education and publicity work.

findings of the telephone surveys has been published on the dedicated website on heritage conservation⁷.

12. Taking reference from the public views received during the two-month conservation period, we have worked out our recommendations on three main areas, i.e. how to enhance protection of historic buildings while giving due regard to private property rights and development needs, how to share and better utilise our public resources for conserving historic buildings, and how to encourage public participation on built heritage conservation, as set out in the following chapters of this report.

13. Against the background of the Policy Review as described above, Chapter 2 to Chapter 4 of this report will set out the views and recommendations of the AAB after analysing the views gauged during the public engagement and consultation exercise. While the recommendations tackle different areas and fall under different chapters, they share similar principles, and thus they should be considered as a whole. The recommendations are summarised in Chapter 5.

⁷ The report is available at: http://www.builtheritagereview.hk/en/kportal_3_1.html.

Chapter 2 Protecting historic buildings

2.1 Regulation on the demolition and alteration of privately-owned historic buildings

Current situation

Grading system

14. The grading system for historic buildings has been adopted by the AAB since 1980 as an administrative mechanism. It aims to provide an objective basis for determining the heritage value of historic buildings in Hong Kong so as to facilitate the Government's consideration as to whether and how a particular building/structure should be preserved. Currently, the grading system does not cover archaeological sites, relics and other items which are not historic buildings/structures.

15. Under the current system, historic buildings are assessed according to six criteria⁸, namely historical interest, architectural merit, group value, social value and local interest, authenticity, and rarity. Buildings with heritage merits are classified into Grade 1, Grade 2 and Grade 3, with Grade 1 being a pool of highly valuable heritage buildings for consideration by the Antiquities Authority (i.e. the Secretary for Development) to be declared as monuments under the Antiquities and Monuments Ordinance. The definitions of different gradings are set out below –

⁸ Please refer to AAB's website at www.aab.gov.hk/form/special_meetings/AAB-SM-B.pdf for the consideration factors in relation to each assessment criterion.

<i>Grade 1 Historic Buildings</i>	Buildings of outstanding merit, which every effort should be made to preserve if possible.
<i>Grade 2 Historic Buildings</i>	Buildings of special merit; efforts should be made to selectively preserve.
<i>Grade 3 Historic Buildings</i>	Buildings of some merit; preservation in some form would be desirable and alternative means (such as keeping photo records) could be considered if preservation is not practicable.

16. Grading of the building per se will not put the building under statutory protection from demolition or alteration under the Antiquities and Monuments Ordinance. In some cases, alteration or renovation works to a graded historic building may change its original design and original architectural features that may affect the heritage value of the building. As long as the owners concerned comply with the relevant requirements for land, buildings and town planning, there is no statutory provision for the Government to stop the owners from demolishing or altering their historic buildings, nor are government officials empowered to enter the graded buildings for inspection or making records without the consent of the owners, except for the Antiquities Authority to proceed to declare the buildings as monuments or proposed monuments under the Antiquities and Monuments Ordinance. Once the building is declared as a proposed monument or monument, the relevant protection mechanism under the Ordinance will apply. For example, there is a prohibition on building/demolition works unless a permit is granted by the Antiquities Authority.

Internal monitoring mechanism

17. To strengthen the protection of privately-owned historic buildings, the Government has set up an internal monitoring mechanism since 2008. Under the monitoring mechanism, when a government department is aware that work is to be carried out on a graded historic building, it is required to alert the Commissioner

for Heritage's Office (CHO) under the Development Bureau and the Antiquities and Monuments Office (AMO) under the Leisure and Cultural Services Department, so that they will take timely action with the respective owner to consider preservation of the building.

18. There are a number of successful cases for preserving graded historic buildings from demolition through the internal monitoring mechanism with the support of other administrative and statutory means, such as the "preservation-cum-development" projects for King Yin Lei (declared monument)⁹, Bishop's House (Grade 1), St. Paul's Church (Grade 1), Church Guest House (Grade 1) and the old Sheng Kung Hui Kei Yan Primary School (Grade 2) within the site of Hong Kong Sheng Kung Hui¹⁰ on Lower Albert Road, Central, Jessville¹¹ (Grade 3) in Pokfulam and Cheung Chau Theatre¹² (Grade 3).

⁹ King Yin Lei was declared a "proposed monument" on 15 September 2007, to give it temporary statutory protection from further damage for 12 months as non-structural works had been carried out in the building. The 12-month statutory period enabled the Government and the owner to work out the land exchange proposal for preserving King Yin Lei. Under the proposal, the owner would surrender the whole site of King Yin Lei to the Government after restoration at his own cost, while, subject to the necessary town planning approval, the Government would grant an adjacent man-made slope site of a size similar to King Yin Lei to the owner for development subject to the same plot ratio of 0.5 and a height restriction of three storeys. For permanent statutory protection, King Yin Lei was later declared a monument on 11 July 2008 with the full co-operation of the owner who was entitled to object by petitioning the Chief Executive but has chosen not to do so in light of good progress made in the land exchange proposal.

¹⁰ On 7 June 2011, the Chief Executive-in-Council approved the land lease modification at nominal premium for the site of Hong Kong Sheng Hung Hui (HKSKH) on Lower Albert Road (Central site) and the in-situ land exchange for its other site at Clementi Road, Mount Butler (Mount Butler site) to facilitate the optimal preservation of all four graded historic buildings at the Central site. Under HKSKH's "preservation-cum-development" proposal, HKSKH will preserve all four historic buildings at its Central site and replace other existing buildings by new ones to provide needed space for its religious and community services and to relocate some of the existing uses and additional space requirements originally to be provided through redevelopment at the Central site to the Mount Butler site.

¹¹ Jessville is preserved through a "preservation-cum-development" proposal in which the Chief Executive in Council, on 26 March 2013, partially uplifted the Pokfulam Moratorium to enable the Lands Department to consider the application from the owners of Jessville for a lease modification to facilitate the revised "preservation-cum-development" proposal for the graded historic building.

¹² Cheung Chau Theatre is preserved through a minor relaxation of plot ratio from 0.4 to 0.472 and that of site coverage restriction from 20% to 36.8% approved by the Rural and New Town Planning Committee of the Town Planning Board on 13 December 2013.

Public views

19. In response to question 1 of the consultation document¹³, a number of public views mentioned that the existing administrative grading system did not render effective protection to the privately-owned graded historic buildings. To improve the existing system, some considered that the administrative grading system should be turned into a statutory one in order to give graded historic buildings legal protection comparable to that for declared monuments. In the telephone surveys, the percentage of respondents who also shared this view, that is, agreed that the Government should regulate or restrict any demolition or alteration of privately-owned graded historic buildings, is relatively higher than those with the opposite view. A total of 19.8% of the respondents strongly agreed to regulate or restrict the demolition or alteration of privately-owned graded historic buildings and 35.2 % of the respondents agreed to such regulation or restrictions. On the other hand, 45% of the respondents had different views or held neutral position¹⁴. However, when respondents who agreed with the regulation or restrictions on graded historic buildings were asked further, on whether the restrictions imposed should be commensurate with the grading of historic buildings and what to be restricted, there were no dominant views¹⁵.

¹³ Question 1 reads “Should we regulate or restrict private owners from demolishing or altering their graded historic buildings through the law? If affirmative, what should be the scopes and ways to do so? Should different treatments be applied to buildings with different gradings?”

¹⁴ Of all respondents, 21.3% agreed to maintain the existing policy, that is, allowing the private owners to decide whether to preserve, alter or demolish their graded buildings; 10% strongly agreed to that position; 12.6% was neutral and 1% indicated that they did not know the answer or did not understand.

¹⁵ When asked whether the regulation or restrictions should be applied for all graded historic buildings, 33.5% of the group considered that only Grade 1 buildings should be regulated or restricted, 37.9% considered only regulating or restricting historic buildings with higher grading (i.e. Grade 1 and Grade 2 buildings), and 25.9% considered that regulation or restrictions should apply to all graded historic buildings regardless their grading. When the group was further asked about the scope of regulation or restrictions on the alteration of privately-owned historic buildings, 28.2% of the group agreed that alteration of all external or internal areas of the historic buildings regardless of their grading should be regulated or restricted and 19.4% strongly agreed to that. On the other hand, 34.4% of the group agreed that different treatments should be applied to historic buildings in different gradings (e.g. external appearance of building with lower grading should be remained authentic while it was not necessary to regulate or restrict the alteration of internal areas) and 12.8% strongly agreed to that.

20. While there were some suggestions to strengthen the protection of graded historic buildings, there were also other submissions which opined that the statutory requirement might deprive owners of graded historic buildings of their private property rights and trigger the issue of compensation. They were worried that any plan to lay down such law might prompt owners of graded historic buildings to demolish their buildings before the enactment of possible legislative control. Furthermore, some opined that it would be more practical to provide attractive incentives for owners to protect their heritage properties. From the opinions received, there was general support for the preservation of historic buildings with higher heritage value for the sake of the community.

AAB's observations

Nature of the grading system

21. The AAB considers that a grading system should be sufficiently effective to protect privately-owned historic buildings of high heritage value from demolition or alteration. A statutory grading system would ensure better protection but it is noted that there was a split among the public on whether there should be statutory protection against the demolition or alteration of all these buildings in different gradings. There is yet to be a thorough discussion in the community on how and to what extent the regulation or restrictions on the historic buildings should be made through legislative means.

22. Should a statutory grading system be put in place, it would be reasonable to expect a mechanism to deal with possible petitions from owners of graded historic buildings against the regulation and restrictions, as well as claims for compensation for the loss in development rights of the graded private properties. The AAB considers that the Government should examine whether and how a statutory grading system should be implemented in the longer term, taking into consideration the effect on private property rights and community support and acceptance.

Utilising the existing grading system and practices

23. Meanwhile, the Government should provide as many incentives as practicable to facilitate and assist owners to protect and timely maintain their graded buildings. The AAB recognises the efforts of the Government in encouraging the “preservation-cum-development” approach and protecting historic buildings with significant heritage value through the existing administrative (such as providing incentives to owners of graded buildings) and statutory means (such as rendering legal protection to monuments).

24. Notwithstanding this, the current mechanism and practices for protecting privately-owned historic buildings could be improved. Instead of liaising with owners of graded buildings only when alerted under the internal monitoring mechanism, the Government may consider proactively engaging the owners to enhance their understanding on the preservation and maintenance needs of graded buildings. The owners should be better informed of the incentives and assistance that might be available from the Government if they are considering redevelopment of their graded buildings. The AAB recognises the merits for better differentiation of incentives and assistance to be provided to owners of historic buildings with different gradings and the details should be carefully developed and set out. The Government should ensure transparency of the incentives to be provided corresponding to the grading of the historic buildings.

Recommendations

25. The AAB recommends the Government –
- (a) to better utilise the existing mechanism in providing incentives and facilitation to owners of graded buildings with a view to providing timely maintenance to avoid dilapidation and reducing the risk of large-scale alteration of graded buildings;
 - (b) to examine the setting up of a statutory grading system in the longer run for the protection of graded buildings while safeguarding private property rights.

2.2 Purchase and resumption of privately-owned historic buildings

Current situation

26. At present, around 45.4% of 108 declared monuments and 76.7% of 998 graded historic buildings (as at December 2014) are not owned by the Government. If a historic building is under demolition threat, the Antiquities Authority may provide an immediate statutory protection by declaring it as a proposed monument, under section 2A of the Antiquities and Monuments Ordinance. Under section 8 of the Ordinance, if the Antiquities Authority refuses to grant a permit for related demolition or alteration works of a proposed monument or declared monument, the owner or lawful occupier may claim for compensation in respect of resulting financial loss suffered or likely to be suffered¹⁶ by him as a result of the refusal. Under such circumstances, the owner may receive financial compensation and retain ownership of the monument. The respect for private property rights has to a certain extent been manifested in the Antiquities and Monuments Ordinance. As at December 2014, there has not been any compensation claims under section 8 of the Ordinance.

27. The above statutory protection is only applicable to monuments and proposed monuments. For historic buildings resumed or purchased in the past, they were pursued through different means. For example, the Wong Uk¹⁷ in Yuen Chau Kok, Shatin, was preserved and turned into a park under redevelopment of the area. King Yin Lei was surrendered to the Government through a land exchange arrangement of an adjacent site of similar size for development¹⁸. The

¹⁶ According to section 8(3) of the Antiquities and Monuments Ordinance, no compensation shall be awarded under section 8 in respect of financial loss which has been or may be suffered in connection with a contract made or anything done by the owner or lawful occupier of the proposed monument or monument after the service of a notice under section 2A or section 4(2).

¹⁷ Wong Uk Village, founded in the 19th century, was a trading station for merchants and travelers until the late 19th century. In the mid-1980s, the Government resumed and developed the area of Wong Uk Village into a recreational park, now known as Wong Uk Garden. An old village house of Wong Uk Village, namely Wong Uk, was preserved in the new park and was declared a monument in 1989.

¹⁸ Please refer to footnote 9 for details of the case on King Yin Lei.

former Woo Cheong Pawn Shop was acquired by the Urban Renewal Authority. There is so far no policy or statutory provision for the purchase or resumption of privately-owned graded historic building on the ground of heritage conservation.

Public views

28. In response to question 2 of the consultation document¹⁹ in relation to the purchase or resumption of privately-owned graded historic buildings for heritage conservation purposes, most submissions cautiously supported the proposal but a number of riders were named. For example, they emphasised that the resumption, or even the purchase using public resources, should be carried out in “extraordinary circumstances” subject to “stringent and justified conditions”, with “high threshold”, or considered “on a case-by-case basis”. They further elaborated that historic buildings to be purchased or resumed should be of unique historic or cultural value, under imminent threat of demolition, serve future function or have sustainable use in the long-term, and have special attachment to the public.

29. There are a couple of areas with contrasting views. Some considered that the purchase or resumption should only take place with owners’ consent while others opined that it should be a last resort if negotiation between the owners and the Government fails. On the other hand, some considered that historic buildings were only worth public resources if they were in fair condition, whereas others suggested that a pre-requisite to use public resources was that the historic buildings were structurally in danger.

30. Some mentioned that whether or not to purchase or resume historic buildings for conservation should be subject to considerations such as calculation of the market value of the historic properties against the developable value of the

¹⁹ Question 2 reads: “Should we, on the grounds of conservation, purchase or resume historic buildings from private owners? Should there be any predominate requirements (such as depending on the heritage value of the buildings, criteria for and means of compensation or whether the buildings are open to public?”

properties concerned, as well as the financial implications to be borne by the community. A substantial number of views pointed out that resumption should only be one of the means to preserve historic buildings. Instead of resumption, other avenues such as the use of incentives and planning tools should first be explored to facilitate negotiation with private owners. Some technical issues were raised, such as the future use and sale of the historic buildings purchased or resumed by the Government, as well as whether and how the owners should be compensated.

31. In the telephone surveys, 60.9% of the respondents agreed that the Government should use public funds to purchase historic buildings for preservation, and 26.4% did not agree. Some 51.7% of the respondents agreed that historic buildings which were accorded higher grading should be purchased or resumed. Nevertheless, support for resumption of the historic buildings dropped to 32.6% under the scenario that the private owner was not willing to preserve the historic building, and refused to sell to the Government or to accept land exchange. On the other hand, 20.9% of all the respondents disagreed with the resumption of historic buildings under the same scenario. Together with the 26.4% of all the respondents who disagreed from the very beginning that the Government used public funds to purchase historic buildings for preservation as described in the preceding paragraph, none of the above position has gained a clear majority.

AAB's observations

32. The AAB considers that using public money to purchase or resume privately-owned historic buildings for heritage conservation purpose is sensitive and carries wider implications. For example, there would be controversy on the criteria and methodology for the purchase as well as the formula on the calculation of compensation under resumption. Redevelopment in many privately-owned historic buildings are to some extent regulated or controlled under the current planning control of the Outline Zoning Plans (OZPs) issued under the Town Planning Ordinance (Chapter 131 of the Laws of Hong Kong) and the respective land lease conditions. If there is any demolition threat to these graded buildings,

safeguards would be given including immediate and time-limited statutory protection through declaration of proposed monument under section 2A of the Antiquities and Monuments Ordinance and the prevailing practice to provide “relief” (namely economic incentive options like land exchange) to attract the owners for preserving their historic buildings.

33. With the experience gained in recent years, the AAB observes that some private owners of historic buildings are more interested in redeveloping their sites in light of the potential value of new buildings, but with appropriate economic incentives such as relaxation of plot ratio and land exchange, many owners are willing to negotiate the terms for “preservation-cum-development” options. In fact, a number of historic buildings have been successfully saved from demolition by means of a range of different economic incentives.

34. Through the views received during the public consultation and the telephone surveys, the AAB notes that the community was conservative amid their support to purchase or compensate historic buildings from the public coffer. The fact that various conditions or pre-requisites were suggested reflected that there were diverse views on the criteria of purchase or resumption of historic buildings.

35. The AAB considers that mandatory purchase or resumption is not supported to be used for safeguarding historic buildings from development. The provision of economic incentives appears to be a fairly effective way to preserve the buildings though there is room for further enhancement. Ultimately, apart from the use of public resources (for purchase, land exchange, or resources implied in the offer of economic incentives, etc.), the community should be educated and nurtured to appreciate the need to carry out timely maintenance to avoid dilapidation and to protect the historic buildings on their own volition.

36. In light of the above, protection of historic buildings through the “preservation-cum-development” approach should be maintained. Provision of more economic incentives to encourage the preservation of privately-owned historic buildings should be considered, instead of imposing new legislative

provisions for mandatory purchase or resumption or directly providing public money for purchasing historic buildings. On the other hand, the current provision of cash compensation to owners of monuments and proposed monuments as set out in sections 8 and 9 of the Antiquities and Monuments Ordinance should be kept. The provision of economic incentives will be further discussed in Chapter 3.

Recommendations

37. Noting that there are diverse views in the community, the AAB considers that mandatory purchase or resumption of privately-owned historic buildings should not be pursued. Public money should not be used directly to purchase privately-owned historic buildings. The AAB recommends the Government to provide more attractive economic incentives, such as financial assistance, relaxation of plot ratio and land exchange, to facilitate private owners to carry out timely maintenance works and protect historic buildings.

2.3 “Point-line-plane” approach

Current situation

38. In recent years, there have been calls for the adoption of a “point-line-plane” approach for the conservation of historic buildings which seeks to extend the scope of conservation beyond an individual building (i.e. “point”) to a “line” (such as a particular street) and even the whole “plane” (such as a particular district). The concept is to conserve not only individual buildings but also their wider urban or rural setting. In addition, some conservationists have also advocated the new concept of “historic urban landscape”. They believe that since built heritage bears witness to the social, economic and cultural development of a city, the relationship between heritage conservation and development should be established and thoroughly considered in the overall planning to pave the way for sustainable development.

39. In Hong Kong, some historic public buildings in the form of small clusters have to some extent been protected under the existing mechanism by re-zoning as “Other Specified Uses” on the OZPs on a case-by-case basis for conservation and adaptive re-use purposes. Examples include the former Central Police Station Compound²⁰ and the former Police Married Quarters on Hollywood Road²¹ under the “Conserving Central” initiative. Appropriate planning requirements on building height, design and layout of new development, taking into account of the heritage significance of the existing historical buildings on the site, are imposed on the “Other Specified Uses” zone to regulate developments within the historic or heritage site. Special conservation conditions have also

²⁰ The former Central Police Station Compound consists of three declared monuments, namely former Central Police Station Compound, former Central Magistracy and the old Victoria Prison. The site is currently zoned as “Other Specified Uses (for Historical Site Preserved for Cultural, Recreational and Commercial Uses)” which is intended to preserve, restore and convert the historic site into a heritage tourism attraction for the enjoyment of residents and tourists.

²¹ The former Police Married Quarters on Hollywood Road comprises three Grade 3 buildings of the former Police Married Quarters and the remnants of the former Central School, a site of archaeological interest. The site is zoned as “Other Specified Uses (Heritage Site for Creative Industries and Related Uses)”.

been incorporated into the respective land leases.

40. The adoption of “Other Specified Uses” zone is not a standard zoning designated for declared monuments, clusters of historic buildings or heritage sites. The practice is only applicable on a case-by-case basis and mostly for major adaptive re-use or revitalisation projects. At present, most of the monuments and graded buildings are reflected on the relevant statutory town plans²² by stating them in the Explanatory Statements of the respectively town plans. Prior consultation with AMO is necessary for any land use or development proposals affecting these sites or buildings and their immediate environments. Notwithstanding this, the relevant statutory town plans indicate only the wider “use” in which these heritage items are located, for example, an ancestral hall within “Village Type Development” zone, without given specific details.

Public views

41. In response to question 3 of the consultation document²³, the comments and views received from the consultation were very diverse. Some supported imposing restrictions on the development of surrounding areas in order to retain the fabrics of the historic buildings. They noted that the Antiquities and Monuments Ordinance focuses only on individual buildings and the spirit of preserving a street or an area was absent. Some views went further and suggested that the preservation should go beyond built heritage, covering intangible heritage, cultural significance of the area or even natural landscape.

42. Several submissions raised questions on which areas were worth adopting the “point-line-plane” approach. They suggested carrying out

²² Statutory town plans include the OZPs and Development Permission Area (DPA) Plans prepared by the Town Planning Board under the Town Planning Ordinance.

²³ Question 3 reads: “Should we impose restrictions on the development (for instance, to impose restrictions on the heights, uses and designs of buildings, as well as the width of streets) of certain streets or areas (such as Tai O, Kowloon City, Tai Hang and Sai Ying Pun) in order to preserve their heritage merits?”

assessment on the cultural heritage and characteristics in order to identify these areas, noting that the most commonly cited examples have already been largely reshaped by redevelopment. Suggested areas for conservation included the clusters of historic buildings like the former Central Police Station Compound, *tonglau* clusters, stilt house clusters, etc. A number of them made reference to the “old town” in other cities. Several submissions shared the views that the “point-line-plane” concept would more likely be implemented in rural areas than in the urban settings.

43. Those who were more conservative appreciated the difficulties in preserving a “plane”. They felt that it would be unreasonable to completely prohibit redevelopment for an entire street or area and accepted keeping a “line” or imposing certain conditions such as height restrictions as an alternative. For those who objected to the approach, they considered that conservation work should not be carried out at the expense of development rights. They pointed out that there was already a shortage of land resources for essential development in Hong Kong, and therefore more extensive conservation would worsen the problem. Restrictions and controls would affect the development potential and value of the properties and the surrounding areas. Some made reference to the difficulties in the existing grading exercise and were not in favour of imposing further restrictions. Others reminded that restrictions on the development should come with a compensation framework.

44. As regards how the “point-line-plane” concept should be implemented, a significant number of views suggested incorporating controls required to protect historic buildings into the overall town planning process such as translating them into the planning intentions. They considered that making use of the Town Planning Ordinance would be sufficiently systematic and extensive for this purpose. The degree of planning regulation to be exercised should be commensurate with the cultural significance of the buildings/areas concerned, or on a case-by-case basis. Apart from planning controls, some advocated imposing restrictions administratively and some suggested that the heritage merit of a street or area might be preserved through offering incentives.

45. In the telephone surveys, the number of respondents who agreed and disagreed imposing restrictions on the development of areas for the purpose of conservation were more or less the same. For example, for an area with historic buildings along with buildings built in the past 20 to 30 years, 42.3% of the respondents agreed restricting the development of this area for conservation purpose, versus 40.3% who disagreed. When asked whether they would agree with the restrictions which would affect the scope of altering buildings surrounding the historic buildings, 43.6% agreed with 38.7% disagreed.

AAB's observations

46. The AAB recognises that this is a broad subject which straddles across a number of areas such as planning and urban design. The diversified views received during the public consultation were understandable because they had taken into account a number of important considerations, namely, development needs, private property rights, budgetary considerations, impacts on stakeholders and the general public, feasibility of implementation, as well as the authenticity and integrity of the historic buildings and their surroundings.

Identifying the “line” and the “plane”

47. The AAB observes from the public views that there is no suggested area or district which clearly stood out for the implementation of the “point-line-plane” approach. In this connection, it is considered essential to identify areas of heritage significance through research and/or mapping exercises. The AAB considers that there are many districts in Hong Kong with unique cultural characters and district-wide assessment should be considered.

Application

48. With the experience of adopting “Other Specified Uses” zone for some selected small clusters of historic buildings as mentioned in the paragraph 39

above, the Government should further explore if this practice can be applied to other appropriate building clusters of heritage significance or historic sites. The Government could draw on earlier experience²⁴ to explore having designating areas over a land use zone where development in these areas required proof on compatibility of surrounding environment and approval of the Town Planning Board.

49. Learning from past experience and the views collected from the public consultation, the AAB considers that a full application of the “point-line-plane” concept by imposing a new designated zoning or area for built heritage conservation would be controversial and pre-mature at this stage. Conducting study and research on different “points” in the territory, and moving towards “lines” and “planes” should be the future direction.

Recommendations

50. The AAB recommends the Government –
- (a) as the first step, to conduct a study to explore the feasibility of conserving and protecting selected building cluster(s) of unique heritage value under the “point-line-plane” approach; and
 - (b) in the medium term, to arrange thematic surveys, or mapping exercises, on building cluster(s) of heritage value for drawing up appropriate conservation strategies and protection measures if necessary, and for future planning.

²⁴ The Government initiated discussion on the setting up of Special Design Areas (i.e. areas of architect, archaeological, cultural or historical interest) was discussed in late 1990s. The concept of Special Design Areas differed from that of the general land use zone. A Special Design Area would not be a zone, but a designated area imposed on a land use zone. There may be “Residential”, “Commercial”, “Government, Institution or Community” and other land use zones within the Special Design Area. Under the designation proposal, the applicant for development within the Special Design Area must furnish a civic design plan or a landscape plan, which demonstrates that the proposed development is compatible with the surrounding environment, and obtain the approval of the Town Planning Board. During the deliberation of the 2000 Town Planning Bill by the authorities, members of the public were divided over the proposed designation of Special Design Areas. As a result, the concept of Special Design Area was not introduced at that time.

2.4 Alteration and addition works to privately-owned historic buildings

Current situation

51. The purpose of the Buildings Ordinance (Chapter 123 of the Laws of Hong Kong) is “to provide for the planning, design and construction of buildings and associated works; to make provision for the rendering safe of dangerous buildings and land; and to make provision for matters connected therewith”. Alteration and addition works, including restoration and major maintenance, must comply with the prescribed standards under the Buildings Ordinance to ensure the safety of users and occupiers. Subject to compliance with the prescribed standards of structural stability and building safety and health requirements under the buildings regulations by the buildings concerned, the Buildings Department may consider modification of or exemption from the provisions of the Buildings Ordinance according to the special circumstances of individual cases.

52. Since historic buildings were by definition built a long time ago, their design and facilities usually do not comply with the current building safety and health standards and statutory requirements. Certain degree of alteration and addition is usually required if new facilities are to be installed or if the buildings are to be adapted for re-use other than their original use. On the other hand, compliance with the Buildings Ordinance may result in extensive alteration to the historic buildings that may affect their original architectural features.

53. At present, based on the performance-based approach, the Buildings Department has an established mechanism for determining whether alternative approaches can meet the relevant standards of building safety and health requirements. In this connection, the Buildings Department has published the Practice Guidebook for Adaptive Re-use of and Alteration and Addition Works to Heritage Buildings 2012 (Practice Guidebook)²⁵, which provides practical advice,

²⁵ The Practice Guidebook can be downloaded from the website of the Buildings Department at www.bd.gov.hk/english/documents/guideline/heritage.pdf

alternative approaches and case studies to help make sure that the revitalisation, alteration and addition works to historic buildings comply with the building safety and health requirements under the Buildings Ordinance. The Buildings Department has also re-issued the Practice Note for Authorized Persons and Registered Structural Engineers and Registered Geotechnical Engineers on Conservation of Historic Building (i.e. APP-69) in 2009 (Practice Note)²⁶.

Public views

54. In response to question 4 of the consultation document²⁷, some submissions, mainly those from the professional institutes, suggested that the Buildings Department may consider relaxing some provisions or exempting privately-owned historic buildings from certain requirements under the Buildings Ordinance in light of individual circumstances and on the basis that the owners undertake to provide proper management. They were of the view that if the Buildings Ordinance, which mainly targets multi-storey modern buildings and is highly prescriptive, is applied to privately-owned historic buildings which generally have fewer storeys, might lead to over-specification of requirements and financial burden to owners of historic buildings. They elaborated that altering privately-owned historic buildings in compliance with the Buildings Ordinance could be costly and most importantly, in some cases would undermine the key heritage features of the buildings. Strict enforcement of the Buildings Ordinance could also discourage private owners of historic buildings from preserving the buildings for adaptive re-use.

²⁶ This Practice Note mainly advises the practitioners on the legislative requirements for works proposals involving historic buildings, artefacts and relics. Amongst others, it states that building works for a monument or a proposed monument may be disapproved by the Buildings Department unless a permit under section 6 of the Antiquities and Monuments Ordinance has been granted by the Antiquities Authority. Section 6 of the Antiquities and Monuments Ordinance prohibits excavation and works on or in a proposed monument or monument except in accordance with a permit granted by the Antiquities Authority.

²⁷ Question 4 reads: “Should we allow relaxation of or exemption from the legislative requirements for historic buildings while the primary objective of the Buildings Ordinance is to protect structural safety and health standard?”

55. Some welcomed and appreciated the efforts of the Buildings Department in preparing the Practice Guidebook and the Practice Note. However, they pointed out that the Practice Guidebook was inadequate because it did not provide a set of committed criteria for Buildings Department's acceptance. Following the examples set out in the Practice Guidebook would not be deemed to satisfy the Buildings Ordinance. As such, they suggested formalising the Practice Guidebook and turning illustrations therein into standard approved items. There were suggestions for issuing clear exemption criteria in building controls in the short term, and developing a separate set of building codes catering for privately-owned historic buildings in the longer term.

56. On the other hand, some opposed to the relaxation of or exemption from the requirements of the Buildings Ordinance for privately-owned historic buildings. The objections were based on several common grounds, namely structural stability, fire safety, means of escape, building safety and health standards, arguing that these areas would be undermined if there was relaxation or exemption. Among them, some accepted that the risks could be remedied by, for example, performance-based or management approach, advice from experts as well as regular safety inspection.

57. In the telephone surveys, when asked whether the Government should allow relaxation of or exemption from the legislative requirements for historic buildings, and accept other approaches for safety purposes (such as installing more fire sprinklers), 49.4% of the respondents agreed with the statement. Nevertheless, there was 39.6% of the respondents held the opposite views, and 9.2% were neutral.

AAB's observations

58. The AAB considers that safety should be the prime concern in the enforcement of the Buildings Ordinance. Nonetheless, since historic buildings were built a long time ago, AAB considers it appropriate to allow some flexibility in carrying out alteration and addition works to declared monuments and historic buildings in private ownership with a view to encouraging owners to preserve the integrity of these buildings. Some Members suggested that reference could be made to the exemptions for the New Territories Exempted House and appropriate flexibilities could be incorporated in enforcing the Buildings Ordinance. Views from professionals could be solicited in determining whether exemption or relaxation should be given.

59. The AAB notes, from the public views received, that the public has accorded high importance to building safety and health but they have split views on whether the Government should allow relaxation of or exemption from the statutory requirements for historic buildings, and the acceptance of other approaches for safety purposes. The AAB considers that as far as safety and health standards are ensured, they are inclined to take on board the views of the professional bodies and practitioners on this technical issue, and to recommend exploring more flexibility in building controls.

60. The Buildings Department could be empowered to exercise its discretion to exempt certain building requirements for monuments and privately-owned historic buildings by specifying the circumstances under the performance-based or management approach. In addition, with reference to the alternative provision of mechanical lighting and ventilation to bathrooms and kitchens²⁸, the Buildings Department could list out the relevant technical

²⁸ The Buildings Department has issued a Practice Note on “Lighting and Ventilation Requirements – Performance-based Approach” (i.e. APP-130). It sets out alternative performance standards on the provision of natural lighting and ventilation in habitable rooms and domestic kitchens. It states that the

requirements in the Practice Note for granting standard modification of regulations for adaptive re-use of historic buildings. As such, the AAB considers it not necessary to compile a separate set of building codes as performance-based approaches and other alternatives have proved to be fairly effective in some local and overseas examples²⁹.

Recommendations

61. The AAB recommends the Government to review and, if necessary, amend the Buildings Ordinance, the relevant Practice Note(s) and the Practice Guidebook in order to encourage and facilitate private owners of historic buildings to preserve and adaptively re-use their buildings. These measures should not jeopardise building safety and health standards.

Building Authority would accept applications to modify the prescriptive requirements set out in the Building (Planning) Regulations if the alternative performance standards are met. Members noted that the lighting and ventilation requirements used to be addressed by engineering approach. It has now been “upgraded” to present the alternative performance standards in the form of a Practice Note.

²⁹ The Buildings Department has commissioned a consultancy study to develop comprehensive design guidelines for the revitalised historic buildings to comply with the building safety requirements under the current Buildings Ordinance. The scope of the study covered the relevant legislation and requirements in eight countries, namely the United Kingdom, Australia, Canada, China, Singapore, Japan, the United States and Germany. Except for California and New Jersey in the United States, none of the countries under study has relaxed the building safety requirements or health standards for historic buildings. Among them, the United Kingdom and Australia consider accepting performance-based alternative approaches having due regard to the building safety and health requirements under the existing legislation. The alternative approaches in individual cases are processed by professionals in light of the specific circumstances to ensure that they achieve the standards of performance prescribed by law. It is noted that the mechanism in Hong Kong is similar to the practices adopted by the countries under study.

Chapter 3 Resources for protecting historic buildings

3.1 Built heritage fund

Current situation

62. In the past five years, the total recurrent government expenditure on heritage conservation was over \$571 million, averaging over \$114 million per year. Furthermore, the Development Bureau has earmarked \$2 billion to implement the Revitalisation Scheme and related revitalisation projects. The funding for government initiatives related to heritage conservation is mainly distributed through the CHO and AMO. Apart from the Lord Wilson Heritage Trust (LWHT) (detailed in paragraph 63), there is no dedicated body that oversees the community's resources for heritage conservation.

The Lord Wilson Heritage Trust

63. Established in 1992 under The Lord Wilson Heritage Trust Ordinance (Chapter 425 of the Laws of Hong Kong), the LWHT³⁰ aims to preserve and conserve the heritage of Hong Kong by organising activities and providing funding support to assist community organisations and individuals to undertake heritage-related activities and research projects. LWHT is empowered to acquire, hold and sell properties. In recent years, in light of the efforts and initiatives of CHO in the conservation of built heritage, LWHT focuses on promoting and supporting the preservation of local intangible cultural heritage so as to facilitate the sustainable development of the local cultures and traditions.

³⁰ Further details of LWHT are available on its website: www.lordwilson-heritagetrust.org.hk.

Study on the Feasibility, Framework and Implementation Plan for Setting up a Statutory Heritage Trust in Hong Kong

64. In November 2011, the Development Bureau commissioned a study on the feasibility, framework and implementation plan for setting up a heritage trust in Hong Kong³¹ (2011 Study). The 2011 Study suggested, amongst others, that the trust could share some of the Government's work by taking up non-statutory responsibilities in heritage conservation, such as outreach and education, academic research and archive management, as well as developing relationships with its international counterparts and the private sector. Other roles may include the administration and monitoring of the Financial Assistance for Maintenance of Historic Buildings Scheme (FAS)³² and the Revitalisation Scheme³³ which are currently under the purview of the Development Bureau, as well as the maintenance, conservation and revitalisation works of the historic buildings concerned.

Public views

65. In response to question 5 of the consultation document³⁴, it is found that a fairly substantial number of submissions favoured the setting up of a heritage fund, though a couple of them expressed reservation on the establishment of the fund at this stage. Despite this relatively clear inclination, there are various views

³¹ The consultancy study was completed in April 2013. The report is available on the website of Development Bureau: www.heritage.gov.hk/en/online/statutoryheritagetrust.htm.

³² Since the launch of FAS in 2008, the Development Bureau has extended financial assistance from monuments to privately-owned graded historic buildings by providing grants for the maintenance works of privately-owned graded buildings. Each approved application will be given a grant of not more than \$1 million with payment made on reimbursement basis. Discussion on FAS is set out in section 3.2 of this report.

³³ To enhance heritage conservation, the Development Bureau launched the Revitalisation Scheme in 2008 to invite NPO to take part in conservation by revitalising government-owned historic buildings in an innovative manner and make good use of these buildings for public enjoyment. Funding approval from the Finance Committee of the Legislative Council for individual revitalisation projects is required.

³⁴ Question 5 reads: "Do you think that Hong Kong should set up a heritage trust? If so, what should be its functions? Is it appropriate to support the trust with public funds? If yes, which functions of the trust should be supported by public funds?"

and suggestions in terms of the set-up, functions, funding model and sources of the proposed heritage fund.

66. On the set-up of the fund, some suggested that it should be “statutory”, “a non-government organisation”, “public body”, “independent” or “at arm’s length” from the Government with its own board and secretariat, such that measures on protecting historic buildings could be implemented more effectively and free from bureaucracy and politics. On the other hand, others suggested that the implementation and management of various measures and schemes (such as FAS and the Revitalisation Scheme) should remain as the Government’s job. They noted that having the fund established under the Development Bureau would also enable better coordination between different government departments such as the Planning Department and the Buildings Department. A few mentioned that the AAB could manage the resources under the fund. Some supported a new fund to replace LWHT; some considered it more appropriate to expand LWHT, and others suggested setting up a separate body alongside with LWHT. For those who advocated a separate entity, they pointed out the need to ensure a proper interface between LWHT and the new fund.

67. As regards the functions of the fund, funding support and organisation of education, community engagement and publicity activities on heritage conservation was most widely named, followed by research programmes. This will be elaborated in detail in Sections 4.1 and 4.2. In general, there was expectation from the public for the fund to oversee the restoration, maintenance, management, re-use and revitalisation of historic buildings for public education and enjoyment. Some considered that the fund should help owners of historic buildings to raise fund and/or to attain financial independence in maintaining the buildings. They saw the fund as a body which would offer financial support especially to private owners of historic buildings with financial difficulties. On other ancillary roles, some looked upon the fund to mediate between the Government and the owners, to give owners advice and recommendations and to share with them expertise on the proper way to conserve historic buildings, to liaise between different government departments on owners’ behalf and to liaise with overseas counterparts, and even to train construction workers in carrying out

conservation works. Several submissions touched on whether the fund should purchase and acquire historic buildings. There were supporters on both sides which is similar to the findings described in Section 2.2 in relation to the purchase and resumption of privately-owned historic buildings. For those in between, they suggested that the fund could be the guardian to, or hold custody of, historic buildings.

68. Many views highlighted the importance of having adequate funding for the operation of the fund in view of the costs involved in historic buildings conservation projects. The majority of them considered that the initial funding or “seed money” of the fund should come from the Government while others considered both the public and private sectors as possible funding sources. For recurrent resources, various options were raised, such as donations from the private sector, contribution from the Hong Kong Jockey Club Charities Trust, Lotteries Fund, tax revenue, revenue from land premium, landfill charges, levies collected from developers and the tourism industry, and income generated by the business operation of the fund. For income from membership fees, several submissions were not positive because at this stage when the awareness on heritage conservation had only started to take root, there would unlikely be a significant membership base to provide a meaningful income. Some considered that given the huge amount of resources required for built heritage conservation, the ability of the fund in generating significant recurrent revenue and in attracting donations would be the key factors contributing to the success of the fund.

69. Among those who made reference to the 2011 Study, they questioned if the limited income of \$69 million per annum³⁵ could meet the proposed initiatives under the fund which included but was not limited to the costly rehabilitation or restoration works for historic buildings. There were several

³⁵ Section 6.4, report of the 2011 Study. The consultant estimated that the revenue of the trust would be around \$69 million, including rentals, hire charges, admissions, membership subscriptions, public programme revenue, income from fundraising events, investment return from seed money and Government subvention. Of which, it is proposed that the trust would require seed money in the order of \$900 million from the Government to generate the necessary income to cover the annual expenditure of the fund.

submissions which counter-proposed the appropriate amount of start-up fund but the exact dollar sign was not raised in most submissions.

70. In the telephone surveys, 61.3% of the respondents supported the setting up of a heritage fund now and around 23% considered that the fund should not be set up. For the function of the proposed fund, 45% of the respondents considered that the fund should take up the projects relating to the Government's financial assistance for maintenance and revitalisation of historic buildings, followed by publicity and public education (40.2%) and academic research (31.2%).

AAB's observations

Functions of the fund

71. The AAB considers that a built heritage fund should be established and that it should focus on funding public education and academic research, and should cover certain responsibilities of the Government, for example, restoration, maintenance and revitalisation of historic buildings³⁶. In particular, providing funding support to develop solid research work would support the development of a direction in built heritage conservation, and to study on what conservation projects are worth pursuing. AAB's views on public education and publicity work to be carried out by the fund will be discussed in Section 4.1.

72. The AAB observes from the public views that grant schemes (such as FAS) and other incentives from the Government (such as relaxation of plot ratio) for heritage conservation are more acceptable to the community than using real money to purchase historic buildings. As pointed out in Section 2.2, the public had diverse views on the use of public resources to purchase or resume

³⁶ While some aspects discussed under "AAB's observations" are similar to the recommendations in the 2011 Study, nothing in this report should be construed as an endorsement of the recommendations of the 2011 Study.

privately-owned historic buildings. As such, the AAB considers that the fund should not pursue mandatory purchase or resumption of privately-owned historic buildings and public money should not be used to acquire these buildings.

Set-up of the fund

73. The AAB is of the view that the fund should be set up in the most effective form to deliver the aforementioned functions. Several options have been explored, including (i) setting up a new trust to replace the LWHT; (ii) building on the LWHT and not setting up a new fund; and (iii) maintaining the LWHT while having a new fund. Option (i) is considered not feasible as the scope of the LWHT went beyond built heritage, covering for instance intangible heritage. A new fund incorporating LWHT would defeat the purpose of setting up a dedicated fund on built heritage conservation. For option (ii), the AAB notes that grants of LWHT for heritage-related projects were relatively limited³⁷ and would be insufficient to take up tasks on built heritage conservation unless with substantial injection of funding. The AAB also considers it inappropriate to pre-empt the prevailing functions and organisation of the LWHT by adding onto it the portfolio of built heritage conservation. In light of the above, the AAB considers that option (iii) is more suitable, which involves the setting up a new fund while keeping the LWHT. Funding will be allocated in accordance with a set of prescribed criteria. While noting the potential merits of a statutory fund in the long run, the AAB would not rule out a statutory fund but considers that the new fund should preferably be up and running within a shorter period of time possibly under an administrative setting. Delineation in terms of the scope and functions of the new fund as against the LWHT should be carefully considered.

³⁷ According to the Annual Report 2012-13 of the LWHT, the LWHT received donation of about \$2 million; amongst which, only about \$1.59 million was granted for the heritage-related projects in 2012-13 (the grant from about \$44,000 up to some \$360,000 for each project). Only a few of these projects were related to the conservation of historic buildings.

74. The AAB considers that the fund should be a dedicated funding for conservation-related programmes. Having considered the public views, the AAB opines that it should not stipulate the financial requirements of the fund at this juncture. This should be worked out by the Government upon drawing up the scope of the new fund.

Recommendations

75. The AAB recommends the Government to set up a dedicated fund on conservation of built heritage to provide funding for public education and publicity work as well as academic research undertaken by non-government organisations and other bodies to enhance the understanding and awareness of the public on built heritage conservation. The fund should also cover certain government initiatives and activities on built heritage conservation, such as the revitalisation of historic buildings and promotion on the importance of timely maintenance to the owners to avoid dilapidation. The AAB considers that the fund should not be used to purchase or resume privately-owned historic buildings.

3.2 Economic incentives

Current situation

76. The Government has been encouraging private owners to preserve their historic buildings through the provision of different kinds of economic incentives. The Government seeks to strike a pragmatic balance between heritage conservation and the respect for private property rights. Given that the provision of economic incentives involves the use of public resources, the Government has adopted a case-by-case approach in order to put forward the most appropriate incentive options for the conservation of the historic buildings in light of their unique circumstances. In the acceptance of the economic incentives, the Government normally requires the owners to accept certain conditions, such as allowing reasonable public access to their buildings. Discussion on public access to historic buildings will be set out in Section 4.3.

Economic incentives for conservation of privately-owned historic buildings

77. In recent years, the Government has devised various planning and land use incentives, such as relaxing plot ratio and land exchange, to encourage private owners of historic buildings to adopt “preservation-cum- development” options rather than demolition plans. Normally the Government would seek dialogue with the owners once it is alerted by the internal monitoring mechanism mentioned in Section 2.1. The Government would seek to compensate the owners for the loss of developable area as a result of preserving their historic buildings.

78. In the case of the King Yin Lei, a declared monument, the Government granted a new lot adjacent to King Yin Lei with similar development parameters to the owner in exchange for the preservation of the monument. Cheung Chau Theatre, a Grade 3 building, is preserved through a minor relaxation of plot ratio restriction from 0.4 to 0.472 and that of site coverage restriction from 20% to 36.8% as approved by the Rural and New Town Planning Committee of the

Town Planning Board. Part of the façades of the premises at 8 Pollock's Path, a Grade 2 building, is preserved through a minor relaxation of plot ratio restriction from 0.5 to 0.548 as approved by the Metro Planning Committee of the Town Planning Board.

79. In 2008, the Development Bureau launched the FAS to provide financial assistance for owners of graded buildings to carry out maintenance works. It is considered that regular and proper maintenance could extend the lifespan of historic buildings. The amount of grant for each successful application will be determined according to the information provided by the applicant, with the ceiling of the grant set at \$1 million. On accepting the grants, the owners are required to accept a number of conditions including not to demolish their buildings or transfer the ownership without the approval of the Government, and to allow reasonable public access to their buildings for appreciation within an agreed period of time after the maintenance works have been completed.

Revitalising Historic Buildings Through Partnership Scheme

80. The Revitalisation Scheme was launched in 2008 by the Development Bureau. Under the Revitalisation Scheme, NPO are invited to submit proposals to revitalise selected government-owned historic buildings in the form of social enterprises. Where justified, the Government will provide financial support including –

- (a) one-off grant to cover the cost of major renovation to the buildings, in part or in full;
- (b) nominal rental for the buildings; and

- (c) one-off grant to meet the starting costs and operating deficits (if any) of the social enterprises for a maximum of the first two years of operation at a ceiling of \$5 million, on the prerequisite that the social enterprise proposal is projected to become self-sustainable after this initial period.

Funding approval from the Finance Committee of the Legislative Council

81. A total of 16 government-owned historic buildings have been selected for revitalisation under four batches of the Revitalisation Scheme. A sum of \$2 billion has been earmarked for funding the Scheme and related revitalisation works projects.

Public views

82. In response to questions 6 and 7 of the consultation document³⁸, the majority of the public views received considered that the Government should introduce a host of effective economic incentives to encourage owners to preserve privately-owned built heritage. Some advocated that the incentives should lead to “enabling development” where the cost on the conservation projects should appropriately be offset by the benefits gained from it. Some considered that the incentives would be effective if subsidies would be available to meet the costs of maintaining the historic buildings or the extra costs associated with the conservation works. In view of past experience, some considered that there had been several successful examples making use of economic incentives though they should be offered through a more systematic mechanism rather than on an ad-hoc

³⁸ Question 6 reads: “Do you think that we should provide more incentives to private owners in order to encourage them to preserve their historic buildings? If yes, what kind of incentives should be provided (for example, should we provide extra developable area in addition to the compensation for the exact loss of developable area as a result of conservation, or should we set up a heritage conservation award for Hong Kong to recognise the efforts of private owners and various organisations in heritage conservation)?”; and Question 7 reads: “In addition to providing subsidies for heritage maintenance works, should we provide subsidies for consultant’s fees and additional construction costs arising from preservation? Should the higher the grading of a historic building, the larger the amount of grant would be given?”

basis. There were submissions which took stock of the historic buildings and concluded that not all buildings had substantial development potential therefore the provision of incentives should be targeted.

83. Most suggestions were planning-related incentives while others were in direct or indirect monetary terms. For incentives involving planning tools, a number of submissions mentioned the transfer of development rights, land exchange, relaxation of plot ratio, etc. Some described the mechanism and implementation of these ideas in details. For example, for the transfer of development rights, they explained the application of the concept in rural and urban areas and how the development rights should be calculated. There were different views on the provision of extra developable areas. While some indicated support, others who objected to such initiative considered that compensation of the exact loss of developable area resulting from conservation would suffice. Providing additional developable rights might put the Government into a weaker position in the negotiation with the private owners, and in any case would be subject to planning and lands approval.

84. Public views generally agreed that incentives should be commensurate with the heritage value of the historical buildings. Several of them emphasised that the level of subsidies or incentives should not simply follow the grading of the historic buildings but should take into account, for example, the site area, types of repair, maintenance and rehabilitation (restoration) works required, whether the buildings would be open to the public and in accordance with the heritage significance of the buildings.

85. In the telephone surveys, 56.7% of the respondents considered the relaxation of plot ratio of privately-owned historic buildings would be helpful in encouraging private owners to preserve their historic buildings while 29.8% of the respondents held opposite views.

Financial Assistance for Maintenance Scheme

86. As far as the subsidies for the maintenance of historic buildings are concerned, some members of the public stated that the ceiling and scope of FAS should be expanded, so as to provide more incentives for private owners of graded buildings to carry out maintenance and rehabilitation works. The limit of \$1 million was insufficient to support most projects and private owners would have to break down the maintenance and rehabilitation works into several applications in order to obtain enough funding. Rather than stipulating a cap on the level of subsidies across the board, many commented that the subsidies should be proportionate to certain conditions, such as the grading of the historic buildings, the financial position of the owners and the types of works to be carried out. One observation to make FAS more appealing to the owners was to expedite the reimbursement of interim payments or to arrange advance payments.

87. In the telephone surveys, 46.5% of the respondents supported an increase in the amount of grant for subsidising the maintenance of privately-owned historic buildings, with 37.4% of the respondents disagreed. In addition, 41% of the respondents agreed that different levels of grant should be set in accordance with the grading of the historic buildings, i.e. the higher the grading of a historic building, the higher the amount of grant should be. On the other hand, 59.2% of the respondents considered that extra subsidies should be provided for private owners to pay for the additional consultant's fee and renovation cost for the purpose of conserving or revitalising historic buildings, which would be helpful in encouraging private owners to preserve their historic buildings; while 27.7% of respondents considered such extra subsidies not helpful.

Other incentives

88. Apart from planning-related incentives, some suggested introducing other indirect financial incentives such as tax reduction, discount in land premium and waiver on government rent and rates to encourage private owners to preserve and timely maintain their historic buildings. Direct financial incentives proposed

included subsidies to cover the costs in preparing Heritage Impact Assessment and Conservation Management Plan. Other non-monetary incentives included better collaboration between the Government and the private sector and the streamlining of procedures by government departments. Some suggested that the incentives need not be directly relevant to heritage conservation such as provision of better municipal services in the rural areas in exchange for the conservation of historic buildings.

89. On whether a built heritage conservation award should be set up in Hong Kong to recognise the efforts of private owners and organisations in heritage conservation, those supported the idea considered that the award, if set up, should enjoy credibility and be widely promoted. Some owners and organisations might regard the award as some form of social responsibilities and recognition from the community. Others opined that since the award would not entail any real economic benefits, it would unlikely be an incentive to owners but could serve publicity purpose. Some others suggested that the award was not necessary because there were already similar schemes such as the United Nations Educational, Scientific and Cultural Organization Asia-Pacific Awards for Culture Heritage Conservation.

AAB's observations

90. The AAB appreciates that private owners of historic buildings are important partners in the conservation of privately-owned built heritage. In view of the conclusion in Section 2.2 that the Government should not purchase or resume privately-owned historic buildings, it would be appropriate to offer attractive incentives to owners to preserve and timely maintain their historic buildings.

91. The AAB recognises that the Government has been protecting privately-owned historic buildings through the provision of economic incentives of different nature and forms and a number of “preservation-cum-development” cases have been settled with the use of such incentive tools. The AAB considers that

this has been an effective mechanism. Therefore, the prevailing practice should be formalised and enhanced as appropriate. The scope and the limit on the level of subsidies under FAS could be reviewed. Other concepts such as the transfer of development rights would be conducive to the conservation of historic buildings. A thorough examination of these concepts should be conducted before implementation.

92. Transparency in the provision of economic incentives would give private owners more certainties as to the value of their historic buildings, giving them incentives to pursue “preservation-cum-development” proposals. The AAB considers that the provision of economic incentives should be more structured and transparent, taking into account a combination of factors including the grading, heritage significance, land and planning parameters and the nature of the conservation works. The incentives and assistance to private owners of historic buildings should be well publicised.

93. While the written submissions received from the public consultation exercise did not shed much light on the Revitalisation Scheme, from the views received from the engagement sessions, the AAB observes that the Scheme was widely recognised in the community. A number of the revitalised buildings had become public icons and popular destination for local and overseas visitors, such as the former Police Married Quarters on Hollywood Road and the former Tai O Police Station. The Revitalisation Scheme should continue to be pursued by the Government.

Recommendations

94. The AAB recommends the Government to consolidate and scale up the existing economic incentives to attract private owners to conserve their historic buildings, such as adopting the “preservation-cum-development” approach. The incentives should be offered through a more formalised, systematic and well-publicised mechanism and according to the scale, building conditions and heritage value of the privately-owned historic buildings.

Chapter 4 Public participation in built heritage conservation

4.1 Public education and publicity work

Current situation

95. The Government has been carrying out public education and publicity work in relation to the conservation of historic buildings through various means, such as the setting up of the Friends of Heritage Scheme and the organisation of guided tours to historic buildings, thematic talks and exhibitions, lectures, roving exhibitions, competitions, the annual Heritage Fiesta, as well as the production of teaching kits, publications and newsletters³⁹.

96. Some programmes were conducted in collaboration with academic institutions, professional institutions, practitioners in the conservation field and conservation concern groups. In addition, renowned experts and scholars from overseas and the Mainland were invited to participate in international conferences on heritage conservation, which were open to the professionals and interested members of the public. These conferences also promoted the continual professional development of heritage conservation work and facilitated experience sharing among the practitioners in the relevant fields. The AAB, CHO and AMO websites, as well as the Geographical Information System on Hong Kong Heritage disseminated information on heritage conservation.

97. The District Councils and the civil society often take part in the promotion of heritage conservation through various ways. For example, the District Councils advocated the setting up of local heritage trails and issued publications on the heritage of their districts. Moreover, the “Our Home, Our History – The Hong Kong Heritage Project” commissioned by the Kadoorie

³⁹ The CHO and AMO have been publishing different kinds of publication, including a bi-monthly newsletter “活化@Heritage” to update the public on the Government’s latest conservation efforts and the “Hong Kong Heritage: Liberal Studies Teaching Kit”.

Family has provided a detailed visual and documentary archive of Hong Kong.

Public views

98. Response to question 8 of the consultation document⁴⁰ showed that there was general support for public education and publicity activities on built heritage conservation. They considered that these activities would raise the awareness of the community on the conservation works and achieve social benefits beyond tourism or economic objectives such as fostering a sense of belonging to the city and cultural identity, enhancing cross-sector cohesion, encouraging volunteer works and donations for related activities, and potentially building up support of policies relating to conservation of built heritage. A number of submissions expressed recognition of the prevailing programmes with several references to the success of Heritage Fiesta. On the other hand, some pointed out that rather than providing a large volume of information, the purpose of public education and publicity should also be nurturing an understanding and appreciation towards built heritage. Some opined that there should be more activities for the young generations. Award scheme on conservation of built heritage was also proposed.

99. A few submissions highlighted that the education and publicity programmes should convey messages to the community that “conservation” was different from “no development”. It should be about giving new life to historic buildings and ensuring its sustainability. Others suggested that education on the options and next steps upon grading of buildings should also be enhanced as better understanding would minimise the resistance of owners of having their buildings graded.

100. On how public education and publicity work should be carried out, a wide range of partnerships were proposed, including by government departments

⁴⁰ Question 8 reads: “Which aspects in the public education, consultation and publicity works in relation to heritage conservation should be further enhanced? What channels can be used to enhance such works?”

such as Radio Television Hong Kong and the Tourism Commission; public bodies such as District Councils, Heung Yee Kuk and rural committees; schools, as well as private entities such as IT and real estate companies, which might be interested to boost their images through some educational activities.

101. Some suggestions on the form of public education and publicity corresponded with the existing programmes, including guided tours, seminars, exhibitions, open days of historic buildings, newsletters and promotion through the curriculum of primary and secondary schools. More conventional means raised included launching TV programmes, creating models on historic buildings to be placed at museums, developing interactive exhibits, supporting research in universities, compiling guidelines with professional bodies to share information and insights from archeological and architectural standpoints, and renting out historic buildings for filming. Other more innovative and immersive suggestions included using smart phone devices such as QR code, visual recognition device, GPS and apps, as well as YouTube and other digital media. Amongst these, several submissions suggested that documents on heritage conservation should be centralised, and a database should be built, for example, on restoration works of historic buildings as well as on detailed and standardised records of these buildings. Some also suggested that trainings could be provided to senior citizens and the general public to host guided tours at historic buildings.

102. In the telephone surveys, 33.2% of the respondents considered that the current public education and publicity work was sufficient in promoting the conservation of built heritage while 39.4% considered it insufficient, with 23% being neutral. Among the respondents who considered the public education and publicity work insufficient, they were of the view that such work should be enhanced through curriculum in schools (41.5% of the respondents who considered the prevailing work insufficient) and promotion via electronic media (38.3%). On the other hand, 74.5% of the respondents thought that conservation of built heritage was important in Hong Kong and 9.1% considered it unimportant. However, only 43.7% of the respondents were interested to know more about the conservation of built heritage and 44.8% were not interested.

AAB's observations

103. The AAB considers that further public education and publicity work should be implemented, which could be financed by the built heritage fund recommended in Section 3.1. Noting that the community has been fairly polarised on some issues relating to heritage conservation in recent years, the AAB considers that the community should be made aware of the fact that historic buildings could be conserved alongside with development under a sustainable model. As observed from the inconsistent findings of the telephone surveys, the public does not appear to have an in-depth understanding of built heritage conservation. The surveys also revealed that almost half of the public was not interested to know more about the subject. The Government and relevant stakeholders should proactively and systematically launch public education programmes. A theme could be set for each year to guide the activities throughout the year.

104. More creative means and innovative devices such as the use of digital media platforms and smart phone devices could be explored as they might better attract and engage the younger generations. On the other hand, the AAB agrees with some public views that public education programmes should cover the private owners of historic buildings especially on the incentives and assistance available to them from the Government. The Government should make the private owners aware of the importance of timely and proper maintenance for historic buildings to avoid dilapidation and increase the usable value of the historic buildings. In this way, they might better embrace their ownership of historic buildings and be more willing to consider “preservation-cum-development” proposals.

105. The AAB finds that schools and the District Councils are suitable and valuable partners in the promotion of built heritage conservation. In particular, although the District Councils might have objectives and interests that were wider than that of the AAB, many District Councils have been fairly supportive in terms of conservation works.

Recommendations

106. The AAB recommends the Government to build on the existing public education and publicity work to enhance the understanding and awareness of the public (including private owners of historic buildings) on the conservation of built heritage, such as the importance of timely and proper maintenance for historic buildings to avoid dilapidation. Assistance to non-government organisations and other bodies to undertake this could be supported by the proposed built heritage fund. More creative means such as electronic platforms and innovative devices could be explored.

4.2 Public engagement and consultation

Current situation

107. To engage the public in built heritage conservation, the Government and the AAB have been encouraging members of the public to discuss and express their views on heritage conservation issues. For example, in the review of the built heritage conservation policy conducted in 2004, public views on issues such as what and how to conserve our built heritage were collected. Since 2005, the AAB has opened up its regular meetings and make available the discussion papers and minutes of the open meetings on the internet. Members of the public are welcome to observe the meetings. As regards this Policy Review, the AAB had conducted a series of public awareness activities and launched an extensive consultation programme with a view to ensuring adequate public participation in the process.

108. Apart from public consultation and AAB meetings, members of the public may participate in the grading assessment exercise. Following the announcement of grading proposal of the 1,444 buildings of higher heritage value in 2009, the AAB conducted a four-month public consultation exercise to seek the views of the public, including the District Councils, professional institutes, concerned groups and owners of the historic buildings. Information of historic buildings for grading assessment has been uploaded to the website and featured in the Geographical Information System on Hong Kong Heritage for public viewing. At present, when the AAB accepts a grading proposal in consideration of the professional recommendations from an independent Assessment Panel for Historic Buildings⁴¹, it is a standing practice for the AAB to conduct a one-month public consultation exercise and to seek the views of the private owner before finalising the proposed grading. The current arrangement aims to enhance public

⁴¹ The Assessment Panel has been formed since March 2005 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.

engagement and transparency of grading mechanism for historic buildings.

Public views

109. With regard to the issue of public engagement and consultation as highlighted in question 8 of the consultation document⁴², some suggested that the community should be more actively engaged in making local heritage conservation decisions. They considered that a “bottom-up” approach should be adopted. Social media such as Facebook were also possible forums to engage the public.

110. Some considered that there was a cogent need to establish a formal and standardised mechanism for the public to participate in grading assessment. Several submissions named the District Councils as a possible means to reach out the community for this purpose. Currently all members of the public could respond to a grading proposal during the one-month public consultation, but these views suggested that the District Councils, amongst others, should be consulted. This would improve the transparency and credibility of the consultation process. Some proposed that consultation at the district level could take into account the relationship between the proposed graded buildings and the neighbourhood, in addition to the expert views or technical opinions on the buildings. The AAB and AMO websites could be better utilised to explain how the public could involve in the grading exercise. Standardised forms could be prepared to gauge public’s perception of the cultural significance of historic buildings.

AAB’s observations

111. The AAB considers that public engagement and consultation, including in the context of the grading exercise, could be further enhanced, such as through the respective District Councils on individual conservation projects or

⁴² Question 8 reads: “Which aspects in the public education, consultation and publicity works in relation to heritage conservation should be further enhanced? What channels can be used to enhance such works?”

grading proposal of a building. The District Councils would be a partner in collecting public views at the district level. As regards policy or territory-wide issues, a more extensive model could be adopted to engage and consult the public. While upholding its advisory role to the Antiquities Authority, where appropriate, the AAB would launch engagement and consultation exercise, similar to the engagement sessions and public consultation exercises under this Policy Review.

112. The built heritage fund recommended in Section 3.1 should consider providing funding for non-government organisations and other bodies to undertake public engagement activities.

Recommendations

113. The AAB recommends the Government to step up efforts in public engagement and consultation on issues concerning built heritage conservation. On individual conservation projects and issues at the district level, the community could be better consulted through collaboration with partners including District Councils and other non-government organisations. Assistance to non-government organisations and other bodies to undertake this could be supported by the proposed built heritage fund. The AAB would continue to advise the Antiquities Authority on policies and territory-wide subjects following thorough public consultation and engagement.

4.3 Public Access to Historic Buildings

Current situation

114. Public access to a historic building is not a prerequisite for declaring it as a monument or according it with a particular grading. On the other hand, declaring a historic building as a monument or according it with a particular grading will neither affect the ownership status nor grant the public access to the building.

115. The Government has been encouraging owners of historic buildings, including government departments, to open their historic buildings for public visits wherever practicable. While providing financial assistance for maintenance and economic incentives for private owners to preserve their historic buildings, the Government will discuss with the owners and require them to allow reasonable public access to the monuments or historic buildings concerned. Through the organisation of publicity activities such as the Heritage Fiesta, the Government has opened suitable historic buildings to the public and organised guided tours at suitable places. Furthermore, for historic buildings which cannot be open to the public because of reasons such as privacy, the community can still appreciate their exterior in most cases.

Public views

116. In response to question 9 of the consultation document⁴³, most views expressed understanding that privately-owned historic buildings were not available for public to freely access all the time. The ideal arrangement, as they pointed out, would be opening the historic buildings in full as actual visit would give first-hand experience. Otherwise, they considered it acceptable for opening only part of the

⁴³ Question 9 reads: "If certain historic buildings cannot be open to the public, do you accept other viewing methods (such as 3D laser scanning, as well as photographic and cartographic recording for the public to appreciate the interior of declared monuments and historic buildings)?"

buildings, viewing the exterior of the buildings, or opening the buildings at a certain time, such as during annual open days. If that was not feasible, those historic buildings should be recorded by photographs, digital media or by other viewing methods that would be accessible by the public.

117. These submissions accepted alternative viewing methods because of different grounds. Some held such position out of respect of private property rights and privacy considerations. Others explained, for example, with reference to the limitation of land resources in Hong Kong and the need to make room to accommodate housing needs. Some considered that the cultural significance of historic buildings was partly contributed by the actual use of the buildings. Disrupting the ongoing use might affect the heritage value of the buildings. Others were worried that the requirements on providing public access would discourage private owners to preserve their historic buildings. As long as the owners were aware of the value of the buildings and the requirements in conservation, they considered that viewing the exterior of the buildings with no or limited public access as an acceptable compromise.

118. There were only a few submissions which did not accept alternative viewing methods. They considered that the historic buildings were assets of the society and public resources had been invested in them, therefore it was reasonable to provide public access. If the historic buildings were too fragile to receive visitors, it was doubtful if the buildings should be preserved in the first place. Others considered that other viewing methods should only be supplementary to, and not a replacement of, actual access.

119. In the telephone surveys, 72% of the respondents supported that the Government should require the private owners to allow public access when providing financial assistance for maintenance of their historic buildings. On the other hand, 55.7% of the respondents accepted the appreciation of historic buildings via other methods like virtual tour, photograph, images and textual records if certain historic buildings could not be open to the public. 42.3% of the respondents liked appreciating historic buildings by using virtual tour and 36.1%

disliked such viewing method. 19.8% were neutral.

AAB's observations

120. The AAB considers that the preservation of historic buildings would be of the utmost importance in built heritage conservation. Owners should be encouraged to provide public access to historic buildings as far as practicable, particularly for historic buildings receiving public resources through FAS, for example. However, the AAB considers that public access should not be mandatory. Where it is not feasible due to privacy concerns or the nature of the use of the historic buildings (such as abbeys and buildings used for religious worship), flexibility should be given such that the requirement on public access would not deter private owners from conserving their historic buildings or resisting government assistance in conservation. Moreover, the public has higher expectations on government-owned historic buildings therefore public access to these buildings should be arranged as far as practicable.

121. The AAB considers it important to build up detailed records on historic buildings, especially those which do not permit public access. New technology such as 3D laser scanning could be adopted to support other viewing methods noting that it might take time and financial resources to prepare these records. Considerations should be given to utilising new technology to present the historic buildings in different ways for public enjoyment and appreciation.

Recommendations

122. The AAB recommends the Government –

- (a) for government-owned historic buildings, to provide public access as far as practicable;

- (b) for privately-owned graded buildings, where there is owners' consent, to ensure that certain form of public access is available, such as access to the physical buildings or through certain records;
- (c) to allow flexibility on the requirements on public access to privately-owned graded buildings receiving financial assistance from the Government for preservation and/or maintenance, if it is justified on grounds such as privacy or building stability; and
- (d) to prepare detailed records of historic buildings with the aid of new technology where appropriate. The records should be easily accessible by the public.

Chapter 5 Summary of recommendations

123. The Policy Review enables the AAB to tap the latest views of the community and revisit the stance of AAB amidst the increasing public support and concerns on built heritage conservation in Hong Kong. The AAB hopes that the recommendations in this report would shed light on the future policy direction in the conservation of built heritage.

124. When setting out the recommendations discussed in the previous chapters as follows, it is apparent that they are intertwined and should be considered holistically. For example, the built heritage fund (Section 3.1) will provide funding for public education and publicity work (Section 4.1), academic research, including studies on the “point-line-plane” approach (Section 2.3) and for public engagement and consultation activities (Section 4.2). The review of the Buildings Ordinance and Practice Guidebook (Section 2.4) and the review of the requirements of public access (Section 4.3) seem to be two stand-alone recommendations. Yet they would be genuine incentives to the owners when they are successfully taken forward. The AAB strongly suggests the Government to promptly study and implement the recommendations though noting that several recommendations may require further deliberation and take more time to complete.

Recommendations	Paragraph
<i>Chapter 2 – Protecting historic buildings</i>	
1 (a) To better utilise the existing mechanism in providing incentives and facilitation to owners of graded buildings with a view to providing timely maintenance to avoid dilapidation and reducing the risk of large-scale alteration of graded buildings.	25(a)

Recommendations		Paragraph
	(b) To examine the setting up of a statutory grading system in the longer run for the protection of graded buildings with safeguarding private property rights.	25(b)
2	Mandatory purchase or resumption of privately-owned historic buildings should not be pursued. Public money should not be used directly to purchase privately-owned historic buildings. To provide more attractive economic incentives such as financial assistance, relaxation of plot ratio and land exchange, to facilitate private owners to carry out timely maintenance works and protect historic buildings.	37
3	(a) As the first step, to conduct a study to explore the feasibility of conserving and protecting selected building cluster(s) of unique heritage value under the “point-line-plane” approach.	50(a)
	(b) In the medium term, to arrange thematic surveys, or mapping exercises, on building cluster(s) of heritage value for drawing up appropriate conservation strategies and protection measures if necessary, and for future planning.	50(b)
4	To review and, if necessary, amend the Buildings Ordinance, the relevant Practice Note(s) and the Practice Guidebook in order to encourage and facilitate private owners of historic buildings to preserve and adaptively re-use their buildings. These measures should not jeopardise building safety and health standards.	61
<i>Chapter 3 – Resources for protecting historic buildings</i>		
5	To set up a dedicated fund on conservation of built heritage	75

Recommendations		Paragraph
<p>to provide funding for public education and publicity work as well as academic research undertaken by non-government organisations and other bodies to enhance the understanding and awareness of the public on built heritage conservation; to cover certain government initiatives and activities on built heritage conservation, such as the revitalisation of historic buildings and promotion on the importance of timely maintenance to the owners to avoid dilapidation. The fund should not be used to purchase or resume privately-owned historic buildings.</p>		
6	<p>To consolidate and scale up the existing economic incentives to attract private owners to conserve their historic buildings, such as adopting the “preservation-cum-development” approach. The incentives should be offered through a more formalised, systematic and well-publicised mechanism and according to the scale, building conditions and heritage value of the privately-owned historic buildings.</p>	94
<i>Chapter 4 – Public participation in built heritage conservation</i>		
7	<p>To build on the existing public education and publicity work to enhance the understanding and awareness of the public (including private owners of historic buildings) on the conservation of built heritage, such as the importance of timely and proper maintenance for historic buildings to avoid dilapidation. Assistance to non-government organisations and other bodies to undertake this could be supported by the proposed built heritage fund. More creative means such as electronic platforms and innovative devices could be explored.</p>	106
8	<p>To step up efforts in public engagement and consultation on issues concerning built heritage conservation. On individual</p>	113

Recommendations	Paragraph
<p>conservation projects and issues at the district level, the community could be better consulted through collaboration with partners including District Councils and other non-government organisations. Assistance to non-government organisations and other bodies to undertake this could be supported by the proposed built heritage fund. The AAB would continue to advise the Antiquities Authority on policies and territory-wide subjects following thorough public consultation and engagement.</p>	
<p>9 (a) For government-owned historic buildings, to provide public access as far as practicable.</p>	122(a)
<p>(b) For privately-owned graded buildings, where there is owners' consent, to ensure that certain form of public access is available, such as access to the physical buildings or through certain records.</p>	122(b)
<p>(c) To allow flexibility on the requirements on public access to privately-owned graded buildings receiving financial assistance from the Government for preservation and/or maintenance, if it is justified on grounds such as privacy or building stability.</p>	122(c)
<p>(d) To prepare detailed records of historic buildings with the aid of new technology where appropriate. The records should be easily accessible by the public.</p>	122(d)