

Submission to Public Consultation on Conservation of Built Heritage in Hong Kong

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1. INTRODUCTION

1.1 The Consultation Document

- 1.1.1 In June 2014, the HKSAR Government launched a public consultation on the conservation of built heritage in Hong Kong. The document contained a number of questions on various policy matters for public comment. Notably, the document sought feedback on three major themes: regulatory protections for historic buildings, resources for heritage protection, and public participation in heritage conservation.

1.2 General comments

- 1.2.1 Civic Exchange welcomes the HKSAR Government's open approach in deliberating the important issue of heritage conservation. The public's level of concern over heritage conservation issues has increased substantially over the last 10 years, and a rethinking of Hong Kong's heritage policy is now needed.

1.3 Acknowledgements

- 1.3.1 Civic Exchange would like to thank Mike Kilburn and Prof. Ho Puay Peng for their insights which contributed to this submission.

2. COMMENTS ON THE FRAMING OF THE CONSULTATION DOCUMENT

2.1 Introduction

- 2.1.1 The consultation document sought feedback on three themes: regulatory protections for historic buildings, resources for heritage protection, and public participation in heritage conservation. These themes were further divided into nine specific questions covering an assortment of policy ideas and measures. The framing of the consultation documents suggests that the HKSAR Government is still unsure about how much priority to devote to heritage conservation and is attempting to gauge the level of public support for heritage conservation.

2.2 Priority to heritage conservation

- 2.2.1 Civic Exchange wishes to express a high level of support for stronger heritage conservation policies. For most of its history, Hong Kong has focused on economic development, with little priority given to its built or intangible heritage. At this point in Hong Kong's economic and social development, citizens are becoming interested in a more balanced and sustainable way of life. Heritage is an important aspect of social sustainability in that it fosters a sense of community belonging and maintains people's connection to their past. Civic Exchange would like to see decisive action on heritage conservation, and emphasises that unless action is taken quickly, Hong Kong's few remaining historic buildings will be irreplaceably damaged or destroyed. Although there are other important priorities such as housing, health care, poverty alleviation, and education, heritage conservation does not prevent the government from also fulfilling these goals. With its regular budget surpluses (HKD 12 billion dollars in 2013-14, and HKD 60 billion in 2012-13), Hong Kong can afford to dedicate more resources to heritage conservation as well as other purposes.

3. COMMENTS ON THE REGULATION OF HERITAGE PROTECTION

3.1 Principles of regulation

- 3.1.1 Civic Exchange believes that built heritage is a public good, and the government is therefore justified in regulating the demolition or alteration of historic buildings. Although owners' property rights would be affected by regulations, they would not violate private property rights under Articles 6 and 105 Basic Law¹ if framed with sufficient care. Private property rights have never conferred unlimited rights on owners. For example, owners must comply with land use zoning restrictions, environmental regulations, and building safety regulations even though they may all reduce the profitability of a piece of property. Moreover Hong Kong's courts have ruled that regulations enacted for the public good which restrict the use of private property are not counted as de facto deprivation of property unless the restrictions are so severe as to render the property useless or economically worthless.² Only then is the owner entitled to financial compensation.
- 3.1.2 This has important implications for the affordability of a stronger heritage policy. Owners have no legal right to expect full compensation for the reduction of property values, especially for the loss unrealised development potential. Nevertheless, Civic Exchange believes that regulations should be supported by appropriate resources and incentives to smooth policy implementation. This two-pronged strategy is essential to a successful conservation policy.
- 3.1.3 In addition to introducing new regulations on heritage conservation, Civic Exchange recommends reviewing the existing regulatory framework (e.g. planning, buildings regulations and lease modification) in order to facilitate heritage conservation and to remove perverse incentives.

3.2 Heritage grading

- 3.2.1 Currently, only declared monuments receive legal protection, and the heritage grading system is only an administrative tool. Civic Exchange recommends that the *Antiquities and Monuments Ordinance* should be amended in order to give graded buildings statutory protection.
- 3.2.2 The level of protection may vary with the building's grading. As an example, for Grade I buildings, the interior and exterior of the building should be protected; for Grade II buildings, the exterior and major internal architectural features should be protected; and for Grade III buildings, only the exterior should be protected. Demolition of Grade II and III buildings does not necessarily have to be prohibited, but may be allowed with government permission. The Development Bureau should also require owners to carry out heritage impact assessments or to implement mitigation measures in case of major works. Additionally, there should be a requirement for owners to adequately maintain graded buildings in order to prevent them from letting properties fall into disrepair in the hopes that they will be allowed to demolish.

¹ Article 6 of the Basic Law states "The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law," and Article 105 states, "The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property. Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay."

² HKSAR Department of Justice, "Protection of Property Rights under BL 6 and BL 105", *The Focus*, i.12, October 2009, Hong Kong: HKSAR Government, http://www.doj.gov.hk/eng/public/basiclaw/basic12_2.pdf (accessed 21 July 2014).

- 3.2.3 It is important for the grading system to clearly spell out what alterations of Grade I, II and III owners may or may not carry out without permission. This will reduce uncertainty and enable owners to accurately price their obligations.
- 3.2.4 Additionally, the grading system should have an internal mechanism for regular review (such as every 10 years) of the list of graded buildings. There should also be a system for the public to nominate buildings and places to be graded, although the final determination should be made based on the assessment of expert historians and architects.

3.3 Heritage zoning and Special Design Areas

- 3.3.1 While it is important to protect individual historic buildings, Civic Exchange's believes that it is important to take a cluster or zone-based approach. Currently, the *Antiquities and Monuments Ordinance* allows the Antiquities Authority (the Secretary of Development) to declare as a monument "any place, building, site or structure, which the Authority considers to be of public interest by reason of its historical, archaeological or paleontological significance".³ This leads to a focus on individual buildings of monumental quality at the expense of setting and context. For example, the clock tower of former Tsim Sha Tsui railway station now stands in isolation on the waterfront promenade. This approach has also been a problem for preserving walled villages as a whole because individual houses were not considered historically significant enough to be declared monuments.
- 3.3.2 At the moment, individual historic buildings are sometimes zoned "Other Specified Uses: Historic Building Preserved for _____ uses". However, the zoning system can be adapted to support "line" and "plane" based conservation. Different approaches will be needed for rural and urban areas. For historic rural villages where a cluster of traditional buildings can be identified, the cluster should be zoned as a "Heritage Conservation Area". This would be similar to "protected areas" in Macao⁴, and would require owners to seek Town Planning Board permission before performing alterations to the exteriors of the buildings. One thing that could be done immediately is to simply downzone (or reverse the upzoning of) historic rural villages in order to remove the redevelopment potential. This would dissuade owners from neglecting buildings in the hopes of being allowed to demolish them, and encourage them to maximise the value of the existing structures.
- 3.3.3 In urban areas, the few remaining graded historic buildings are isolated points, or at best, very small clusters. Most of the built urban environment is made up of structures dating from the 1960s or later which do not have a high level of historical, architectural or cultural value. In this case, it is not worth implementing heritage zoning for the preservation of entire streets or neighbourhoods. However, Civic Exchange strongly recommends the introduction of a new "Special Design Area" zoning category to neighbourhoods with a significant historical character, such as Tai Hang or Sai Ying Pun.⁵ The goal of a Special Design Area is not to preserve individual buildings, but to retain the urban fabric. This includes the fine-grained network of streets, the small building lots and active

³ *Antiquities and Monuments Ordinance*, Chapter 53, Section 3, Line 1, [http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/EB912599D49E1069482575EE00341660/\\$FILE/CAP_53_e_b5.pdf](http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/EB912599D49E1069482575EE00341660/$FILE/CAP_53_e_b5.pdf) (accessed 21 July 2014).

⁴ Chui, H. M. M. & Tsoi, T. M. A., *Heritage Preservation: Hong Kong & Overseas Experiences*, August 2003, The Conservancy Association, http://www.conservancy.org.hk/heritage/Heritage_Report_eng.pdf (accessed 14 July 2014).

⁵ "Special Design Area" zoning was proposed as part of an amendment to the *Town Planning Ordinance* (TPO) in early 2000 as a result of a review conducted in the late 1990s. However, the bill was shelved at the time. While the TPO was ultimately amended in 2004, Special Design Area or heritage zoning was not included. Chu, C. & Uebergang, K. (2002), *Saving Hong Kong's Cultural Heritage*, Hong Kong: Civic Exchange, http://www.harbourdistrict.com.hk/enews/20070218/Cultural_Heritage2002.pdf (accessed 30 July 2014).

shop frontage. Redevelopments within Special Design Areas should be required by the Town Planning Board to conform to design guidelines regarding scale, height, and façade articulation to ensure that they are harmonious with their surroundings. This would also reduce the displacement through large-scale redevelopment of living traditions in older districts, such as street markets, trades, and crafts. All currently permitted land uses within a Special Design Area would be allowed to continue.

3.4 The *Buildings Ordinance*

- 3.4.1 In addition to the town planning system, other aspects of Hong Kong's land and buildings regulations may be reformed in order to facilitate heritage conservation. One problem commonly cited by heritage conservation experts is the difficulty in complying with the *Buildings Ordinance's* requirements. It is often costly to retrofit historic buildings to meet modern standards, and doing so may compromise the building's heritage value. As building owners are required to upgrade their buildings when proposing any changes in land use, these requirements discourage adaptive reuse.⁶
- 3.4.2 Civic Exchange's view is that basic safety requirements, such as structural integrity and fire safety should not be compromised. However, these requirements do not necessarily have to be fulfilled in the manner prescribed in the *Buildings Ordinance*, and alternative but equally safe approaches should be permitted.⁷ Buildings should be judged on performance rather than adherence to prescriptive requirements. For buildings which will only be open to small numbers of visitors, e.g. by appointment, more flexibility can be granted for public access requirements, such as staircases, lifts and toilets.⁸ For other *Buildings Ordinance* requirements which are not a matter of public safety, such as site coverage, plot ratio, lighting, ventilation, ceiling height etc., there should be more flexibility. Exemptions should be granted upon application.

3.5 Lease modification premiums

- 3.5.1 In addition to the *Buildings Ordinance*, the lease modification system under the Lands Department can be modified in order to encourage the adaptive reuse of historic buildings, for example, to change a residential building into a boutique hotel. Currently, when a land owner applies to modify their lease in order to change to a more profitable land use, the Lands Department typically calculates the premium based on the expected value after redevelopment to the full permitted plot ratio. This is prohibitively expensive and would discourage adaptive reuse. In 2009, the Development Bureau introduced a programme for industrial buildings, which allows the owners to apply for a lease conversion premium waiver if they plan to convert an existing building to other uses. This policy should be extended to all graded historic buildings, as well as to any building within a Heritage Conservation Zone or Special Design Area, barring special considerations.

⁶ The same issue applies not only to the adaptive reuse of graded historical buildings, but to many types of old buildings. For example, it is prohibitively expensive to adapt a flatted industrial building for residential use due to the difficulty of complying with buildings regulations.

⁷ This is in line with the Buildings Department's Practice Guidebook for Adaptive Reuse of Heritage Buildings. See Buildings Department, *Practice Guidebook for Adaptive Re-use of and Alteration and Addition Works to Heritage Buildings 2012*, Hong Kong: HKSAR Government, <http://www.bd.gov.hk/english/documents/guideline/heritage.pdf> (accessed 10 July 2014).

⁸ Heritage Hong Kong, *Heritage Conservation Position Paper*, April 2007, LC Paper No. CB(2)1646/06-07(01), <http://www.legco.gov.hk/yr06-07/english/panels/ha/papers/ha0420cb2-1646-1-e.pdf> (accessed 14 July 2014).

3.6 Resumption

- 3.6.1 The HKSAR Government should reserve the right to resume historic buildings on the grounds that heritage conservation is a “public purpose”. This would not require any amendment to the existing *Lands Resumption Ordinance* as it allows the Chief Executive in Council to decide any purpose to be a public purpose.⁹ However, mandatory resumption should be reserved only for exceptional circumstances, such as when a building of very high heritage value is under imminent threat of demolition. Government policy should be focused on regulation and incentives.

4. COMMENTS ON RESOURCES FOR HERITAGE CONSERVATION

4.1 Providing adequate resources

- 4.1.1 Due to Hong Kong’s extremely high land prices, heritage conservation is very costly in terms of foregone income for private owners. The proper maintenance of historic buildings is also very expensive in and of itself. Therefore, a successful heritage conservation policy must be supported by adequate resources and incentives for private owners.

4.2 Transfer of plot ratio

- 4.2.1 Land swaps and transfers of plot ratio to adjoining sites have been used to incentivise heritage conservation on an ad-hoc basis in the past. Civic Exchange argues that this principle should be broadened and regularised through a system of transferable development rights. This policy would be mainly relevant to individual historic buildings in urban areas where the zoning is for a significantly higher plot ratio. Transferable plot ratio would be a powerful incentive to encourage the conservation heritage sites, would not incur heavy public expenditure, and would give owners a significant source of funding for long-term maintenance.
- 4.2.2 In return for agreeing to place a restrictive deed on a heritage property requiring any future owners to preserve the building, the current owner should be permitted to sell the rights to the developable airspace above their plot. The monetary value of these rights would be based on an appraisal of the difference between the value of the site under its existing use, and the same site after (hypothetical) redevelopment or land use change. A developer could then purchase these rights and apply the additional plot ratio to another site.
- 4.2.3 There should not be any requirement for the receiving site to be contiguous with the sending site. In order to prevent developers from either under-paying or over-paying for additional plot ratio, some experts have recommended that the development rights should be limited to sites within the same Outline Zoning Plan (OZP) to ensure that both sending and receiving sites have similar development restrictions, characteristics and land values.¹⁰ However, in order to enhance the tradability development rights, the pool of potential receiving sites should be as wide as possible. Civic Exchange therefore recommends that development rights should be transferable between OZPs with similar market characteristics (e.g. central business district, urban core, urban fringe areas, new towns).

⁹ Heritage Hong Kong (2007).

¹⁰ Li, P., “Transfer of Development Rights Approach: Striking the Balance between Economic Development and Historic Preservation in Hong Kong”, December 2008, *Surveying and Built Environment*, v.19 i.1, pp. 38-53.

- 4.2.4 To ensure that a market for transferable plot ratio exists even during times of low demand such as during a recession or when there is a shortage of suitable receiving sites, the HKSAR Government can set up a development rights bank under the Lands Department.¹¹ This method has been tried and tested in places such as Seattle, New Jersey and New York. The bank's function is to manage transactions and to keep track of the interest accrued to each parcel of development rights on behalf of each seller. (Since there is usually a time lag between the initial appraisal and the sale to a developer, the development rights should accumulate interest for the seller). There are two established methods for a development rights bank to handle low demand. In the first method, the bank would hold the rights on behalf of the sellers, and whenever a developer buys any, it would distribute the proceeds among the sellers. Under this method, the sellers would be paid in increments over time, and there is a risk that they may never receive the full payment. In the second method, the bank would simply buy the rights, and then later sell them when demand rises. This would require the government to spend its own money and assume the financial risk for the scheme. However, in the long term, there should be no net cost to the government.¹²
- 4.2.5 Although there would not be any net increase in building density overall, careful planning should be carried out at receiving sites to ensure that unacceptable local impacts on traffic, drainage, sewerage, and ventilation are not caused by the increased plot ratio. As Chief Executive C. Y. Leung has already announced an intention to increase plot ratios up to 20 per cent in non-core urban areas to boost the housing supply, designating areas that have been identified for increased density as receiving areas for transferable development rights would kill two birds with one stone. Under such a policy, the receiving sites would *not* be upzoned, but any additional density would come from transferable plot ratio up to a cap of 20 per cent for any individual site.

4.3 Establishing a heritage trust

- 4.3.1 Civic Exchange cautiously supports the establishment of a statutory non-profit heritage trust for the purpose of maintaining and adaptively reusing historic buildings for public enjoyment and education. We emphasise that given Hong Kong's high land prices and the high costs of heritage conservation in general, if a future trust is to play a significant role, it must be given substantial start-up resources by the HKSAR Government. The potential to raise funds from visitor admissions fees, gift shops, and catering is very limited in Hong Kong, given that the public is used to being able to visit museums for only HKD 10. Overseas experience has also shown that in order for a trust to be able to raise funds from membership fees, it needs to have a large portfolio of historic properties in order to attract the interest of the public. For a trust in its infancy, this is not practical. And while the philanthropic community has become more interested in heritage, it is still challenging to raise large sums from private sources.
- 4.3.2 In 2011, a study commissioned by the Development Bureau explored the feasibility of establishing a heritage trust in Hong Kong. However, the study only recommended setting up a trust with a small endowment of HKD 900 million, which would yield an annual budget of about HKD 68.7 million.¹³ This seemingly arbitrary figure was only enough to give the trust the ability to take on limited duties, including education, research, giving out maintenance grants and managing the Revitalising

¹¹ New York State Department of State (2011), *Transfer of Development Rights: James A. Coon Local Government Technical Series*, New York: New York State Department of State, http://www.dos.ny.gov/lg/publications/Transfer_of_Development_Rights.pdf (accessed 28 July 2014).

¹² Rutgers The State University of New Jersey (2014), "What Is a Transfer of Development Rights (TDR) Program?", State of New Jersey, <http://njaes.rutgers.edu/highlands/tdr.asp>, (accessed 30 July 2014).

¹³ GHK (2013), *Study on the Feasibility, Framework and Implementation Plan for Setting up a Statutory Heritage Trust in Hong Kong*, April 16 2013, Hong Kong: HKSAR Government, http://www.devb.gov.hk/filemanager/en/content_31/EngFullRep.pdf (accessed 30 July 2014).

Historic Buildings Through Partnership Scheme. It would not even be able to fund the revitalisation of historic buildings itself, as the average cost of a revitalisation project to the Commissioner for Heritage is about HKD 92 million.¹⁴ There would be little benefit in this arrangement: not only would it save the government little money, a trust would be at a disadvantage when trying to coordinate different departments (such as Planning, Lands, Buildings, and Architectural Services) as it would lack the administrative clout of the Development Bureau.¹⁵

- 4.3.3 In order for a heritage trust to be able to hold and manage heritage properties of its own, it would need a much larger budget. In order to have an annual income from investment of HKD 250 million, assuming a 5 per cent annual rate of return, the trust would need an initial endowment of HKD 5 billion. In comparison, the Urban Renewal Authority was given a start-up capital injection of HKD 10 billion.¹⁶ The HKSAR Government can also consider contributing some of the trust's recurrent funding through a hypothecated tax revenue stream. For example, in the UK, a small percentage of the proceeds from the National Lottery are donated to the National Trust. The HKSAR Government may consider contributing a proportion of revenues from the betting duty, dedicating revenue from the landfill charge (which is mostly borne by the construction industry), or setting aside a small percentage of land premium revenue.
- 4.3.4 Land premium revenue normally goes into the Capital Works Reserve Fund to fund infrastructure projects for community benefit. However, if built heritage conservation is seen as a public good, then dedicating a proportion of land revenues to it can be seen as akin to investment in libraries, museums and cultural venues, e.g. as a long term investment in Hong Kong's cultural enrichment and social sustainability. In 2013-14 land revenues brought in HKD 69 billion in total, and even at its lowest point in the last decade during 2003-4, brought in HKD 5.4 billion. Dedicating even just 0.1 per cent of these revenues annually to the heritage trust would give it a substantial income of between HKD 5 million and HKD 69 million.
- 4.3.5 The primary responsibility of the heritage trust would be to receive, maintain and operate heritage sites for the benefit of the public. To begin with, the trust could be vested with or given responsibility for managing historic buildings that are currently government-owned, especially those with the potential to become commercially self-sustaining. In the long term, the trust would acquire more properties on its own. It would be unrealistic to expect the trust to buy private properties given Hong Kong's high land prices. However, it should be allowed to receive properties from private owners through bequest or donation. This would work in tandem with the regulatory framework. If regulations restricted the demolition of historic buildings, and owners benefited from selling transferable plot ratio, they might no longer want to shoulder the burden of caring for a historic building. In that case, they might wish to give the building to the trust, along with a financial endowment for long-term maintenance.

¹⁴ Ho Puay Peng, personal interview, 15 July 2014. Also refer to Development Bureau, *Progress on Batch I of the Revitalisation Scheme (as at 21 March 2014)*, Hong Kong: HKSAR Government, [http://www.heritage.gov.hk/en/doc/rhbt/Progress_on_Batch_I\(as_at_21_Mar_2014\).pdf](http://www.heritage.gov.hk/en/doc/rhbt/Progress_on_Batch_I(as_at_21_Mar_2014).pdf) (accessed 20 July 2014); *Progress on Batch II of the Revitalisation Scheme (as at 21 March 2014)*, Hong Kong: HKSAR Government, [http://www.heritage.gov.hk/en/doc/rhbt/Progress_on_Batch_II\(as_at_21_Mar_2014\).pdf](http://www.heritage.gov.hk/en/doc/rhbt/Progress_on_Batch_II(as_at_21_Mar_2014).pdf) (accessed 20 July 2014); *Progress on Batch III of the Revitalisation Scheme (as at 21 March 2014)*, Hong Kong: HKSAR Government, [http://www.heritage.gov.hk/en/doc/rhbt/Progress_on_Batch_III\(as_at_21_Mar%202014\).pdf](http://www.heritage.gov.hk/en/doc/rhbt/Progress_on_Batch_III(as_at_21_Mar%202014).pdf) (accessed 20 July 2014). Between 2009 and 2013, the government has spent about HKD 220 million per year on the Revitalising Historic Buildings Through Partnership Scheme.

¹⁵ Ho Puay Peng, personal interview, 15 July 2014.

¹⁶ Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China, *Item For Finance Committee – Capital Investment Fund, New Head "Urban Renewal Authority"*, FCR (2002-03)24, 21 June 2002, <http://www.legco.gov.hk/yr01-02/english/fc/fc/papers/f02-24e.pdf> (accessed 21 July 2014).

- 4.3.6 As the HKSAR Government is already doing a fairly good job of taking care of historic buildings that it owns, the Trust should focus on assisting the private sector. Although it should not be expected to completely take over the Commissioner for Heritage's maintenance subsidy programme, it can provide an additional source of grants for repairs and maintenance. Additionally, owners are often in need of advice and expertise on understanding regulations, navigating bureaucracy, and hiring skilled contractors, as well as the technical aspects of conservation work. In cases of private buildings under multiple ownership, the trust may play a mediating role in bringing owners together and liaising with government departments.
- 4.3.7 Other functions of the Trust would include education, community engagement, giving policy recommendations and liaising with overseas heritage bodies. It should also carry out policy research serve as a public watchdog. This would ensure that there is a body with the knowledge and expertise to promote a long-term view heritage conservation even if government policies shift from administration to administration.
- 4.3.8 While the Trust should collaborate closely with government bodies such as the Antiquities and Monuments Office, the Antiquities Advisory Board, the Commissioner for Heritage, the Buildings Department, the Planning Department, the Lands Department, and the Hong Kong Tourism Board, its management structure should be wholly independent in order to protect it from conflicting interests and to enable it to successfully solicit donations from private sources, since donors may not be willing to donate to a perceived government body.

4.4 Maintenance subsidies

- 4.4.1 Civic Exchange supports the maintenance grant scheme for private owners and does not have any objection to using subsidies to pay consultants' fees, since private owners of historic buildings often need to hire professional expertise. However, in general, we believe the overall level of subsidy should be increased. Maintenance grants are currently capped at HKD 1 million, which usually nowhere near enough to pay for needed repairs on one building. Owners frequently need to apply for multiple grants to cover different areas of repair for a single building. The cap should be raised to HKD 2 or 3 million.
- 4.4.2 The amount of subsidy given should depend on several factors, including the financial position of the owner, the condition of the building, and the type of work that is being done. The policy should distinguish between different types of conservation or preservation work, including repairs, restoration, alteration and addition, and revitalisation. These have different scopes and aims and are not deserving of equal levels of subsidy.

4.5 Other incentives

- 4.5.1 In rural areas, transfer of development rights are not an appropriate incentive as the development potential is strictly capped in any case. In such cases, villagers may be encouraged to maintain historic buildings through other means including better services (e.g. rubbish collection), improved village infrastructure, or resources to promote local tourism.

5. PUBLIC PARTICIPATION IN HERITAGE CONSERVATION

5.1 Education and engagement

- 5.1.1 Successful heritage conservation depends on the public's knowledge and appreciation of history and culture. Enhancing the public's appreciation for history brings a number of social benefits including a greater degree of social cohesion, sense of belonging, and community spirit. On a practical level, public support for heritage conservation would improve the economic viability of historic buildings and the financial solvency of a future heritage trust through tourism, membership and donations.
- 5.1.2 To engage children, young people and families, innovative, interactive and immersive events and exhibits should be developed. There are many overseas examples to learn from. For example, Historic Scotland stages performances at its venues, including jousting tournaments with historical re-enactors.¹⁷ Biodiversity education centres run by the UK's National Trust have very well-designed, enjoyable displays aimed at children which allow them to crawl inside models of a duck's nest or a water vole's burrow.¹⁸ Other museums have costumed docents giving guided tours and demonstrations, allow visitors to handle props and artefacts, or provide costumes so that they can experience the dress of different historical eras. The goal is to nurture a love for heritage rather than to deliver large quantities of information. The Leisure and Cultural Services Department and any future heritage trust should be given the resources to invest in top quality exhibit design and event planning.
- 5.1.3 Smart mobile phone technology can help people to connect with the historic places they encounter in their day-to-day lives. In the UK, non-profits and local governments have been experimenting with QR codes affixed to signage at important historical sites which, when scanned, will direct people to relevant information online. Augmented reality apps using GPS or visual recognition can even add a virtual overlay to scenes captured by a smartphone camera.¹⁹ For example, a visitor walking around Sai Ying Pun might be able to point his or her smartphone at the streetscape and call up information about landmarks, view images of what the street looked like in the past, or watch a short video about the district's history. This would be a valuable and highly accessible supplement to traditional media such as printed pamphlets and guided tours. It is also more user-friendly than conventional websites which require users to browse through menus in order to find the relevant information. The Antiquities and Monuments Office and the Commissioner for Heritage should explore collaboration with private sector IT companies or social enterprises to incorporate information technology into heritage trails, museums, and monuments.

5.2 Public access to historic buildings

- 5.2.1 Historic buildings owned and operated by the HKSAR Government or by a future heritage trust should be open to the public, unless still being used for government purposes (e.g. a police station). Public access does not necessarily mean unlimited access as some buildings may be too delicate to support large numbers of visitors. In such cases, only parts of the building, such as the ground floor, may be ordinarily accessible to the public. Other areas can be visited via guided tours at set times or by appointment.

¹⁷ Historic Scotland (2014), "Public Performances", <http://www.historicscotland.gov.uk/index/places/events/livinghistory.htm> (accessed 21 July 2014).

¹⁸ Kilburn, M. (2014), personal communication, 26 June 2014.

¹⁹ IT's in Conservation (2012), "Smartphone Technology – The Future of Heritage Interpretation", <http://www.kbstconsulting.co.uk/QR/images/ITIC.pdf> (accessed 21 July 2014).

- 5.2.2 Privately owned historic buildings may not be fully accessible to the public if they are being used for private purposes, such as residences. Some may argue that if the public is going to subsidise the maintenance of heritage buildings, then the public should have access to the buildings. However, this would disrupt the ongoing use of many buildings, which would be contrary to the principle of retaining the buildings' cultural significance. Heritage policy should not seek to turn every historic building into a museum.
- 5.2.3 Stringent public access requirements would also discourage owners from preserving their buildings. Compromises are needed in order to strike a balance between encouraging preservation and public enjoyment. Members of the public should also be allowed to freely view and photograph the exterior. If possible, the owners may be persuaded to host annual open days. If no public visits can be allowed, digital media such photographs, maps, laser scanning and virtual reality can allow people to appreciate the buildings remotely.

6. ISSUES NOT MENTIONED IN THE CONSULTATION DOCUMENT

6.1 Additional issues

- 6.1.1 In addition to the questions raised in the consultation document, a number of issues were not mentioned. Civic Exchange would like to take this opportunity to express our views on them.

6.2 The need for a clear and coherent administrative structure to govern heritage policy

- 6.2.1 In order to give appropriate political support to heritage conservation, it is necessary to have the appropriate administrative structures in place. This is one major issue that was not mentioned in the consultation document. Currently, responsibilities for heritage conservation are divided between different bureaus. The Antiquities and Monuments Office and the Antiquities Advisory Board, which are responsible for the day-to-day work of conservation, grading of buildings, research, archiving, and evaluating heritage impact assessments, are part of the Leisure and Cultural Services Department, which is itself under the Home Affairs Bureau. The Commissioner for Heritage under the Development Bureau, which was established in 2008, is responsible for supporting the Secretary for Development in implementing and reviewing heritage policy. Carrying out heritage policy also requires coordination with numerous other departments and organisations, including the Buildings Department, the Planning Department, the Lands Department, the Architectural Services Department, the Environmental Protection Department, the Urban Renewal Authority, and the Hong Kong Tourism Board, among others. This makes heritage conservation an enormously complex task.
- 6.2.2 Civic Exchange is pleased with the formation of the Commissioner for Heritage's Office in 2008, which ensured that there was a deputy secretary in the Development Bureau responsible for the heritage portfolio. This resulted in significant policy developments, including the implementation of the Revitalising Historic Buildings Through Partnership Scheme, the Financial Assistance for Maintenance Scheme for privately-owned historic buildings, and the introduction of heritage impact assessments for capital works projects. Prior to its formation, very little progress was made as the Antiquities and Monuments Office lacked the administrative or political clout to promote heritage conservation in government. Civic Exchange recommends that the Commissioner for Heritage's Office be merged with the Antiquities and Monuments Office and expanded into a Department for Heritage Conservation under the Development Bureau. This will further increase

the profile of the heritage conservation in government and create a clearer chain of command in the formulation and implementation of heritage policy.

6.3 The need for clear, consistent policy

- 6.3.1 The HKSAR Government needs to adopt a clear and consistent set of principles for the identification, assessment, conservation and monitoring of built heritage. These principles should be based on national and international charters on heritage conservation, especially the Principles for the Conservation of Heritage Sites in China of 2000 (China ICOMOS) which was promulgated in 2000 with the approval of the State Administration of Cultural Heritage and sets the standard for China nationally. The Venice Charter of 1964 (International Charter for the Conservation and Restoration of Monuments and Sites), and the Burra Charter of 1999 (The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance) are also important references.
- 6.3.2 While the Antiquities Advisory Board made reference to the above principles when grading 1,655 buildings over the past two years, heritage policy overall has not been consistently guided by a set of identifiable principles. This has led to some questionable decisions by both the private and public sectors which placed profitability over the preservation of a building's cultural significance, such as The Pawn in Wanchai, or the 1881 Heritage hotel (former marine police headquarters) in Tsim Sha Tsui. The HKSAR Government should therefore adopt and adapt the China ICOMOS principles to the local situation and make this the backbone of Hong Kong's heritage policy.

6.4 The need for long term commitment

- 6.4.1 In order to persuade private owners, donors, and non-profit organisations to invest their resources in heritage conservation projects, the HKSAR Government needs to signal its long-term commitment to heritage conservation. The private and non-profit sectors would benefit from a guarantee that the buildings will not be demolished and that their efforts will not go to waste.
- 6.4.2 In the UK, all properties acquired by the National Trust are legally inalienable, meaning that they will be protected in perpetuity. National Trust properties cannot be sold, mortgaged or compulsorily purchased against the Trust's wishes except through an act of Parliament.²⁰ Permanent protection is not possible in Hong Kong because land is held under finite leases. However, regulatory measures including statutory protections, zoning, and restrictive covenants on leases can offer protection for the duration of their leases.
- 6.4.3 Regarding the Revitalising Historic Buildings Through Partnership Scheme, the typical tenancy period for a non-profit operator is only 3-6 years. This discourages potential tenants from investing their own resources in the scheme as their efforts may be negated within a few years. The tenancy period should be lengthened to 5-10 years in order to encourage participation. In order to ensure accountability, review processes should be built in, and the Government can reserve the right to terminate the tenancy early if the project is a failure.

²⁰ Kilburn, M. (2014).

7. CONCLUSION

7.1 A holistic heritage policy

- 7.1.1 In conclusion, Civic Exchange welcomes the public consultation on the conservation of built heritage and is gratified that the HKSAR Government has begun to pay serious attention to this issue. We would like to express strong support for better protection of historic buildings in Hong Kong and would like to emphasise the need for a holistic heritage policy, starting from a clear set of principles and a coherent administrative structure in government.

7.2 A “carrot and stick” approach

- 7.2.1 A successful heritage policy will need both regulatory measures and economic incentives – a “carrot and stick” approach. In addition to statutory protections for graded historic buildings and design guidelines for neighbourhoods with a historic character, a number of reforms to the planning, buildings regulations, and lease modification systems can help to facilitate the preservation and adaptive reuse of historic buildings. In terms of economic incentives, Civic Exchange thinks that a system of transferable and tradable development rights would be the most effective and practical way to encourage owners to preserve their buildings. Civic Exchange also supports the establishment of a heritage trust, but cautions that this will require substantial start-up funds.

7.3 Innovative and creative methods in public engagement

- 7.3.1 Public awareness of heritage is a crucial part of the equation as the public’s appreciation of heritage determines how much society is willing to spend on its conservation. Civic Exchange supports the adoption of innovative and creative methods to engage the younger generation in learning about heritage.