

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

## Executive Summary

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## EXECUTIVE SUMMARY

### 1. Background and Purpose of this Study

Hong Kong faces many challenges in managing and conserving its heritage<sup>1</sup> assets. These challenges reflect the particular institutional, legal and administrative circumstances of 21<sup>st</sup> century Hong Kong, as well as specific physical and social issues. Heritage conservation is a complex subject that interacts with a wide range of policy areas, falling within the responsibilities of a number of Government bureaux / departments and agencies. The legal framework for built heritage conservation in Hong Kong is narrow in the sense that it provides for only one form of statutory protection (i.e. to declare monuments); and there are competing demands for Government funding. Moreover, the scarcity of land for development in Hong Kong results in strong market pressure for redevelopment, and Government must strike a difficult balance between broader conservation objectives and respect for private owners' rights and wishes. Whilst there is increasing public concern for heritage conservation, civil society organisations are in their infancy and there is a lack of a donation and membership culture.

As part of its response to these challenges, the Government has indicated that the establishment of a heritage trust, to support heritage conservation work and better mobilise community support, would be a long-term option to be considered in five years, once the proposed heritage conservation measures have been introduced.

With the 2007 heritage conservation policy having been put in place for nearly five years, the Commissioner for Heritage's Office (CHO) of Development Bureau commissioned GHK (Hong Kong) Limited in November 2011 to conduct a study on the feasibility, framework and implementation plan for setting up a statutory heritage trust in Hong Kong.

### 2. Key Questions for Hong Kong, and Lessons from Overseas and Local Experience

Through analysis of the needs of Hong Kong, in-depth discussions with Government representatives and other knowledgeable sources, and review of overseas heritage organisations<sup>2</sup>, it has been possible to identify a number of key questions that must be resolved in establishing a heritage trust in Hong Kong:

- Why is a trust in Hong Kong needed?
- What might a trust in Hong Kong do?
- Does a trust in Hong Kong need to be a statutory body?
- How can popular support be mobilised in Hong Kong?

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<sup>1</sup> For the purpose of this Study, the definition of "heritage" includes monuments, historical buildings or archaeological or palaeontological sites or structures and the cultural and historical elements that are related to these buildings, sites or structures.

<sup>2</sup> The following four organisations have been selected as detailed case studies: National Trust of Australia (New South Wales), Heritage Canada Foundation, UK National Trust, and English Heritage. In addition, the GHK Team has drawn insights from the following Asian heritage organisations: Kyo-machiya Revitalisation Study Group in Japan, Taipei Heritage Conservation and Development Trust Fund, National Trust of Korea, Singapore Conservation Advisory Panel and Indian National Trust for Art and Cultural Heritage.

- Is a membership-based heritage organisation possible in Hong Kong?
- How can the costs of a trust in Hong Kong be controlled?
- How should a trust in Hong Kong be funded?
- How to ensure a trust in Hong Kong is operationally effective?

To address these questions, a number of lessons have been drawn from the overseas and local research:

- Establishing a heritage trust in Hong Kong could potentially bring a range of advantages – including: sending a signal to the public that Government is committed to heritage conservation; allowing consideration of policy from an independent vantage point; providing an opportunity to boost efficiency through devolving selected functions from Government; addressing the issue of competing demands for funding in Hong Kong (including addressing difficulties with securing recurrent funding)<sup>3</sup>; enabling more certainty for stakeholders regarding funding arrangements and flexibility in implementation; expanding the constituency for heritage conservation (including through fostering engagement with general public, private individuals, organisations and business); and providing a means of developing links with international heritage bodies.
- However, care must be taken to mitigate potential risks – including: a reduction in democratic legitimacy of Government policy and programmes; duplication of Government resources; inadequate take up by the public; and threats to financial sustainability.
- Regarding functions, a trust would likely play roles in outreach and education, technical and research, and funding of conservation projects. For credibility, it is necessary for the trust to hold some property, which would demonstrate its community role. It is unlikely that the trust would be responsible for policymaking, but it could advise on policy direction.
- A trust would almost certainly need to be a statutory body if it is to acquire seed capital funding from Government and public properties, and be required to submit audited accounts / annual report to the Government or LegCo.
- To mobilise widespread public support, the trust would need sufficient independence to seize on issues of importance and raise funds. Dedication, integrity, transparency and professionalism, as well as community engagement, will be important.
- Membership is realistic if members perceive their membership fees to be value for money. International experience shows that organisations with an extensive property portfolio are generally more successful in building a large membership. However, in the case of Hong Kong, it will be difficult for the heritage trust to own an extensive property portfolio. In the absence of a critical mass of historical properties, smaller organisations have demonstrated an ability to attract members through their leadership in saving important heritage assets and offering them other benefits (e.g. purchase discounts, enjoyment of trust's

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<sup>3</sup> As the Revitalising Historic Buildings Through Partnership Scheme (R-Scheme) applies to Government-owned historic buildings it may be expected that the cost for capital works of these public properties should be funded by Government rather than drawing from the resources of the heritage trust - the latter may be perceived as sponsoring Government by the trust's donors and members. Therefore, unless the Government entrusts the ownership of these historic buildings for revitalisation to the trust, it may be expected that funding would continue to be provided by Government being the owner.

facilities, activities for members only, family activities, publications, continuous professional development seminars, etc.). A heritage trust in Hong Kong will need to develop an active and creative outreach programme to attract and retain members, with a well-developed membership marketing capacity.

- To control costs, it is important that properties are taken on in accordance with the trust's resources. Other measures should include: proactive and regular planned maintenance, use of volunteers, outsourcing of non-core services, and allowing flexibility in employment of permanent / contract staff and their pay scales.
- Regarding funding sources, organisations without secured recurrent funding must depend on Government funding for activities – this poses a risk to financial sustainability, discouraging longer-term thinking and development of organisational capacities. One way to ensure the trust is self-financing without Government subventions is to provide an upfront endowment and vest by law a number of revenue-generating properties in the trust to generate recurrent income. The trust would ideally be provided with a sufficient upfront endowment to cover core funding, contingencies and some operating expenditures.<sup>4</sup>
- To ensure the trust is operationally effective, it will be important for the Chairman to champion the cause of the trust, to establish an appropriate board composition and size, to adopt a professional and entrepreneurial approach, and to ensure proper governance (including requiring the trust to submit audited accounts and annual reports to Government / LegCo). It is also critical to allow the trust to demonstrate its relevance - a successful trust should be able to raise interest in and appreciation of heritage, engage members' and community involvement, and make members feel that heritage is a common good.
- Establishing a robust monitoring and evaluation function with key performance indicators that are closely tied to objectives and are measurable will help promote effectiveness.

### **3. Recommended Form of Trust for Analysis of Structure and Implementation in this Study**

Heritage organisations around the world come in many different shapes and sizes. Based on the overseas and local research undertaken for this Study, the GHK Team has developed a framework for analysing various heritage trust forms in a straightforward manner. The framework introduces a set of terms to define these various forms and their constituent components such that they can be compared and discussed on a consistent basis. It focuses on three questions (the '3 Rs'):

- What should be the extent of a heritage trust's remit?
- Which key responsibilities should be handled by a heritage trust within its allotted remit?
- Which resources should a heritage trust have at its disposal so that it may discharge its responsibilities effectively and efficiently?

Using this framework, and in light of discussions with the Government, the knowledge / experience within the team, and lessons from local and international

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<sup>4</sup> However, it may be expected that Government funding for the R-Scheme will still be required.

research, the GHK Team has advised on the range of responsibilities of the trust – see Tables ES-1 and ES-2 below.

**Table ES-1: Recommended range of responsibilities of trust**

Responsibilities	Components
Outreach & Education	<ul style="list-style-type: none"> <li>▪ Information and promotion campaigns*</li> <li>▪ Publication programmes* (newsletters etc)</li> <li>▪ Education programmes*</li> <li>▪ Lead for international liaison, best practice and networking</li> </ul>
Technical & Research	<ul style="list-style-type: none"> <li>▪ Applied heritage conservation and management research*</li> <li>▪ Information database</li> <li>▪ Preparation of manuals / guidelines</li> </ul>
Funding Agency for Privately-Owned Graded Historic Buildings	<ul style="list-style-type: none"> <li>▪ Financial Assistance for Maintenance Scheme (F-scheme) administration and monitoring</li> <li>▪ Funding for selected built-heritage related activities@</li> </ul>
Property Holding, Maintenance, Conservation and Revitalisation of Government-Owned Historic Buildings	<ul style="list-style-type: none"> <li>▪ Property rehabilitation@</li> <li>▪ Property management</li> <li>▪ Property maintenance@</li> <li>▪ Revitalising Historic Buildings Through Partnership Scheme (R-scheme) proposal assessment (i.e. taking up the existing role of Advisory Committee on Revitalisation of Heritage Buildings (ARCHB)), administration and monitoring [but it is expected that the funding of the R-Scheme would rest with Government]</li> <li>▪ Pilot programmes, and identification of new programmes@</li> </ul>

Note: \* indicates similar works are being performed by Lord Wilson Heritage Trust (LWHT); @ indicates what LWHT could do under the provision of the LWHT Ordinance [Cap 425] but currently not actively involved in

**Table ES-2: Range of responsibilities that would *not* be covered by the trust**

Responsibilities	Components
Heritage Protection	<ul style="list-style-type: none"> <li>▪ Legal and regulatory role</li> <li>▪ Declaration of monuments</li> <li>▪ Grading of historic buildings</li> <li>▪ Economic incentives (land exchange, acquisition etc.)</li> <li>▪ Roles and functions relating to Heritage Impact Assessment mechanism</li> </ul>
Policymaking	<ul style="list-style-type: none"> <li>▪ Setting policy objectives</li> <li>▪ Designing policy tools and programmes</li> </ul>

#### **4. Structure and Implementation**

In this Report, the GHK Team proposes governance, organisational, operational and financial models for the recommended form of trust outlined above. The recommended features of the trust are summarised below.

##### **Board and Governance Structure**

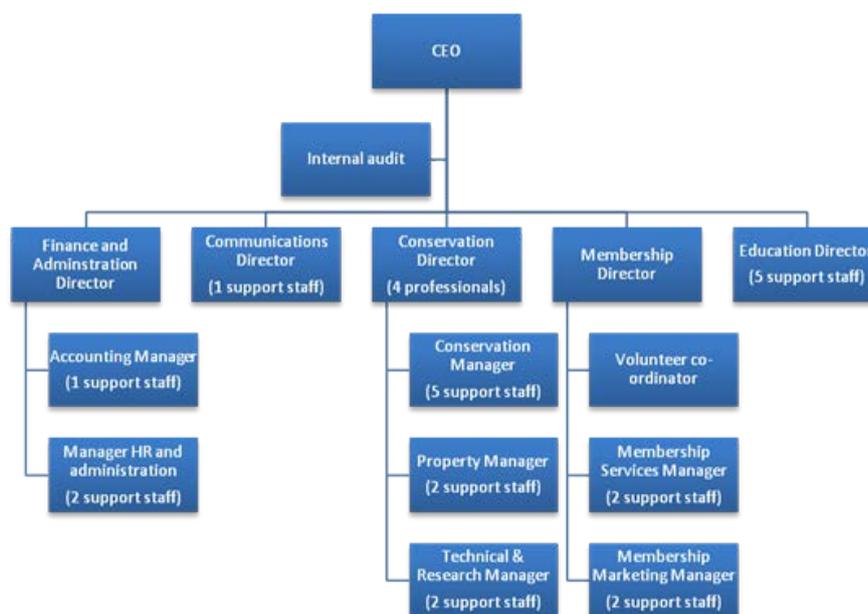
- The adoption of private sector management practices would result in a more business-like style of working, improving efficiency and reducing costs.
- There should be flexibility in Board size. The Board should consist of include a well-respected, charismatic and experienced Chairman preferably from the private sector, and a diverse representation including appropriate Government departments, social enterprise, relevant professional disciplines, large corporations, academia, and the tourism sector.
- Four sub-committees could undertake the more detailed work needed to support the work of the trust, covering: membership, communications, audit, and finance / general purposes.
- The Chairman and Board would report regularly to the appropriate Government Bureau, and would be required to deliver a report of its work annually to Legislative Council.
- The Board and senior executive team would develop and publish the trust's vision, mission and values, and would determine Key Performance Indicators for regular performance assessment.

##### **Internal Organisational Structure**

Figure ES-1 sets out a recommended organisational structure for the trust. Five Directors would report to the Chief Executive Officer (CEO):

- Finance Director, responsible for all finance and administrative functions including HR, legal and procurement;
- Conservation Director, providing the link between the trust and Government's ownership and maintenance of premises. This team would lead on discharging the trust's responsibilities relating to R-Scheme and F-Scheme;
- Membership Director responsible for attracting and retaining members, both individual and corporate, while also handling their day-to-day needs and queries. Reporting to the Membership Director would be a Volunteer Co-ordinator, to recruit, train, motivate and deploy volunteers to help with the trust's work;
- Education Director responsible for developing, delivering and evaluating programmes of learning and participation, for all groups in society including those who may not normally visit heritage sites, such as hard to reach young people, young children, older people and families.
- Communications Director responsible for using all forms of media and communication to build, maintain and manage the reputation of the trust. He or she would communicate key messages to defined target audiences in order to establish and maintain goodwill and understanding between the trust and the public.

**Figure ES-1: Recommended organisational structure**



### **Cost and Revenue Structure**

An indicative high-level financial analysis has been undertaken for the ultimate form of the trust, providing a conservative assessment of potential income streams and expenses.

The trust is assumed to be a lean organisation, delivering some of its functions through outsourcing to the private or not-for-profit sector where appropriate and possible. It will have a full team of staff, supported by professionals on a term contract basis as required.

Potential sources of income of the new trust include rentals, hire charges, admissions, membership subscriptions, public programme revenue, income from fundraising events, investment return from seed money and Government subvention.

An initial estimate of total income of the trust is HKD 69 million per annum., with the majority coming from investment income (HKD 45 million per annum, assumed to be generated by seed money in the order of HKD 900 million) and from rental income (HKD 21 million per annum).

The trust is assumed to be self-financing, with annual expenditure broadly equal to annual income. Key costs are staff (HKD 32 million per annum), education and public programmes (HKD 10 million per annum), funding maintenance of private heritage buildings (HKD 10 million per annum), and professional fees / consultancy studies (HKD 5 million per annum).

### **Adjustments to Government's Roles and Responsibilities**

The delineation of responsibilities between the proposed heritage trust and Government must ensure overall coverage of the existing range of functions of Government, whilst avoiding duplication of work responsibilities. At present, it is envisaged that Antiquities and Monuments Office (AMO) would continue to discharge most of its existing functions, although the responsibilities of the AMO's Education and Publicity Section, and certain elements of AMO's R-Scheme and F-Scheme responsibilities, would be transferred to the trust.

CHO's conservation and public affairs functions would be transferred to the trust, though its responsibility for supporting the Antiquities Authority in discharging statutory duties under the Antiquities & Monuments Ordinance would be transferred to a policy bureau. Advisory Committee on Revitalisation of Heritage Buildings' responsibility for preliminary approval of R-Scheme applications could be transferred to the trust. Antiquities Advisory Board, Lord Wilson Heritage Trust (LWHT), Architectural Services Department and Buildings Department would all continue to play similar roles to their existing ones.

### **Implementation and Transition**

Figure ES-2 provides an indicative timeline for implementation of the trust, and transfer of accountabilities from Government.

Some of the trust's functions will be 'new': financial management, membership and volunteering, and some elements of advocacy and communications. Other functions would be transferred from Government: education, conservation and public affairs.

The GHK Team's view is that the trust is likely to be best served by having functions and people from day one (i.e. from three years, following the timeline set out in Table ES-2). By this point, all of the following would already have been appointed: the Chairman and key Board members, CEO and Directors of Finance, Communications, Conservation and Education. In addition, the Finance Director and a small team working closely with (or seconded from) the Government would take accountability for commissioning and equipping core office space so that it is available from the start of the trust's operations.

**Figure ES-2: Indicative Timeline for Implementation / Transition**

Task – columns by month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36									
Deliberation of the proposal																																													
Discussions with stakeholders																																													
Public consultation exercise																																													
Analyse views collected during public consultation exercise																																													
Finalise details of proposed heritage trust																																													
Obtain policy support																																													
Brief relevant LegCo Panel																																													
Steering group																																													
Legal framework																																													
Appoint Chairman																																													
Agree organisation and budget																																													
Arrange premises																																													
Recruit CEO and FD																																													
Consider intake of Government staff																																													
Plan accountability handover																																													
Recruit other managers																																													

## 5. Conclusion

The Team's observation is that a well-designed heritage trust could potentially respond to some of the institutional, legal and administrative challenges highlighted earlier.

Overseas experience demonstrates that in regard to social factors, the trust would be a further step towards giving higher recognition to “vernacular architecture” and related intangible heritage. The trust's programme of community outreach, education, and public information would contribute to placing more value on the heritage of Hong Kong. As a membership organisation, the trust could also be an example of civil society taking action and would help to promote a membership culture. A well-run trust could demonstrate the benefits to be derived from becoming a member.

The establishment of a trust could be a sign that Government is willing to explore innovative approaches to using heritage assets and alternative models of conservation in a more active and engaging manner. Although the proposed heritage trust is unlikely to have a significant impact on market pressures for redevelopment of historic areas, the projects carried out under the trust may provide models of innovative adaptive reuse and good planning that could suggest new solutions to developers. It would also encourage public discussion about urban issues in Hong Kong and what role heritage plays in the quality of the built environment.

Potentially, a new heritage trust could also play a role in demonstrating the social, environmental and urban benefits of bringing heritage properties into new and creative uses, for example, creating new spaces for educational activities or fitting out an historic building with energy saving systems to showcase good practice in environmentally sustainable building. In parallel, the communications and publications programme of the new heritage trust could reinforce these experiences and share them with a larger audience, both in Hong Kong and internationally. It would also contribute to the quality of urban life by protecting distinctive and purely vernacular attributes to enrich Hong Kong's urban fabric.

A heritage trust, as opposed to a Government entity, would be more likely to have an entrepreneurial approach and to recruit staff with appropriate private and voluntary sector experience. It would also enjoy the flexibility of a not-for-profit organisation, yet be staffed with highly qualified professionals. This flexibility would allow it to develop relationships with the private sector, respond to changing circumstances, and attract a group of concerned members of the public. Ideally, through efficient management and a realistic business plan, the trust could be expected to make only modest demands on the government purse. Adopting a business approach, the trust could develop multiple sources of income, including membership, activities, and building rental.

However, the trust would, aside from its potential benefits, face certain potential risks and uncertainties, such as:

- Reduction in democratic legitimacy of Government policy and programmes;
- Cost of additional layer of bureaucracy; and
- Lack of membership and donation culture and resulting dependence on Government funding.

It is not envisaged that a heritage trust could independently operate or take over entirely, some existing Government conservation programmes and measures. In

practice, many of the current tools to preserve privately-owned historic buildings cannot be easily transferred to a statutory trust, for example, the discretionary use of planning tools and economic incentives that may have wider implications on public money. Moreover, it is not expected that a trust would be able to address directly the issue of the narrow scope of the legislative framework.

The use of public money to preserve privately-owned historic buildings requires consensus among stakeholders. A trust could potentially help informing future policy direction on conservation of privately-owned historic buildings, and on issues such as: whether public money should be used for paying compensation to private owners for conserving historic buildings, and if so, under what circumstances and criteria; whether a standardised mechanism should be set for providing economic incentives to owners; and whether planning tools should be used to advance heritage conservation. However, a trust is not likely, at least in the short term, to address fully the complexities involved in preserving privately-owned heritage buildings.

Membership organisations serving social purposes are also not common in Hong Kong. Experience from international heritage membership organisations underscores the fact that most have begun with a small group of committed members that later grew to a sizeable membership through various means. Therefore, membership building would require substantial time and continuous effort by the trust through innovative and attractive programmes to attract and retain memberships. Financially, it implies that a trust would still require substantial Government support during its infancy. It may be expected that funding for major projects, such as R-Scheme, potentially a substantial part of the budget of the proposed heritage trust, would require bids to be submitted to Government. However, there is competition for Government funding, which could limit the amount of tasks a trust can take on.

Realistically, a trust's work would face challenges and uncertainties from intense market pressure for redevelopment that run counter to wider heritage conservation objectives. Owners' reluctance to have their properties graded due to perceived negative impact on property value and development potentials are likely to persist given the acute scarcity of land in Hong Kong.

On balance, a trust could potentially bring alternative approaches that supplement current Government efforts in preserving Hong Kong's heritage, but it could not replace Government's role entirely. A new heritage trust might be met by some skepticism in Hong Kong in view of the existence of the LWHT and several Government departments that deal with built heritage. However, it is the view of the GHK Team that, if strong support from the community exists, a well-designed and resourced heritage trust, tasked according to the principles set out in the preceding sections, could play a differentiated and positive role in engaging the community to promote heritage assets and need not duplicate existing entities. Over time, and hopefully with good results achieved by a trust, this could lead to strengthening of Hong Kong's heritage protection.

The GHK Team has provided the analysis and tools to begin the process of establishing a heritage trust in Hong Kong. In view that support from all the stakeholders and the public at large will be crucial to the success of the trust, extensive consultations should be conducted on the establishment of the trust in the first instance. If a trust is to be established, Hong Kong would need to think longer term, and have reasonable expectations for and practical delegation of responsibilities to a new heritage trust.