

M E M O

<i>From</i> <u>Secretary for Development</u>	<i>To</i> <u>Distribution</u>
<i>Ref.</i> <u>(29) in DEVB/CHO/1B/CR/139</u>	<i>(Attn. : </i> _____ <i>)</i>
<i>Tel. No.</i> <u>2906 1521</u>	<i>Your Ref.</i> _____ <i>in</i> _____
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Development Bureau Technical Circular (Works) No. 6/2009 (“the Circular”) Heritage Impact Assessment Mechanism for Capital Works Projects

This memo informs you the following sections of the Circular are revised due to some obsolete parts and the amalgamation of the Antiquities and Monuments Office (“AMO”), previously under the Leisure and Cultural Services Department, with the Commissioner for Heritage’s Office of this Bureau since 1 April 2019:

- Paragraph 5(i) “Antiquities & Monuments Office (AMO) of the Leisure & Cultural Services Department” to read “Antiquities and Monuments Office (AMO)”;
- Paragraph 7 AMO’s website is revised as <https://www.amo.gov.hk>;
- Paragraph 19 the projects which attained Category B or Category C status at the time of issuance of the Circular in 2009 should have been upgraded to Category A, dropped or revisited. The sentence “For projects which have not gone through the process of checklist submission ... paragraph.” is obsolete and removed;
- Paragraph 30 similar to paragraph 19, the projects which attained Category B or Category C status at the time of issuance of the Circular in 2009 should have been upgraded to Category A, dropped or revisited. Also, the projects which attained Category D status at the time of issuance of the Circular in 2009 should have been completed, dropped or revisited. The whole paragraph on “Implementation” is obsolete and removed; and
- Appendix A “Antiquities & Monuments Office, Leisure & Cultural Services Dept.” to read “Antiquities and Monuments Office”.

2. In addition, please note the following for your completion of the Heritage Impact Assessment Checklist:

- (a) reference can be made to the Geographical Information System on Hong Kong Heritage (“GISH”) for the location of the heritage sites. The website is <https://gish.amo.gov.hk>; and
- (b) all concerned heritage site(s) inside the 50-metre zone from the project site boundary (inclusive of works area) should be shown in the location plan of not less than 1:5000.

3. Should you have any enquiry, please contact Ms Cecilia SUEN, Assistant Secretary (Heritage Conservation)¹, at 2906 1523.

(José YAM)
for Secretary for Development

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18 September 2009

Development Bureau
Technical Circular (Works) No. 6/2009

Heritage Impact Assessment Mechanism for Capital Works Projects

Scope

This Circular provides the procedures and requirements for assessing heritage impact arising from the implementation of capital works projects.

Effective Date

2. This Circular takes immediate effect.

Effect on Existing Circular

3. This Circular replaces Technical Circular (Works) No. 11/2007 which is hereby cancelled.

Background

4. In response to the rising aspirations from the public on heritage

conservation, Chief Executive announced in his 2007/08 Policy Address a package of initiatives for enhanced conservation of historic/heritage sites and buildings. The initiatives include the requirement for assessing impacts on historic/heritage sites and buildings arising from the implementation of capital works projects so that their conservation will be given due consideration.

Policy

5. In the implementation of new capital works projects (including both projects approved individually by Public Works Subcommittee (PWSC) / Finance Committee (FC) as well as Category D items but excluding those as listed in paragraphs 23, 24 and 27 below), the works agent is required to:

- (i) confirm with the Antiquities & Monuments Office (AMO) of the Leisure & Cultural Services Department whether there is/are any declared monuments, proposed monuments, sites and buildings graded by the Antiquities Advisory Board (AAB), sites of archaeological interest or Government historic sites identified by AMO (hereafter together referred to as “heritage sites”) within or in the vicinity of the project boundary. The responsibility to identify the presence of “heritage sites” should rest with the works agents. Based on the submitted information, AMO will decide whether the works agent should conduct a Heritage Impact Assessment (HIA) for the project; and
- (ii) the works agent should conduct an HIA for its project should AMO decide it is necessary to do so. Before conducting the HIA, the works agent is required to submit a proposed Study Brief and agree with AMO on the scope of the HIA.

“Heritage Sites”

6. As mentioned in paragraph 5 above, “heritage sites” include:

- (i) all declared monuments;
- (ii) all proposed monuments;
- (iii) all sites and buildings graded by the AAB;

- (iv) all recorded sites of archaeological interest; and
- (v) Government historic sites identified by AMO.

7. The updated information of all declared monuments, proposed monuments, sites and buildings graded by the AAB and Government historic sites identified by AMO can be obtained from AMO's website through the following link: <http://www.lcsd.gov.hk/CE/Museum/Monument/index.html>

For information on the recorded sites of archaeological interest, AMO has been issuing updated information to all relevant parties including all works departments on need basis in the past and will continue to do so in future.

The Heritage Impact Assessment Mechanism for Capital Works Projects Excluding Category D Items

8. The details of the heritage impact assessment mechanism at various stages of a capital works project being not a Category D item are outlined below:

A. Project Inception Stage

9. Except for projects mentioned in paragraph 10 below, once a capital works project is identified, its works agent is required to assess, preferably during preparation of Technical Feasibility Statement (TFS), whether there is/are "heritage sites" within the project boundary (inclusive of works area) or in its vicinity (usually interpreted as not more than 50 meters measured from the nearest point of the project boundary (inclusive of works area)). The works agent should then, via a checklist (as attached in **Appendix A**) to be signed by a Directorate Officer, confirm with AMO their findings on the above. In determining the boundary of projects possibly affecting "heritage sites", every effort should be made to minimize the possible adverse impact on "heritage site" if site conditions permit. For any subsequent revision or expansion of project boundary (inclusive of works area), the works agent is required to review whether the change should warrant a re-submission of the checklist to AMO and if affirmative, the re-submission should be made as soon as possible.

10. However, the boundary (inclusive of works area) for certain projects cannot be ascertained at the project inception stage. Under such circumstances, submission of checklist should be made as soon as its boundary is determined.

11. Upon receipt of the checklist, AMO would first affirm the findings of the works agent and then review on the wider front if the project will affect the heritage value of any “heritage site” within the works sites or in its vicinity. Subject to receipt of all required information, AMO will endeavor to advise the works agent on whether an HIA is required within 30 calendar days from receipt of the checklist.

12. An HIA will be required by AMO if :

- (i) the project is wholly or partly within a “heritage site” and AMO considers that the project will affect the heritage value of the “heritage site”; and/or
- (ii) AMO considers that the heritage value of any “heritage site” in the vicinity of the project will be affected.

13. For capital works project requiring the submission of TFS, the works agent should include a statement in the TFS along one of the following three lines:

- (i) We have consulted AMO on the necessity for conducting a Heritage Impact Assessment for this project. AMO has advised that such an assessment is not required; or
- (ii) We have consulted AMO on the necessity for conducting a Heritage Impact Assessment for this project. AMO has advised that such an assessment is required.
- (iii) The project boundary cannot be ascertained at this stage. We shall submit a checklist to AMO to seek their advice on whether a Heritage Impact Assessment is required for this project as soon as the project boundary is determined.

For (i) and (ii) above, a copy of AMO’s advice should be attached to the TFS.

14. The initial finding on the need or not for an HIA together with other factors such as environmental protection and sustainability development will be key considerations of the works agent in determining whether the project is technically feasible on a prima facie basis. This will ensure that the needed balance between development and heritage conservation is deliberated at an early stage.

B. Investigation and Design Stage

15. When a project requiring HIA has attained Category B status with funding available for carrying out the HIA, the works agent should conduct and submit the HIA of the project to AMO for endorsement. Generally, each HIA will contain the following:

- (i) Baseline Study;
- (ii) Methodology;
- (iii) Impact Assessment;
- (iv) Mitigation Measures; and
- (v) Conservation Proposal and/or Conservation Management Plan (only for projects involving large scale conversion works/alteration works/addition works/demolition works within historic buildings/sites in the “heritage sites” list).

The requirements for (i) to (iv) above are similar to those as set out in Annex 19 of the Technical Memorandum on Environmental Impact Assessment Process. Before the preparation of each HIA, the works agent should first submit a proposed Study Brief for the HIA to AMO for agreement. AMO will endeavor to process Study Brief submissions within 30 calendar days. After the Study Brief is agreed with AMO, the works agents should prepare the HIA according to the agreed Study Brief and submit the HIA to AMO for approval. The submitted HIA will be processed by AMO within 60 calendar days save for those which AMO requires supplementary information/assessment from the works agents.

16. Every effort should be made to avoid or minimize adverse impact of the proposed works on the “heritage site”. However, where adverse impact is unavoidable because of project viability, design constraints or cost implications, and public interest is at stake, the project proponent in collaboration with the

works agent should engage the public (e.g., District Councils, Area Committees and other stakeholders on heritage conservation) and consult them on the proposed works project at the earliest opportunity, letting them know about the anticipated adverse impact on the “heritage site”. In particular, should an HIA be required for a capital works project, the AAB being a major stakeholder on heritage conservation should be engaged and its support sought following approval of the HIA by AMO. The works agent may need to prepare options of the project design with corresponding cost and other implications for the public to consider or even involve the public in developing the project design. As the conditions of each project are unique to its own, the project proponent and works agent should determine the public engagement strategy that is most suitable for the project. Taking into account the feedback received in the public engagement exercises, project proponents should decide how their projects should proceed.

17. When a project is a “designated project” under the Environmental Impact Assessment Ordinance (EIAO) and when the project proponent is required by the Director of Environmental Protection (DEP) to conduct an “assessment of impact on sites of cultural heritage (CHIA)” for a particular affected “heritage site” under the Environmental Impact Assessment (EIA), a separate HIA on the same “heritage site” is not required. The works agent shall follow the statutory requirements of the EIAO¹. However, even if an EIA is required for a project but a CHIA is not required in the EIA for the affected “heritage site(s)”, then a separate HIA as required under this Circular for the affected “heritage site(s)” may still be necessary.

C. Submission to PWSC

18. In the submission to PWSC for funding construction works, the works agent should include a “Heritage Implications” paragraph in the PWSC paper, to be cleared by AMO, stating clearly whether the project will affect any “heritage site” and if so, what mitigation measures will be taken and whether the public were in support of the proposed measures in the public engagement process.

¹ Before submitting the Project Profile to apply for the EIA Study Brief, the works agent should preferably consult AMO on the necessity of a CHIA for its project and if affirmative, agree with AMO on the CHIA Study Brief. AMO will also decide the merits and timing of consulting AAB on the CHIA, preferably before AMO advises EPD on the CHIA findings submitted by the works agent to apply for approval of the statutory EIA report.

19. As a general practice, works agents should include AMO in their circulation list whenever the first draft of the PWSC paper including the “Heritage Implications” paragraph is sent out for comments. For projects which have gone through the process of checklist submission in their project inception stage or the HIAs of which have been vetted by AMO, AMO will normally take five working days to clear the “Heritage Implications” paragraph. For projects which have not gone through the process of checklist submission and no HIA has been submitted to AMO for processing (i.e. those projects that have already attained Category B or C status before 1.1.2008 and the works agents considered that the projects need not go through the HIA mechanism as stated in paragraph 30(ii) below), AMO will normally take seven working days to clear the “Heritage Implications” paragraph.

20. For consistency, the following standard “Heritage Implications” paragraph should be adopted for projects not affecting “heritage site” –

“The project will not affect any heritage site, i.e. all declared monuments, proposed monuments, graded historic sites/buildings, sites of archaeological interest and Government historic sites identified by the Antiquities and Monuments Office.”

D. Construction Stage

21. The works agents are responsible for checking that the works and the mitigation measures carried out for heritage conservation, if any, comply with the requirements stipulated in the HIA as approved by AMO.

The Heritage Impact Assessment Mechanism for Category D Items

22. For Category D items except those handled by Home Affairs Department (HAD) in paragraph 23 below and those mentioned in paragraph 24 below, the contents as outlined in paragraphs 9 to 12, 14 to 17 and 21 should apply.

23. In view of the substantial number of district minor works anticipated to be carried out by HAD every year, discretion is given to HAD to consider whether to submit checklists to AMO for processing, after ascertaining (in accordance with the requirements in paragraph 9 above) that there is no

“heritage site” within or in the vicinity of the project boundary (inclusive of works area), for the following types of works:

- (i) minor district greening and street beautification works;
- (ii) construction of signage, rain shelters, pavilions, arbours, benches, pedestrian covers, railings and fencing;
- (iii) general district improvement works such as construction or improvement of footpaths, van tracks, drainage system and stream courses; and
- (iv) improvement works along walking trails.

24. It is also noticed that there are substantial number of the following two types of minor works to be implemented each year:

- (i) installation or relocation of village/street lighting; and
- (ii) slope works of all nature.

Given the fact that the potential impact of the above two types of minor works on “heritage sites” is relatively minimal, discretion is given to works agents to consider whether to submit checklists to AMO for processing, after ascertaining (in accordance with the requirements in paragraph 9 above) that there is no “heritage site” within or in the vicinity of the project boundary (inclusive of works area).

25. In exercising their discretion for the minor works mentioned in paragraph 24 above, works agents should consider whether there will be any adverse visual impact on “heritage sites” arising from the village/street lighting works or adverse visual/physical impact arising from the slope works, even if the “heritage sites” are located at a distance more than 50m from the project boundary. If adverse impact is anticipated or suspected, the works agents should still submit the checklist to AMO for processing.

Flow Chart for the Heritage Impact Assessment Mechanism

26. A flow chart showing the heritage impact assessment mechanism is outlined in **Appendix B**.

Exemption

27. The following projects are exempted from the heritage impact assessment mechanism:

- (i) Routine maintenance and minor repair works;
- (ii) Category D items involving alteration/addition, refurbishment, improvement and fitting-out works in existing building compounds being not “heritage sites” themselves;
- (iii) Category D items involving alteration/addition, refurbishment and improvement works in Government open spaces, parks etc. being not “heritage sites” themselves and with no “heritage sites” within;
- (iv) Ground investigation works not within “heritage sites”;
- (v) Traffic control and surveillance projects not within “heritage sites”;
- (vi) Non-works items such as purchase of property and consultancy study; and
- (vii) Emergency repair works.

28. It is expressly stated that discretions and exemptions given in paragraphs 23, 24 and 27 do not remove the responsibility of the project proponents/works agents to fully comply with the requirements as set out in the EIAO pertinent to impacts on “sites of cultural heritage”. DEP will continue to consult AMO over its specific requirements under EIAO for each and every designated project.

Items with Possible Heritage Value But Not Included in the List of “Heritage Sites”

29. During the course of implementation of a project, if the project proponent/works agent considers that the project might affect item(s) with possible heritage value which is/are not included in the list of “heritage sites”, the project proponent/works agent should seek advice from AMO on the

actions that need to be taken.

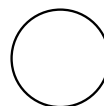
Implementation

30. The implementation of the above heritage impact assessment mechanism for capital works projects under different categories will be as follows:

- (i) All projects not yet attaining Category C and Category D status before 1.1.2008 should adopt the above mechanism with immediate effect;
- (ii) For projects which have already attained Category C and Category B status (i.e. funding has not been approved by PWSC/FC) before 1.1.2008, the works agent should assess whether it would be necessary to go through the heritage impact assessment mechanism in the project inception/investigation and design stages as outlined in paragraphs 9 to 21 above if that has not been done and carry out the necessary submissions to AMO if considered necessary. In the PWSC submissions for their construction works, the requirement for including a “Heritage Implications” paragraph in the PWSC paper as outlined in paragraphs 18 to 20 above should apply;
- (iii) For projects that have attained Category D status (that are not entitled to exemption under paragraph 27 above) before 1.1.2008 for which contracts for their construction have not yet been awarded or works orders for their construction have not yet been issued, works agents are required to assess whether it would be necessary for them to go through the heritage impact assessment mechanism in the project inception/investigation and design stages as outlined in paragraphs 9 to 12 and 14 to 17 above if that has not been done and carry out the necessary submissions to AMO if considered necessary; and
- (iv) The heritage impact assessment mechanism in this Circular will not be applicable to items which have already attained Category A status and Category D items for which construction contracts have been awarded or works orders have been issued. However, if

during the course of construction, new information is known that the works could probably affect or aggravate its effect on “heritage sites”, the responsible works agent should seek AMO’s advice immediately on the actions that need to be taken.

(MAK Chai-kwong)
Permanent Secretary for Development (Works)



M E M O

From Works Agent <hr/> Ref. _____ <i>in</i> _____ Tel. No. _____ Fax No. _____ Date _____	To Antiquities & Monuments Office, Leisure & Cultural Services Dept. <hr/> (Attn. : _____) Your Ref. _____ <i>in</i> _____ Dated _____ Fax No. _____ Total Pages _____
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Heritage Impact Assessment (HIA)

Checklist: Capital Works Projects

Project Title : _____

Pursuant to DEVB Technical Circular (Works) No. 6/2009, I confirm the following :

- ☐ (i) There is no heritage site[#] partly or wholly within the project site boundary (inclusive of works area). There is also no heritage site within 50 metres of the project site boundary (inclusive of works area). Please advise whether an HIA is required for this project.
- ☐ (ii) There is no heritage site partly or wholly within the project site boundary (inclusive of works area). However, the following heritage site(s) is/are found within 50 metres of the project site boundary (inclusive of works area). Please advise whether an HIA is required for this project.
- (works agents to list the concerned heritage site(s))
- ☐ (iii) The following heritage site(s) is/are found partly or wholly within the project site boundary (inclusive of works area). Please advise whether an HIA is required for this project.
- (works agents to list the concerned heritage site(s))

2. A copy of the location plan* with the 50-metre zone from the project site boundary (inclusive of works area) indicated and the project scope to substantiate our above assessment is attached for your reference.

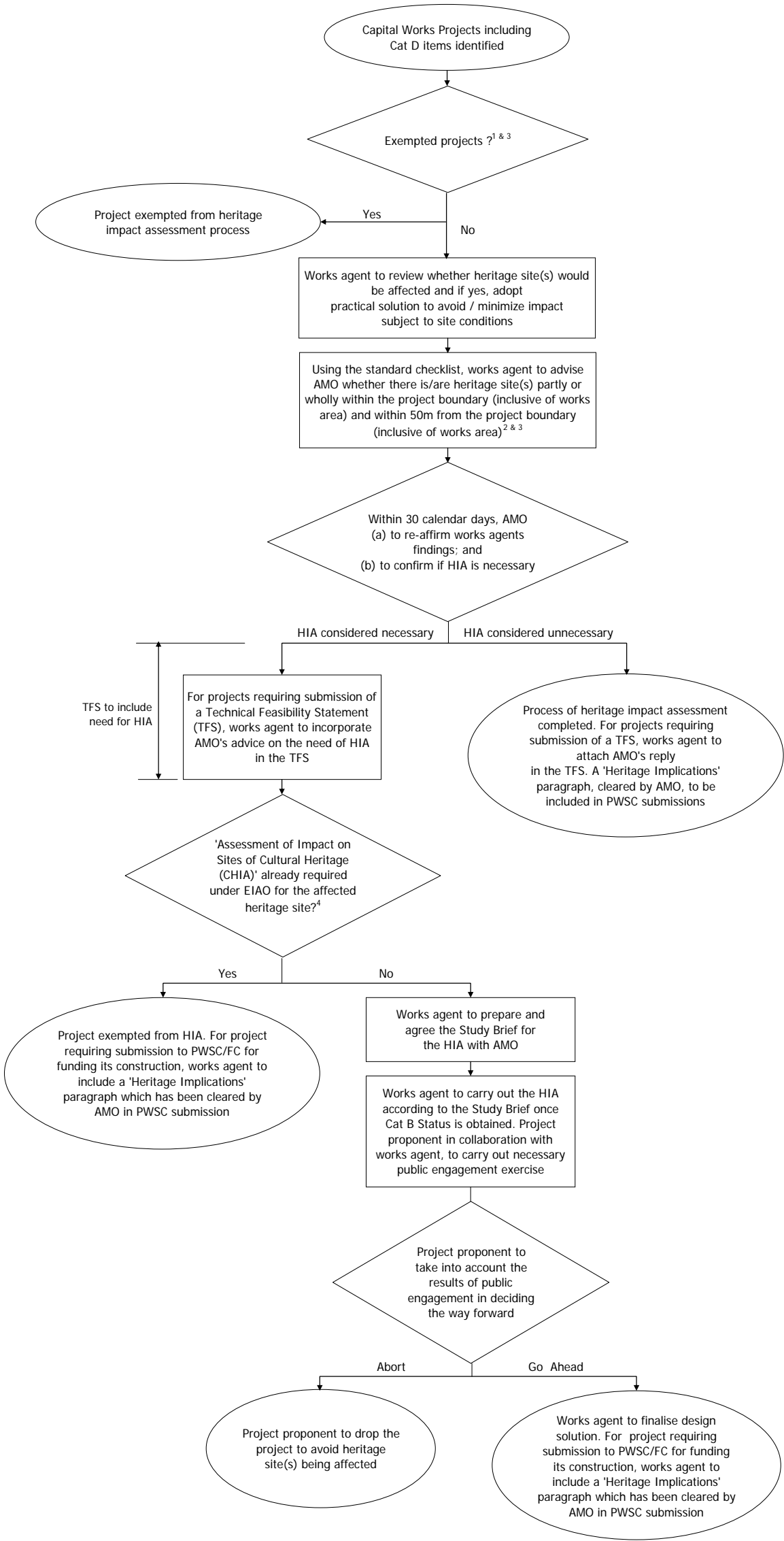
(Name/Title/Department)
(Date)

c.c. Policy Secretary
Client Department
DEVB (Attn: CAS(W)2)

Remarks:

- ☐ Please tick in one of the boxes as appropriate
- # Heritage site refers to all declared monuments, proposed monuments, graded historic sites/buildings, sites of archaeological interest and Government historic sites identified by AMO.
- * For scenarios (ii) and (iii), all the concerned heritage site(s) inside the 50-metre zone from the project site boundary (inclusive of works area) should be shown in the location plan.

Flow Chart Showing Determination of the Necessity of Heritage Impact Assessment (HIA) for Capital Works Projects (Including Cat D Items)



Remarks:
1

- Exempted projects include:
- (a) Routine maintenance / minor repair works;
 - (b) The following Category D items within an existing building being not a monument or graded building :
 - (i) alteration & addition works;
 - (ii) refurbishment works;
 - (iii) improvement works; and
 - (iv) fitting out works;
 - (c) The following Category D items within Government open spaces and parks with no declared monuments, proposed monuments or graded historic buildings inside :
 - (i) alteration & addition works;
 - (ii) refurbishment works; and
 - (iii) improvement works
 - (d) Non-works items such as purchase of property and consultancy study; and
 - (e) Emergency repair works

2 For the following Category D projects, discretion is given to works agents on the submission of checklist to AMO if no heritage site is partly or wholly within the project boundary (inclusive of works area) and within 50m from the project boundary (inclusive of works area) -

- (a) HAD's district minor works including:
 - (i) minor district greening and street beautification works;
 - (ii) construction of signage, rain shelters, pavilions, arbours, benches, pedestrian covers, railings and fencing;
 - (iii) general district improvement works such as construction/improvement of footpaths, van tracks, drainage system and stream courses; and
 - (iv) improvement works along walking trails
- (b) installation or relocation of village/street lighting;
- (c) slope works of all nature

3 The exemptions and discretions mentioned in Remarks 1 and 2 do not remove the responsibility of the project proponents/works agents to fully comply with the requirements as set out in the EIAO pertinent to impacts on "sites of cultural heritage". DEP will continue to consult AMO over its specific requirements under EIAO for each and every designated project.

4 Before submitting the Project Profile to apply for the EIA Study Brief, the works agent should preferably consult AMO on the necessity of a CHIA for its project and if affirmative, agree with AMO on the CHIA Study Brief.