



# Hong Kong Planning Standards and Guidelines

# Conservation

Chapter

# 10



Planning Department

The Government of the Hong Kong  
Special Administrative Region

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# CONSERVATION

## 1 Introduction

- 1.1 Hong Kong has extensive undeveloped tracts of natural landscapes, which contain diverse habitats supporting numerous native plant species and a variety of wildlife, both resident and migratory. Hong Kong also boasts rich geological resources which make up spectacular landforms. In addition, there is a long history of human settlement and consequently a variety of cultural relics are present.
- 1.2 This chapter explains the policies and measures in support of conservation from the planning perspective in Hong Kong. Two major aspects are covered: Nature Conservation and Biodiversity (Section 3) and Conservation of Cultural Heritage (Section 4). Conservation is considered here in terms of land use, which can be effected by various measures from legislative to administrative means. Areas identified for conservation purposes can also be shown by zoning on town plans. In such conservation zones, there is a general presumption against development and the uses which are permitted may be subject to the controls under the relevant Ordinances and the imposition of appropriate conditions by the relevant authorities.
- 1.3 The chapter is divided into several parts. Firstly, some general principles of conservation are reviewed. Secondly, there is a discussion of measures to conserve natural landscapes and habitats, followed by measures to conserve declared monuments, historic buildings, sites of archaeological interest and other heritage items. To conclude the chapter, a brief review of conservation enforcement is provided at the end.

## 2 Principles of Conservation

- 2.1 The following four principles should be adopted for the practical pursuit of conservation in land use planning:
  - (i) retain significant landscapes, ecological and geological attributes and heritage features as conservation zones;
  - (ii) restrict uses within conservation zones to those which sustain particular landscapes, ecological and geological attributes and heritage features;
  - (iii) ensure compatibility of adjoining uses to minimise adverse impacts on conservation zones and optimise their conservation value; and
  - (iv) create, where possible, new conservation zones in compensation for

areas of conservation value, which are lost to development.

2.2 Items of value which merit conservation are identified in planning studies at both strategic and district levels, special surveys undertaken by Government and non-government organisations or as the result of public views. However, plans that include conservation use have to be seen in a wider context and take into account the need to provide adequate space for development needs. The challenge is to integrate these different uses into acceptable and realistic plans, which take account of territorial growth and principles of sustainable development.

### **3 Nature Conservation and Biodiversity**

#### **3.1 Landscape Profile and Biodiversity of Hong Kong**

Geologically, Hong Kong has a large variety of volcanic and sedimentary rocks, ranging from 400 million to 55 million years old. Located on the Pearl River Delta and coast of South China Sea, Hong Kong has a hilly and rugged terrain, as well as a high crenulated coastline and more than 200 offshore islands. At present, some 47 percent of the land area (51 900 ha) of the territory and about 2 percent of the marine area (3 400 ha) are designated for various nature conservation uses.<sup>1</sup> The natural landscapes of Hong Kong are diverse. They comprise extensive uplands, agricultural plains, valleys, indented coastline and areas of wetland. Such landscape diversity provides a wide range of terrestrial and aquatic habitats which support our rich diversity of fauna and flora including some species that are endemic to Hong Kong. About 2 100 species of native vascular plants, 55 species of terrestrial mammals, over 550 species of birds, 90 species of reptiles, 25 species of amphibians, over 180 species of freshwater fishes, over 240 species of butterflies and 128 species of dragonflies have been recorded.<sup>2</sup>

#### **3.2 Target Natural Landscapes and Habitats**

Conservation of natural landscapes and habitats is important not only for preserving the key components of biodiversity, but for maintaining the associated ecosystem services which provide innumerable benefits and protections to humans, such as water provisioning, carbon sequestration, and flood prevention. Some habitats, such as forests, wetlands (including rivers), mangroves and mudflats, are generally known for their support of rich biodiversity and therefore given due considerations in nature conservation work.

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<sup>1</sup> The nature conservation related land area includes country parks and special areas, areas zoned Site of Special Scientific Interest, Conservation Area or Coastal Protection Area on statutory town plans.

<sup>2</sup> Source of data based from AFCD as at April 2019.

### 3.2.1 Forests

Forests are important habitats for wildlife and help safeguard water catchments from soil erosion. Among the forested areas, *fung shui* woods are of particular ecological interest, as they are remnants of Hong Kong's native lowland evergreen broad-leaved forests, and support many rare tree species and thriving biodiversity.

### 3.2.2 Wetlands

Wetlands may be freshwater or intertidal, natural or human-modified (e.g. fish ponds). They support a wide array of wildlife and generally of high ecological value. Wetlands at the internationally important Mai Po Inner Deep Bay Ramsar Site support over 70% of the bird species recorded in Hong Kong, and are important feeding and resting grounds for migratory birds.

### 3.2.3 Streams and rivers

There are over 2 500 km of natural streams and rivers in Hong Kong, mostly located in hillsides remote from developed areas. Many of these natural streams and rivers are good habitats supporting a variety of wildlife. They have important ecological functions and carry high aesthetic and landscape value.

### 3.2.4 Natural coasts, mangroves and mudflats

The coast is where the aquatic and terrestrial ecosystems interact. Coastal habitats such as mangroves and mudflats in estuaries not only stabilise sediments but also serve as important feeding and nursery grounds for various aquatic life including waterbirds, fishes, horseshoe crabs and other invertebrates. Natural coasts also carry high aesthetic and landscape value.

## 3.3 Opportunities and Threats in Nature Conservation

3.3.1 Areas of good quality natural landscapes and valuable habitats may be subject to pressure for change of use. This pressure for change of use is often a consequence of economic change, particularly the decline in traditional rural activities (which threatens existing agricultural landscapes) and the expanding urban area of Hong Kong (which threatens areas of natural coastline).

3.3.2 There are both opportunities and threats in terms of nature conservation. The principal opportunities are:

(i) potential conservation areas, both terrestrial and marine, which are not yet protected;

(ii) degraded and human-modified landscapes, which can be reinstated or enhanced for new use; and

(iii) scenic areas that can accommodate quality residential, recreation and tourism uses without prejudicing more valuable conservation areas.

3.3.3 However, there are also significant threats to landscape quality and natural habitats which must be either prevented or ameliorated:

(i) intrusion of urban development into otherwise scenic and undeveloped areas;

(ii) derelict land which exists where traditional land use has lapsed (e.g. agriculture) because it is not economically attractive; and

(iii) coastal reclamation and working of marine deposits that have effects on potential conservation areas.

### 3.4 Nature Conservation Policy and Biodiversity Strategy

3.4.1 Our nature conservation policy is to regulate, protect and manage natural resources that are important for the conservation of biological diversity of Hong Kong in a sustainable manner, taking into account social and economic considerations, for the benefit and enjoyment of the present and future generations of the community. The principal measures which protect natural landscapes and habitats are listed in Appendices 1 and 2.

3.4.2 In 2016, the Government released the first city-level Biodiversity Strategy and Action Plan for Hong Kong, outlining the strategy and actions to be taken for conserving biodiversity and supporting sustainable development. Biodiversity is the variability among living organisms and the ecological complexes of which they are part; this includes diversity within species, between species, and of ecosystems. It forms the foundation of the vast array of ecosystem services that critically contribute to human well-being.

3.4.3 Biodiversity generally refers to diversity at three levels – genes, species and ecosystems:

(i) Genetic diversity – refers to the variation among individuals within the same species.

(ii) Species diversity – refers to all the different kinds of organisms within a habitat or a region.

(iii) Ecosystem diversity – refers to the variety of habitats and

communities of organisms found within an area.

Biodiversity conservation can be achieved through protecting areas or individual sites of ecological or landscape significance from incompatible land uses, which is important in ensuring the continued survival and thriving of species therein. Conservation of biodiversity at the genetic level is indirectly assured as a result.

### 3.5 Protecting Natural Landscapes and Habitats

3.5.1 Protection of natural landscapes and habitats have mainly been made through designation of ecologically important sites as protected areas to comprehensively protect the ecosystems therein and conserve wildlife *in-situ*, as well as administrative measures to recognise the significance of valuable landscapes and ecologically important habitats so that special attention is drawn to development and activities that may adversely affect these areas. Natural landscapes and habitats may be gazetted as Country Parks or Special Areas, Marine Parks or Marine Reserve, Restricted Areas, Water Gathering Grounds, or conservation zones in statutory town plans. They may also be listed as Sites of Special Scientific Interest (SSSIs) or Priority Sites for enhanced conservation.

(a) Country Parks and Special Areas – Country Parks and Special Areas are designated under the Country Parks Ordinance (Cap 208) and managed by the Agriculture, Fisheries and Conservation Department (AFCD) on the advice of the Country and Marine Parks Board (CMPB). At present, there are 24 Country Parks (43 467 ha) and 22 Special Areas, 11 of which (845 ha) are outside Country Parks. The total area is about 44 312 ha and covers 40% of the land area of Hong Kong. Country Parks are designated for the purposes of nature conservation, countryside recreation and nature education. Special Areas are areas of Government land with special interest and importance by reason of their flora, fauna, geological, cultural or archaeological features. The Country and Marine Parks Authority (i.e. the Director of Agriculture, Fisheries and Conservation) has established criteria for determining whether or not a particular location is suitable for designation as a Country Park or Special Area. The criteria include landscape quality, recreation potential, conservation value, size, land status, land use compatibility and the practicality of management. Designated Country Parks and Special Areas outside Country Parks are shown on Figure 1.

(b) Marine Parks and Marine Reserve – Marine Parks and Marine Reserve are designated under the Marine Parks Ordinance (Cap 476) and managed by the AFCD on the advice of the CMPB. At present, there are 5 Marine Parks (Yan Chau Tong, Hoi Ha Wan, Sha Chau & Lung Kwu Chau, Tung Ping Chau and The Brothers)

and 1 Marine Reserve (Cape D'Aguilar). They cover a total marine area of 3 400 ha. The establishment of Marine Parks and Marine Reserve is to protect and manage ecologically important marine environment for the purposes of conservation, education and recreation and to bring long-term benefit to the community through conserving the marine environment. Designated Marine Parks and Marine Reserve are shown on Figure 2.

(c) Restricted Areas – To protect the important wetland habitats, the core part of the Mai Po Marshes, mangroves and inter-tidal mudflat of Inner Deep Bay is scheduled as Restricted Area under the Wild Animals Protection Ordinance (Cap 170). Three Restricted Areas have been designated, namely the Mai Po Marshes, Yim Tso Ha and Sham Wan of the Lamma Island. They are also shown on Figure 2. The Ordinance restricts access to designated areas of wildlife habitat. Access controls at the Restricted Areas under the Ordinance are implemented by the AFCD. The Town Planning Board has also designated special land use zones to conserve these areas and issued guidelines for planning application for developments within Deep Bay area to prevent adverse impact of development projects on the wetland habitats. The development control of these areas is further elaborated in subsequent section on preparing plans to conserve natural landscapes and habitats.

(d) Ramsar Site – In Mai Po Marshes and Inner Deep Bay, an area of approximately 1 500 ha of wetland was listed as a Ramsar Site under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (i.e. Ramsar Convention) on 4 September 1995. This Ramsar Site is an estuarine inter-tidal mudflat backed by dwarf mangroves, shrimp ponds and fishponds. Other habitats within the Ramsar Site include reedbeds, marshes, rivers and channels. The listing of the wetland as Ramsar Site is a formal recognition of the international importance of its special value for maintaining the genetic and ecological diversity because of the quality and peculiarities of the flora and fauna.

(e) Water Gathering Grounds – Water Gathering Grounds comprise areas which are conserved for use as water catchment. There are four broad categories, which may warrant different controls on use and development. These are:

- (i) Lower Direct Gathering Grounds;
- (ii) Upper Direct Gathering Grounds;
- (iii) Lower Indirect Gathering Grounds; and
- (iv) Upper Indirect Gathering Grounds.

The Water Supplies Department (WSD) has specific requirements to control or restrict development and land use in Water Gathering Grounds. For planning and management in Water Gathering Grounds, WSD should be consulted.

(f) Priority Sites – In 2004, the Government identified 12 Priority Sites<sup>3</sup> for enhanced conservation under the New Nature Conservation Policy (NNCP). Under the NNCP, new proactive measures aiming to promote conservation of these sites in collaboration with the private sector include the Management Agreement Scheme (MA) and Public-Private Partnership Scheme (PPP). Under the MA, non-government organisations (NGOs) may apply for funding from the Government for entering into management agreements with the landowners or tenants. The NGOs can provide the landowners or tenants with financial incentives in exchange for management rights over their land or their cooperation in enhancing conservation of the sites concerned. Under the PPP, development at an agreed scale would be allowed at the ecologically less sensitive portion of a Priority Site provided that the project proponent undertakes to conserve and manage, on a long-term basis, the rest of the site that is ecologically more sensitive. The proposal to develop is subject to assessment by the Government and consideration by the Advisory Council on the Environment (ACE).

(g) Geopark – The Hong Kong United Nations Educational, Scientific and Cultural Organization (UNESCO) Global Geopark (the Hong Kong UNESCO Global Geopark), with a total land area of over 150 km<sup>2</sup>, is established to promote geo-conservation, science popularization and local engagement activities within the Geopark. It is managed by AFCD and protected under the Country Parks Ordinance and the Marine Parks Ordinance. It comprises the Sai Kung Volcanic Rock Region characterized by hexagonal volcanic rock columns, and the Northeast New Territories Sedimentary Rock Region representing the most comprehensive stratigraphy of sedimentary rocks in Hong Kong. Location of the Hong Kong UNESCO Global Geopark is shown on Figure 2.

(h) Sites of Special Scientific Interest – Sites of Special Scientific Interest (“SSSIs”) may be land based or marine sites, which are of special interest because of their flora, fauna, geographical or geological features. “SSSIs” are identified by the AFCD. The Planning Department maintains a register of “SSSIs”. Once designated, the “SSSI” zones will be shown on statutory town plans and non-statutory town plans where appropriate. Normally no new development will be permitted within a “SSSI” zone unless it

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<sup>3</sup> The locations and profiles of the Priority Sites are available on the website of AFCD at [www.afcd.gov.hk](http://www.afcd.gov.hk).

is necessary for conservation of the site. Departments concerned with planning and development should be aware of the scientific importance of “SSSIs” and should ensure that due consideration is given to conservation when development at or near these sites is proposed. AFCD should be consulted for any proposed development at or in the proximity of any “SSSI”. The 67 existing “SSSIs” are shown on Figure 3.

(i) Ecologically Important Streams<sup>4</sup> – Ecologically Important Streams (EIS) are natural streams or rivers with important ecological functions such as providing habitats for diverse or rare animal or plant communities. The EISs are identified and updated from time to time by AFCD in respect to their naturalness, diversity, and uniqueness based on the latest available ecological information. For development projects that may affect EIS, prior consultation with AFCD and other relevant authorities<sup>5</sup> should be made.

(j) Town Plans – Areas of conservation use may be designated as conservation zones on statutory town plans, i.e. Outline Zoning Plans (OZPs) and Development Permission Area (DPA) Plans, prepared by the Town Planning Board under the Town Planning Ordinance (Cap 131), and non-statutory town plans i.e. Outline Development Plans (ODPs) and Layout Plans (LPs) prepared by the Planning Department. This process is further discussed in the subsequent section on preparing plans to conserve natural landscapes and habitats.

(k) Others – Apart from designating areas of conservation use, other measures are in force to protect animals and plants. The Forests and Countryside Ordinance (Cap 96) prohibits felling, cutting, burning or destroying of trees and growing plants in forests and plantations on Government land. Its subsidiary legislation, the Forestry Regulations (Cap 96A), prohibits the picking, felling, selling or possession of listed plant species. The Wild Animals Protection Ordinance (Cap 170) mentioned in paragraph 3.5.1 (c) above also contains provisions to protect local wildlife through both the prohibition of hunting territory-wide and the possession of scheduled protected wild animals or hunting appliances. In addition, there are measures which cover the retention, removal and replacement of trees, particularly old and valuable trees on Government land, which are dealt with in more detail in Chapter 4 of the HKPSG. Should there be any works proposed on

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<sup>4</sup> The updated list of EIS including the map showing their distribution is available on the website of AFCD at [www.afcd.gov.hk](http://www.afcd.gov.hk).

<sup>5</sup> Reference should be made to Environment, Transport and Works Bureau Technical Circular (Works) No. 5/2005 (on the website of DEVB at [www.devb.gov.hk](http://www.devb.gov.hk)) for the authorities to be consulted and requirements to be observed.

Government land or private land that have implications on conservation or tree preservation aspects, the proponent should approach relevant authorities for prior consent or approval before commencement of any works.

### 3.6 **Preparing Plans to Conserve Natural Landscapes and Habitats**

3.6.1 The planning intention to conserve is derived from both planning studies and inputs from Government and non-government organisations. Suitable conservation proposals should be formulated in relevant planning, development or topical studies so as to form the basis for the preparation of statutory town plans and assessment on nature conservation and consideration on biodiversity should be included where appropriate. New information on identification of areas of unique or significant landscape and local fauna, flora and habitats are revealed constantly through consultancy studies, academic researches and the work of both Government and non-government organisations. Examples of the studies include Habitat Mapping under the Sustainable Development for the 21<sup>st</sup> Century and Landscape Value Mapping of Hong Kong. These two studies have identified habitats of ecological value and areas of unique or significant landscape quality respectively. A number of inventories are kept both within Government and concerned non-government organisations providing information on conservation resources. It is important that existing designated conservation areas are shown on plans clearly and accurately, and that potential conservation areas are also shown whenever possible so that opportunities to conserve are not overlooked.

#### *Statutory Town Plans*

3.6.2 The Town Planning Ordinance empowers the Town Planning Board to prepare town plans with statutory land use zones under section 4(1)(g) for ‘country parks, coastal protection areas, sites of special scientific interest, green belts or other specified uses’ to promote conservation or protection of the environment.

Some of the major conservation zones on statutory town plans i.e. OZPs and DPA Plans include :

(i) “Country Park”	To reflect a country park or special area as designated under the Country Parks Ordinance (Cap 208), where all uses and developments require consent from the Country and Marine Parks Authority.
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(ii) “Coastal Protection Area”	To conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development; and to cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion, with a general presumption against development.
(iii) “Site of Special Scientific Interest”	To conserve and protect the features of special scientific interest such as rare or particular species of fauna and flora and their habitats, corals, woodlands, marshes or areas of geological, ecological or botanical/biological interest which are designated as SSSI and to deter human activities or developments within the SSSI, with a general presumption against development.
(iv) “Conservation Area”	To protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as SSSI or Country Park from the adverse effects of development. There is a general presumption against development in this zone.
(v) “Green Belt”	To primarily conserve the existing natural environment amid the built-up areas/at the urban fringe, to safeguard it from encroachment by urban type development, to define the limits of urban and sub-urban development areas by natural features, to contain urban sprawl as well as to provide passive recreational outlets, with a general presumption against development.

To avoid duplication of statutory authority, development control in the “Country Park” is mainly carried out by the Land Authority (i.e. Director of Lands) on advice from the Country and Marine Parks Authority.

3.6.3 To regulate developments within the wetland area around Mai Po Marshes and Inner Deep Bay near the Ramsar Site, the following land use zones are introduced in the OZPs within these areas:

(i) “Conservation Area”	To discourage new development unless it is required to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest.
(ii) “Other Specified Uses (Comprehensive Development and Wetland Enhancement Area)”	For conservation and enhancement of ecological value and functions of the existing fishponds or wetland through consideration of application for development or redevelopment under the “private-public partnership approach”. The “no-net-loss in wetland” principle is adopted for any change of use in this zone.
(iii) “Other Specified Uses (Comprehensive Development to include Wetland Restoration Area)”	To provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands.
(iv) “Other Specified Uses (Comprehensive Development and Wetland Protection Area)”	To allow consideration of comprehensive low-density residential development or redevelopment provided that all the existing continuous and contiguous fish ponds within the zone are protected and conserved. The

“no-net-loss in wetland” principle is adopted for any change in use within the zone.

Development within these zones should also comply with the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under section 16 of the Town Planning Ordinance (TPB PG-No. 12C)<sup>6</sup>.

#### *Non-statutory Town Plans*

3.6.4 Non-statutory town plans and supporting planning documents should also be used to express the planning intention to protect conservation zones. Broad conservation sites should be identified and an overall framework of conservation should be reflected in planning and development studies as appropriate. At the district level, ODPs and LPs are prepared at scales which enable small sites to be shown. Relevant symbol should be used to annotate the following different categories of conservation sites:

- (i) existing designated conservation zones; and
- (ii) potential conservation zones.

### **3.7 Nature Conservation and Development Control**

3.7.1 The development control measures, which can be used to protect areas of conservation value, are contained in the legislations or administrative provisions. The legislative provisions set out the procedures and types of decision, which the decision-making authorities must follow when considering issues that affect designated areas. Administrative provisions are usually put into practice through consultation amongst concerned departments and discussion by an appropriate committee (e.g. District Planning Conference).

3.7.2 There is a general presumption against development within areas designated for conservation use. Conservation zones on statutory town plans permit very few uses other than those that are necessary to manage the resource, and some uses require the planning permission from the Town Planning Board. Development in Country Parks, Special Areas, Marine Parks and Marine Reserve will be carefully considered by both the Country and Marine Parks Authority and the Land Authority (in consultation with the Country

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<sup>6</sup> The Town Planning Board guidelines are available on the website of Town Planning Board at [www\(tpb.gov.hk](http://www(tpb.gov.hk)

and Marine Parks Authority). These authorities will ensure that minimum impact on these areas be kept at a reasonable balance between the legitimate interest of the land owners as well as the country and marine park users. For major development proposals involving country parks and marine parks, public consultation will be conducted.

3.7.3 When town plans are being prepared, the wider implications of conservation zones must be considered. Certain land uses are not satisfactory neighbours, e.g. polluting industry next to natural habitat; a SSSI designated as a wildlife habitat may only be sustainable if the wider surroundings remain rural so as to provide feeding grounds; and a wetland site may only be sustained if a particular water source is protected. Where conservation zones are involved, the compatibility of the proposed development with the planning intention of the zoning of development site and that of the adjoining land, as well as biodiversity in the local area, should all be taken into consideration.

3.7.4 Development projects which are defined as Designated Projects (DPs) under the Environmental Impact Assessment Ordinance (EIAO) (Cap 499) are subject to the statutory EIA process:

- (i) DPs specified under Schedules 2 and 3 of EIAO, unless exempted, have to go through EIA process, but only those listed in Schedule 2 require environmental permit (EP) for the construction and operation (if applicable, and decommissioning) of the project.
- (ii) Impacts on flora, fauna and habitats, particularly of high ecological / conservation value, will be assessed and evaluated through the statutory EIA process in accordance with the Technical Memorandum on EIA Process and EIA Study Brief requirements.
- (iii) Environmental Protection Department (EPD) will consult AFCD for advice on the issues related to nature conservation and ecological assessment. In the environmental permit (EP), mitigation measures shall be set, where appropriate, as conditions of implementing the projects. EPD, together with the relevant authorities, also enforce the EP through site inspections, review of environmental monitoring and audit reports provided by qualified independent environmental checkers that project proponents may engage under EP, to ensure that the EP holders comply with EP conditions.

3.7.5 For government projects which are not DPs under the EIAO, Preliminary Environmental Review may be required to identify

environmental impacts associated with the projects, confirm environmental acceptability, determine the necessary mitigation measures and ascertain the need for additional environmental studies<sup>7</sup>.

3.7.6 Development should normally avoid declared or potential area for conservation use. A proposal to amend a conservation zone or to replace such areas with a different use which permits essential development may only be considered in exceptional circumstances. In these circumstances it must be clearly shown that alternative development sites have been considered but have had to be rejected for sound reasons (e.g. critical timing, prohibitive cost or technical limitations). Salvage potential should be considered, together with possible off-site compensatory provision. The relevant Government departments should be consulted to ensure that the possibility of off-site compensatory works has been fully explored and that suitable sites have been proposed for such compensatory works. Each application will be judged on its own merits by the relevant advisory bodies (e.g. ACE or CMPB) and when appropriate by the Town Planning Board. It is essential that the background to each application is fully researched and that the critical issues are identified.

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<sup>7</sup> Please refer to Environment, Transport and Works Bureau Technical Circular (Works) No. 13/2003, Appendix A, (on the website of DEVB at [www.devb.gov.hk](http://www.devb.gov.hk)) for the procedures for dealing with environmental implications of government projects or proposals not covered by EIAO.

#### **4. Conservation of Declared Monuments, Historic Buildings, Sites of Archaeological Interest and Other Heritage Items**

4.1 Hong Kong is rich in cultural heritage. It is important to rehabilitate and preserve unique cultural heritage as this not only accords with our objective of sustainable development but also facilitates the retention of the inherent characteristics of different districts, and helps engender a sense of place and belonging. Heritage conservation is the protection of declared monuments, historic buildings, sites of archaeological interest and other heritage items but in a wider sense implies respect for local activities, customs and traditions. The concept is to conserve not only individual items but also respecting their wider urban or rural setting. Though construction of new buildings and replacement of old buildings may sometimes be inevitable for various reasons, due consideration should be given in conservation of cultural heritage as appropriate.

##### **4.2 Heritage Conservation Policy**

The policy statement on heritage conservation is “to protect, conserve and revitalise as appropriate historical and heritage sites and buildings through relevant and sustainable approaches for the benefit and enjoyment of present and future generations. In implementing this policy, due regard should be given to development needs in the public interest, respect for private property rights, budgetary considerations, cross-sector collaboration and active engagement of stakeholders and the general public.” The principal measures for heritage conservation are reviewed below. Relevant legislation and guidelines are listed in Appendices 1 and 2.

##### **4.3 Declaration of Monuments**

Under Section 3 of the Antiquities and Monuments Ordinance (Cap 53), the Antiquities Authority (the Secretary for Development) may, after consultation with the Antiquities Advisory Board (AAB) and with the approval of the Chief Executive, “declare any place, building, site or structure, which the Authority considers to be of public interest by reason of its historical, archaeological or palaeontological significance, to be a monument, historical building, archaeological or palaeontological site or structure” (declared monument is legally a generic term for all four categories). No person shall undertake acts on declared monuments that

are prohibited under section 6 of the Antiquities and Monuments Ordinance, such as to excavate, carry out building or other works, or plant or fell trees, without a permit granted by the Antiquities Authority<sup>8</sup>. A plan showing the locations of declared monuments is at Figure 4. The up-to-date list of declared monuments and their related details are available on the website of the Antiquities and Monuments Office (AMO) of the Development Bureau (DEVB) at [www.amo.gov.hk](http://www.amo.gov.hk) or the Government website on heritage conservation at [www.heritage.gov.hk](http://www.heritage.gov.hk).

#### **4.4 Identification and Recording of Historic Buildings, Sites of Archaeological Interest and Other Heritage Items**

4.4.1 The AMO is responsible for identifying, recording and researching on buildings, sites of historical or archaeological interest and other heritage items. These efforts will facilitate the AAB to advise the Antiquities Authority on the declaration of monuments, measures to promote the restoration and conservation of historic buildings, the conservation and investigation of archaeological items, etc. A data record is maintained, updated and circulated to relevant Government departments. The identification and recording of heritage/archaeological items is an ongoing process and any new items discovered should be referred to the AMO for follow-up action.

##### *Identification and Recording of Historic Buildings*

4.4.2 The AMO periodically identifies historic buildings. Once identified as having potential heritage value, buildings are entered into the record. In order to facilitate the AAB's assessment of the historical and architectural merits of buildings and structures, criteria including historical interest, architectural merit, group value, social value and local interest, authenticity and rarity are taken into account.

##### *Grading of Historic Buildings*

4.4.3 The recorded historic buildings may be graded by the AAB. The aim of the grading is to identify and compare the heritage value of historic buildings and to provide a guide for consideration on how a particular building should be preserved. Endorsed gradings may be subject to review and revision. Buildings that are graded are

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<sup>8</sup> Apart from “declared monuments”, the Antiquities and Monuments Ordinance also stipulates under Sections 2A to 2C that the Antiquities Authority may, after consultation with the AAB, declare any place, building, site or structure as a “proposed monument”. This is to provide protection for the proposed monument during the interim period when the Antiquities Authority considers whether it should be declared to be a monument or not. The effective period is 12 months only. Similar statutory controls applicable to a declared monument are also applicable to a proposed monument.

classified into the following categories:

- (i) Grade 1 – Buildings of outstanding merit, which every effort should be made to preserve if possible.
- (ii) Grade 2 – Buildings of special merit; efforts should be made to selectively preserve.
- (iii) Grade 3 – Buildings of some merit; preservation in some form would be desirable and alternative means should be considered if preservation is not practicable.

The list of graded historic buildings is available on the website of the AAB ([www.aab.gov.hk](http://www.aab.gov.hk)), AMO or the Government website on heritage conservation, the addresses of which are given in para. 4.3 above.

4.4.4 The grading system is an administrative mechanism carrying no legal effect. Nevertheless, the list of Grade 1 buildings will be regarded as providing a pool of highly valuable heritage buildings for active consideration by the Antiquities Authority for possible declaration as monuments under the Antiquities and Monuments Ordinance. Subject to sufficient justifications, it is also possible for the Antiquities Authority to suggest Grade 2, Grade 3 or even ungraded buildings for declaration.

#### *Recording of Sites of Archaeological Interest*

4.4.5 Relics fashioned by man before 1800 (and discovered after 1976) belong to the Government under the Antiquities and Monuments Ordinance. The excavation and search for such relics require a licence from the Antiquities Authority. Once identified as having the potential for conservation, sites of archaeological interest are entered into the record.

#### *Recording of Other Heritage Items*

4.4.6 The AMO also maintains a record of other heritage items including structures and features of historic interest such as old street furniture (e.g. lamp posts, fountains), commemorative tablets, foundation stones, boundary stones, milestones, etc. They are of varying degrees of historical significance but together they form a body of rich historical data. The identification and recording of the

heritage items is an ongoing process and any new items discovered should be referred to the AMO for follow-up action. When preserved, they could enhance the local character, provide tangible links with the historical past and be a major source of cultural identity.

#### **4.5 Preparing Plans to Conserve Declared Monuments, Historic Buildings, Sites of Archaeological Interest and Other Heritage Items**

##### *Statutory Town Plans*

4.5.1 The existing Town Planning Ordinance does not have provisions for the protection of declared monuments, historic buildings, sites of archaeological interest and other heritage items. It is also generally not possible to indicate on the statutory town plans, i.e. OZPs and DPA Plans, anything other than the wider ‘use’ in which these heritage items are located, e.g. an ancestral hall within a “Village Type Development” zone or an archaeological relic within a “Conservation Area” zone. However, it is important that the information related to existing declared and proposed monuments, graded historic buildings, and sites of archaeological interest are reflected on the relevant statutory town plans by making reference to the website of the AAB ([www.aab.gov.hk](http://www.aab.gov.hk)), AMO or the Government website on heritage conservation in the Explanatory Statements and that prior consultation with AMO is necessary for any developments or rezoning proposals affecting these sites or buildings and their immediate environment.

##### *Non-statutory Town Plans*

4.5.2 Non-statutory town plans and supporting planning documents should be used to express the planning intention to protect declared monuments, historic buildings, sites of archaeological interest, and other heritage items. Declared monuments, historic buildings and sites of archaeological interest should be identified and an overall framework of conservation should be reflected in planning and development studies as appropriate. Layout Plans are prepared at scales which enable small sites to be shown. Hence, all these heritage items should be shown on such plans and annotated with relevant symbol to indicate the following:

- (i) declared monuments;
- (ii) recorded sites of archaeological interest;
- (iii) graded historic buildings; and
- (iv) other heritage items.

## 4.6 Heritage Conservation and Development Control

4.6.1 In the planning process, efforts should be made to protect and preserve buildings of historical or architectural merits either in their own right or as an integral part of a group or series of buildings. Town planners play an important role in recommending appropriate zonings and uses in achieving conservation, enhancing the environment of historic buildings and integrating the buildings with the surrounding developments through responsive design. Many factors including ownership, land status, existing land use and development rights should be taken into account in planning for the conservation of declared monuments and historic buildings. The AMO should be consulted for any land use or development proposals which may affect a declared monument or a historic building and its setting. Since not all the historic buildings are declared under the Antiquities and Monuments Ordinance, in many situations the existing town planning mechanisms may encourage the owners to conserve the whole or part of a historic building through administrative means. The Government recognises the need for economic incentives in order to encourage and facilitate private owners to preserve their historic buildings. Private owners are encouraged to explore the possibility of “preservation-cum-development” options to incorporate their historic buildings in the future development. The Government is willing to discuss with private owners to derive options for preservation and possible economic incentives that are commensurate with the heritage value of the historic buildings. In implementing this policy, the Government aims to strike a proper balance between preservation of historic buildings and respect for private property rights. Given individual circumstances, the requisite economic incentives to achieve the policy objective will be considered on a case-by-case basis.

4.6.2 Planning in both rural and urban areas should recognise the value of archaeological heritage as a cultural resource. In the planning process, the preservation of sites of archaeological interest must be given full and advance consideration. ‘Preservation by record’ (i.e. through salvage excavation to extract the maximum data) will normally only be considered in the most extreme cases. In such cases it must be proved beyond reasonable doubt that no other alternatives exist and that the socio-economic benefits of a project demonstrably and significantly outweigh the cultural significance of the site of archaeological interest and its integrity. Hence efforts should be made to avoid encroachment of development onto sites of archaeological interest by appropriate land use zoning e.g. to conserve main deposit area(s) of the sites by turning them into

passive amenities areas. The AMO should be consulted for any land use or development proposals which may affect a site of archaeological interest and its setting. If disturbance of the sites of archaeological interest and sites of archaeological potential is unavoidable, a detailed Archaeological Impact Assessment (AIA) conducted by a qualified archaeologist is required for development works within the sites. The Archaeologist shall apply for a licence to conduct the AIA under the Antiquities and Monuments Ordinance. A proposal of the AIA shall be submitted to AMO for agreement prior to applying for a licence.

- 4.6.3 A declared monument, a historic building or a heritage item is directly related to the context, setting and visual spectrum within which the site can be experienced. In the planning process, efforts should be made to ensure that the setting of these sites could be preserved with consideration given to the impact which neighbouring land uses may have upon it. Such consideration should take account of the visual impact, alteration of the landscape (including impact on significant trees) and physical intrusion or overshadowing of high buildings in adjacent developments, compatibility between uses, air flow, buffer zones, etc.
- 4.6.4 Other heritage items such as lamp posts, boundary stones, foundation stones etc. should be preserved at the early planning stage. In formulating land use proposals, consideration should be given to preserve these items in-situ by blending them with the surrounding land use or creating suitable amenities areas around them. When these features are affected by development proposals, the AMO should be consulted on the appropriate means of preserving these features either in-situ or otherwise.
- 4.6.5 In processing a redevelopment / conservation proposal for a declared monument, recorded site or graded building, the concerned Government departments including the AMO and the Commissioner for Heritage's Office (CHO) of the DEVB should be consulted. In addition, for declared monuments, the provision in the Antiquities and Monuments Ordinance on control of monuments has to be strictly complied with. The requirement of the EIAO on the need to carry out impact assessment studies will also need to be observed. The requirement of keeping the monuments intact, any alternative use of the site and its potential for environmental improvements should be duly considered and assessed. If a historic building falls within a larger redevelopment site, the historic building should be incorporated into the redevelopment scheme as far as possible. Expert advice from the AMO and the Architectural Services Department (ArchSD) should be sought on whether the new design could effectively blend in with the old harmoniously in terms of character, scale and visual impact.

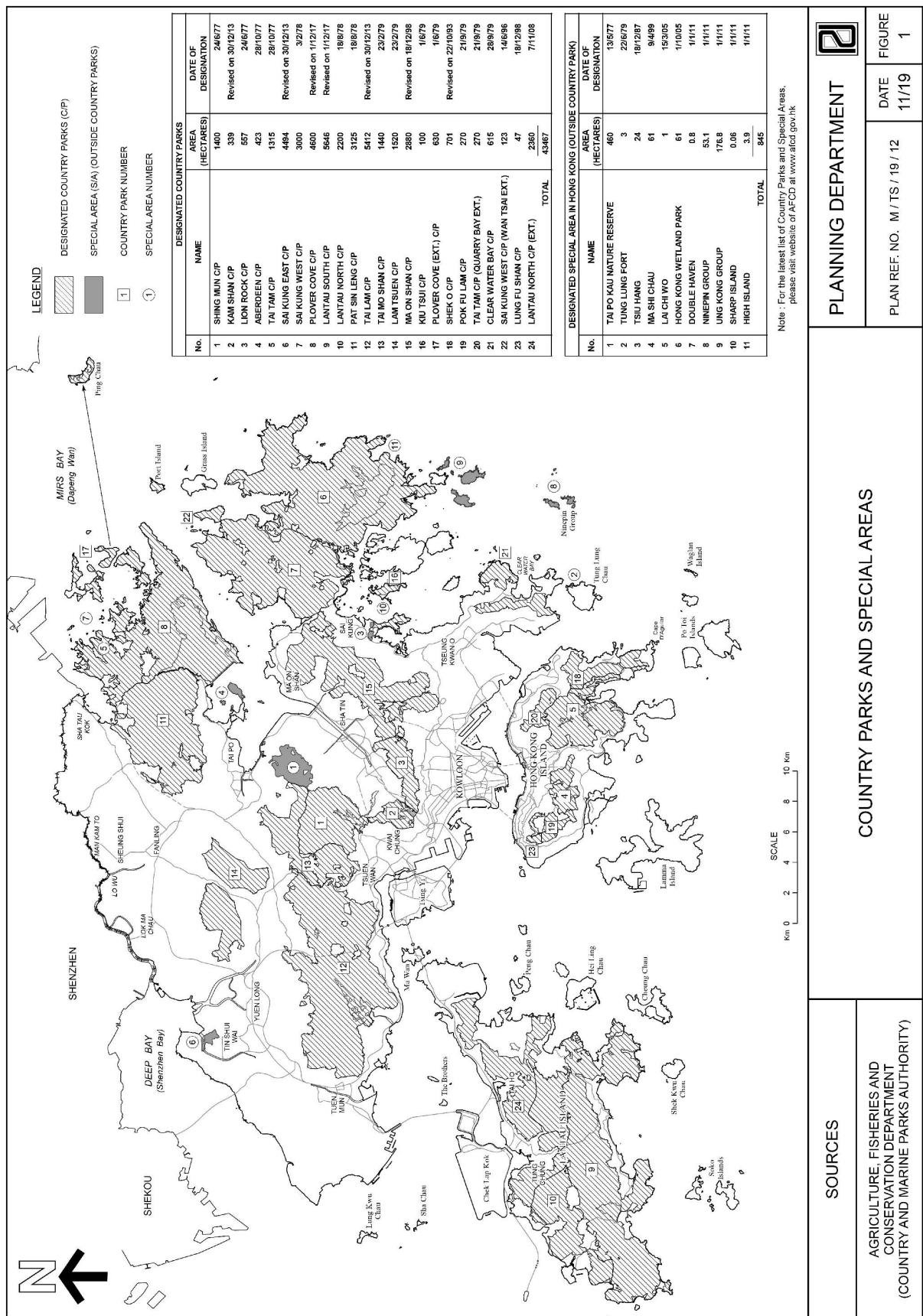
Where the original use of the building is no longer continued, adaptive re-use of the building should be conscientiously considered. New use should aim to conserve the heritage values and significance of the historic building to ensure authenticity and integrity of the cultural heritage.

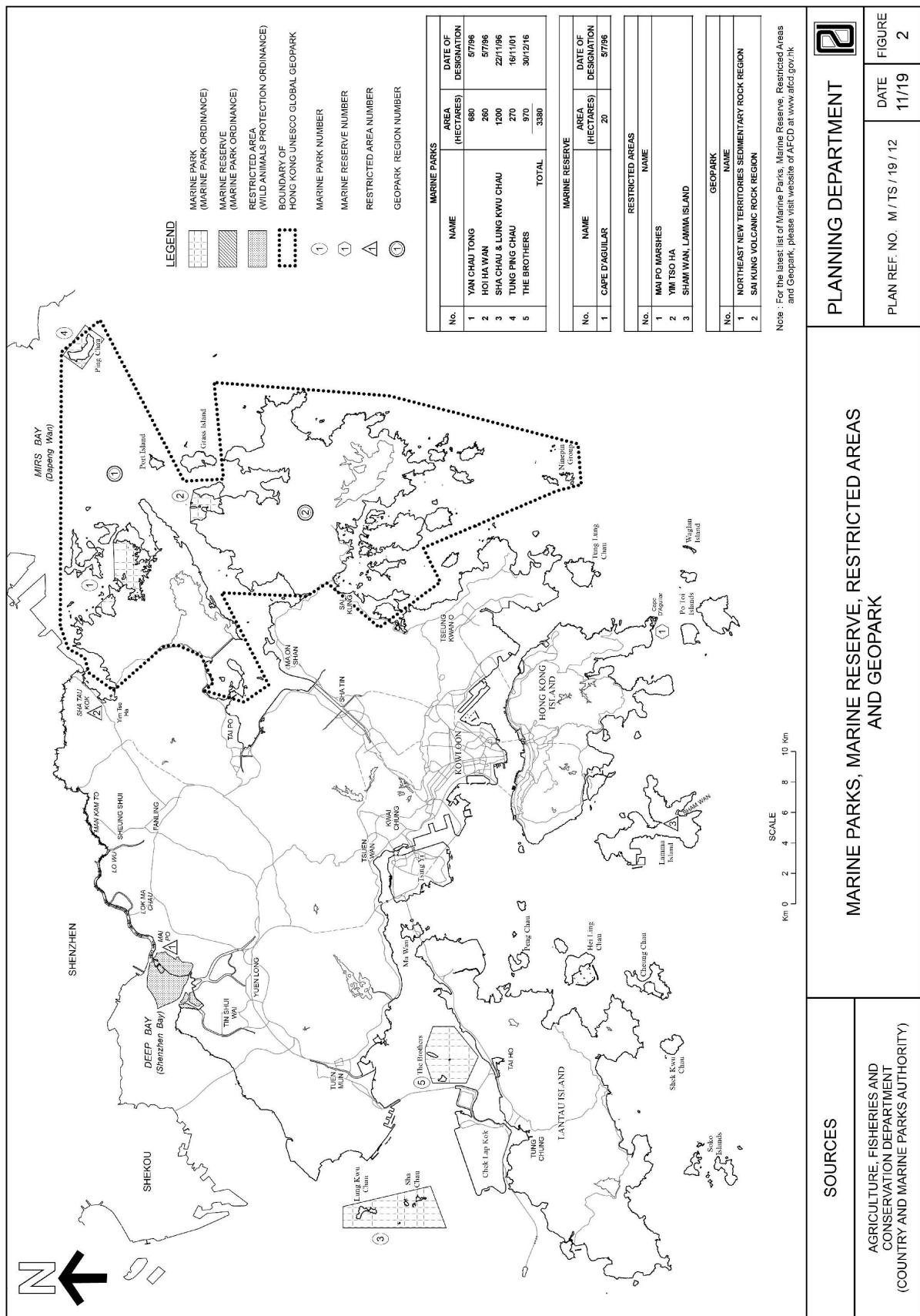
- 4.6.6 Care must be taken to ensure, whenever possible, that declared monuments, historic buildings, sites of archaeological interest and recorded heritage items do not suffer damage as a side effect of development. As outlined in para. 3.7.4 above, Designated Projects are subject to the provisions of the EIAO. During the EIA process, conservation assets are normally identified and specialist advice is sought from relevant Government departments. If residual impacts are considered acceptable, ameliorative measures may then be agreed and the development proposal be amended to incorporate the monument or recorded item as a fully integrated feature of the development. The AMO is the executive arm of the Antiquities Authority for issues concerning conservation of built and archaeological heritage. Environmental planning in Hong Kong is dealt with in more detail in Chapter 9 of the HKPSG.
- 4.6.7 When a change of use is proposed which permits the site to retain its physical integrity, advice should be sought from concerned departments on whether or not the proposal is acceptable. Consultation may also be necessary through the District Offices and with special interest groups outside Government. In general terms, the intention to conserve must be the main consideration. It must, however, be supported by the identification of a sustainable use for the conserved site and a responsible management body.
- 4.6.8 The CHO of the DEVB provides a focal point as well as a central point of contact for the Government's heritage conservation work. The Government has introduced a number of conservation initiatives since the promulgation of the Heritage Conservation Policy of 2007. Works agents of all new capital works projects are required to check with the AMO whether their projects will affect heritage sites and thus require the conduct of Heritage Impact Assessment in accordance with the Development Bureau Technical Circular (Works) No. 6/2009 - Heritage Impact Assessment Mechanism for Capital Works Projects. Under the Revitalising Historic Buildings Through Partnership Scheme, selected Government-owned historic buildings are revitalised for adaptive re-use by non-profit-making organisations with financial assistance from the Built Heritage Conservation Fund (BDCF) of the DEVB. As for privately-owned historic buildings, the Government actively engages stakeholders in devising appropriate economic incentives to encourage and facilitate private owners to preserve these buildings. Moreover, the Financial Assistance for Maintenance Scheme on Built Heritage under the BDCF, which provides grant to

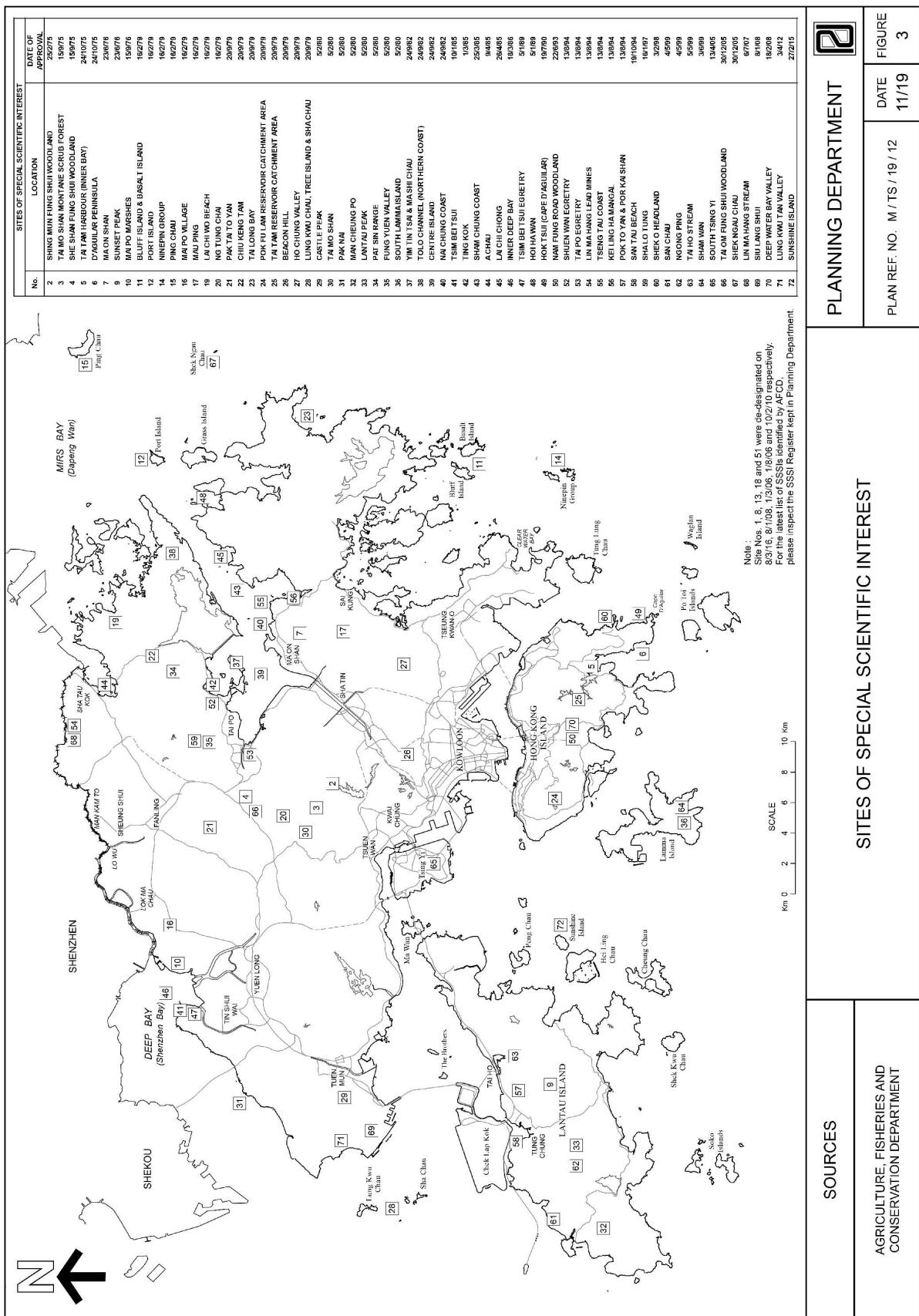
encourage the maintenance of historic buildings, has been extended to cover not only privately-owned graded historic buildings, but also government-owned declared monuments and graded historic buildings which are leased to non-profit-making organisations, subject to certain conditions.

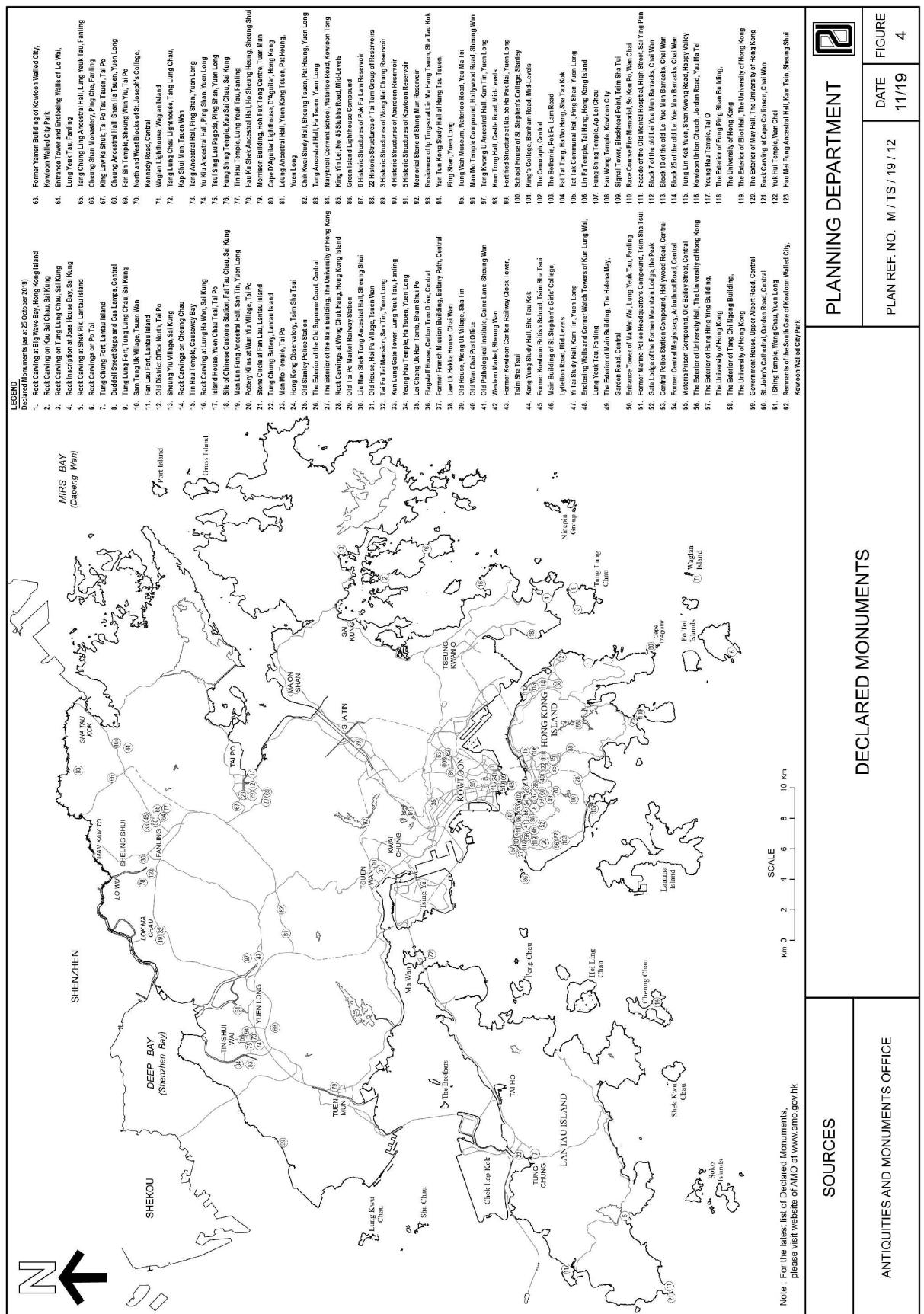
## **5. Enforcement**

5.1 Conservation measures should be enforced under the most appropriate ordinance. Within Country Parks, Marine Parks, Marine Reserve and Special Areas, the Country and Marine Parks Authority and/or the Land Authority (in consultation with the Country and Marine Parks Authority) will take enforcement action. Enforcement of the Forests and Countryside Ordinance and the Wild Animals Protection Ordinance are the responsibilities of the AFCD. Enforcement action against offences under the EIAO is the responsibility of the EPD. The Planning Authority (i.e. the Director of Planning) is empowered under the Town Planning Ordinance to take enforcement / prosecution actions against unauthorized developments in areas covered by a DPA plan or an OZP which has replaced the DPA plan. Stop Notices could be issued against the landowner, occupier or person responsible for the unauthorized development if the development would constitute a health or safety hazard; adversely affect the environment; or make it impracticable or uneconomical to reinstate the land within a reasonable period. Priority actions would be taken against unauthorized developments within conservation zones, such as “SSSI” and “Conservation Area” zones. Declared monuments are protected under the Antiquities and Monuments Ordinance through the AMO. Close contact should be maintained among the Planning Authority and the various conservation authorities.









## Appendix 1

### **LEGISLATION AND ADMINISTRATIVE CONTROLS FOR CONSERVATION**

<u>Item</u>	<u>Authority (Administered by)</u>
<b>1. Legislation</b>	
1.1 Country Parks Ordinance (Cap 208)	Country & Marine Parks Authority (Agriculture, Fisheries and Conservation Department)
1.2 Marine Parks Ordinance (Cap 476)	Country & Marine Parks Authority (Agriculture, Fisheries and Conservation Department)
1.3 Wild Animals Protection Ordinance (Cap 170)	Director of Agriculture, Fisheries and Conservation (Agriculture, Fisheries and Conservation Department)
1.4 Waterworks Ordinance (Cap 102)	Water Authority (Water Supplies Department)
1.5 Antiquities and Monuments Ordinance (Cap 53)	Secretary for Development (Antiquities and Monuments Office)
1.6 Town Planning Ordinance (Cap 131)	Town Planning Board (Planning Department)
1.7 Forests and Countryside Ordinance (Cap 96)	Director of Agriculture, Fisheries and Conservation (Agriculture, Fisheries and Conservation Department)
1.8 Environmental Impact Assessment Ordinance (Cap 499)	Director of Environmental Protection (Environmental Protection Department)
<b>2. Administrative Regulation</b>	
2.1 Sites of Special Scientific Interest	Director of Agriculture, Fisheries and Conservation (Agriculture, Fisheries and Conservation Department)
2.2 Outline Development Plans / Layout Plans	Director of Planning (Planning Department)

**OTHER CONSERVATION RELATED GUIDELINES**

1. Environment, Transport and Works Bureau Technical Circular (Works) No. 13/2003	Guidelines and Procedures for Environmental Impact Assessment of Government Projects and Proposals
2. Environment, Transport and Works Bureau Technical Circular (Works) No. 5/2005	Protection of Natural Streams / Rivers from Adverse Impacts Arising from Construction Works
3. Technical Memorandum on Environmental Impact Assessment Process Annex 8	Criteria for Evaluating Ecological Impact
4. Technical Memorandum on Environmental Impact Assessment Process Annex 16	Guidelines for Ecological Assessment
5. Town Planning Board Guidelines TPB-PG No. 10	Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance
6. Town Planning Board Guidelines TPB PG-No. 12C	Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance
7. Works Bureau Technical Circular 4/1997	Guidelines for Implementing the Policy on Off-site Ecological Mitigation Measures
8. Buildings Department Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-69	Conservation of Historic Buildings
9. Buildings Department Guidelines	Practice Guidebook for Adaptive Re-use of and Alteration and Addition Works to Heritage Buildings 2012 (2019 Edition)
10. Development Bureau Technical Circular (Works) No. 6/2009	Heritage Impact Assessment Mechanism for Capital Works Projects
11. Technical Memorandum on Environmental Impact Assessment Process Annex 10	Criteria for Evaluating Visual and Landscape Impact, and Impact on Sites of Cultural Heritage

12. Technical Memorandum on Environmental Impact Assessment Process Annex 19	Guidelines for Assessment of Impact on Sites of Cultural Heritage and Other Impacts
13. Environmental Impact Assessment Ordinance-Guidance Notes of the Assessment of Impact on Sites of Cultural Heritage in Environmental Impact Assessment Studies	

Note: Users should refer to the latest version of the above documents.



# Conservation

