6. IMPLEMENTATION MECHANISM

6.1. Planning Brief

6.1.1. Worth highlighting is that the RDO presented in Chapter 5 is prepared for the sake of illustrating that a feasible scheme can be achieved within the many objectives and constraints identified. The details in particular those related to layout planning, building design and landscaping are not meant to be final but rather to provide a basis for formulating a feasible development framework which will maintain adequate control and allow sufficient flexibility at the same time. The framework is being consolidated during the course of the Study and presented in the form of a Planning Brief.

6.1.2. The Planning Brief (Appendix VI) sets out the planning parameters and development requirements for the project. Apart from the background and principles, the Planning Brief specifies the planning intention and parameters; heritage conservation requirements, urban design and landscape guidelines; traffic and transport requirements, environmental and geotechnical requirements; and the required statutory and administrative procedures.

6.2. Site Disposal

The possible roles of the public and the private sector in implementing the project are explored below.

6.2.1. Public Lead – Government Maintaining Ownership

6.2.1.1. The Site falls within government ownership except for the two licenses granted to the Yau Ma Tei and Tsim Sha Tsui Culture and Arts Association and the Welfare Handicrafts Shop for the two buildings fronting Salisbury Road. Under this approach the Government maintains ownership and undertakes renovation and maintenance responsibilities.

6.2.1.2. Preliminary estimates indicate that in maintaining the status quo of the Site, the Government will have to fully finance the restoration and maintenance works, and allocate an up-front capital investment of HK$162M and recurrent expense of HK$8.9M per annum. However the works under such Base Case Scenario will not be up to the standard for attracting the identified beneficial uses. The up-front costs for implementing the RDO would be HK$344M, with recurrent expenses of HK$16M per annum.

6.2.1.3. To reduce the financial burden, some space can be rented for commercial uses. The non-commercial space can be allocated to the identified end users at a nominal rent. The users will bear the maintenance and management costs.
6.2.1.4. While it may be feasible in technical terms, this approach is considered contrary to the fundamental objectives of the Study, as it is a requirement of the Study to explore alternatives that can release the Government from long term management and maintenance responsibilities.

6.2.2. Transfer of Plot Ratio/Development Right

6.2.2.1. This refers to the means of utilising the development potential of a conservation site but leaving the site intact. That is to transfer the potential from one site to another, and the benefits generated can then be used to save the conservation site and possibly to finance the conservation works if required.

6.2.2.2. The Study Brief specified that the implementation approach should be viable on the premise that the future developer(s)/occupant(s) of “the site and the buildings” would bear all the relevant costs i.e. non-insitu transfer of plot ratio/development would not be considered appropriate. In any case, non-insitu transfer of plot ratio/development right would require a major change in land administration and planning policy. Amendments to the Building Ordinance and town plans may also be required. The mechanism deserves an independent study in its own right and would involve lengthy discussion and public debate that will defeat the objective to release the Site as early as possible.

6.2.2.3. For in-situ transfer, options of utilising the undeveloped area of the Site and the air space above the historical building have been examined. Parties involved in the study process especially the Antiquities Advisory Board have raised strong reservations mainly due to their adverse impact on the integrity of the monument.

6.2.2.4. On the other hand, should the unused development potential of the Site be transferred to the adjoining site at Peking Road, the Government has to negotiate the terms (including the premium for the transfer) with the adjoining owner. The negotiation may be a lengthy and uncertain one, bearing in mind that the adjoining development is now under construction. Hence, this option is considered not feasible.

6.2.3. Private Lead – Responsibility Fully Transferred to Developer / Occupant(s)

6.2.3.1. Disposing of the Site to the market through land sale under the current practice is an effective means to release the Site as early as possible and transfer the rights and responsibilities to the developer/occupants.

6.2.3.2. A major issue facing this approach is that the developer(s) or user(s) interested in taking up the project would require certainty as to the nature of uses, the scale of allowable development, and any rules that must be followed. However, approvals from three separate authorities are required and there is no guarantee that approvals will be granted for
whatever scheme the developer put forward subsequent to the land grant.

6.2.3.3. To be specific, the three statutory requirements are described as follows:

- The Site is zoned “CDA” on the Tsim Sha Tsui OZP. Submission of a Master Layout Plan to the Town Planning Board for approval is required. Two months will be required for consideration of the application if formal approval is required.

- The Environmental Protection Department will classify the proposal as a Designated Project under the Environmental Impact Assessment Ordinance (EIAO) should the development involve major works on the monument. Submission of an EIA and application for Environmental Permit are required. For the EIA process, some 6.5 months may be required (including public inspection and consulting Advisory Council on the Environment) for the Director of Environmental Protection to approve a report. The actual time span would depend on whether an EIA study brief can be issued as part of the land sale or tender document. If possible, 1.5 months may be saved.

- According to the Antiquities and Monuments Ordinance, a permit is required for carrying out any works on a monument. The nature of the permission concerns mainly the impact of the proposed works on the monument. While there is no statutory period specified for the consideration of an application for a permit, three months are considered sufficient for collecting the views of the Antiquities Advisory Board (AAB), and seeking the endorsement of the Secretary for Home Affairs.

6.2.3.4. Lengthy discussion and negotiation is expected, which may take years. The market risk is therefore extremely high and is considered a disincentive. Methods in minimising market risk are essential.

6.2.3.5. It is however impracticable for the Government to apply in advance for approval as design details can only be provided by the developer/user. One possible way is for the Government to seek the advice of Town Planning Board and AAB on the in-principle acceptability of the development concept so that the two authorities will be prepared to consider later detailed proposals within an agreed context.

6.2.3.6. Three possible ways to dispose of the Site to the private sector are discussed below.

Auction

6.2.3.7. Following current practice, the Government prepares a land sale document (planning brief should be made available to bidders) to
provide the necessary details for the bidders. At the auction, the Site will be sold to the developer offering the highest bid.

6.2.3.8. In order to protect the integrity of the monument, developers while being granted the right to develop the Site will also be required to renovate the historical buildings. Approval of the design and implementation details should be sought from the relevant authorities by the developer. They include the Town Planning Board for the development scheme, and the Secretary for Home Affairs (on the advice of AAB) and the Advisory Council on the Environment where major works are involved. The lease will not guarantee the required approvals.

6.2.3.9. Designated area and/or specified floor area for the Time Museum, which is a non-profit generating cultural/museum use, shall be handed back to the Government upon completion of works as required under the lease. The Government will allocate the space to the identified end user and the end user will have to bear the maintenance and management costs. For the Chinese Cuisine Promotion Centre, the same may apply. Alternatively if it is decided that the Centre shall operate on a commercial basis, the designated areas and/or specified floor area shall be rented by the grantee to the specified end user at a rent agreeable by both parties and the end user will have to bear the maintenance and management costs.

6.2.3.10. The main problem with the auction method is embedded on the need for protecting the integrity of the monument. On the one hand it has to provide a great level of certainty for the potential bidders such that everybody can compete equally and offer the highest price. On the other hand the approvals required are costly uncertainties that the bidders may not be able to afford. Hence disposing of the Site by auction may not provide the best result in both financial and design terms.

Tender

6.2.3.11. Following current practices, the Government prepares tender documents (planning brief and the building plans from Architectural Services Department should be made available) to provide the necessary details for the bidders. Unlike the auction, tenders can allow for other considerations, and heavier weighting can be given to design proposals. An assessment panel within Government has to be established to assess the tenders. The Site would be granted to the bidder with the highest score in the assessment (i.e. the package which provides a good design as well as a competitive bid). A deposit of some 5% to 10% of the bidding price may be required as an indication of commitment.

6.2.3.12. The developer’s responsibilities to protect the historical buildings and the ways of allocating space for the designated uses will be the same as that for auction. To alleviate the problem of uncertainty associated with the statutory procedures, a tailor-made approach incorporating a mechanism that allows the relevant authorities to consider the design package prior to granting the Site would be useful. The mechanism
should require the bidder to prepare separate documents for consideration of the relevant authorities on their specific area of concern. The authorities would have to judge on the basis of the submission and decide on whether an approval can be granted.

6.2.3.13. The process may be divided into two parts. An independent document should be submitted as part of the tender, which should comprise information required for the assessment panel’s consideration of the preservation proposal and proposed alterations and additions works for the monument. AAB would provide advice in this regard, which should be taken as pre-requisite for the further consideration of the proposal by the assessment panel. However, the Government would have to carry out a survey of the tunnel system to ascertain the area that should be preserved in advance. Otherwise the bidder would not be able to prepare any proposal for the conservation of the tunnel/chamber. Having resolved the monument conservation issue in principle, the Government may leave the responsibility of applying for planning approval, permit for works in monument and approval of the environmental impact assessment report to the developer/user.

6.2.3.14. Methods in space allocation for designated cultural/museum uses will be the same as those for auction.

6.2.3.15. Public tender is considered more appropriate as it provides a good balance between design and price, and suitable provisions as suggested above can alleviate the uncertainties facing the bidders. Given cases like the Peak Galleria, such mechanisms should not be considered as setting any undesirable precedent for other sites with urban design and heritage significance.

Private Treaty Grant Following an Open Competition

6.2.3.16. This mechanism is similar to tender, but may allow greater flexibility in land uses and design. The Government would provide a planning brief guiding the competition. A broad framework may be sufficient to allow maximum flexibility for the competitors. An adjudication panel with the required expertise should be established to assess the submissions.

6.2.3.17. The Government needs to seek the required approvals from the relevant authorities prior to granting the Site. A minimum price may be specified, but the final offer is subject to negotiation following selection of the best scheme.

6.2.3.18. The main problem with this mechanism is the uncertainties associated with the required approvals. The scheme selected by the adjudication panel may not necessarily be acceptable to the relevant authorities. If amendment to the selected scheme is required, the proponent of the scheme would have to reassess the implications, and may not agree. The whole process could turn out to be an exercise for collecting ideas rather than a practicable implementation mechanism. In addition, the process
of premium negotiation would be lengthy, and is always subject to challenges.

6.2.3.19. In view of the above pros and cons, tender is recommended for the present project.

6.2.4 There are two existing licences within the Site granted to the Yau Ma Tei and Tsim Sha Tsui Culture and Arts Association and the Welfare Handicrafts Shop, which occupy the two buildings fronting Salisbury Road. To dispose of the Site in accordance with the RDO, the above two licences have to be terminated.

6.3. Operation and Management

6.3.1. If the Site is to remain as Government-owned property, the relevant Government department(s) will have to take up the operation and management responsibilities of the Site. The Government Property Agency would remain the management agent if no other uses are identified.

6.3.2. In case a public use is proposed, for example if the premises, after being properly maintained, is open to the public for conservation education purpose, a suitable project proponent would have to be identified to take up the responsibilities.

6.3.3. However, if the Site is to be granted to the private sector, the grantee will have to take up the general responsibilities as required under the lease of the Site.

6.3.4. There are two specific uses incorporated in the private sector package. The Time Museum is to be taken up by the Leisure and Cultural Services Department (LCSD) with technical assistance from the Hong Kong Observatory. LCSD should work according to normal procedure to secure the required funding and operation/management resources and request the Architectural Services Department to provide maintenance services.

6.3.5. The Chinese Cuisine Promotion Centre (CCPC) is to be operated by the Vocational Training Council (VTC), which oversees the work of the Chinese Cuisine Training Institute. The VTC should work according to normal procedure to secure the required funding and operation/management resources. The VTC will also be responsible for the maintenance and management of the CCPC. Alternatively if the CCPC is considered as a commercial component, the operator will take up a normal commercial tenancy from the grantee and will bear commercial rent throughout the term of the tenancy.