

9. CULTURAL HERITAGE

9.1 Relevant Legislation

9.1.1 The Environmental Impact Assessment Ordinance (EIAO) stipulates that consideration must be given to issues associated with cultural heritage and archaeology as part of the EIA process. Respectively Annexes 10 and 19 of the Technical Memorandum on EIA Process (TM) outline the following:

- (i) the criteria for evaluating the impacts on sites of cultural heritage; and
- (ii) guidelines for impact assessment.

9.1.2 The TM identifies a general presumption in favour of the protection and conservation of all sites of cultural heritage and requires impacts upon sites of cultural heritage to be '*kept to a minimum*'. There is no quantitative standard for determining the relative importance of sites of cultural heritage, but in general sites of unique, archaeological, historical or architectural value should be considered as highly significant.

9.1.3 In addition, since the introduction of the EIAO, the Antiquities and Monuments Office (AMO) have the power to request a Marine Archaeological Investigation (MAI) for developments affecting the seabed.

9.1.4 Chapter 10 of the HKPSG provides guidelines relating to the conservation of historic buildings, archaeological sites and other antiquities. The guidelines detail the methods for the conservation and preservation of protected monuments, the method of identifying and recording antiquities, particularly buildings which should be conserved and the recording and grading of the such buildings and archaeological sites. The process of monuments and development control through the planning process is also highlighted.

9.1.5 Legislation relating to antiquities is set out in the Antiquities and Monuments Ordinance (Chapter 53 of the Laws of Hong Kong), which came into force on January 1st 1976. The legislation applies equally to sites on land and underwater. The purpose of the Ordinance is to prescribe controls for the discovery and protection of antiquities in Hong Kong. A summary of the key aspects of the legislation relevant to the current study is presented below:

- (i) Human artefacts, relics and built structures may be gazetted and protected as monuments. The Antiquities Authority may, after consultation with the Antiquities Advisory Board (AAB) and with Government approval, declare any place, building, site or structure which the Antiquities 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.
- (ii) Once declared a site of public interest, no person may undertake acts, which are prohibited under the Ordinance, such as to demolish or carry on building or other works, unless a permit is obtained from the Antiquities Authority.

- (iii) For archaeological sites, all relics dated prior to 1800 AD belong to the Hong Kong Government. Archaeological sites are classified into three categories, as follows:
- ◆ *Designated* – those that have been declared as monuments and are to be protected and conserved at all costs;
 - ◆ *Administrative Protection* – those which are considered to be of significant value but which are not declared as monuments and should be either protected, or if found not possible to protect these sites then salvaged; and
 - ◆ *Monitored* – those which are of lesser significance or whose potential is not fully assessed which should not be disturbed with the exception of minor works if they are permitted and monitored by AMO.
- (iv) The Legislation sets out the procedures for the issuing of Licences to Excavate and Search for Antiquities, the effect of which is to forbid all such activities being undertaken without such a licence. It also provides for the penalties exacted for infringement of the Ordinance, including fines and imprisonment.
- 9.1.6 The Antiquities and Monuments Office (AMO) of the Leisure and Cultural Services Department is part of the Government Secretariat and comprises the executive arm of the Antiquities Authority. The Antiquities and Monuments Office services the Antiquities Advisory Board who are responsible for advising the Government on sites which merit protection. The office further has responsibility for the protection of buildings and items of historical interest and areas of archaeological significance.
- 9.1.7 The Home Affairs Bureau provide guidelines and Criteria for Cultural Heritage Impact Assessment (CCHIA) which stress that preservation in totality must be taken as the first priority. Projects undertaken are not to cause excessive impact on archaeologically and historically important sites unless there are adequate protection or mitigation measures or a satisfactory rescue plan is proposed.
- 9.1.8 The AMO considers all buildings and structures in the following categories to be historical and deserving of consideration for preservation:
- ◆ all pre-1950 buildings and structures; and
 - ◆ selected post-1950 buildings and structures of high architectural and historical significance and interest.
- 9.1.9 Once identified as having the potential for conservation, buildings are entered into the record. They are then graded by AMO to show their relative value. Evaluation is based on the following criteria:
- ◆ outstanding architectural merits - especially features emphasising certain period, technological and artistic merits;

- ◆ special historical interest - accommodating important civic or social function, for example, ancestral halls, religious buildings, post offices, city halls, courts of law, railways station, etc;
- ◆ associations - with important events or well-known persons; and
- ◆ group value - especially in historic villages.

9.1.10 Archaeological sites are identified and recorded by the AMO as they are revealed through systematic survey, casual finding and/or the EIA process. All such archaeological sites are considered to be of cultural heritage value and their preservation in totality is taken as the primary aim of the EIA process. The CHIA stipulate that if this is not possible, amelioration must be achieved by reduction of potential impacts and preservation achieved by means of detailed cartographic and photographic survey or preservation of an archaeological site “by record”, i.e. through excavation to extract the maximum data as the very last resort. The search for and excavation of all archaeological material requires a license from the Antiquities Authority.

9.1.11 The AMO issue Guidelines for Marine Archaeological Investigation (MAI) which details the standard practice, procedures and methodology which must be undertaken in determining the marine archaeological potential, presence of archaeological artefacts and defining suitable mitigation measures.

9.2 Mitigation Measures

9.2.1 The diver survey did not reveal any material of cultural significance after investigation of the exposed, above surface anomalies and as such no mitigation measures are required. However, the sub-surface anomalies identified by the geophysical survey could not be examined by the diver survey and as such a watching brief is recommended. This would comprise:

- ◆ Dredge operators to be made aware of the potential presence of cultural heritage material. The operators would be required to report to the AMO any unusual resistance and/or recovery of timbers, anchors or other wreck related material. Any obstacles encountered during the dredging that are of timber should be reported to the maritime archaeologist. The obstacle should be avoided and not removed until it has been assessed by the marine archaeologist as to whether the obstacle is of cultural heritage importance;
- ◆ A qualified marine archaeologist as a member of the ET shall be on board the dredging barge during dredging within 25m either side SS1 and SS2 (Figure 5a and 5b, MIA Task 4.1, Appendix G of EIA report) in the event of any unusual resistance occurring or blockages which requires the dredge head to be brought on deck for cleaning and examination; and
- ◆ Dredging to cease in the nominated area SS1 after 3 metres of sediment removal and after 1 metre for SS2. A dive survey will then be undertaken to examine the trench for possible cultural remains.

9.2.2 During the course of the watching brief, if the targets are identified as being potentially archaeologically important, then an immediate marine archaeological impact assessment

in accordance with EIAO TM Annex 19 will be required to be undertaken by a qualified marine archaeologist.

9.2.3 The details of SS1 and SS2 are detailed in Table 9.1 below.

Table 9.1 Sub-surface Targets

Target	Approximate Depth	Depth below sea bed (m)	Length (m)	Height (m)	Latitude	Longitude
SS1	19	2.5	30	4	22°21.9263'N	113°55.3930'E
SS2	21	(1)	18	2.5	22°21.8318'N	113°55.2557'E

(1) MAI Report does not specify the depth.

9.2.4 In addition, it is recommended that any changes, additions or alterations to the dredging method and alignment should be further assessed by a marine archaeologist to determine if any further assessment is required. These recommendations are included in the Environmental Mitigation Implementation Schedules in Appendix A.

9.3 Construction Phase Audit

9.3.1 All mitigation measures which are recommended by the MAI shall be undertaken and supervised by a qualified marine archaeologist engaged by the Contractor. . In the event of non compliance, the responsibilities of the relevant parties is detailed in the Event /Action plan provided on Table 9.2. The Event/Action plan shall be reviewed once the findings of the MAI are known.

Table 9.2 Event / Action Plan for Construction Phase

Action Level	ETL	IEC	FSR	Contractor
Non-conformity on one occasion	<ol style="list-style-type: none"> 1. Identify Source 2. Inform the IEC and the FSR 3. Discuss remedial actions with the IEC, the FSR and the Contractor 4. Monitor remedial actions until rectification has been completed 	<ol style="list-style-type: none"> 1. Check report 2. Check the Contractor's working method 3. Discuss with the ETL and the Contractor on possible remedial measures 4. Advise the FSR on effectiveness of proposed remedial measures. 5. Check implementation of remedial measures. 	<ol style="list-style-type: none"> 1. Notify Contractor 2. Ensure remedial measures are properly implemented 	<ol style="list-style-type: none"> 1. Amend working methods 2. Rectify damage and undertake any necessary replacement



Action Level	ETL	IEC	FSR	Contractor
Repeated Non-conformity	<ol style="list-style-type: none"> 1. Identify Source 2. Inform the IEC and the FSR 3. Increase monitoring frequency 4. Discuss remedial actions with the IEC, the FSR and the Contractor 5. Monitor remedial actions until rectification has been completed 6. If exceedance stops, cease additional monitoring 	<ol style="list-style-type: none"> 1. Check monitoring report 2. Check the Contractor's working method 3. Discuss with the ETL and the Contractor on possible remedial measures 4. Advise the FSR on effectiveness of proposed remedial measures 5. Supervise implementation of remedial measures. 	<ol style="list-style-type: none"> 1. Notify the Contractor 2. Ensure remedial measures are properly implemented 	<ol style="list-style-type: none"> 1. Amend working methods 2. Rectify damage and undertake any necessary replacement

Note: ETL – Environmental Team Leader, IEC – Independent Environmental Checker, FSR – Franchisee’s Site Representative